

ASSEMBLY, No. 2401

STATE OF NEW JERSEY

INTRODUCED OCTOBER 7, 1996

By Assemblymen ROMA, Malone and Cottrell

1 AN ACT promoting equity in pricing for certain services regardless of
2 gender and amending and supplementing P.L.1945, c.169.

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

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7 1. (New section) Sections 1 and 2 of this act shall be known and
8 may be cited as the "Equity in Business Practices Act of 1996."

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10 2. (New section) a. It shall be an unlawful discrimination for any
11 person to discriminate against a person solely on the basis of gender
12 with respect to the price charged for identical or substantially similar
13 services, except that price differences based specifically upon the
14 amount of time, degree of difficulty or cost of providing the services,
15 or upon the offering of services at a reduced price for a reasonable
16 period of time, shall not be an unlawful discrimination.

17 b. This section shall not alter or affect the provisions of applicable
18 law governing insurance underwriting or rating practices as provided
19 in Title 17 of the Revised Statutes, Title 17B of the New Jersey
20 Statutes or P.L.1973, c.337 (C.26:2J-1 et seq.).

21 c. Notwithstanding the provisions of section 2 of P.L.1983, c.412
22 (C.10:5-14.1a), a person who violates the provisions of this section
23 shall be subject to a warning for the first offense and a penalty of not
24 more than \$500 for a second or subsequent offense.

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26 3. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as
27 follows:

28 5. As used in this act, unless a different meaning clearly appears
29 from the context:

30 a. "Person" includes one or more individuals, partnerships,
31 associations, organizations, labor organizations, corporations, legal
32 representatives, trustees, trustees in bankruptcy, receivers, and
33 fiduciaries.

34 b. "Employment agency" includes any person undertaking to

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 procure employees or opportunities for others to work.
- 2 c. "Labor organization" includes any organization which exists and
3 is constituted for the purpose, in whole or in part, of collective
4 bargaining, or of dealing with employers concerning grievances, terms
5 or conditions of employment, or of other mutual aid or protection in
6 connection with employment.
- 7 d. "Unlawful employment practice" and "unlawful discrimination"
8 include only those unlawful practices and acts specified in section 11
9 of this act and section 2 of P.L.1996, c. (now pending before the
10 Legislature as this bill).
- 11 e. "Employer" includes all persons as defined in subsection a. of
12 this section unless otherwise specifically exempt under another section
13 of this act, and includes the State, any political or civil subdivision
14 thereof, and all public officers, agencies, boards or bodies.
- 15 f. "Employee" does not include any individual employed in the
16 domestic service of any person.
- 17 g. "Liability for service in the Armed Forces of the United States"
18 means subject to being ordered as an individual or member of an
19 organized unit into active service in the Armed Forces of the United
20 States by reason of membership in the National Guard, naval militia or
21 a reserve component of the Armed Forces of the United States, or
22 subject to being inducted into such armed forces through a system of
23 national selective service.
- 24 h. "Division" means the "Division on Civil Rights" created by this
25 act.
- 26 i. "Attorney General" means the Attorney General of the State of
27 New Jersey or his representative or designee.
- 28 j. "Commission" means the Commission on Civil Rights created by
29 this act.
- 30 k. "Director" means the Director of the Division on Civil Rights.
- 31 l. "A place of public accommodation" shall include, but not be
32 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
33 camp, day camp, or resort camp, whether for entertainment of
34 transient guests or accommodation of those seeking health, recreation
35 or rest; any producer, manufacturer, wholesaler, distributor, retail
36 shop, store, establishment, or concession dealing with goods or
37 services of any kind; any restaurant, eating house, or place where food
38 is sold for consumption on the premises; any place maintained for the
39 sale of ice cream, ice and fruit preparations or their derivatives, soda
40 water or confections, or where any beverages of any kind are retailed
41 for consumption on the premises; any garage, any public conveyance
42 operated on land or water, or in the air, any stations and terminals
43 thereof; any bathhouse, boardwalk, or seashore accommodation; any
44 auditorium, meeting place, or hall; any theatre, motion-picture house,
45 music hall, roof garden, skating rink, swimming pool, amusement and
46 recreation park, fair, bowling alley, gymnasium, shooting gallery,

1 billiard and pool parlor, or other place of amusement; any comfort
2 station; any dispensary, clinic or hospital; any public library; any
3 kindergarten, primary and secondary school, trade or business school,
4 high school, academy, college and university, or any educational
5 institution under the supervision of the State Board of Education, or
6 the Commissioner of Education of the State of New Jersey. Nothing
7 herein contained shall be construed to include or to apply to any
8 institution, bona fide club, or place of accommodation, which is in its
9 nature distinctly private; nor shall anything herein contained apply to
10 any educational facility operated or maintained by a bona fide religious
11 or sectarian institution, and the right of a natural parent or one in loco
12 parentis to direct the education and upbringing of a child under his
13 control is hereby affirmed; nor shall anything herein contained be
14 construed to bar any private secondary or post secondary school from
15 using in good faith criteria other than race, creed, color, national
16 origin, ancestry or affectional or sexual orientation in the admission of
17 students.

18 m. "A publicly assisted housing accommodation" shall include all
19 housing built with public funds or public assistance pursuant to
20 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
21 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
22 and all housing financed in whole or in part by a loan, whether or not
23 secured by a mortgage, the repayment of which is guaranteed or
24 insured by the federal government or any agency thereof.

25 n. The term "real property" includes real estate, lands, tenements
26 and hereditaments, corporeal and incorporeal, and leaseholds,
27 provided, however, that, except as to publicly assisted housing
28 accommodations, the provisions of this act shall not apply to the
29 rental: (1) of a single apartment or flat in a two-family dwelling, the
30 other occupancy unit of which is occupied by the owner as a residence
31 or the household of the owner's family at the time of such rental; or (2)
32 of a room or rooms to another person or persons by the owner or
33 occupant of a one-family dwelling occupied by the owner or occupant
34 as a residence or the household of the owner's or occupant's family at
35 the time of such rental. Nothing herein contained shall be construed
36 to bar any religious or denominational institution or organization, or
37 any organization operated for charitable or educational purposes,
38 which is operated, supervised or controlled by or in connection with
39 a religious organization, in the sale, lease or rental of real property,
40 from limiting admission to or giving preference to persons of the same
41 religion or denomination or from making such selection as is
42 calculated by such organization to promote the religious principles for
43 which it is established or maintained. Nor does any provision under
44 this act regarding discrimination on the basis of familial status apply
45 with respect to housing for older persons.

46 o. "Real estate broker" includes a person, firm or corporation who,

1 for a fee, commission or other valuable consideration, or by reason of
2 promise or reasonable expectation thereof, lists for sale, sells,
3 exchanges, buys or rents, or offers or attempts to negotiate a sale,
4 exchange, purchase, or rental of real estate or an interest therein, or
5 collects or offers or attempts to collect rent for the use of real estate,
6 or solicits for prospective purchasers or assists or directs in the
7 procuring of prospects or the negotiation or closing of any transaction
8 which does or is contemplated to result in the sale, exchange, leasing,
9 renting or auctioning of any real estate, or negotiates, or offers or
10 attempts or agrees to negotiate a loan secured or to be secured by
11 mortgage or other encumbrance upon or transfer of any real estate for
12 others; or any person who, for pecuniary gain or expectation of
13 pecuniary gain conducts a public or private competitive sale of lands
14 or any interest in lands. In the sale of lots, the term "real estate
15 broker" shall also include any person, partnership, association or
16 corporation employed by or on behalf of the owner or owners of lots
17 or other parcels of real estate, at a stated salary, or upon a
18 commission, or upon a salary and commission or otherwise, to sell
19 such real estate, or any parts thereof, in lots or other parcels, and who
20 shall sell or exchange, or offer or attempt or agree to negotiate the
21 sale or exchange, of any such lot or parcel of real estate.

22 p. "Real estate salesperson" includes any person who, for
23 compensation, valuable consideration or commission, or other thing of
24 value, or by reason of a promise or reasonable expectation thereof, is
25 employed by and operates under the supervision of a licensed real
26 estate broker to sell or offer to sell, buy or offer to buy or negotiate
27 the purchase, sale or exchange of real estate, or offers or attempts to
28 negotiate a loan secured or to be secured by a mortgage or other
29 encumbrance upon or transfer of real estate, or to lease or rent, or
30 offer to lease or rent any real estate for others, or to collect rents for
31 the use of real estate, or to solicit for prospective purchasers or lessees
32 of real estate, or who is employed by a licensed real estate broker to
33 sell or offer to sell lots or other parcels of real estate, at a stated
34 salary, or upon a commission, or upon a salary and commission, or
35 otherwise to sell real estate, or any parts thereof, in lots or other
36 parcels.

37 q. "Handicapped" means suffering from physical disability,
38 infirmity, malformation or disfigurement which is caused by bodily
39 injury, birth defect or illness including epilepsy, and which shall
40 include, but not be limited to, any degree of paralysis, amputation, lack
41 of physical coordination, blindness or visual impediment, deafness or
42 hearing impediment, muteness or speech impediment or physical
43 reliance on a service or guide dog, wheelchair, or other remedial
44 appliance or device, or from any mental, psychological or
45 developmental disability resulting from anatomical, psychological,
46 physiological or neurological conditions which prevents the normal

1 exercise of any bodily or mental functions or is demonstrable,
2 medically or psychologically, by accepted clinical or laboratory
3 diagnostic techniques. Handicapped shall also mean suffering from
4 AIDS or HIV infection.

5 r. "Blind person" means any individual whose central visual acuity
6 does not exceed 20/200 in the better eye with correcting lens or whose
7 visual acuity is better than 20/200 if accompanied by a limit to the field
8 of vision in the better eye to such a degree that its widest diameter
9 subtends an angle of no greater than 20 degrees.

10 s. "Guide dog" means a dog used to assist deaf persons or which
11 is fitted with a special harness so as to be suitable as an aid to the
12 mobility of a blind person, and is used by a blind person who has
13 satisfactorily completed a specific course of training in the use of such
14 a dog, and has been trained by an organization generally recognized by
15 agencies involved in the rehabilitation of the blind or deaf as reputable
16 and competent to provide dogs with training of this type.

17 t. "Guide or service dog trainer" means any person who is
18 employed by an organization generally recognized by agencies
19 involved in the rehabilitation of the blind, handicapped or deaf as
20 reputable and competent to provide dogs with training, and who is
21 actually involved in the training process.

22 u. "Housing accommodation" means any publicly assisted housing
23 accommodation or any real property, or portion thereof, which is used
24 or occupied, or is intended, arranged, or designed to be used or
25 occupied, as the home, residence or sleeping place of one or more
26 persons, but shall not include any single family residence the occupants
27 of which rent, lease, or furnish for compensation not more than one
28 room therein.

29 v. "Public facility" means any place of public accommodation and
30 any street, highway, sidewalk, walkway, public building, and any other
31 place or structure to which the general public is regularly, normally or
32 customarily permitted or invited.

33 w. "Deaf person" means any person whose hearing is so severely
34 impaired that the person is unable to hear and understand normal
35 conversational speech through the unaided ear alone, and who must
36 depend primarily on supportive device or visual communication such
37 as writing, lip reading, sign language, and gestures.

38 x. "Atypical hereditary cellular or blood trait" means sickle cell
39 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
40 fibrosis trait.

41 y. "Sickle cell trait" means the condition wherein the major natural
42 hemoglobin components present in the blood of the individual are
43 hemoglobin A (normal) and hemoglobin S (sickle hemoglobin) as
44 defined by standard chemical and physical analytic techniques,
45 including electrophoresis; and the proportion of hemoglobin A is
46 greater than the proportion of hemoglobin S or one natural parent of

1 the individual is shown to have only normal hemoglobin components
2 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
3 proportions by standard chemical and physical analytic tests.

4 z. "Hemoglobin C trait" means the condition wherein the major
5 natural hemoglobin components present in the blood of the individual
6 are hemoglobin A (normal) and hemoglobin C as defined by standard
7 chemical and physical analytic techniques, including electrophoresis;
8 and the proportion of hemoglobin A is greater than the proportion of
9 hemoglobin C or one natural parent of the individual is shown to have
10 only normal hemoglobin components (hemoglobin A, hemoglobin A2,
11 hemoglobin F) in normal proportions by standard chemical and
12 physical analytic tests.

13 aa. "Thalassemia trait" means the presence of the thalassemia gene
14 which in combination with another similar gene results in the chronic
15 hereditary disease Cooley's anemia.

16 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
17 which in combination with another similar gene results in the chronic
18 hereditary disease Tay-Sachs.

19 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
20 gene which in combination with another similar gene results in the
21 chronic hereditary disease cystic fibrosis.

22 dd. "Service dog" means any dog individually trained to a
23 handicapped person's requirements including, but not limited to
24 minimal protection work, rescue work, pulling a wheelchair or
25 retrieving dropped items.

26 ee. "Qualified Medicaid applicant" means an individual who is a
27 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).

28 ff. "AIDS" means acquired immune deficiency syndrome as defined
29 by the Centers for Disease Control of the United States Public Health
30 Service.

31 gg. "HIV infection" means infection with the human
32 immunodeficiency virus or any other related virus identified as a
33 probable causative agent of AIDS.

34 hh. "Affectional or sexual orientation" means male or female
35 heterosexuality, homosexuality or bisexuality by inclination, practice,
36 identity or expression, having a history thereof or being perceived,
37 presumed or identified by others as having such an orientation.

38 ii. "Heterosexuality" means affectional, emotional or physical
39 attraction or behavior which is primarily directed towards persons of
40 the other gender.

41 jj. "Homosexuality" means affectional, emotional or physical
42 attraction or behavior which is primarily directed towards persons of
43 the same gender.

44 kk. "Bisexuality" means affectional, emotional or physical
45 attraction or behavior which is directed towards persons of either
46 gender.

1 ll. "Familial status" means being the natural parent of a child, the
2 adoptive parent of a child, the foster parent of a child, having a "parent
3 and child relationship" with a child as defined by State law, or having
4 sole or joint legal or physical custody, care, guardianship, or visitation
5 with a child, or any person who is pregnant or is in the process of
6 securing legal custody of any individual who has not attained the age
7 of 18 years.

8 mm. "Housing for older persons" means housing:

9 (1) provided under any State or federal program that the Attorney
10 General determines is specifically designed and operated to assist
11 elderly persons (as defined in the State or federal program); or

12 (2) intended for, and solely occupied by persons 62 years of age or
13 older; or

14 (3) intended and operated for occupancy by at least one person 55
15 years of age or older per unit. In determining whether housing
16 qualifies as housing for older persons under this subsection, the
17 Attorney General shall adopt regulations which require at least the
18 following factors:

19 (a) the existence of significant facilities and services specifically
20 designed to meet the physical or social needs of older persons, or if the
21 provision of such facilities and services is not practicable, that such
22 housing is necessary to provide important housing opportunities for
23 older persons; and

24 (b) that at least 80 percent of the units are occupied by at least one
25 person 55 years of age or older per unit; and

26 (c) the publication of, and adherence to, policies and procedures
27 which demonstrate an intent by the owner or manager to provide
28 housing for persons 55 years of age or older.

29 Housing shall not fail to meet the requirements for housing for
30 older persons by reason of: persons residing in such housing as of
31 March 12, 1989 not meeting the age requirements of this subsection,
32 provided that new occupants of such housing meet the age
33 requirements of this subsection; or unoccupied units, provided that
34 such units are reserved for occupancy by persons who meet the age
35 requirements of this subsection.

36 nn. "Identical or substantially similar service" means a service
37 which requires a person to employ an equal amount of time, labor, or
38 workmanship to deliver, or which requires a similar cost and difficulty
39 to provide, to persons of either gender.

40 (cf: P.L.1992, c.146, s.4)

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42 4. This act shall take effect immediately.

STATEMENT

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The bill amends and supplements the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.), to provide that it is unlawful to discriminate against any person on the basis of gender with respect to the price charged for identical or substantially similar services. The persistence of gender based discrimination effectively results in a gender tax on women, which, according to some studies, costs women greater than \$1,000 per year more than men for services such as haircuts, laundry, dry cleaning and alterations.

Any person who violates the provisions of the bill would be subject to a warning for a first offense and a penalty of not more than \$500 for a second or subsequent offense. The bill does not alter or affect the provisions of existing laws which govern insurance underwriting or rating practices.

Promotes equity in pricing for certain services regardless of gender.