

ASSEMBLY, No. 4170

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MAY 14, 2007

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

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District 37 (Bergen)

SYNOPSIS

“Genetic Nondiscrimination in Employment Act;” prohibits employment discrimination based on genetic information.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT providing that genetic information and genetic testing
2 results be kept private, prohibiting discrimination based on
3 genetic information and supplementing P.L.1996, c.126.

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

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8 1. As used in the act:

9 “DNA” means deoxyribonucleic acid.

10 “Employer” means a person engaged in business who has
11 employees, including the State and any political subdivision or
12 other instrumentality of the State.

13 “Genetic information” means the information about genes, gene
14 products or inherited characteristics that may derive from an
15 individual or family member. Genetic information shall not include
16 family history, the results of a routine physical examination or test,
17 the results of a chemical, blood or urine analysis, the results of a
18 test to determine drug use, the results of a test for the presence of
19 the human immunodeficiency virus, or the results of any other test
20 commonly accepted in clinical practice at the time it is ordered by
21 the insurer.

22 “Genetic test” means a test for determining the presence or
23 absence of an inherited genetic characteristic in an individual,
24 including tests of nucleic acids such as DNA, RNA and
25 mitochondrial DNA, chromosomes or proteins in order to identify a
26 predisposing genetic characteristic. Genetic test shall not include a
27 routine physical examination or a routine test performed as part of a
28 routine physical examination; a chemical, blood or urine analysis; a
29 test to determine drug use; a test for the presence of the human
30 immunodeficiency virus; or any other test commonly accepted in
31 clinical practice at the time it is ordered by the insurer.

32 “RNA” means ribonucleic acid.

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34 2. This act shall be known and may be cited as the “Genetic
35 Nondiscrimination in Employment Act.”

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37 3. a. No employer shall:

38 (1) Seek to obtain or use a genetic test or genetic information of
39 an employee or perspective employee;

40 (2) Require a genetic test of or require genetic information from
41 the employee or perspective employee;

42 (3) Access or otherwise take into consideration genetic
43 information about an individual;

44 (4) Request or require an individual to consent to a release for
45 the purpose of accessing genetic information about the individual;

46 (5) Request or require an individual or his blood relative to
47 submit to a genetic test; or

1 (6) Inquire into the fact that an individual or his blood relative
2 has taken or refused to take a genetic test.

3 b. Any person who violates any of the provisions of section 3 of
4 this act shall, in addition to any other relief or affirmative action
5 provided by law, be liable for the following penalties:

6 (1) In an amount not exceeding \$10,000 if the respondent has
7 not been adjudged to have committed any prior violation within the
8 five-year period ending on the date of the filing of this charge;

9 (2) In an amount not exceeding \$25,000 if the respondent has
10 been adjudged to have committed one other violation within the
11 five-year period ending on the date of the filing of this charge; and

12 (3) In an amount not exceeding \$50,000 if the respondent has
13 been adjudged to have committed two or more violations within the
14 seven-year period ending on the date of the filing of this charge.
15 The penalties shall be determined by the Commissioner of Labor
16 and Workforce Development in such amounts as he deems proper
17 upon his finding of an unlawful discrimination or an unlawful
18 employment practice. Any such amounts collected by the director
19 shall be paid forthwith into the State Treasury for the general
20 purposes of the State.

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22 4. Notwithstanding any provision to the contrary, this act shall
23 not apply to an insurer or to an individual or third-party dealing
24 with an insurer in the ordinary course of underwriting, conducting,
25 or administering the business of life, disability income, or long-term
26 care insurance, including but not limited to, actions taken by an
27 insurer or to an individual or third-party dealing with an insurer in
28 connection with life, disability income or long-term care insurance
29 made available by an employer to its employees.

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31 5. This act shall take effect on the 90th day following
32 enactment.

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STATEMENT

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37 This bill prohibits an employer, in connection with a hiring,
38 promotion, retention or other related decision from:

39 (1) Seeking to obtain or use a genetic test or genetic
40 information of an employee or perspective employee;

41 (2) Requiring a genetic test of or require genetic information
42 from the employee or perspective employee;

43 (3) Accessing or otherwise take into consideration genetic
44 information about an individual;

45 (4) Requesting or require an individual to consent to a release
46 for the purpose of accessing genetic information about the
47 individual;

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1 (5) Requesting or require an individual or his blood relative to
2 submit to a genetic test; or

3 (6) Inquiring into the fact that an individual or his blood
4 relative has taken or refused to take a genetic test.

5 Any person who violates any the provisions of this act shall, be
6 liable for the following penalties:

7 (1) In an amount not exceeding \$10,000 if the respondent has
8 not been adjudged to have committed any prior violation within the
9 five-year period ending on the date of the filing of this charge;

10 (2) In an amount not exceeding \$25,000 if the respondent has
11 been adjudged to have committed one other violation within the
12 five-year period ending on the date of the filing of this charge; and

13 (3) In an amount not exceeding \$50,000 if the respondent has
14 been adjudged to have committed two or more violations within the
15 seven-year period ending on the date of the filing of this charge.

16 Finally, the bill exempts an insurer or to an individual or third-
17 party dealing with an insurer in the ordinary course of underwriting,
18 conducting, or administering the business of life, disability income,
19 or long-term care insurance in connection with life, disability
20 income or long-term care insurance made available by an employer
21 to its employees.