Sponsored by:
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District 37 (Bergen)
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SYNOPSIS
Bars provisions in employment contracts that waive rights or remedies; bars agreements that conceal details relating to discrimination claims.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 3/6/2018)
AN ACT concerning discrimination and supplementing Title 10 of
the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. a. A provision in any employment contract that waives any
substantive or procedural right or remedy relating to a claim of
discrimination, retaliation, or harassment shall be deemed against
public policy and unenforceable.
b. No right or remedy under the “Law Against Discrimination,”
P.L. 1945, c. 169 (C. 10:5-1 et seq.) or any other statute or case law
shall be prospectively waived.
c. This section shall not apply to the terms of any collective
bargaining agreement between an employer and the collective
bargaining representative of the employees.

2. A provision in any employment contract or agreement which
has the purpose or effect of concealing the details relating to a
claim of discrimination, retaliation, or harassment shall be deemed
against public policy and unenforceable.

3. A person who enforces or attempts to enforce a provision
deemed against public policy and unenforceable pursuant to P.L. ,
c. (C. ) (pending before the Legislature as this bill) shall be
liable for the employee’s reasonable attorney fees and costs.

4. No person shall take any retaliatory action, including but not
limited to failure to hire, discharge, suspension, demotion,
discrimination in the terms, conditions, or privileges of
employment, or other adverse action, against a person, on grounds
that the person does not enter into an agreement or contract that
contains a provision deemed against public policy and
unenforceable pursuant to P.L. , c. (C. ) (pending before the
Legislature as this bill).

5. Any person claiming to be aggrieved by a violation of P.L. ,
c. (C. ) (pending before the Legislature as this bill) may
initiate suit in Superior Court. An action pursuant to this section
shall be commenced within two years next after the cause of any
such action shall have accrued. All remedies available in common
law tort actions shall be available to prevailing plaintiffs. These
remedies are in addition to any provided by P.L. , c. (C. )
(pending before the Legislature as this bill) or any other statute. A
prevailing plaintiff shall be awarded reasonable attorney fees and
costs.
6. This act shall take effect immediately and shall apply to all contracts and agreements entered into, renewed, modified, or amended on or after the effective date.

STATEMENT

This bill would bar provisions in employment contracts that waive certain rights or remedies. It would also bar certain agreements that conceal details relating to discrimination claims.

Under the bill, a provision in any employment contract that waives any substantive or procedural right or remedy relating to a claim of discrimination, retaliation, or harassment would be deemed against public policy and unenforceable.

The bill provides that no right or remedy under the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1 et seq.) or any other statute or case law could be prospectively waived.

The above described provisions of the bill would not apply to the terms of any collective bargaining agreement between an employer and the collective bargaining representative of the employees.

The bill also provides that a provision in any employment contract or agreement which has the purpose or effect of concealing the details relating to a claim of discrimination, retaliation, or harassment, including claims that are submitted to arbitration, would be deemed against public policy and unenforceable.

Under the bill, a person who enforces or attempts to enforce a provision deemed against public policy and unenforceable would be liable for the employee’s reasonable attorney fees and costs.

The bill provides that no person shall take any retaliatory action, including but not limited to failure to hire, discharge, suspension, demotion, discrimination in the terms, conditions, or privileges of employment, or other adverse action, against a person, on grounds that the person does not enter into an agreement or contract that contains a provision deemed against public policy and unenforceable pursuant to the bill.

Under the bill, any person claiming to be aggrieved by a violation of the bill may initiate suit in Superior Court. An action would be required to be commenced within two years next after the cause of any such action shall have accrued. All remedies available in common law tort actions would be be available to prevailing plaintiffs, in addition to the remedies provided by the bill. A prevailing plaintiff would be awarded reasonable attorney fees and costs.

The bill would take effect immediately and apply to all contracts and agreements entered into, renewed, modified, or amended on or after the effective date.