

SENATE, No. 2689

STATE OF NEW JERSEY

222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 SESSION

Sponsored by:

Senator BRITNEE N. TIMBERLAKE

District 34 (Essex)

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

SYNOPSIS

Requires employer to provide certain accommodations to employee who is breast feeding.

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee with technical review.



1 AN ACT concerning protections provided to employees who are
2 breast feeding children and amending P.L.1945, c.169.

3

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

6

7 1. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
8 read as follows:

9 11. It shall be an unlawful employment practice, or, as the case
10 may be, an unlawful discrimination:

11 a. For an employer, because of the race, creed, color, national
12 origin, ancestry, age, marital status, civil union status, domestic
13 partnership status, affectional or sexual orientation, genetic
14 information, pregnancy or breastfeeding, sex, gender identity or
15 expression, disability or atypical hereditary cellular or blood trait of
16 any individual, or because of the liability for service in the Armed
17 Forces of the United States or the nationality of any individual, or
18 because of the refusal to submit to a genetic test or make available
19 the results of a genetic test to an employer, to refuse to hire or
20 employ or to bar or to discharge or require to retire, unless justified
21 by lawful considerations other than age, from employment such
22 individual or to discriminate against such individual in
23 compensation or in terms, conditions or privileges of employment;
24 provided, however, it shall not be an unlawful employment practice
25 to refuse to accept for employment an applicant who has received a
26 notice of induction or orders to report for active duty in the armed
27 forces; provided further that nothing herein contained shall be
28 construed to bar an employer from refusing to accept for
29 employment any person on the basis of sex in those certain
30 circumstances where sex is a bona fide occupational qualification,
31 reasonably necessary to the normal operation of the particular
32 business or enterprise; provided further that it shall not be an
33 unlawful employment practice for a club exclusively social or
34 fraternal to use club membership as a uniform qualification for
35 employment, or for a religious association or organization to utilize
36 religious affiliation as a uniform qualification in the employment of
37 clergy, religious teachers or other employees engaged in the
38 religious activities of the association or organization, or in
39 following the tenets of its religion in establishing and utilizing
40 criteria for employment of an employee; provided further, that it
41 shall not be an unlawful employment practice to require the
42 retirement of any employee who, for the two-year period
43 immediately before retirement, is employed in a bona fide executive
44 or a high policy-making position, if that employee is entitled to an
45 immediate non-forfeitable annual retirement benefit from a pension,

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 profit sharing, savings or deferred retirement plan, or any
2 combination of those plans, of the employer of that employee which
3 equals in the aggregate at least \$27,000.00; and provided further
4 that an employer may restrict employment to citizens of the United
5 States where such restriction is required by federal law or is
6 otherwise necessary to protect the national interest.

7 The provisions of subsections a. and b. of section 57 of
8 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of
9 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an
10 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

11 For the purposes of this subsection, a "bona fide executive" is a
12 top level employee who exercises substantial executive authority
13 over a significant number of employees and a large volume of
14 business. A "high policy-making position" is a position in which a
15 person plays a significant role in developing policy and in
16 recommending the implementation thereof.

17 For the purposes of this subsection, an unlawful employment
18 practice occurs, with respect to discrimination in compensation or
19 in the financial terms or conditions of employment, each occasion
20 that an individual is affected by application of a discriminatory
21 compensation decision or other practice, including, but not limited
22 to, each occasion that wages, benefits, or other compensation are
23 paid, resulting in whole or in part from the decision or other
24 practice.

25 In addition to any other relief authorized by the "Law Against
26 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) for
27 discrimination in compensation or in the financial terms or
28 conditions of employment, liability shall accrue and an aggrieved
29 person may obtain relief for back pay for the entire period of time,
30 except not more than six years, in which the violation with regard to
31 discrimination in compensation or in the financial terms or
32 conditions of employment has been continuous, if the violation
33 continues to occur within the statute of limitations.

34 Nothing in this subsection shall prohibit the application of the
35 doctrine of "continuing violation" or the "discovery rule" to any
36 appropriate claim as those doctrines currently exist in New Jersey
37 common law. It shall be an unlawful employment practice to
38 require employees or prospective employees to consent to a
39 shortened statute of limitations or to waive any of the protections
40 provided by the "Law Against Discrimination," P.L.1945, c.169
41 (C.10:5-1 et seq.).

42 b. For a labor organization, because of the race, creed, color,
43 national origin, ancestry, age, marital status, civil union status,
44 domestic partnership status, affectional or sexual orientation,
45 gender identity or expression, disability, pregnancy or
46 breastfeeding, or sex of any individual, or because of the liability
47 for service in the Armed Forces of the United States or nationality
48 of any individual, to exclude or to expel from its membership such

1 individual or to discriminate in any way against any of its members,
2 against any applicant for, or individual included in, any apprentice
3 or other training program or against any employer or any individual
4 employed by an employer; provided, however, that nothing herein
5 contained shall be construed to bar a labor organization from
6 excluding from its apprentice or other training programs any person
7 on the basis of sex in those certain circumstances where sex is a
8 bona fide occupational qualification reasonably necessary to the
9 normal operation of the particular apprentice or other training
10 program.

11 c. For any employer or employment agency to print or circulate
12 or cause to be printed or circulated any statement, advertisement or
13 publication, or to use any form of application for employment, or to
14 make an inquiry in connection with prospective employment, which
15 expresses, directly or indirectly, any limitation, specification or
16 discrimination as to race, creed, color, national origin, ancestry,
17 age, marital status, civil union status, domestic partnership status,
18 affectional or sexual orientation, gender identity or expression,
19 disability, nationality, pregnancy or breastfeeding, or sex or liability
20 of any applicant for employment for service in the Armed Forces of
21 the United States, or any intent to make any such limitation,
22 specification or discrimination, unless based upon a bona fide
23 occupational qualification.

24 d. For any person to take reprisals against any person because
25 that person has opposed any practices or acts forbidden under this
26 act or because that person has sought legal advice regarding rights
27 under this act, shared relevant information with legal counsel,
28 shared information with a governmental entity, or filed a complaint,
29 testified or assisted in any proceeding under this act or to coerce,
30 intimidate, threaten or interfere with any person in the exercise or
31 enjoyment of, or on account of that person having aided or
32 encouraged any other person in the exercise or enjoyment of, any
33 right granted or protected by this act.

34 e. For any person, whether an employer or an employee or not,
35 to aid, abet, incite, compel or coerce the doing of any of the acts
36 forbidden under this act, or to attempt to do so.

37 f. (1) For any owner, lessee, proprietor, manager,
38 superintendent, agent, or employee of any place of public
39 accommodation directly or indirectly to refuse, withhold from or
40 deny to any person any of the accommodations, advantages,
41 facilities or privileges thereof, or to discriminate against any person
42 in the furnishing thereof, or directly or indirectly to publish,
43 circulate, issue, display, post or mail any written or printed
44 communication, notice, or advertisement to the effect that any of
45 the accommodations, advantages, facilities, or privileges of any
46 such place will be refused, withheld from, or denied to any person
47 on account of the race, creed, color, national origin, ancestry,
48 marital status, civil union status, domestic partnership status,

1 pregnancy or breastfeeding, sex, gender identity or expression,
2 affectional or sexual orientation, disability, liability for service in
3 the Armed Forces of the United States or nationality of such person,
4 or that the patronage or custom thereof of any person of any
5 particular race, creed, color, national origin, ancestry, marital status,
6 civil union status, domestic partnership status, pregnancy or
7 breastfeeding status, sex, gender identity or expression, affectional
8 or sexual orientation, disability, liability for service in the Armed
9 Forces of the United States or nationality is unwelcome,
10 objectionable or not acceptable, desired or solicited, and the
11 production of any such written or printed communication, notice or
12 advertisement, purporting to relate to any such place and to be made
13 by any owner, lessee, proprietor, superintendent or manager thereof,
14 shall be presumptive evidence in any action that the same was
15 authorized by such person; provided, however, that nothing
16 contained herein shall be construed to bar any place of public
17 accommodation which is in its nature reasonably restricted
18 exclusively to individuals of one sex, and which shall include but
19 not be limited to any summer camp, day camp, or resort camp,
20 bathhouse, dressing room, swimming pool, gymnasium, comfort
21 station, dispensary, clinic or hospital, or school or educational
22 institution which is restricted exclusively to individuals of one sex,
23 provided individuals shall be admitted based on their gender
24 identity or expression, from refusing, withholding from or denying
25 to any individual of the opposite sex any of the accommodations,
26 advantages, facilities or privileges thereof on the basis of sex;
27 provided further, that the foregoing limitation shall not apply to any
28 restaurant as defined in R.S.33:1-1 or place where alcoholic
29 beverages are served.

30 (2) Notwithstanding the definition of "a place of public
31 accommodation" as set forth in subsection 1. of section 5 of
32 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,
33 manager, superintendent, agent, or employee of any private club or
34 association to directly or indirectly refuse, withhold from or deny to
35 any individual who has been accepted as a club member and has
36 contracted for or is otherwise entitled to full club membership any
37 of the accommodations, advantages, facilities or privileges thereof,
38 or to discriminate against any member in the furnishing thereof on
39 account of the race, creed, color, national origin, ancestry, marital
40 status, civil union status, domestic partnership status, pregnancy or
41 breastfeeding, sex, gender identity, or expression, affectional or
42 sexual orientation, disability, liability for service in the Armed
43 Forces of the United States or nationality of such person.

44 In addition to the penalties otherwise provided for a violation of
45 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)
46 of subsection f. of this section is the holder of an alcoholic beverage
47 license issued under the provisions of R.S.33:1-12 for that private
48 club or association, the matter shall be referred to the Director of

1 the Division of Alcoholic Beverage Control who shall impose an
2 appropriate penalty in accordance with the procedures set forth in
3 R.S.33:1-31.

4 g. For any person, including but not limited to, any owner,
5 lessee, sublessee, assignee or managing agent of, or other person
6 having the right of ownership or possession of or the right to sell,
7 rent, lease, assign, or sublease any real property or part or portion
8 thereof, or any agent or employee of any of these:

9 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
10 to deny to or withhold from any person or group of persons any real
11 property or part or portion thereof because of race, creed, color,
12 national origin, ancestry, marital status, civil union status, domestic
13 partnership status, pregnancy or breastfeeding, sex, gender identity
14 or expression, affectional or sexual orientation, familial status,
15 disability, liability for service in the Armed Forces of the United
16 States, nationality, or source of lawful income used for rental or
17 mortgage payments;

18 (2) To discriminate against any person or group of persons
19 because of race, creed, color, national origin, ancestry, marital
20 status, civil union status, domestic partnership status, pregnancy or
21 breastfeeding, sex, gender identity or expression, affectional or
22 sexual orientation, familial status, disability, liability for service in
23 the Armed Forces of the United States, nationality or source of
24 lawful income used for rental or mortgage payments in the terms,
25 conditions or privileges of the sale, rental or lease of any real
26 property or part or portion thereof or in the furnishing of facilities
27 or services in connection therewith;

28 (3) To print, publish, circulate, issue, display, post or mail, or
29 cause to be printed, published, circulated, issued, displayed, posted
30 or mailed any statement, advertisement, publication or sign, or to
31 use any form of application for the purchase, rental, lease,
32 assignment or sublease of any real property or part or portion
33 thereof, or to make any record or inquiry in connection with the
34 prospective purchase, rental, lease, assignment, or sublease of any
35 real property, or part or portion thereof which expresses, directly or
36 indirectly, any limitation, specification or discrimination as to race,
37 creed, color, national origin, ancestry, marital status, civil union
38 status, domestic partnership status, pregnancy or breastfeeding, sex,
39 gender identity, or expression, affectional or sexual orientation,
40 familial status, disability, liability for service in the Armed Forces
41 of the United States, nationality, or source of lawful income used
42 for rental or mortgage payments, or any intent to make any such
43 limitation, specification or discrimination, and the production of
44 any such statement, advertisement, publicity, sign, form of
45 application, record, or inquiry purporting to be made by any such
46 person shall be presumptive evidence in any action that the same
47 was authorized by such person; provided, however, that nothing
48 contained in this subsection shall be construed to bar any person

1 from refusing to sell, rent, lease, assign or sublease or from
2 advertising or recording a qualification as to sex for any room,
3 apartment, flat in a dwelling or residential facility which is planned
4 exclusively for and occupied by individuals of one sex to any
5 individual of the exclusively opposite sex on the basis of sex
6 provided individuals shall be qualified based on their gender
7 identity or expression;

8 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
9 to deny to or withhold from any person or group of persons any real
10 property or part or portion thereof because of the source of any
11 lawful income received by the person or the source of any lawful
12 rent payment to be paid for the real property; or

13 (5) To refuse to rent or lease any real property to another person
14 because that person's family includes children under 18 years of
15 age, or to make an agreement, rental or lease of any real property
16 which provides that the agreement, rental or lease shall be rendered
17 null and void upon the birth of a child. This paragraph shall not
18 apply to housing for older persons as defined in subsection mm. of
19 section 5 of P.L.1945, c.169 (C.10:5-5).

20 h. For any person, including but not limited to, any real estate
21 broker, real estate salesperson, or employee or agent thereof:

22 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
23 sale, rental, lease, assignment, or sublease any real property or part
24 or portion thereof to any person or group of persons or to refuse to
25 negotiate for the sale, rental, lease, assignment, or sublease of any
26 real property or part or portion thereof to any person or group of
27 persons because of race, creed, color, national origin, ancestry,
28 marital status, civil union status, domestic partnership status,
29 familial status, pregnancy or breastfeeding, sex, gender identity or
30 expression, affectional or sexual orientation, liability for service in
31 the Armed Forces of the United States, disability, nationality, or
32 source of lawful income used for rental or mortgage payments, or to
33 represent that any real property or portion thereof is not available
34 for inspection, sale, rental, lease, assignment, or sublease when in
35 fact it is so available, or otherwise to deny or withhold any real
36 property or any part or portion of facilities thereof to or from any
37 person or group of persons because of race, creed, color, national
38 origin, ancestry, marital status, civil union status, domestic
39 partnership status, familial status, pregnancy or breastfeeding, sex,
40 gender identity or expression, affectional or sexual orientation,
41 disability, liability for service in the Armed Forces of the United
42 States, or nationality;

43 (2) To discriminate against any person because of race, creed,
44 color, national origin, ancestry, marital status, civil union status,
45 domestic partnership status, familial status, pregnancy or
46 breastfeeding, sex, gender identity or expression, affectional or
47 sexual orientation, disability, liability for service in the Armed
48 Forces of the United States, nationality, or source of lawful income

1 used for rental or mortgage payments in the terms, conditions or
2 privileges of the sale, rental, lease, assignment or sublease of any
3 real property or part or portion thereof or in the furnishing of
4 facilities or services in connection therewith;

5 (3) To print, publish, circulate, issue, display, post, or mail, or
6 cause to be printed, published, circulated, issued, displayed, posted
7 or mailed any statement, advertisement, publication or sign, or to
8 use any form of application for the purchase, rental, lease,
9 assignment, or sublease of any real property or part or portion
10 thereof or to make any record or inquiry in connection with the
11 prospective purchase, rental, lease, assignment, or sublease of any
12 real property or part or portion thereof which expresses, directly or
13 indirectly, any limitation, specification or discrimination as to race,
14 creed, color, national origin, ancestry, marital status, civil union
15 status, domestic partnership status, familial status, pregnancy or
16 breastfeeding, sex, gender identity or expression, affectional or
17 sexual orientation, disability, liability for service in the Armed
18 Forces of the United States, nationality, or source of lawful income
19 used for rental or mortgage payments or any intent to make any
20 such limitation, specification or discrimination, and the production
21 of any such statement, advertisement, publicity, sign, form of
22 application, record, or inquiry purporting to be made by any such
23 person shall be presumptive evidence in any action that the same
24 was authorized by such person; provided, however, that nothing
25 contained in this subsection h., shall be construed to bar any person
26 from refusing to sell, rent, lease, assign or sublease or from
27 advertising or recording a qualification as to sex for any room,
28 apartment, flat in a dwelling or residential facility which is planned
29 exclusively for and occupied exclusively by individuals of one sex
30 to any individual of the opposite sex on the basis of sex, provided
31 individuals shall be qualified based on their gender identity or
32 expression;

33 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
34 to deny to or withhold from any person or group of persons any real
35 property or part or portion thereof because of the source of any
36 lawful income received by the person or the source of any lawful
37 rent payment to be paid for the real property; or

38 (5) To refuse to rent or lease any real property to another person
39 because that person's family includes children under 18 years of
40 age, or to make an agreement, rental or lease of any real property
41 which provides that the agreement, rental or lease shall be rendered
42 null and void upon the birth of a child. This paragraph shall not
43 apply to housing for older persons as defined in subsection mm. of
44 section 5 of P.L.1945, c.169 (C.10:5-5).

45 i. For any person, bank, banking organization, mortgage
46 company, insurance company or other financial institution, lender
47 or credit institution involved in the making or purchasing of any
48 loan or extension of credit, for whatever purpose, whether secured

1 by residential real estate or not, including but not limited to
2 financial assistance for the purchase, acquisition, construction,
3 rehabilitation, repair or maintenance of any real property or part or
4 portion thereof or any agent or employee thereof:

5 (1) To discriminate against any person or group of persons
6 because of race, creed, color, national origin, ancestry, marital
7 status, civil union status, domestic partnership status, pregnancy or
8 breastfeeding, sex, gender identity or expression, affectional or
9 sexual orientation, disability, liability for service in the Armed
10 Forces of the United States, familial status or nationality, in the
11 granting, withholding, extending, modifying, renewing, or
12 purchasing, or in the fixing of the rates, terms, conditions or
13 provisions of any such loan, extension of credit or financial
14 assistance or purchase thereof or in the extension of services in
15 connection therewith;

16 (2) To use any form of application for such loan, extension of
17 credit or financial assistance or to make record or inquiry in
18 connection with applications for any such loan, extension of credit
19 or financial assistance which expresses, directly or indirectly, any
20 limitation, specification or discrimination as to race, creed, color,
21 national origin, ancestry, marital status, civil union status, domestic
22 partnership status, pregnancy or breastfeeding, sex, gender identity
23 or expression, affectional or sexual orientation, disability, liability
24 for service in the Armed Forces of the United States, familial status
25 or nationality or any intent to make any such limitation,
26 specification or discrimination; unless otherwise required by law or
27 regulation to retain or use such information;

28 (3) (Deleted by amendment, P.L.2003, c.180).

29 (4) To discriminate against any person or group of persons
30 because of the source of any lawful income received by the person
31 or the source of any lawful rent payment to be paid for the real
32 property; or

33 (5) To discriminate against any person or group of persons
34 because that person's family includes children under 18 years of
35 age, or to make an agreement or mortgage which provides that the
36 agreement or mortgage shall be rendered null and void upon the
37 birth of a child. This paragraph shall not apply to housing for older
38 persons as defined in subsection mm. of section 5 of P.L.1945,
39 c.169 (C.10:5-5).

40 j. For any person whose activities are included within the
41 scope of this act to refuse to post or display such notices concerning
42 the rights or responsibilities of persons affected by this act as the
43 Attorney General may by regulation require.

44 k. For any real estate broker, real estate salesperson or
45 employee or agent thereof or any other individual, corporation,
46 partnership, or organization, for the purpose of inducing a
47 transaction for the sale or rental of real property from which
48 transaction such person or any of its members may benefit

1 financially, to represent that a change has occurred or will or may
2 occur in the composition with respect to race, creed, color, national
3 origin, ancestry, marital status, civil union status, domestic
4 partnership status, familial status, pregnancy or breastfeeding, sex,
5 gender identity or expression, affectional or sexual orientation,
6 disability, liability for service in the Armed Forces of the United
7 States, nationality, or source of lawful income used for rental or
8 mortgage payments of the owners or occupants in the block,
9 neighborhood or area in which the real property is located, and to
10 represent, directly or indirectly, that this change will or may result
11 in undesirable consequences in the block, neighborhood or area in
12 which the real property is located, including, but not limited to the
13 lowering of property values, an increase in criminal or anti-social
14 behavior, or a decline in the quality of schools or other facilities.

15 1. For any person to refuse to buy from, sell to, lease from or
16 to, license, contract with, or trade with, provide goods, services or
17 information to, or otherwise do business with any other person on
18 the basis of the race, creed, color, national origin, ancestry, age,
19 pregnancy or breastfeeding, sex, gender identity or expression,
20 affectional or sexual orientation, marital status, civil union status,
21 domestic partnership status, liability for service in the Armed
22 Forces of the United States, disability, nationality, or source of
23 lawful income used for rental or mortgage payments of such other
24 person or of such other person's family members, partners,
25 members, stockholders, directors, officers, managers,
26 superintendents, agents, employees, business associates, suppliers,
27 or customers. This subsection shall not prohibit refusals or other
28 actions (1) pertaining to employee-employer collective bargaining,
29 labor disputes, or unfair labor practices, or (2) made or taken in
30 connection with a protest of unlawful discrimination or unlawful
31 employment practices.

32 m. For any person to:

33 (1) Grant or accept any letter of credit or other document which
34 evidences the transfer of funds or credit, or enter into any contract
35 for the exchange of goods or services, where the letter of credit,
36 contract, or other document contains any provisions requiring any
37 person to discriminate against or to certify that he, she or it has not
38 dealt with any other person on the basis of the race, creed, color,
39 national origin, ancestry, age, pregnancy or breastfeeding, sex,
40 gender identity or expression, affectional or sexual orientation,
41 marital status, civil union status, domestic partnership status,
42 disability, liability for service in the Armed Forces of the United
43 States, or nationality of such other person or of such other person's
44 family members, partners, members, stockholders, directors,
45 officers, managers, superintendents, agents, employees, business
46 associates, suppliers, or customers.

47 (2) Refuse to grant or accept any letter of credit or other
48 document which evidences the transfer of funds or credit, or refuse

1 to enter into any contract for the exchange of goods or services, on
2 the ground that it does not contain such a discriminatory provision
3 or certification.

4 The provisions of this subsection shall not apply to any letter of
5 credit, contract, or other document which contains any provision
6 pertaining to employee-employer collective bargaining, a labor
7 dispute or an unfair labor practice, or made in connection with the
8 protest of unlawful discrimination or an unlawful employment
9 practice, if the other provisions of such letter of credit, contract, or
10 other document do not otherwise violate the provisions of this
11 subsection.

12 n. For any person to aid, abet, incite, compel, coerce, or induce
13 the doing of any act forbidden by subsections l. and m. of section
14 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
15 do so. Such prohibited conduct shall include, but not be limited to:

16 (1) Buying from, selling to, leasing from or to, licensing,
17 contracting with, trading with, providing goods, services, or
18 information to, or otherwise doing business with any person
19 because that person does, or agrees or attempts to do, any such act
20 or any act prohibited by this subsection; or

21 (2) Boycotting, commercially blacklisting or refusing to buy
22 from, sell to, lease from or to, license, contract with, provide goods,
23 services or information to, or otherwise do business with any person
24 because that person has not done or refuses to do any such act or
25 any act prohibited by this subsection; provided that this subsection
26 shall not prohibit refusals or other actions either pertaining to
27 employee-employer collective bargaining, labor disputes, or unfair
28 labor practices, or made or taken in connection with a protest of
29 unlawful discrimination or unlawful employment practices.

30 o. For any multiple listing service, real estate brokers'
31 organization or other service, organization or facility related to the
32 business of selling or renting dwellings to deny any person access
33 to or membership or participation in such organization, or to
34 discriminate against such person in the terms or conditions of such
35 access, membership, or participation, on account of race, creed,
36 color, national origin, ancestry, age, marital status, civil union
37 status, domestic partnership status, familial status, pregnancy or
38 breastfeeding, sex, gender identity or expression, affectional or
39 sexual orientation, disability, liability for service in the Armed
40 Forces of the United States or nationality.

41 p. Nothing in the provisions of this section shall affect the
42 ability of an employer to require employees to adhere to reasonable
43 workplace appearance, grooming and dress standards not precluded
44 by other provisions of State or federal law, except that an employer
45 shall allow an employee to appear, groom and dress consistent with
46 the employee's gender identity or expression.

47 q. (1) For any employer to impose upon a person as a condition
48 of obtaining or retaining employment, including opportunities for

1 promotion, advancement or transfers, any terms or conditions that
2 would require a person to violate or forego a sincerely held
3 religious practice or religious observance, including but not limited
4 to the observance of any particular day or days or any portion
5 thereof as a Sabbath or other holy day in accordance with the
6 requirements of the religion or religious belief, unless, after
7 engaging in a bona fide effort, the employer demonstrates that it is
8 unable to reasonably accommodate the employee's religious
9 observance or practice without undue hardship on the conduct of the
10 employer's business. Notwithstanding any other provision of law to
11 the contrary, an employee shall not be entitled to premium wages or
12 premium benefits for work performed during hours to which those
13 premium wages or premium benefits would ordinarily be
14 applicable, if the employee is working during those hours only as an
15 accommodation to his religious requirements. Nothing in this
16 subsection q. shall be construed as reducing:

17 (a) The number of the hours worked by the employee which are
18 counted towards the accruing of seniority, pension or other benefits;
19 or

20 (b) Any premium wages or benefits provided to an employee
21 pursuant to a collective bargaining agreement.

22 (2) For an employer to refuse to permit an employee to utilize
23 leave, as provided for in this subsection q., which is solely used to
24 accommodate the employee's sincerely held religious observance or
25 practice. Except where it would cause an employer to incur an
26 undue hardship, no person shall be required to remain at his place
27 of employment during any day or days or portion thereof that, as a
28 requirement of his religion, he observes as his Sabbath or other holy
29 day, including a reasonable time prior and subsequent thereto for
30 travel between his place of employment and his home; provided that
31 any such absence from work shall, wherever practicable in the
32 reasonable judgment of the employer, be made up by an equivalent
33 amount of time and work at some other mutually convenient time,
34 or shall be charged against any leave with pay ordinarily granted,
35 other than sick leave, and any such absence not so made up or
36 charged, may be treated by the employer of that person as leave
37 taken without pay.

38 (3) (a) For purposes of this subsection q., "undue hardship"
39 means an accommodation requiring unreasonable expense or
40 difficulty, unreasonable interference with the safe or efficient
41 operation of the workplace or a violation of a bona fide seniority
42 system or a violation of any provision of a bona fide collective
43 bargaining agreement.

44 (b) In determining whether the accommodation constitutes an
45 undue hardship, the factors considered shall include:

46 (i) The identifiable cost of the accommodation, including the
47 costs of loss of productivity and of retaining or hiring employees or

1 transferring employees from one facility to another, in relation to
2 the size and operating cost of the employer.

3 (ii) The number of individuals who will need the particular
4 accommodation for a sincerely held religious observance or
5 practice.

6 (iii) For an employer with multiple facilities, the degree to
7 which the geographic separateness or administrative or fiscal
8 relationship of the facilities will make the accommodation more
9 difficult or expensive.

10 (c) An accommodation shall be considered to constitute an
11 undue hardship if it will result in the inability of an employee to
12 perform the essential functions of the position in which he or she is
13 employed.

14 (d) (i) The provisions of this subsection q. shall be applicable
15 only to reasonable accommodations of religious observances and
16 shall not supersede any definition of undue hardship or standards
17 for reasonable accommodation of the disabilities of employees.

18 (ii) This subsection q. shall not apply where the uniform
19 application of terms and conditions of attendance to employees is
20 essential to prevent undue hardship to the employer. The burden of
21 proof regarding the applicability of this subparagraph (d) shall be
22 upon the employer.

23 r. For an employer to take reprisals against any employee for
24 requesting from, discussing with, or disclosing to, any other
25 employee or former employee of the employer, a lawyer from
26 whom the employee seeks legal advice, or any government agency
27 information regarding the job title, occupational category, and rate
28 of compensation, including benefits, of the employee or any other
29 employee or former employee of the employer, or the gender, race,
30 ethnicity, military status, or national origin of the employee or any
31 other employee or former employee of the employer, regardless of
32 whether the request was responded to, or to require, as a condition
33 of employment, any employee or prospective employee to sign a
34 waiver, or to otherwise require an employee or prospective
35 employee to agree, not to make those requests or disclosures.
36 Nothing in this subsection shall be construed to require an
37 employee to disclose such information about the employee herself
38 to any other employee or former employee of the employer or to
39 any authorized representative of the other employee or former
40 employee.

41 s. For an employer to treat, for employment-related purposes, a
42 woman employee that the employer knows, or should know, is
43 affected by pregnancy or breastfeeding in a manner less favorable
44 than the treatment of other persons not affected by pregnancy or
45 breastfeeding but similar in their ability or inability to work. In
46 addition, an employer of an employee who is a woman affected by
47 pregnancy shall make available to the employee reasonable
48 accommodation in the workplace, such as bathroom breaks, breaks

1 for increased water intake, periodic rest, assistance with manual
2 labor, job restructuring or modified work schedules, and temporary
3 transfers to less strenuous or hazardous work, for needs related to
4 the pregnancy when the employee, based on the advice of her
5 physician, requests the accommodation, and, in the case of a
6 lactating employee **【breast feeding her infant child】** for such time
7 as the employee desires, the accommodation shall include
8 reasonable break time each day paid at the employee's regular rate
9 of compensation, job restructuring, and a modified work schedule to
10 the employee and a suitable room or other location with privacy,
11 free from intrusion of other employees or customers of the
12 employer's business, if applicable, other than a **【toilet stall】**
13 restroom, in close proximity to the work area for the employee to
14 express breast milk for the child, unless the employer can
15 demonstrate that providing the accommodation would be an undue
16 hardship on the business operations of the employer. The employer
17 shall not in any way penalize the employee in terms, conditions or
18 privileges of employment for requesting or using the
19 accommodation. Workplace accommodation provided pursuant to
20 this subsection and paid or unpaid leave provided to an employee
21 affected by pregnancy or breastfeeding shall not be provided in a
22 manner less favorable than accommodations or leave provided to
23 other employees not affected by pregnancy or breastfeeding but
24 similar in their ability or inability to work. This subsection shall
25 not be construed as otherwise increasing or decreasing any
26 employee's rights under law to paid or unpaid leave in connection
27 with pregnancy or breastfeeding.

28 For the purposes of this section "pregnancy or breastfeeding"
29 means pregnancy, childbirth, and breast feeding or expressing milk
30 for breastfeeding, or medical conditions related to pregnancy,
31 childbirth, or breastfeeding, including recovery from childbirth.

32 For the purposes of this subsection, in determining whether an
33 accommodation would impose undue hardship on the operation of
34 an employer's business, the factors to be considered include: the
35 overall size of the employer's business with respect to the number
36 of employees, number and type of facilities, and size of budget; the
37 type of the employer's operations, including the composition and
38 structure of the employer's workforce; the nature and cost of the
39 accommodation needed, taking into consideration the availability of
40 tax credits, tax deductions, and outside funding; and the extent to
41 which the accommodation would involve waiver of an essential
42 requirement of a job as opposed to a tangential or non-business
43 necessity requirement.

44 t. For an employer to pay any of its employees who is a
45 member of a protected class at a rate of compensation, including
46 benefits, which is less than the rate paid by the employer to
47 employees who are not members of the protected class for
48 substantially similar work, when viewed as a composite of skill,

1 effort and responsibility. An employer who is paying a rate of
2 compensation in violation of this subsection shall not reduce the
3 rate of compensation of any employee in order to comply with this
4 subsection. An employer may pay a different rate of compensation
5 only if the employer demonstrates that the differential is made
6 pursuant to a seniority system, a merit system, or the employer
7 demonstrates:

8 (1) That the differential is based on one or more legitimate, bona
9 fide factors other than the characteristics of members of the
10 protected class, such as training, education or experience, or the
11 quantity or quality of production;

12 (2) That the factor or factors are not based on, and do not
13 perpetuate, a differential in compensation based on sex or any other
14 characteristic of members of a protected class;

15 (3) That each of the factors is applied reasonably;

16 (4) That one or more of the factors account for the entire wage
17 differential; and

18 (5) That the factors are job-related with respect to the position
19 in question and based on a legitimate business necessity. A factor
20 based on business necessity shall not apply if it is demonstrated that
21 there are alternative business practices that would serve the same
22 business purpose without producing the wage differential.

23 Comparisons of wage rates shall be based on wage rates in all of
24 an employer's operations or facilities. For the purposes of this
25 subsection, "member of a protected class" means an employee who
26 has one or more characteristics, including race, creed, color,
27 national origin, nationality, ancestry, age, marital status, civil union
28 status, domestic partnership status, affectional or sexual orientation,
29 genetic information, pregnancy, breastfeeding, sex, gender identity
30 or expression, disability or atypical hereditary cellular or blood trait
31 of any individual, or liability for service in the armed forces, for
32 which subsection a. of this section prohibits an employer from
33 refusing to hire or employ or barring or discharging or requiring to
34 retire from employment or discriminating against the individual in
35 compensation or in terms, conditions or privileges of employment.

36 (cf: P.L.2021, c.248, s.2)

37

38 2. This act shall take effect immediately.