

ASSEMBLY, No. 2838

STATE OF NEW JERSEY

INTRODUCED MARCH 24, 1997

By Assemblymen WEINGARTEN and O'TOOLE

1 AN ACT granting limited immunity to employers in certain
2 circumstances.

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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. a. An employer acting in good faith may not be held liable for
8 disclosing any information about the job performance or the reason for
9 termination of employment of an employee or former employee of the
10 employer:

11 (1) to a prospective employer of the employee or former employee,
12 at the request of the prospective employer, the employee, or former
13 employee; or

14 (2) if requested or required by a federal, State or industry
15 regulatory authority, or if the information is disclosed in a report,
16 filing or other document required by law, rule, order or regulation of
17 the regulatory authority.

18 b. An employer who discloses information under subsection a. of
19 this section shall be presumed to be acting in good faith unless it is
20 shown by clear and convincing evidence that the employer:

21 (1) disclosed information that the employer knew was false;

22 (2) disclosed information that the employer knew was deliberately
23 misleading; or

24 (3) disclosed information with reckless disregard as to the truth or
25 falsity of the information.

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27 2. This act shall take effect immediately.

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STATEMENT

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32 Fear of defamation lawsuits currently discourages employers in this
33 State from giving truthful, detailed reports of the job performance of
34 current and former employees. To avoid possible liability, many
35 employers limit job references to dates of employment and salary
36 amounts. Employers are unable to warn potential employers about
37 violent, disruptive or unqualified job applicants.

1 This bill alleviates that problem by encouraging employers to give
2 candid job references. It exempts employers from civil liability when
3 the employer, in good faith, discloses any information about the job
4 performance or reason for termination of employment of an employee
5 or former employee to a prospective employer of the employee, at the
6 request of the prospective employer, the employee or former
7 employee. The immunity also applies if the information is requested
8 or required by a federal, State or industry regulatory authority.
9 Employers who disclose such information shall be presumed to be
10 acting in good faith unless it is shown by clear and convincing
11 evidence that the employer knew the information was false; disclosed
12 information that the employer knew was deliberately misleading; or
13 disclosed information with reckless disregard as to the truth or falsity
14 of the information.

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20 Grants limited immunity to employers from civil liability for disclosing
employee job performance information in certain circumstances.