

# ASSEMBLY, No. 3529

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JULY 11, 2014

**Sponsored by:**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblywoman MARLENE CARIDE**

**District 36 (Bergen and Passaic)**

**Assemblywoman CELESTE M. RILEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Co-Sponsored by:**

**Assemblyman Egan and Assemblywoman Pinkin**

**SYNOPSIS**

The “New Jersey Intern Protection Act”; provides legal protections and remedies for persons engaged in internships with employers.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT providing protections and remedies for persons engaged in  
2 internships with employers, designated the “New Jersey Intern  
3 Protection Act,” and amending the titles and bodies of various  
4 parts of the statutory law.

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

8  
9 1. The title of P.L.2001, c.385 is amended to read as follows:  
10 AN ACT imposing liability on employers who discharge or  
11 discriminate against employees or interns for displaying the  
12 American flag, and supplementing P.L.1945, c.169 (C.10:5-1 et  
13 seq.).

14 (cf: P.L.2001, c.385, title)

15  
16 2. The title of P.L.1986, c.105 is amended to read as follows:  
17 AN ACT **[to protect employees from]** concerning retaliatory  
18 **[action]** actions by employers and supplementing Title 34 of the  
19 Revised Statutes.

20 (cf: P.L.1986, c.105, title)

21  
22 3. The title of P.L.2006, c.53 is amended to read as follows:  
23 AN ACT concerning employer communications **[to employees]**  
24 about religious and political matters, and supplementing Title 34  
25 of the Revised Statutes.

26 (cf: P.L.2006, c.53, title)

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

30 3. The Legislature finds and declares that practices of  
31 discrimination against any of its inhabitants, because of race, creed,  
32 color, national origin, ancestry, age, sex, gender identity or  
33 expression, affectional or sexual orientation, marital status, familial  
34 status, liability for service in the Armed Forces of the United States,  
35 disability or nationality, are matters of concern to the government  
36 of the State, and that such discrimination threatens not only the  
37 rights and proper privileges of the inhabitants of the State but  
38 menaces the institutions and foundation of a free democratic State;  
39 provided, however, that nothing in this expression of policy  
40 prevents the making of legitimate distinctions between citizens and  
41 aliens when required by federal law or otherwise necessary to  
42 promote the national interest.

43 The Legislature further declares its opposition to such practices  
44 of discrimination when directed against any person by reason of the  
45 race, creed, color, national origin, ancestry, age, sex, gender

**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 identity or expression, affectional or sexual orientation, marital  
2 status, liability for service in the Armed Forces of the United States,  
3 disability or nationality of that person or that person's spouse,  
4 partners, members, stockholders, directors, officers, managers,  
5 superintendents, agents, employees, interns, business associates,  
6 suppliers, or customers, in order that the economic prosperity and  
7 general welfare of the inhabitants of the State may be protected and  
8 ensured.

9 The Legislature further finds that because of discrimination,  
10 people suffer personal hardships, and the State suffers a grievous  
11 harm. The personal hardships include: economic loss; time loss;  
12 physical and emotional stress; and in some cases severe emotional  
13 trauma, illness, homelessness or other irreparable harm resulting  
14 from the strain of employment or employer internship  
15 controversies; relocation, search and moving difficulties; anxiety  
16 caused by lack of information, uncertainty, and resultant planning  
17 difficulty; career, education, family and social disruption; and  
18 adjustment problems, which particularly impact on those protected  
19 by this act. Such harms have, under the common law, given rise to  
20 legal remedies, including compensatory and punitive damages. The  
21 Legislature intends that such damages be available to all persons  
22 protected by this act and that this act shall be liberally construed in  
23 combination with other protections available under the laws of this  
24 State.

25 (cf: P.L.2006, c.100, s.2)

26

27 5. Section 4 of P.L.1945, c.169 (C.10:5-4) is amended to read  
28 as follows:

29 4. All persons shall have the opportunity to obtain employment  
30 or internships with an employer, and to obtain all the  
31 accommodations, advantages, facilities, and privileges of any place  
32 of public accommodation, publicly assisted housing  
33 accommodation, and other real property without discrimination  
34 because of race, creed, color, national origin, ancestry, age, marital  
35 status, affectional or sexual orientation, familial status, disability,  
36 nationality, sex, gender identity or expression or source of lawful  
37 income used for rental or mortgage payments, subject only to  
38 conditions and limitations applicable alike to all persons. This  
39 opportunity is recognized as and declared to be a civil right.

40 (cf: P.L.2006, c.100, s.3)

41

42 6. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read  
43 as follows:

44 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a  
45 different meaning clearly appears from the context:

46 a. "Person" includes one or more individuals, partnerships,  
47 associations, organizations, labor organizations, corporations, legal

- 1 representatives, trustees, trustees in bankruptcy, receivers, and  
2 fiduciaries.
- 3 b. "Employment agency" includes any person undertaking to  
4 procure employees or opportunities for others to work.
- 5 c. "Labor organization" includes any organization which exists  
6 and is constituted for the purpose, in whole or in part, of collective  
7 bargaining, or of dealing with employers concerning grievances,  
8 terms or conditions of employment, or of other mutual aid or  
9 protection in connection with employment.
- 10 d. "Unlawful employment practice" and "unlawful  
11 discrimination" include only those unlawful practices and acts  
12 specified in section 11 of P.L.1945, c.169 (C.10:5-12).
- 13 e. "Employer" includes all persons as defined in subsection a.  
14 of this section unless otherwise specifically exempt under another  
15 section of P.L.1945, c.169 (C.10:5-1 et seq.), and includes the State,  
16 any political or civil subdivision thereof, and all public officers,  
17 agencies, boards or bodies.
- 18 f. (1) "Employee" does not include any individual employed in  
19 the domestic service of any person.
- 20 (2) "Intern" means an individual who performs services for an  
21 employer on a temporary basis whose work: (a) provides training or  
22 supplements training given in an educational environment such that  
23 the employability of the individual performing the work may be  
24 enhanced; (b) provides experience for the benefit of the individual  
25 performing the work; and (c) is performed under the supervision of  
26 existing staff. The term "intern" shall include individuals without  
27 regard to whether the employer pays them a salary or wage.
- 28 g. "Liability for service in the Armed Forces of the United  
29 States" means subject to being ordered as an individual or member  
30 of an organized unit into active service in the Armed Forces of the  
31 United States by reason of membership in the National Guard, naval  
32 militia or a reserve component of the Armed Forces of the United  
33 States, or subject to being inducted into such armed forces through  
34 a system of national selective service.
- 35 h. "Division" means the "Division on Civil Rights" created by  
36 P.L.1945, c.169 (C.10:5-1 et seq.).
- 37 i. "Attorney General" means the Attorney General of the State  
38 of New Jersey or his representative or designee.
- 39 j. "Commission" means the Commission on Civil Rights  
40 created by P.L.1945, c.169 (C.10:5-1 et seq.).
- 41 k. "Director" means the Director of the Division on Civil  
42 Rights.
- 43 l. "A place of public accommodation" shall include, but not be  
44 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
45 summer camp, day camp, or resort camp, whether for entertainment  
46 of transient guests or accommodation of those seeking health,  
47 recreation or rest; any producer, manufacturer, wholesaler,  
48 distributor, retail shop, store, establishment, or concession dealing

1 with goods or services of any kind; any restaurant, eating house, or  
2 place where food is sold for consumption on the premises; any  
3 place maintained for the sale of ice cream, ice and fruit preparations  
4 or their derivatives, soda water or confections, or where any  
5 beverages of any kind are retailed for consumption on the premises;  
6 any garage, any public conveyance operated on land or water, or in  
7 the air, any stations and terminals thereof; any bathhouse,  
8 boardwalk, or seashore accommodation; any auditorium, meeting  
9 place, or hall; any theatre, motion-picture house, music hall, roof  
10 garden, skating rink, swimming pool, amusement and recreation  
11 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
12 pool parlor, or other place of amusement; any comfort station; any  
13 dispensary, clinic or hospital; any public library; any kindergarten,  
14 primary and secondary school, trade or business school, high  
15 school, academy, college and university, or any educational  
16 institution under the supervision of the State Board of Education, or  
17 the Commissioner of Education of the State of New Jersey.  
18 Nothing herein contained shall be construed to include or to apply  
19 to any institution, bona fide club, or place of accommodation, which  
20 is in its nature distinctly private; nor shall anything herein contained  
21 apply to any educational facility operated or maintained by a bona  
22 fide religious or sectarian institution, and the right of a natural  
23 parent or one in loco parentis to direct the education and upbringing  
24 of a child under his control is hereby affirmed; nor shall anything  
25 herein contained be construed to bar any private secondary or post  
26 secondary school from using in good faith criteria other than race,  
27 creed, color, national origin, ancestry, gender identity or expression  
28 or affectional or sexual orientation in the admission of students.

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

37 n. The term "real property" includes real estate, lands,  
38 tenements and hereditaments, corporeal and incorporeal, and  
39 leaseholds, provided, however, that, except as to publicly assisted  
40 housing accommodations, the provisions of this act shall not apply  
41 to the rental: (1) of a single apartment or flat in a two-family  
42 dwelling, the other occupancy unit of which is occupied by the  
43 owner as a residence; or (2) of a room or rooms to another person or  
44 persons by the owner or occupant of a one-family dwelling  
45 occupied by the owner or occupant as a residence at the time of  
46 such rental. Nothing herein contained shall be construed to bar any  
47 religious or denominational institution or organization, or any  
48 organization operated for charitable or educational purposes, which

1 is operated, supervised or controlled by or in connection with a  
2 religious organization, in the sale, lease or rental of real property,  
3 from limiting admission to or giving preference to persons of the  
4 same religion or denomination or from making such selection as is  
5 calculated by such organization to promote the religious principles  
6 for which it is established or maintained. Nor does any provision  
7 under **[this act]** P.L.1945, c.169 (C.10:5-1 et seq.) regarding  
8 discrimination on the basis of familial status apply with respect to  
9 housing for older persons.

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

33 p. "Real estate salesperson" includes any person who, for  
34 compensation, valuable consideration or commission, or other thing  
35 of value, or by reason of a promise or reasonable expectation  
36 thereof, is employed by and operates under the supervision of a  
37 licensed real estate broker to sell or offer to sell, buy or offer to buy  
38 or negotiate the purchase, sale or exchange of real estate, or offers  
39 or attempts to negotiate a loan secured or to be secured by a  
40 mortgage or other encumbrance upon or transfer of real estate, or to  
41 lease or rent, or offer to lease or rent any real estate for others, or to  
42 collect rents for the use of real estate, or to solicit for prospective  
43 purchasers or lessees of real estate, or who is employed by a  
44 licensed real estate broker to sell or offer to sell lots or other parcels  
45 of real estate, at a stated salary, or upon a commission, or upon a  
46 salary and commission, or otherwise to sell real estate, or any parts  
47 thereof, in lots or other parcels.

1 q. "Disability" means physical disability, infirmity,  
2 malformation or disfigurement which is caused by bodily injury,  
3 birth defect or illness including epilepsy and other seizure  
4 disorders, and which shall include, but not be limited to, any degree  
5 of paralysis, amputation, lack of physical coordination, blindness or  
6 visual impediment, deafness or hearing impediment, muteness or  
7 speech impediment or physical reliance on a service or guide dog,  
8 wheelchair, or other remedial appliance or device, or any mental,  
9 psychological or developmental disability, including autism  
10 spectrum disorders, resulting from anatomical, psychological,  
11 physiological or neurological conditions which prevents the normal  
12 exercise of any bodily or mental functions or is demonstrable,  
13 medically or psychologically, by accepted clinical or laboratory  
14 diagnostic techniques. Disability shall also mean AIDS or HIV  
15 infection.

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

21 s. "Guide dog" means a dog used to assist deaf persons or  
22 which is fitted with a special harness so as to be suitable as an aid to  
23 the mobility of a blind person, and is used by a blind person who  
24 has satisfactorily completed a specific course of training in the use  
25 of such a dog, and has been trained by an organization generally  
26 recognized by agencies involved in the rehabilitation of the blind or  
27 deaf as reputable and competent to provide dogs with training of  
28 this type.

29 t. "Guide or service dog trainer" means any person who is  
30 employed by an organization generally recognized by agencies  
31 involved in the rehabilitation of persons with disabilities as  
32 reputable and competent to provide dogs with training, and who is  
33 actually involved in the training process.

34 u. "Housing accommodation" means any publicly assisted  
35 housing accommodation or any real property, or portion thereof,  
36 which is used or occupied, or is intended, arranged, or designed to  
37 be used or occupied, as the home, residence or sleeping place of one  
38 or more persons, but shall not include any single family residence  
39 the occupants of which rent, lease, or furnish for compensation not  
40 more than one room therein.

41 v. "Public facility" means any place of public accommodation  
42 and any street, highway, sidewalk, walkway, public building, and  
43 any other place or structure to which the general public is regularly,  
44 normally or customarily permitted or invited.

45 w. "Deaf person" means any person whose hearing is so  
46 severely impaired that the person is unable to hear and understand  
47 normal conversational speech through the unaided ear alone, and  
48 who must depend primarily on a supportive device or visual

- 1 communication such as writing, lip reading, sign language, and  
2 gestures.
- 3 x. "Atypical hereditary cellular or blood trait" means sickle cell  
4 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
5 fibrosis trait.
- 6 y. "Sickle cell trait" means the condition wherein the major  
7 natural hemoglobin components present in the blood of the  
8 individual are hemoglobin A (normal) and hemoglobin S (sickle  
9 hemoglobin) as defined by standard chemical and physical analytic  
10 techniques, including electrophoresis; and the proportion of  
11 hemoglobin A is greater than the proportion of hemoglobin S or one  
12 natural parent of the individual is shown to have only normal  
13 hemoglobin components (hemoglobin A, hemoglobin A2,  
14 hemoglobin F) in the normal proportions by standard chemical and  
15 physical analytic tests.
- 16 z. "Hemoglobin C trait" means the condition wherein the major  
17 natural hemoglobin components present in the blood of the  
18 individual are hemoglobin A (normal) and hemoglobin C as defined  
19 by standard chemical and physical analytic techniques, including  
20 electrophoresis; and the proportion of hemoglobin A is greater than  
21 the proportion of hemoglobin C or one natural parent of the  
22 individual is shown to have only normal hemoglobin components  
23 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
24 proportions by standard chemical and physical analytic tests.
- 25 aa. "Thalassemia trait" means the presence of the thalassemia  
26 gene which in combination with another similar gene results in the  
27 chronic hereditary disease Cooley's anemia.
- 28 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
29 which in combination with another similar gene results in the  
30 chronic hereditary disease Tay-Sachs.
- 31 cc. "Cystic fibrosis trait" means the presence of the cystic  
32 fibrosis gene which in combination with another similar gene  
33 results in the chronic hereditary disease cystic fibrosis.
- 34 dd. "Service dog" means any dog individually trained to the  
35 requirements of a person with a disability including, but not limited  
36 to minimal protection work, rescue work, pulling a wheelchair or  
37 retrieving dropped items. This term shall include a "seizure dog"  
38 trained to alert or otherwise assist persons subject to epilepsy or  
39 other seizure disorders.
- 40 ee. "Qualified Medicaid applicant" means an individual who is a  
41 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 42 ff. "AIDS" means acquired **[immune deficiency]**  
43 immunodeficiency syndrome as defined by the Centers for Disease  
44 Control and Prevention of the United States Public Health Service.
- 45 gg. "HIV infection" means infection with the human  
46 immunodeficiency virus or any other related virus identified as a  
47 probable causative agent of AIDS.



- 1       hh. "Affectional or sexual orientation" means male or female  
2       heterosexuality, homosexuality or bisexuality by inclination,  
3       practice, identity or expression, having a history thereof or being  
4       perceived, presumed or identified by others as having such an  
5       orientation.
- 6       ii. "Heterosexuality" means affectional, emotional or physical  
7       attraction or behavior which is primarily directed towards persons  
8       of the other gender.
- 9       jj. "Homosexuality" means affectional, emotional or physical  
10       attraction or behavior which is primarily directed towards persons  
11       of the same gender.
- 12       kk. "Bisexuality" means affectional, emotional or physical  
13       attraction or behavior which is directed towards persons of either  
14       gender.
- 15       ll. "Familial status" means being the natural parent of a child,  
16       the adoptive parent of a child, the resource family parent of a child,  
17       having a "parent and child relationship" with a child as defined by  
18       State law, or having sole or joint legal or physical custody, care,  
19       guardianship, or visitation with a child, or any person who is  
20       pregnant or is in the process of securing legal custody of any  
21       individual who has not attained the age of 18 years.
- 22       mm. "Housing for older persons" means housing:
- 23       (1) provided under any State program that the Attorney General  
24       determines is specifically designed and operated to assist elderly  
25       persons (as defined in the State program); or provided under any  
26       federal program that the United States Department of Housing and  
27       Urban Development determines is specifically designed and  
28       operated to assist elderly persons (as defined in the federal  
29       program); or
- 30       (2) intended for, and solely occupied by persons 62 years of age  
31       or older; or
- 32       (3) intended and operated for occupancy by at least one person  
33       55 years of age or older per unit. In determining whether housing  
34       qualifies as housing for older persons under this subsection, the  
35       Attorney General shall adopt regulations which require at least the  
36       following factors:
- 37       (a) the existence of significant facilities and services  
38       specifically designed to meet the physical or social needs of older  
39       persons, or if the provision of such facilities and services is not  
40       practicable, that such housing is necessary to provide important  
41       housing opportunities for older persons; and
- 42       (b) that at least 80 percent of the units are occupied by at least  
43       one person 55 years of age or older per unit; and
- 44       (c) the publication of, and adherence to, policies and procedures  
45       which demonstrate an intent by the owner or manager to provide  
46       housing for persons 55 years of age or older.
- 47       Housing shall not fail to meet the requirements for housing for  
48       older persons by reason of: persons residing in such housing as of

1 September 13, 1988 not meeting the age requirements of this  
2 subsection, provided that new occupants of such housing meet the  
3 age requirements of this subsection; or unoccupied units, provided  
4 that such units are reserved for occupancy by persons who meet the  
5 age requirements of this subsection.

6 nn. "Genetic characteristic" means any inherited gene or  
7 chromosome, or alteration thereof, that is scientifically or medically  
8 believed to predispose an individual to a disease, disorder or  
9 syndrome, or to be associated with a statistically significant  
10 increased risk of development of a disease, disorder or syndrome.

11 oo. "Genetic information" means the information about genes,  
12 gene products or inherited characteristics that may derive from an  
13 individual or family member.

14 pp. "Genetic test" means a test for determining the presence or  
15 absence of an inherited genetic characteristic in an individual,  
16 including tests of nucleic acids such as DNA, RNA and  
17 mitochondrial DNA, chromosomes or proteins in order to identify a  
18 predisposing genetic characteristic.

19 qq. "Domestic partnership" means a domestic partnership  
20 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

21 rr. "Gender identity or expression" means having or being  
22 perceived as having a gender related identity or expression whether  
23 or not stereotypically associated with a person's assigned sex at  
24 birth.

25 ss. "Civil **Union** union" means a legally recognized union of  
26 two eligible individuals established pursuant to R.S.37:1-1 et seq.  
27 and P.L.2006, c.103 (C.37:1-28 et al.).

28 tt. "Premium wages" means additional remuneration for night,  
29 weekend or holiday work, or for standby or irregular duty.

30 uu. "Premium benefit" means an employment benefit, such as  
31 seniority, group life insurance, health insurance, disability  
32 insurance, sick leave, annual leave, or an educational or pension  
33 benefit that is greater than the employment benefit due the  
34 employee for an equivalent period of work performed during the  
35 regular work schedule of the employee.

36 (cf: P.L.2009, c.205, s.1)

37

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

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

42 a. For an employer, because of the race, creed, color, national  
43 origin, ancestry, age, marital status, civil union status, domestic  
44 partnership status, affectional or sexual orientation, genetic  
45 information, pregnancy, sex, gender identity or expression,  
46 disability or atypical hereditary cellular or blood trait of any  
47 individual, or because of the liability for service in the Armed  
48 Forces of the United States or the nationality of any individual, or

1 because of the refusal to submit to a genetic test or make available  
2 the results of a genetic test to an employer, to refuse to hire, **[or]**  
3 employ, or engage as an intern, or to bar or to discharge or require  
4 to retire, unless justified by lawful considerations other than age,  
5 from employment or internship such individual or to discriminate  
6 against such individual in compensation or in terms, conditions or  
7 privileges of employment or internship; provided, however, it shall  
8 not be an unlawful employment practice to refuse to accept for  
9 employment or internship an applicant who has received a notice of  
10 induction or orders to report for active duty in the armed forces;  
11 provided further that nothing herein contained shall be construed to  
12 bar an employer from refusing to accept for employment or  
13 internship any person on the basis of sex in those certain  
14 circumstances where sex is a bona fide occupational qualification,  
15 reasonably necessary to the normal operation of the particular  
16 business or enterprise; provided further that nothing herein  
17 contained shall be construed to bar an employer from refusing to  
18 accept for employment or internship or to promote any person over  
19 70 years of age; provided further that it shall not be an unlawful  
20 employment practice for a club exclusively social or fraternal to use  
21 club membership as a uniform qualification for employment or  
22 internship, or for a religious association or organization to utilize  
23 religious affiliation as a uniform qualification in the employment or  
24 internship of clergy, religious teachers or other **[employees]**  
25 individuals engaged in the religious activities of the association or  
26 organization, or in following the tenets of its religion in establishing  
27 and utilizing criteria for employment of an employee or for the  
28 internship of an intern; provided further, that it shall not be an  
29 unlawful employment practice to require the retirement of any  
30 employee who, for the two-year period immediately before  
31 retirement, is employed in a bona fide executive or a high policy-  
32 making position, if that employee is entitled to an immediate non-  
33 forfeitable annual retirement benefit from a pension, profit sharing,  
34 savings or deferred retirement plan, or any combination of those  
35 plans, of the employer of that employee which equals in the  
36 aggregate at least \$27,000.00; and provided further that an  
37 employer may restrict employment or internships to citizens of the  
38 United States where such restriction is required by federal law or is  
39 otherwise necessary to protect the national interest.

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

44 For the purposes of this subsection, a "bona fide executive" is a  
45 top level employee who exercises substantial executive authority  
46 over a significant number of employees and a large volume of  
47 business. A "high policy-making position" is a position in which a

1 person plays a significant role in developing policy and in  
2 recommending the implementation thereof.

3 b. For a labor organization, because of the race, creed, color,  
4 national origin, ancestry, age, marital status, civil union status,  
5 domestic partnership status, affectional or sexual orientation,  
6 gender identity or expression, disability, pregnancy, or sex of any  
7 individual, or because of the liability for service in the Armed  
8 Forces of the United States or nationality of any individual, to  
9 exclude or to expel from its membership such individual or to  
10 discriminate in any way against any of its members, against any  
11 applicant for, or individual included in, any apprentice or other  
12 training program or against any employer or any individual  
13 employed by or engaged in an internship with an employer;  
14 provided, however, that nothing herein contained shall be construed  
15 to bar a labor organization from excluding from its apprentice or  
16 other training programs any person on the basis of sex in those  
17 certain circumstances where sex is a bona fide occupational  
18 qualification reasonably necessary to the normal operation of the  
19 particular apprentice or other training program.

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

33 d. For any person to take reprisals against any person because  
34 that person has opposed any practices or acts forbidden under **【this**  
35 **act】** P.L.1945, c.169 (C.10:5-1 et seq.) or because that person has  
36 filed a complaint, testified or assisted in any proceeding under this  
37 act or to coerce, intimidate, threaten or interfere with any person in  
38 the exercise or enjoyment of, or on account of that person having  
39 aided or encouraged any other person in the exercise or enjoyment  
40 of, any right granted or protected by **【this act】** P.L.1945, c.169  
41 (C.10:5-1 et seq.).

42 e. For any person, whether an employer or an employee or not,  
43 to aid, abet, incite, compel or coerce the doing of any of the acts  
44 forbidden under **【this act】** P.L.1945, c.169 (C.10:5-1 et seq.), or to  
45 attempt to do so.

46 f. (1) For any owner, lessee, proprietor, manager,  
47 superintendent, agent, or employee of any place of public  
48 accommodation directly or indirectly to refuse, withhold from or

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

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

1       In addition to the penalties otherwise provided for a violation of  
2 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)  
3 of subsection f. of this section is the holder of an alcoholic beverage  
4 license issued under the provisions of R.S.33:1-12 for that private  
5 club or association, the matter shall be referred to the Director of  
6 the Division of Alcoholic Beverage Control who shall impose an  
7 appropriate penalty in accordance with the procedures set forth in  
8 R.S.33:1-31.

9       g. For any person, including but not limited to, any owner,  
10 lessee, sublessee, assignee or managing agent of, or other person  
11 having the right of ownership or possession of or the right to sell,  
12 rent, lease, assign, or sublease any real property or part or portion  
13 thereof, or any agent or employee of any of these:

14       (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
15 to deny to or withhold from any person or group of persons any real  
16 property or part or portion thereof because of race, creed, color,  
17 national origin, ancestry, marital status, civil union status, domestic  
18 partnership status, pregnancy, sex, gender identity or expression,  
19 affectional or sexual orientation, familial status, disability,  
20 nationality, or source of lawful income used for rental or mortgage  
21 payments;

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

31       (3) To print, publish, circulate, issue, display, post or mail, or  
32 cause to be printed, published, circulated, issued, displayed, posted  
33 or mailed any statement, advertisement, publication or sign, or to  
34 use any form of application for the purchase, rental, lease,  
35 assignment or sublease of any real property or part or portion  
36 thereof, or to make any record or inquiry in connection with the  
37 prospective purchase, rental, lease, assignment, or sublease of any  
38 real property, or part or portion thereof which expresses, directly or  
39 indirectly, any limitation, specification or discrimination as to race,  
40 creed, color, national origin, ancestry, marital status, civil union  
41 status, domestic partnership status, pregnancy, sex, gender identity,  
42 or expression, affectional or sexual orientation, familial status,  
43 disability, nationality, or source of lawful income used for rental or  
44 mortgage payments, or any intent to make any such limitation,  
45 specification or discrimination, and the production of any such  
46 statement, advertisement, publicity, sign, form of application,  
47 record, or inquiry purporting to be made by any such person shall  
48 be presumptive evidence in any action that the same was authorized

1 by such person; provided, however, that nothing contained in this  
2 subsection shall be construed to bar any person from refusing to  
3 sell, rent, lease, assign or sublease or from advertising or recording  
4 a qualification as to sex for any room, apartment, flat in a dwelling  
5 or residential facility which is planned exclusively for and occupied  
6 by individuals of one sex to any individual of the exclusively  
7 opposite sex on the basis of sex provided individuals shall be  
8 qualified based on their gender identity or expression;

9 (4) 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 the source of any  
12 lawful income received by the person or the source of any lawful  
13 rent payment to be paid for the real property; or

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

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

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

41 (2) To discriminate against any person because of race, creed,  
42 color, national origin, ancestry, marital status, civil union status,  
43 domestic partnership status, familial status, pregnancy, sex, gender  
44 identity or expression, affectional or sexual orientation, disability,  
45 nationality, or source of lawful income used for rental or mortgage  
46 payments in the terms, conditions or privileges of the sale, rental,  
47 lease, assignment or sublease of any real property or part or portion

1 thereof or in the furnishing of facilities or services in connection  
2 therewith;

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

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

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

41 i. For any person, bank, banking organization, mortgage  
42 company, insurance company or other financial institution, lender  
43 or credit institution involved in the making or purchasing of any  
44 loan or extension of credit, for whatever purpose, whether secured  
45 by residential real estate or not, including but not limited to  
46 financial assistance for the purchase, acquisition, construction,  
47 rehabilitation, repair or maintenance of any real property or part or  
48 portion thereof or any agent or employee thereof:



1 (1) To discriminate against any person or group of persons  
2 because of race, creed, color, national origin, ancestry, marital  
3 status, civil union status, domestic partnership status, pregnancy,  
4 sex, gender identity or expression, affectional or sexual orientation,  
5 disability, familial status or nationality, in the granting,  
6 withholding, extending, modifying, renewing, or purchasing, or in  
7 the fixing of the rates, terms, conditions or provisions of any such  
8 loan, extension of credit or financial assistance or purchase thereof  
9 or in the extension of services in connection therewith;

10 (2) To use any form of application for such loan, extension of  
11 credit or financial assistance or to make record or inquiry in  
12 connection with applications for any such loan, extension of credit  
13 or financial assistance which expresses, directly or indirectly, any  
14 limitation, specification or discrimination as to race, creed, color,  
15 national origin, ancestry, marital status, civil union status, domestic  
16 partnership status, pregnancy, sex, gender identity or expression,  
17 affectional or sexual orientation, disability, familial status or  
18 nationality or any intent to make any such limitation, specification  
19 or discrimination; unless otherwise required by law or regulation to  
20 retain or use such information;

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

22 (4) To discriminate against any person or group of persons  
23 because of the source of any lawful income received by the person  
24 or the source of any lawful rent payment to be paid for the real  
25 property; or

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

33 j. For any person whose activities are included within the  
34 scope of **【this act】** P.L.1945, c.169 (C.10:5-1 et seq.) to refuse to  
35 post or display such notices concerning the rights or responsibilities  
36 of persons affected by **【this act】** P.L.1945, c.169 (C.10:5-1 et seq.)  
37 as the Attorney General may by regulation require.

38 k. For any real estate broker, real estate salesperson or  
39 employee or agent thereof or any other individual, corporation,  
40 partnership, or organization, for the purpose of inducing a  
41 transaction for the sale or rental of real property from which  
42 transaction such person or any of its members may benefit  
43 financially, to represent that a change has occurred or will or may  
44 occur in the composition with respect to race, creed, color, national  
45 origin, ancestry, marital status, civil union status, domestic  
46 partnership status, familial status, pregnancy, sex, gender identity or  
47 expression, affectional or sexual orientation, disability, nationality,  
48 or source of lawful income used for rental or mortgage payments of

1 the owners or occupants in the block, neighborhood or area in  
2 which the real property is located, and to represent, directly or  
3 indirectly, that this change will or may result in undesirable  
4 consequences in the block, neighborhood or area in which the real  
5 property is located, including, but not limited to the lowering of  
6 property values, an increase in criminal or anti-social behavior, or a  
7 decline in the quality of schools or other facilities.

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

24 m. For any person to:

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

39 (2) Refuse to grant or accept any letter of credit or other  
40 document which evidences the transfer of funds or credit, or refuse  
41 to enter into any contract for the exchange of goods or services, on  
42 the ground that it does not contain such a discriminatory provision  
43 or certification.

44 The provisions of this subsection shall not apply to any letter of  
45 credit, contract, or other document which contains any provision  
46 pertaining to employee-employer collective bargaining, a labor  
47 dispute or an unfair labor practice, or made in connection with the  
48 protest of unlawful discrimination or an unlawful employment

1 practice, if the other provisions of such letter of credit, contract, or  
2 other document do not otherwise violate the provisions of this  
3 subsection.

4 n. For any person to aid, abet, incite, compel, coerce, or induce  
5 the doing of any act forbidden by subsections l. and m. of section  
6 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
7 do so. Such prohibited conduct shall include, but not be limited to:

8 (1) Buying from, selling to, leasing from or to, licensing,  
9 contracting with, trading with, providing goods, services, or  
10 information to, or otherwise doing business with any person  
11 because that person does, or agrees or attempts to do, any such act  
12 or any act prohibited by this subsection; or

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

22 o. For any multiple listing service, real estate brokers'  
23 organization or other service, organization or facility related to the  
24 business of selling or renting dwellings to deny any person access  
25 to or membership or participation in such organization, or to  
26 discriminate against such person in the terms or conditions of such  
27 access, membership, or participation, on account of race, creed,  
28 color, national origin, ancestry, age, marital status, civil union  
29 status, domestic partnership status, familial status, pregnancy, sex,  
30 gender identity or expression, affectional or sexual orientation,  
31 disability or nationality.

32 p. Nothing in the provisions of this section shall affect the  
33 ability of an employer to require employees and interns to adhere to  
34 reasonable workplace appearance, grooming and dress standards not  
35 precluded by other provisions of State or federal law, except that an  
36 employer shall allow an employee or intern to appear, groom and  
37 dress consistent with the employee's or intern's gender identity or  
38 expression.

39 q. (1) For any employer to impose upon a person as a condition  
40 of obtaining or retaining employment or internship, including  
41 opportunities for promotion, advancement or transfers, any terms or  
42 conditions that would require a person to violate or forego a  
43 sincerely held religious practice or religious observance, including  
44 but not limited to the observance of any particular day or days or  
45 any portion thereof as a Sabbath or other holy day in accordance  
46 with the requirements of the religion or religious belief, unless,  
47 after engaging in a bona fide effort, the employer demonstrates that  
48 it is unable to reasonably accommodate the employee's or intern's

1 religious observance or practice without undue hardship on the  
2 conduct of the employer's business. Notwithstanding any other  
3 provision of law to the contrary, an employee shall not be entitled  
4 to premium wages or premium benefits for work performed during  
5 hours to which those premium wages or premium benefits would  
6 ordinarily be applicable, if the employee is working during those  
7 hours only as an accommodation to his religious requirements.  
8 Nothing in this subsection q. shall be construed as reducing:

9 (a) The number of the hours worked by the employee which are  
10 counted towards the accruing of seniority, pension or other benefits;  
11 or

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

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

31 (3) (a) For purposes of this subsection q., "undue hardship"  
32 means an accommodation requiring unreasonable expense or  
33 difficulty, unreasonable interference with the safe or efficient  
34 operation of the workplace or a violation of a bona fide seniority  
35 system or a violation of any provision of a bona fide collective  
36 bargaining agreement.

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

39 (i) The identifiable cost of the accommodation, including the  
40 costs of loss of productivity and of retaining or hiring employees or  
41 transferring employees from one facility to another, in relation to  
42 the size and operating cost of the employer.

43 (ii) The number of individuals who will need the particular  
44 accommodation for a sincerely held religious observance or  
45 practice.

46 (iii) For an employer with multiple facilities, the degree to which  
47 the geographic separateness or administrative or fiscal relationship

1 of the facilities will make the accommodation more difficult or  
2 expensive.

3 (c) An accommodation shall be considered to constitute an  
4 undue hardship if it will result in the inability of an employee or  
5 intern to perform the essential functions of the position in which he  
6 or she is employed or engaged as an intern.

7 (d) (i) The provisions of this subsection q. shall be applicable  
8 only to reasonable accommodations of religious observances and  
9 shall not supersede any definition of undue hardship or standards  
10 for reasonable accommodation of the disabilities of employees or  
11 interns.

12 (ii) This subsection q. shall not apply where the uniform  
13 application of terms and conditions of attendance to employees or  
14 interns is essential to prevent undue hardship to the employer. The  
15 burden of proof regarding the applicability of this subparagraph (d)  
16 shall be upon the employer.

17 r. For any employer to take reprisals against any employee or  
18 intern for requesting from any other employee or former employee,  
19 or any other intern or former intern, of the employer information  
20 regarding the job title, occupational category, and rate of  
21 compensation, including benefits, of any employee or former  
22 employee of the employer, or the gender, race, ethnicity, military  
23 status, or national origin of any employee or former employee, or  
24 any intern or former intern, of the employer, regardless of whether  
25 the request was responded to, if the purpose of the request for the  
26 information was to assist in investigating the possibility of the  
27 occurrence of, or in taking of legal action regarding, potential  
28 discriminatory treatment, including if applicable, treatment  
29 concerning pay, compensation, bonuses, other compensation, or  
30 benefits. Nothing in this subsection shall be construed to require an  
31 employee or intern to disclose such information about the employee  
32 or intern herself to any other employee or former employee, or  
33 intern or former intern, of the employer or to any authorized  
34 representative **[of the other employee or former employee]** thereof.

35 s. For an employer to treat, for employment-related or  
36 internship-related purposes, a woman employee or intern that the  
37 employer knows, or should know, is affected by pregnancy in a  
38 manner less favorable than the treatment of other persons not  
39 affected by pregnancy but similar in their ability or inability to  
40 work. In addition, an employer of an employee or intern who is a  
41 woman affected by pregnancy shall make available to the employee  
42 or intern reasonable accommodation in the workplace, such as  
43 bathroom breaks, breaks for increased water intake, periodic rest,  
44 assistance with manual labor, job restructuring or modified work  
45 schedules, and temporary transfers to less strenuous or hazardous  
46 work, for needs related to the pregnancy when the employee or  
47 intern, based on the advice of her physician, requests the  
48 accommodation, unless the employer can demonstrate that

1 providing the accommodation would be an undue hardship on the  
2 business operations of the employer. The employer shall not in any  
3 way penalize the employee or intern in terms, conditions or  
4 privileges of employment or internship for requesting or using the  
5 accommodation. Workplace accommodation provided pursuant to  
6 this subsection and paid or unpaid leave provided to an employee or  
7 intern affected by pregnancy shall not be provided in a manner less  
8 favorable than accommodations or leave provided to other  
9 employees or interns not affected by pregnancy but similar in their  
10 ability or inability to work. This subsection shall not be construed  
11 as otherwise increasing or decreasing any employee's or intern's  
12 rights under law to paid or unpaid leave in connection with  
13 pregnancy.

14 For the purposes of this section "pregnancy" means pregnancy,  
15 childbirth, or medical conditions related to pregnancy or childbirth,  
16 including recovery from childbirth.

17 For the purposes of this subsection, in determining whether an  
18 accommodation would impose undue hardship on the operation of  
19 an employer's business, the factors to be considered include: the  
20 overall size of the employer's business with respect to the number  
21 of employees and interns, number and type of facilities, and size of  
22 budget; the type of the employer's operations, including the  
23 composition and structure of the employer's workforce; the nature  
24 and cost of the accommodation needed, taking into consideration  
25 the availability of tax credits, tax deductions, and outside funding;  
26 and the extent to which the accommodation would involve waiver  
27 of an essential requirement of a job as opposed to a tangential or  
28 non-business necessity requirement.

29 (cf: P.L.2013, c.220, s.2.)

30

31 8. Section 1 of P.L.2001, c.385 (C.10:5-12.6) is amended to  
32 read as follows:

33 1. No employer, public or private, shall discharge or  
34 discriminate against an employee or intern in compensation or in  
35 terms, conditions or privileges of employment or internship for  
36 displaying the American flag on the employee's or intern's person  
37 or work station, provided the display does not substantially and  
38 materially interfere with the employee's or intern's job duties. An  
39 employer who discharges or discriminates against an employee or  
40 intern as described in this section shall be liable to the employee or  
41 intern for damages caused by the discharge or discrimination,  
42 including punitive damages, and for reasonable attorney's fees as  
43 part of the costs of any action for damages. If the court determines  
44 that the action for damages was brought without substantial  
45 justification, the court may award costs and reasonable attorney's  
46 fees to the employer.

47 (cf: P.L.2001, c.385, s.1)

1       9. Section 1 of P.L.1986, c.105 (C.34:19-1) is amended to read  
2 as follows:

3       1. This act shall be known and may be cited as the  
4 "Conscientious Employee and Intern Protection Act."  
5 (cf: P.L.1986, c.105, s.1)  
6

7       10. Section 2 of P.L.1986, c.105 (C.34:19-2) is amended to read  
8 as follows:

9       2. As used in **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.):

10       a. "Employer" means any individual, partnership, association,  
11 corporation or any person or group of persons acting directly or  
12 indirectly on behalf of or in the interest of an employer with the  
13 employer's consent and shall include all branches of State  
14 Government, or the several counties and municipalities thereof, or  
15 any other political subdivision of the State, or a school district, or  
16 any special district, or any authority, commission, or board or any  
17 other agency or instrumentality thereof.

18       b. (1) "Employee" means any individual who performs services  
19 for and under the control and direction of an employer for wages or  
20 other remuneration.

21       (2) "Intern" means an individual who performs services for an  
22 employer on a temporary basis whose work: (a) provides training or  
23 supplements training given in an educational environment such that  
24 the employability of the individual performing the work may be  
25 enhanced; (b) provides experience for the benefit of the individual  
26 performing the work; and (c) is performed under the supervision of  
27 existing staff. The term "intern" shall include individuals without  
28 regard to whether the employer pays them a salary or wage.

29       c. "Public body" means:

30       (1) the United States Congress, and State legislature, or any  
31 popularly-elected local governmental body, or any member or  
32 employee thereof;

33       (2) any federal, State, or local judiciary, or any member or  
34 employee thereof, or any grand or petit jury;

35       (3) any federal, State, or local regulatory, administrative, or  
36 public agency or authority, or instrumentality thereof;

37       (4) any federal, State, or local law enforcement agency,  
38 prosecutorial office, or police or peace officer;

39       (5) any federal, State or local department of an executive branch  
40 of government; or

41       (6) any division, board, bureau, office, committee or  
42 commission of any of the public bodies described in the above  
43 paragraphs of this subsection.

44       d. "Supervisor" means any individual with an employer's  
45 organization who has the authority to direct and control the work  
46 performance of the affected employee or intern, who has authority  
47 to take corrective action regarding the violation of the law, rule or  
48 regulation of which the employee or intern complains, or who has

1 been designated by the employer on the notice required under  
2 section 7 of **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.).

3 e. "Retaliatory action" means the discharge, suspension or  
4 demotion of an employee or intern, or other adverse employment  
5 action taken against an employee or intern in the terms and  
6 conditions of the employment or internship.

7 f. "Improper quality of patient care" means, with respect to  
8 patient care, any practice, procedure, action or failure to act of an  
9 employer that is a health care provider which violates any law or  
10 any rule, regulation or declaratory ruling adopted pursuant to law,  
11 or any professional code of ethics.

12 (cf: P.L.1997, c.98, s.1)

13

14 11. Section 3 of P.L.1986, c.105 (C.34:19-3) is amended to read  
15 as follows:

16 3. An employer shall not take any retaliatory action against an  
17 employee or intern because the employee or intern does any of the  
18 following:

19 a. Discloses, or threatens to disclose to a supervisor or to a  
20 public body an activity, policy or practice of the employer, or  
21 another employer, with whom there is a business relationship, that  
22 the employee or intern reasonably believes:

23 (1) is in violation of a law, or a rule or regulation promulgated  
24 pursuant to law, including any violation involving deception of, or  
25 misrepresentation to, any shareholder, investor, client, patient,  
26 customer, employee, former employee, intern, former intern, retiree  
27 or pensioner of the employer or any governmental entity, or, in the  
28 case of an employee or intern who is a licensed or certified health  
29 care professional, reasonably believes constitutes improper quality  
30 of patient care; or

31 (2) is fraudulent or criminal, including any activity, policy or  
32 practice of deception or misrepresentation which the employee or  
33 intern reasonably believes may defraud any shareholder, investor,  
34 client, patient, customer, employee, former employee, intern,  
35 former intern, retiree or pensioner of the employer or any  
36 governmental entity;

37 b. Provides information to, or testifies before, any public body  
38 conducting an investigation, hearing or inquiry into any violation of  
39 law, or a rule or regulation promulgated pursuant to law by the  
40 employer, or another employer, with whom there is a business  
41 relationship, including any violation involving deception of, or  
42 misrepresentation to, any shareholder, investor, client, patient,  
43 customer, employee, former employee, intern, former intern, retiree  
44 or pensioner of the employer or any governmental entity, or, in the  
45 case of an employee or intern who is a licensed or certified health  
46 care professional, provides information to, or testifies before, any  
47 public body conducting an investigation, hearing or inquiry into the  
48 quality of patient care; or



- 1 c. Objects to, or refuses to participate in any activity, policy or  
2 practice which the employee or intern reasonably believes:
- 3 (1) is in violation of a law, or a rule or regulation promulgated  
4 pursuant to law, including any violation involving deception of, or  
5 misrepresentation to, any shareholder, investor, client, patient,  
6 customer, employee, former employee, intern, former intern, retiree  
7 or pensioner of the employer or any governmental entity, or, if the  
8 employee or intern is a licensed or certified health care  
9 professional, constitutes improper quality of patient care;
- 10 (2) is fraudulent or criminal, including any activity, policy or  
11 practice of deception or misrepresentation which the employee or  
12 intern reasonably believes may defraud any shareholder, investor,  
13 client, patient, customer, employee, former employee, intern,  
14 former intern, retiree or pensioner of the employer or any  
15 governmental entity; or
- 16 (3) is incompatible with a clear mandate of public policy  
17 concerning the public health, safety or welfare or protection of the  
18 environment.  
19 (cf: P.L.2005, c.329, s.1)

20

21 12. Section 4 of P.L.1986, c.105 (C.34:19-4) is amended to read  
22 as follows:

- 23 4. The protection against retaliatory action provided by **[this act]**  
24 **P.L.1986, c.105 (C.34:19-1 et seq.)** pertaining to disclosure to  
25 a public body shall not apply to an employee or intern who makes a  
26 disclosure to a public body unless the employee or intern has  
27 brought the activity, policy or practice in violation of a law, or a  
28 rule or regulation promulgated pursuant to law to the attention of a  
29 supervisor of the employee or intern by written notice and has  
30 afforded the employer a reasonable opportunity to correct the  
31 activity, policy or practice. Disclosure shall not be required where  
32 the employee or intern is reasonably certain that the activity, policy  
33 or practice is known to one or more supervisors of the employer or  
34 where the employee or intern reasonably fears physical harm as a  
35 result of the disclosure provided, however, that the situation is  
36 emergency in nature.  
37 (cf: P.L.1986, c.105, s.4)

38

39 13. Section 5 of P.L.1986, c.105 (C.34:19-5) is amended to read  
40 as follows:

- 41 5. Upon a violation of any of the provisions of **[this act]**  
42 **P.L.1986, c.105 (C.34:19-1 et seq.)**, an aggrieved employee or  
43 former employee, or intern or former intern may, within one year,  
44 institute a civil action in a court of competent jurisdiction. Upon  
45 the application of any party, a jury trial shall be directed to try the  
46 validity of any claim under **[this act]** **P.L.1986, c.105 (C.34:19-1 et**  
47 **seq.)** specified in the suit. All remedies available in common law  
48 tort actions shall be available to prevailing plaintiffs. These

1 remedies are in addition to any legal or equitable relief provided by  
2 **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.) or any other statute.  
3 The court shall also order, where appropriate and to the fullest  
4 extent possible:

5 a. An injunction to restrain any violation of **【this act】**  
6 P.L.1986, c.105 (C.34:19-1 et seq.) which is continuing at the time  
7 that the court issues its order;

8 b. The reinstatement of the employee or intern to the same  
9 position held before the retaliatory action, or to an equivalent  
10 position;

11 c. The reinstatement of full fringe benefits and seniority rights;

12 d. The compensation for all lost wages, benefits and other  
13 remuneration; and

14 e. The payment by the employer of reasonable costs, and  
15 attorney's fees.

16 In addition, the court or jury may order: the assessment of a civil  
17 fine of not more than \$10,000 for the first violation of **【this act】**  
18 P.L.1986, c.105 (C.34:19-1 et seq.) and not more than \$20,000 for  
19 each subsequent violation, which shall be paid to the State  
20 Treasurer for deposit in the General Fund; punitive damages; or  
21 both a civil fine and punitive damages. In determining the amount  
22 of punitive damages, the court or jury shall consider not only the  
23 amount of compensatory damages awarded to the employee or  
24 intern, but also the amount of all damages caused to shareholders,  
25 investors, clients, patients, customers, employees, former  
26 employees, interns, former interns, retirees or pensioners of the  
27 employer, or to the public or any governmental entity, by the  
28 activities, policies or practices of the employer which the employee  
29 or intern disclosed, threatened to disclose, provided testimony  
30 regarding, objected to, or refused to participate in.

31 (cf: P.L.2005, c.329, s.2)

32

33 14. Section 6 of P.L.1986, c.105 (C.34:19-6) is amended to read  
34 as follows:

35 6. A court, upon notice of motion in accordance with the Rules  
36 Governing the Courts of the State of New Jersey, may also order  
37 that reasonable attorneys' fees and court costs be awarded to an  
38 employer if the court determines that an action brought by an  
39 employee or intern under **【this act】** P.L.1986, c.105 (C.34:19-1 et  
40 seq.) was without basis in law or in fact. However, an employee or  
41 intern shall not be assessed attorneys' fees under this section if, after  
42 exercising reasonable and diligent efforts after filing a suit, the  
43 employee or intern files a voluntary dismissal concerning the  
44 employer, within a reasonable time after determining that the  
45 employer would not be found to be liable for damages.

46 (cf: P.L.1986, c.105, s. 6)

1       15. Section 7 of P.L.1986, c.105 (C.34:19-7) is amended to read  
2 as follows:

3       7. An employer shall conspicuously display, **【and】** annually  
4 distribute to all employees, and distribute to all interns at the time  
5 of their initial engagement in an internship, written or electronic  
6 notices of its employees' and interns' protections, obligations, rights  
7 and procedures under **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.),  
8 and use other appropriate means to keep its employees and interns  
9 so informed. Each notice posted or distributed pursuant to this  
10 section shall be in English, Spanish and at the employer's  
11 discretion, any other language spoken by the majority of the  
12 employer's employees and interns. The notice shall include the  
13 name of the person or persons the employer has designated to  
14 receive written notifications pursuant to section 4 of **【this act】**  
15 P.L.1986, c.105 (C.34:19-1 et seq.). The Commissioner of Labor  
16 and Workforce Development shall make available to employers a  
17 text of a notice fulfilling the requirements of this section and  
18 provide copies of the notice suitable for display and distribution to  
19 any employers who request the copies, charging them as much as is  
20 needed to pay the costs of the department. The commissioner shall  
21 also provide notices printed in a language other than English and  
22 Spanish, at the request of the employer.

23       The requirement that an employer **【annually】** distribute to all  
24 employees and interns written notices of the protections,  
25 obligations, rights and procedures provided to the employees and  
26 interns by the provisions of P.L.1986, c.105 (C.34:19-1 et seq.)  
27 shall not apply to any employer who has less than 10 employees and  
28 interns.

29 (cf: P.L.2004, c.148, s.1)

30  
31       16. Section 8 of P.L.1986, c.105 (C.34:19-8) is amended to read  
32 as follows:

33       8. Nothing in **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.)  
34 shall be deemed to diminish the rights, privileges, or remedies of  
35 any employee or intern under any other federal or State law or  
36 regulation or under any collective bargaining agreement or  
37 employment contract; except that the institution of an action in  
38 accordance with **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.) shall  
39 be deemed a waiver of the rights and remedies available under any  
40 other contract, collective bargaining agreement, State law, rule or  
41 regulation or under the common law.

42 (cf: P.L.1986, c.105, s.8)

43  
44       17. Section 1 of P.L.2006, c.53 (C.34:19-9) is amended to read  
45 as follows:

46       1. For the purposes of **【this act】** P.L.2006, c.53 (C.34:19-9 et  
47 seq.):

1 "Employer" means a person engaged in business who has  
2 employees or interns, including the State and any political  
3 subdivision or other instrumentality of the State.

4 "Employee" means any person engaged in service to an employer  
5 for wages, salary or other compensation.

6 "Intern" means an intern as defined in paragraph (2) of  
7 subsection b. of section 2 of P.L.1986, c.105 (C.34:19-2).

8 "Political matters" include political party affiliation and  
9 decisions to join or not join or participate in any lawful political,  
10 social, or community organization or activity.

11 (cf: P.L.2006, c.53, s.1)

12

13 18. Section 2 of P.L.2006, c.53 (C.34:19-10) is amended to read  
14 as follows:

15 2. No employer or employer's agent, representative or designee  
16 may, except as provided in section 3 of **【this act】** P.L.2006, c.53  
17 (C.34:19-11), require its employees or interns to attend an  
18 employer-sponsored meeting or participate in any communications  
19 with the employer or its agents or representatives, the purpose of  
20 which is to communicate the employer's opinion about religious or  
21 political matters.

22 **【This act】** P.L.2006, c.53 (C.34:19-9 et seq.) shall not be  
23 construed as prohibiting an employer from permitting its employees  
24 or interns to voluntarily attend employer-sponsored meetings or  
25 providing other communications to the employees or interns, if the  
26 employer notifies the employees or interns that they may refuse to  
27 attend the meetings or accept the communications without penalty.

28 (cf: P.L.2006, c.53, s.2)

29

30 19. Section 3 of P.L.2006, c.53 (C.34:19-11) is amended to read  
31 as follows:

32 3. a. An employer or its agent, representative or designee may  
33 communicate to employees and interns information about religious  
34 or political matters that the employer is required by law to  
35 communicate, but only to the extent required by law.

36 b. Nothing in **【this act】** P.L.2006, c.53 (C.34:19-9 et seq.) shall  
37 prohibit:

38 (1) A religious organization from requiring its employees or  
39 interns to attend an employer-sponsored meeting or to participate in  
40 any communications with the employer or its agents or  
41 representatives, the purpose of which is to communicate the  
42 employer's religious beliefs, practices or tenets;

43 (2) A political organization or party from requiring its  
44 employees or interns to attend an employer-sponsored meeting or to  
45 participate in any communications with the employer or its agents  
46 or representatives, the purpose of which is to communicate the  
47 employer's political tenets or purposes; or

1 (3) An educational institution from requiring a student or  
2 instructor to attend lectures on political or religious matters that are  
3 part of the regular course work at the institution.

4 (cf: P.L.2006, c.53, s.3)

5  
6 20. Section 4 of P.L.2006, c.53 (C.34:19-12) is amended to read  
7 as follows:

8 4. No employer or employer's agent, representative or designee  
9 shall discharge, discipline or otherwise penalize or threaten to  
10 discharge, discipline or otherwise penalize any employee or intern  
11 because the employee or intern, or a person acting on behalf of the  
12 employee or intern, makes a good faith report, verbally or in  
13 writing, of a violation or suspected violation of **【this act】** P.L.2006,  
14 c.53 (C.34:19-9 et seq.).

15 (cf: P.L.2006, c.53, s.4)

16  
17 21. Section 5 of P.L.2006, c.53 (C.34:19-13) is amended to read  
18 as follows:

19 5. Any aggrieved employee or intern may enforce the  
20 provisions of **【this act】** P.L.2006, c.53 (C.34:19-9 et seq.) by means  
21 of a civil action brought no later than ninety days after the date of  
22 the alleged violation in a court of competent jurisdiction. The court  
23 shall award a prevailing employee or intern all appropriate relief,  
24 including any of the following which are applicable to the violation:

25 a. A restraining order against any continuing violation;

26 b. The reinstatement of the employee or intern to the  
27 employee's or intern's former position or an equivalent position and  
28 the reestablishment of any employee benefits and seniority rights;

29 c. The payment of any lost wages, benefits or other  
30 remuneration; and

31 d. The payment of reasonable attorneys' fees and costs of the  
32 action.

33 In addition, the court may award the prevailing employee or  
34 intern punitive damages not greater than treble damages, or an  
35 assessment of a civil fine of not more than \$1,000 for a first  
36 violation of **【the act】** P.L.2006, c.53 (C.34:19-9 et seq.) and not  
37 more than \$5,000 for each subsequent violation, which shall be paid  
38 to the State Treasurer for deposit in the General Fund.

39 (cf: P.L.2006, c.53, s.5)

40  
41 22. Section 6 of P.L.2006, c.53 (C.34:19-14) is amended to read  
42 as follows:

43 6. Nothing in **【this act】** P.L.2006, c.53 (C.34:19-9 et seq.) shall  
44 be construed to limit an employee's or intern's right to bring a  
45 common law tort cause of action against an employer, including an  
46 action for wrongful termination, or to diminish or impair the rights  
47 of a person under any collective bargaining agreement.

48 (cf: P.L.2006, c.53, s.6)

1       23. This act shall take effect on the first day of the third month  
2 next following enactment, and apply to any violation against an  
3 intern occurring on or after the effective date.

4

5

6

STATEMENT

7

8       This bill, designated the “New Jersey Intern Protection Act,”  
9 provides legal protections and remedies for persons engaged in  
10 internships with employers. It does so by adding interns to the  
11 provisions of the “Law Against Discrimination,” P.L.1945, c.169  
12 (C.10:5-1 et seq.), the “Conscientious Employee Protection Act,”  
13 P.L.1986, c.105 (C.34:19-1 et seq.), and P.L.2006, c.53 (C.34:19-9  
14 et seq.), sometimes referred to as the Worker Freedom From  
15 Employer Intimidation Act.

16       Under all three enactments, an intern would be defined as an  
17 individual who performs services for an employer on a temporary  
18 basis whose work:

19       (1) Provides training or supplements training given in an  
20 educational environment such that the employability of the  
21 individual performing the work may be enhanced;

22       (2) Provides experience for the benefit of the individual  
23 performing the work; and

24       (3) Is performed under the supervision of existing staff. The  
25 term “intern” includes individuals without regard to whether the  
26 employer pays them a salary or wage.

27       An intern would not only have recognized and enforceable legal  
28 protections from various forms of employer discrimination,  
29 retaliatory acts, and intimidation relative to religious and political  
30 matters in the workplace, the State would also have the authority,  
31 under the “Law Against Discrimination,” P.L.1945, c.169 (C.10:5-1  
32 et seq.), to bring actions against employers. In addition, nothing  
33 within the provisions of this bill or the various past legislative acts  
34 amended by this bill would prevent an intern from seeking  
35 protections or receiving remedies pursuant to any applicable federal  
36 law, other State law, or the common law.