

SENATE, No. 1562

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED FEBRUARY 16, 2016

Sponsored by:

Senator NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)
Senator PETER J. BARNES, III
District 18 (Middlesex)

SYNOPSIS

Prohibits certain employment actions against employees affected by a declared state of emergency.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/13/2016)

1 AN ACT prohibiting certain employment practices.

2

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

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6 1. As used in this act:

7 “Employee” means any employee of an employer, except that no
8 physician or other medical personnel, or other personnel required to
9 maintain essential healthcare services shall be regarded as an
10 “employee” for the purposes of this act, whether or not the medical
11 or healthcare services personnel works for a public safety agency.

12 “Employer” means any employer or employer’s agent,
13 representative, or designee, except that the term “employer” does
14 not include: any public safety agency or contractor of the public
15 safety agency that contracts to provide emergency repair, street
16 clearing or other emergency services; any licensed health care
17 facility; any public utility as defined in R.S.48:2-13 or contractor of
18 the public utility; or a contractor that contracts with an owner of a
19 private facility to provide street clearing services for that facility.

20 “Public safety agency” means a division of a municipality, a
21 county, or the State which dispatches or provides, or contracts to
22 obtain, law enforcement, fire fighting, emergency medical services,
23 or other emergency services.

24 “State of emergency” means a natural or man-made disaster or
25 emergency for which a state of emergency has been declared by the
26 Governor.

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28 2. No employer shall discharge from employment or take any
29 adverse action against any employee with respect to compensation,
30 terms, conditions, or other privileges of employment because the
31 employee is not actively working and performing all regular duties
32 at the employer’s place of business due to a state of emergency
33 during the time in which the state of emergency is in effect and
34 applies to the areas where the employee lives or works and
35 emergency management officials have advised individuals in those
36 areas to evacuate or to not travel. No employer shall require any
37 employee to use any sick, personal, or other leave provided by the
38 employer, whether paid or unpaid, for any time that the employee is
39 unable to work due to the state of emergency. This act shall not be
40 construed as requiring any employer to provide wages or
41 compensation to any employee that is not actively working.

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43 3. An employee who is unable to work and perform the regular
44 duties of employment at the employer’s place of business for any
45 period of time due to a state of emergency shall:

46 a. make every possible effort to notify the employer of the
47 absence from work due to the declared state of emergency; and

1 b. return to work as soon as possible, but not later than the first
2 shift or regularly scheduled work hours occurring after the
3 declaration of the state of emergency is rescinded or after
4 emergency management officials have deemed the situation to be
5 safe, and accounting for the time needed to travel to the employer’s
6 place of business.

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8 4. An employer who violates any provision of this act shall be
9 subject to a civil penalty in an amount not to exceed \$5,000 for the
10 first violation and \$10,000 for each subsequent violation, collectible
11 by the Commissioner of Labor and Workforce Development in a
12 summary proceeding pursuant to the “Penalty Enforcement Law of
13 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).

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15 5. This act shall apply only to a state of emergency declared
16 after the effective date of this act.

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18 6. This act shall take effect immediately.

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STATEMENT

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23 This bill prohibits an employer from taking any adverse
24 employment actions against an employee who is unable to actively
25 work or perform regular duties at the employer’s place of business
26 due to a declared state of emergency. The bill also prohibits an
27 employer from requiring an employee to use any sick, personal, or
28 other leave, paid or unpaid, for an absence from work due to a state
29 of emergency.

30 The bill prohibits an employer from discharging from
31 employment or taking any other adverse action against an employee
32 with respect to compensation, terms, conditions, or other privileges
33 of employment because the employee does not actively work and
34 perform all regular duties at the employer’s place of business due to
35 a state of emergency during the time in which the state of
36 emergency is in effect and applies to the areas where the employee
37 lives or works and emergency management officials have advised
38 individuals in those areas to evacuate or to not travel. The bill does
39 not require an employer to pay any employee who is not actively
40 working.

41 The bill requires an employee who is unable to work due to a
42 state of emergency to make every possible effort to notify the
43 employer of the absence and return to work as soon as possible, but
44 not later than the first shift or regularly scheduled work hours
45 occurring after the declaration of the state of emergency is
46 rescinded, or after an emergency management official has deemed
47 the situation to be safe, whichever occurs first.

1 The bill also provides that an employer who violates the
2 provisions of the bill will be subject to a civil penalty in an amount
3 not to exceed \$5,000 for the first violation and \$10,000 for each
4 subsequent violation.

5 Finally, the bill defines “employee” to exclude physicians or
6 other medical personnel or other personnel required to maintain
7 essential healthcare services; “employer” as an employer or
8 employer’s agent, representative, or designee, but not any: public
9 safety agency or any contractor of the agency that contracts to
10 provide emergency repair, street clearing or other emergency
11 services; contractor that contracts with private facility owners to
12 provide street clearing for those facilities; licensed health care
13 facilities; and not any public utility or public utility contractor;
14 “public safety agency” as a division of a municipality, a county, or
15 the State which dispatches, provides, or contracts to obtain, law
16 enforcement, fire fighting, emergency medical services, or other
17 emergency services; and “state of emergency” as a natural or man-
18 made disaster or emergency for which a state of emergency has
19 been declared by the Governor.