

ASSEMBLY, No. 3563

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

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 liability for service in the Armed Forces of the United States,
37 nationality, sex, gender identity or expression or source of lawful
38 income used for rental or mortgage payments, subject only to
39 conditions and limitations applicable alike to all persons. This
40 opportunity is recognized as and declared to be a civil right.

41 (cf: P.L.2017, c.184, s.1)

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

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

47 a. "Person" includes one or more individuals, partnerships,
48 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
19 in 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 the Attorney General's 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 or 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; and any
14 kindergarten, primary and secondary school, trade or business
15 school, high school, academy, college and university, or any
16 educational institution under the supervision of the State Board of
17 Education or the Commissioner of Education of the State of New
18 Jersey. Nothing herein contained shall be construed to include or to
19 apply to any institution, bona fide club, or place of accommodation,
20 which is in its nature distinctly private; nor shall anything herein
21 contained apply to any educational facility operated or maintained
22 by a bona fide religious or sectarian institution, and the right of a
23 natural parent or one in loco parentis to direct the education and
24 upbringing of a child under his control is hereby affirmed; nor shall
25 anything herein contained be construed to bar any private secondary
26 or post-secondary school from using in good faith criteria other than
27 race, creed, color, national origin, ancestry, gender identity, or
28 expression or affectional or sexual orientation in the admission of
29 students.

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

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

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

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

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

1 q. "Disability" means physical or sensory 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 impairment, deafness or hearing impairment, muteness or
7 speech impairment, 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 typical
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" or "person who is blind" means any
17 individual whose central visual acuity does not exceed 20/200 in the
18 better eye with correcting lens or whose visual acuity is better than
19 20/200 if accompanied by a limit to the field of vision in the better
20 eye to such a degree that its widest diameter subtends an angle of
21 no greater than 20 degrees.

22 s. "Guide dog" means a dog used to assist persons who are
23 deaf, or which is fitted with a special harness so as to be suitable as
24 an aid to the mobility of a person who is blind, and is used by a
25 person who is blind and has satisfactorily completed a specific
26 course of training in the use of such a dog, and has been trained by
27 an organization generally recognized by agencies involved in the
28 rehabilitation of persons with disabilities, including, but not limited
29 to, those persons who are blind or deaf, as reputable and competent
30 to provide dogs with training of this type.

31 t. "Guide or service dog trainer" means any person who is
32 employed by an organization generally recognized by agencies
33 involved in the rehabilitation of persons with disabilities, including,
34 but not limited to, those persons who are blind, have visual
35 impairments, or are deaf or have hearing impairments, as reputable
36 and competent to provide dogs with training, as defined in this
37 section, and who is actually involved in the training process.

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

45 v. "Public facility" means any place of public accommodation
46 and any street, highway, sidewalk, walkway, public building, and
47 any other place or structure to which the general public is regularly,
48 normally, or customarily permitted or invited.

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

1 gg. "HIV infection" means infection with the human
2 immunodeficiency virus or any other related virus identified as a
3 probable causative agent of AIDS.

4 hh. "Affectional or sexual orientation" means male or female
5 heterosexuality, homosexuality, or bisexuality by inclination,
6 practice, identity, or expression, having a history thereof or being
7 perceived, presumed, or identified by others as having such an
8 orientation.

9 ii. "Heterosexuality" means affectional, emotional, or physical
10 attraction or behavior which is primarily directed towards persons
11 of the other gender.

12 jj. "Homosexuality" means affectional, emotional, or physical
13 attraction or behavior which is primarily directed towards persons
14 of the same gender.

15 or behavior which is directed towards persons of either gender.

16 ll. "Familial status" means being the natural parent of a child,
17 the adoptive parent of a child, the resource family parent of a child,
18 having a "parent and child relationship" with a child as defined by
19 State law, or having sole or joint legal or physical custody, care,
20 guardianship, or visitation with a child, or any person who is
21 pregnant or is in the process of securing legal custody of any
22 individual who has not attained the age of 18 years.

23 mm. "Housing for older persons" means housing:

24 (1) provided under any State program that the Attorney General
25 determines is specifically designed and operated to assist persons
26 who are elderly (as defined in the State program); or provided under
27 any federal program that the United States Department of Housing
28 and Urban Development determines is specifically designed and
29 operated to assist persons who are elderly (as defined in the federal
30 program); or

31 (2) intended for, and solely occupied by, persons 62 years of age
32 or older; or

33 (3) intended and operated for occupancy by at least one person
34 55 years of age or older per unit. In determining whether housing
35 qualifies as housing for older persons under this paragraph, the
36 Attorney General shall adopt regulations which require at least the
37 following factors:

38 (a) the existence of significant facilities and services
39 specifically designed to meet the physical or social needs of older
40 persons, or if the provision of such facilities and services is not
41 practicable, that such housing is necessary to provide important
42 housing opportunities for older persons; and

43 (b) that at least 80 percent of the units are occupied by at least
44 one person 55 years of age or older per unit; and

45 (c) the publication of, and adherence to, policies and procedures
46 which demonstrate an intent by the owner or manager to provide
47 housing for persons 55 years of age or older.

1 Housing shall not fail to meet the requirements for housing for
2 older persons by reason of: persons residing in such housing as of
3 September 13, 1988 not meeting the age requirements of this
4 subsection, provided that new occupants of such housing meet the
5 age requirements of this subsection; or unoccupied units, provided
6 that such units are reserved for occupancy by persons who meet the
7 age requirements of this subsection.

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

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

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

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

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

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

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

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

38 vv. "Race" is inclusive of traits historically associated with race,
39 including, but not limited to, hair texture, hair type, and protective
40 hairstyles.

41 ww. "Protective hair styles" includes, but is not limited to, such
42 hairstyles as braids, locks, and twists.
43 (cf: P.L.2019, c.272)

44
45 7. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to
46 read as follows:

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

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

47 The provisions of subsections a. and b. of section 57 of
48 P.L.2003, c.246 (C.34:11A-20), and the provisions of section 58 of

1 P.L.2003, c.246 (C.26:8A-11), shall not be deemed to be an
2 unlawful discrimination under P.L.1945, c.169 (C.10:5-1 et seq.).

3 For the purposes of this subsection, a "bona fide executive" is a
4 top level employee who exercises substantial executive authority
5 over a significant number of employees and a large volume of
6 business. A "high policy-making position" is a position in which a
7 person plays a significant role in developing policy and in
8 recommending the implementation thereof.

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

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

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

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

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

46 (2) Notwithstanding the definition of "a place of public
47 accommodation" as set forth in subsection l. of section 5 of
48 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,

1 manager, superintendent, agent, or employee of any private club or
2 association to directly or indirectly refuse, withhold from or deny to
3 any individual who has been accepted as a club member and has
4 contracted for or is otherwise entitled to full club membership any
5 of the accommodations, advantages, facilities or privileges thereof,
6 or to discriminate against any member in the furnishing thereof on
7 account of the race, creed, color, national origin, ancestry, marital
8 status, civil union status, domestic partnership status, pregnancy or
9 breastfeeding, sex, gender identity, or expression, affectional or
10 sexual orientation, disability, liability for service in the Armed
11 Forces of the United States or nationality of such person.

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

20 g. For any person, including but not limited to, any owner,
21 lessee, sublessee, assignee or managing agent of, or other person
22 having the right of ownership or possession of or the right to sell,
23 rent, lease, assign, or sublease any real property or part or portion
24 thereof, or any agent or employee of any of these:

25 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
26 to deny to or withhold from any person or group of persons any real
27 property or part or portion thereof because of race, creed, color,
28 national origin, ancestry, marital status, civil union status, domestic
29 partnership status, pregnancy or breastfeeding, sex, gender identity
30 or expression, affectional or sexual orientation, familial status,
31 disability, liability for service in the Armed Forces of the United
32 States, nationality, or source of lawful income used for rental or
33 mortgage payments;

34 (2) To discriminate against any person or group of persons
35 because of race, creed, color, national origin, ancestry, marital
36 status, civil union status, domestic partnership status, pregnancy or
37 breastfeeding, sex, gender identity or expression, affectional or
38 sexual orientation, familial status, disability, liability for service in
39 the Armed Forces of the United States, nationality or source of
40 lawful income used for rental or mortgage payments in the terms,
41 conditions or privileges of the sale, rental or lease of any real
42 property or part or portion thereof or in the furnishing of facilities
43 or services in connection therewith;

44 (3) To print, publish, circulate, issue, display, post or mail, or
45 cause to be printed, published, circulated, issued, displayed, posted
46 or mailed any statement, advertisement, publication or sign, or to
47 use any form of application for the purchase, rental, lease,
48 assignment or sublease of any real property or part or portion

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

24 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
25 to deny to or withhold from any person or group of persons any real
26 property or part or portion thereof because of the source of any
27 lawful income received by the person or the source of any lawful
28 rent payment to be paid for the real property; or

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

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

38 (1) To refuse to sell, rent, assign, lease or sublease, or offer for
39 sale, rental, lease, assignment, or sublease any real property or part
40 or portion thereof to any person or group of persons or to refuse to
41 negotiate for the sale, rental, lease, assignment, or sublease of any
42 real property or part or portion thereof to any person or group of
43 persons because of race, creed, color, national origin, ancestry,
44 marital status, civil union status, domestic partnership status,
45 familial status, pregnancy or breastfeeding, sex, gender identity or
46 expression, affectional or sexual orientation, disability, nationality,
47 or source of lawful income used for rental or mortgage payments, or
48 to represent that any real property or portion thereof is not available

1 for inspection, sale, rental, lease, assignment, or sublease when in
2 fact it is so available, or otherwise to deny or withhold any real
3 property or any part or portion of facilities thereof to or from any
4 person or group of persons because of race, creed, color, national
5 origin, ancestry, marital status, civil union status, domestic
6 partnership status, familial status, pregnancy or breastfeeding, sex,
7 gender identity or expression, affectional or sexual orientation,
8 disability or nationality;

9 (2) To discriminate against any person because of race, creed,
10 color, national origin, ancestry, marital status, civil union status,
11 domestic partnership status, familial status, pregnancy or
12 breastfeeding, sex, gender identity or expression, affectional or
13 sexual orientation, disability, nationality, or source of lawful
14 income used for rental or mortgage payments in the terms,
15 conditions or privileges of the sale, rental, lease, assignment or
16 sublease of any real property or part or portion thereof or in the
17 furnishing of facilities or services in connection therewith;

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

45 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
46 to deny to or withhold from any person or group of persons any real
47 property or part or portion thereof because of the source of any

1 lawful income received by the person or the source of any lawful
2 rent payment to be paid for the real property; or

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

10 i. For any person, bank, banking organization, mortgage
11 company, insurance company or other financial institution, lender
12 or credit institution involved in the making or purchasing of any
13 loan or extension of credit, for whatever purpose, whether secured
14 by residential real estate or not, including but not limited to
15 financial assistance for the purchase, acquisition, construction,
16 rehabilitation, repair or maintenance of any real property or part or
17 portion thereof or any agent or employee thereof:

18 (1) To discriminate against any person or group of persons
19 because of race, creed, color, national origin, ancestry, marital
20 status, civil union status, domestic partnership status, pregnancy or
21 breastfeeding, sex, gender identity or expression, affectional or
22 sexual orientation, disability, liability for service in the Armed
23 Forces of the United States, familial status or nationality, in the
24 granting, withholding, extending, modifying, renewing, or
25 purchasing, or in the fixing of the rates, terms, conditions or
26 provisions of any such loan, extension of credit or financial
27 assistance or purchase thereof or in the extension of services in
28 connection therewith;

29 (2) To use any form of application for such loan, extension of
30 credit or financial assistance or to make record or inquiry in
31 connection with applications for any such loan, extension of credit
32 or financial assistance which expresses, directly or indirectly, any
33 limitation, specification or discrimination as to race, creed, color,
34 national origin, ancestry, marital status, civil union status, domestic
35 partnership status, pregnancy or breastfeeding, sex, gender identity
36 or expression, affectional or sexual orientation, disability, liability
37 for service in the Armed Forces of the United States, familial status
38 or nationality or any intent to make any such limitation,
39 specification or discrimination; unless otherwise required by law or
40 regulation to retain or use such information;

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

42 (4) To discriminate against any person or group of persons
43 because of the source of any lawful income received by the person
44 or the source of any lawful rent payment to be paid for the real
45 property; or

46 (5) To discriminate against any person or group of persons
47 because that person's family includes children under 18 years of
48 age, or to make an agreement or mortgage which provides that the

1 agreement or mortgage shall be rendered null and void upon the
2 birth of a child. This paragraph shall not apply to housing for older
3 persons as defined in subsection mm. of section 5 of P.L.1945,
4 c.169 (C.10:5-5).

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

10 k. For any real estate broker, real estate salesperson or
11 employee or agent thereof or any other individual, corporation,
12 partnership, or organization, for the purpose of inducing a
13 transaction for the sale or rental of real property from which
14 transaction such person or any of its members may benefit
15 financially, to represent that a change has occurred or will or may
16 occur in the composition with respect to race, creed, color, national
17 origin, ancestry, marital status, civil union status, domestic
18 partnership status, familial status, pregnancy or breastfeeding, sex,
19 gender identity or expression, affectional or sexual orientation,
20 disability, liability for service in the Armed Forces of the United
21 States, nationality, or source of lawful income used for rental or
22 mortgage payments of the owners or occupants in the block,
23 neighborhood or area in which the real property is located, and to
24 represent, directly or indirectly, that this change will or may result
25 in undesirable consequences in the block, neighborhood or area in
26 which the real property is located, including, but not limited to the
27 lowering of property values, an increase in criminal or anti-social
28 behavior, or a decline in the quality of schools or other facilities.

29 l. For any person to refuse to buy from, sell to, lease from or
30 to, license, contract with, or trade with, provide goods, services or
31 information to, or otherwise do business with any other person on
32 the basis of the race, creed, color, national origin, ancestry, age,
33 pregnancy or breastfeeding, sex, gender identity or expression,
34 affectional or sexual orientation, marital status, civil union status,
35 domestic partnership status, liability for service in the Armed
36 Forces of the United States, disability, nationality, or source of
37 lawful income used for rental or mortgage payments of such other
38 person or of such other person's spouse, partners, members,
39 stockholders, directors, officers, managers, superintendents, agents,
40 employees, interns, business associates, suppliers, or customers.
41 This subsection shall not prohibit refusals or other actions (1)
42 pertaining to employee-employer collective bargaining, labor
43 disputes, or unfair labor practices, or (2) made or taken in
44 connection with a protest of unlawful discrimination or unlawful
45 employment practices.

46 m. For any person to:

47 (1) Grant or accept any letter of credit or other document which
48 evidences the transfer of funds or credit, or enter into any contract

1 for the exchange of goods or services, where the letter of credit,
2 contract, or other document contains any provisions requiring any
3 person to discriminate against or to certify that he, she or it has not
4 dealt with any other person on the basis of the race, creed, color,
5 national origin, ancestry, age, pregnancy or breastfeeding, sex,
6 gender identity or expression, affectional or sexual orientation,
7 marital status, civil union status, domestic partnership status,
8 disability, liability for service in the Armed Forces of the United
9 States, or nationality of such other person or of such other person's
10 spouse, partners, members, stockholders, directors, officers,
11 managers, superintendents, agents, employees, interns, business
12 associates, suppliers, or customers.

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

18 The provisions of this subsection shall not apply to any letter of
19 credit, contract, or other document which contains any provision
20 pertaining to employee-employer collective bargaining, a labor
21 dispute or an unfair labor practice, or made in connection with the
22 protest of unlawful discrimination or an unlawful employment
23 practice, if the other provisions of such letter of credit, contract, or
24 other document do not otherwise violate the provisions of this
25 subsection.

26 n. For any person to aid, abet, incite, compel, coerce, or induce
27 the doing of any act forbidden by subsections l. and m. of section
28 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
29 do so. Such prohibited conduct shall include, but not be limited to:

30 (1) Buying from, selling to, leasing from or to, licensing,
31 contracting with, trading with, providing goods, services, or
32 information to, or otherwise doing business with any person
33 because that person does, or agrees or attempts to do, any such act
34 or any act prohibited by this subsection; or

35 (2) Boycotting, commercially blacklisting or refusing to buy
36 from, sell to, lease from or to, license, contract with, provide goods,
37 services or information to, or otherwise do business with any person
38 because that person has not done or refuses to do any such act or
39 any act prohibited by this subsection; provided that this subsection
40 shall not prohibit refusals or other actions either pertaining to
41 employee-employer collective bargaining, labor disputes, or unfair
42 labor practices, or made or taken in connection with a protest of
43 unlawful discrimination or unlawful employment practices.

44 o. For any multiple listing service, real estate brokers'
45 organization or other service, organization or facility related to the
46 business of selling or renting dwellings to deny any person access
47 to or membership or participation in such organization, or to
48 discriminate against such person in the terms or conditions of such

1 access, membership, or participation, on account of race, creed,
2 color, national origin, ancestry, age, marital status, civil union
3 status, domestic partnership status, familial status, pregnancy or
4 breastfeeding, sex, gender identity or expression, affectional or
5 sexual orientation, disability, liability for service in the Armed
6 Forces of the United States or nationality.

7 p. Nothing in the provisions of this section shall affect the
8 ability of an employer to require employees and interns to adhere to
9 reasonable workplace appearance, grooming and dress standards not
10 precluded by other provisions of State or federal law, except that an
11 employer shall allow an employee or intern to appear, groom and
12 dress consistent with the employee's or intern's gender identity or
13 expression.

14 q. (1) For any employer to impose upon a person as a
15 condition of obtaining or retaining employment or internship,
16 including opportunities for promotion, advancement or transfers,
17 any terms or conditions that would require a person to violate or
18 forego a sincerely held religious practice or religious observance,
19 including but not limited to the observance of any particular day or
20 days or any portion thereof as a Sabbath or other holy day in
21 accordance with the requirements of the religion or religious belief,
22 unless, after engaging in a bona fide effort, the employer
23 demonstrates that it is unable to reasonably accommodate the
24 employee's or intern's religious observance or practice without
25 undue hardship on the conduct of the employer's business.
26 Notwithstanding any other provision of law to the contrary, an
27 employee shall not be entitled to premium wages or premium
28 benefits for work performed during hours to which those premium
29 wages or premium benefits would ordinarily be applicable, if the
30 employee is working during those hours only as an accommodation
31 to his religious requirements. Nothing in this subsection q. shall be
32 construed as reducing:

33 (a) The number of the hours worked by the employee which are
34 counted towards the accruing of seniority, pension or other benefits;
35 or

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

38 (2) For an employer to refuse to permit an employee or intern to
39 utilize leave, as provided for in this subsection q., which is solely
40 used to accommodate the employee's or intern's sincerely held
41 religious observance or practice. Except where it would cause an
42 employer to incur an undue hardship, no person shall be required to
43 remain at his place of employment or internship during any day or
44 days or portion thereof that, as a requirement of his religion, he
45 observes as his Sabbath or other holy day, including a reasonable
46 time prior and subsequent thereto for travel between his place of
47 employment or internship and his home; provided that any such
48 absence from work shall, wherever practicable in the reasonable

1 judgment of the employer, be made up by an equivalent amount of
2 time and work at some other mutually convenient time, or shall, if
3 applicable, be charged against any leave with pay ordinarily
4 granted, other than sick leave, and any such absence not so made up
5 or charged, may be treated by the employer of that person as leave
6 taken without pay.

7 (3) (a) For purposes of this subsection q., "undue hardship"
8 means an accommodation requiring unreasonable expense or
9 difficulty, unreasonable interference with the safe or efficient
10 operation of the workplace or a violation of a bona fide seniority
11 system or a violation of any provision of a bona fide collective
12 bargaining agreement.

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

15 (i) The identifiable cost of the accommodation, including the
16 costs of loss of productivity and of retaining or hiring employees or
17 transferring employees from one facility to another, in relation to
18 the size and operating cost of the employer.

19 (ii) The number of individuals who will need the particular
20 accommodation for a sincerely held religious observance or
21 practice.

22 (iii) For an employer with multiple facilities, the degree to
23 which the geographic separateness or administrative or fiscal
24 relationship of the facilities will make the accommodation more
25 difficult or expensive.

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

30 (d) (i) The provisions of this subsection q. shall be applicable
31 only to reasonable accommodations of religious observances and
32 shall not supersede any definition of undue hardship or standards
33 for reasonable accommodation of the disabilities of employees or
34 interns.

35 (ii) This subsection q. shall not apply where the uniform
36 application of terms and conditions of attendance to employees or
37 interns is essential to prevent undue hardship to the employer. The
38 burden of proof regarding the applicability of this subparagraph (d)
39 shall be upon the employer.

40 r. For any employer to take reprisals against any employee or
41 intern for requesting from any other employee or former employee,
42 or any other intern or former intern, of the employer information
43 regarding the job title, occupational category, and rate of
44 compensation, including benefits, of any employee or former
45 employee, or any intern or former intern, of the employer, or the
46 gender, race, ethnicity, military status, or national origin of any
47 employee or former employee of the employer, regardless of
48 whether the request was responded to, if the purpose of the request

1 for the information was to assist in investigating the possibility of
2 the occurrence of, or in taking of legal action regarding, potential
3 discriminatory treatment, including if applicable, treatment
4 concerning pay, compensation, bonuses, other compensation, or
5 benefits. Nothing in this subsection shall be construed to require an
6 employee or intern to disclose such information about the employee
7 or intern herself to any other employee or former employee, or
8 intern or former intern, of the employer or to any authorized
9 representative **【**of the other employee or former employee**】** thereof.

10 s. For an employer to treat, for employment-related or
11 internship-related purposes, a woman employee or intern that the
12 employer knows, or should know, is affected by pregnancy or
13 breastfeeding in a manner less favorable than the treatment of other
14 persons not affected by pregnancy or breastfeeding but similar in
15 their ability or inability to work. In addition, an employer of an
16 employee or intern who is a woman affected by pregnancy shall
17 make available to the employee or intern reasonable
18 accommodation in the workplace, such as bathroom breaks, breaks
19 for increased water intake, periodic rest, assistance with manual
20 labor, job restructuring or modified work schedules, and temporary
21 transfers to less strenuous or hazardous work, for needs related to
22 the pregnancy when the employee or intern, based on the advice of
23 her physician, requests the accommodation, and, in the case of a
24 employee breast feeding her infant child, the accommodation shall
25 include reasonable break time each day to the employee and a
26 suitable room or other location with privacy, other than a toilet stall,
27 in close proximity to the work area for the employee to express
28 breast milk for the child, unless the employer can demonstrate that
29 providing the accommodation would be an undue hardship on the
30 business operations of the employer. The employer shall not in any
31 way penalize the employee or intern in terms, conditions or
32 privileges of employment or internship for requesting or using the
33 accommodation. Workplace accommodation provided pursuant to
34 this subsection and paid or unpaid leave provided to an employee or
35 intern affected by pregnancy or breastfeeding shall not be provided
36 in a manner less favorable than accommodations or leave provided
37 to other employees or interns not affected by pregnancy or
38 breastfeeding but similar in their ability or inability to work. This
39 subsection shall not be construed as otherwise increasing or
40 decreasing any employee's or intern's rights under law to paid or
41 unpaid leave in connection with pregnancy or breastfeeding.

42 For the purposes of this section "pregnancy or breastfeeding"
43 means pregnancy, childbirth, and breast feeding or expressing milk
44 for breastfeeding, or medical conditions related to pregnancy,
45 childbirth, or breastfeeding, including recovery from childbirth.

46 For the purposes of this subsection, in determining whether an
47 accommodation would impose undue hardship on the operation of
48 an employer's business, the factors to be considered include: the

1 overall size of the employer's business with respect to the number
2 of employees, number and type of facilities, and size of budget; the
3 type of the employer's operations, including the composition and
4 structure of the employer's workforce; the nature and cost of the
5 accommodation needed, taking into consideration the availability of
6 tax credits, tax deductions, and outside funding; and the extent to
7 which the accommodation would involve waiver of an essential
8 requirement of a job as opposed to a tangential or non-business
9 necessity requirement.

10 t. For an employer to pay any of its employees who is a
11 member of a protected class at a rate of compensation, including
12 benefits, which is less than the rate paid by the employer to
13 employees who are not members of the protected class for
14 substantially similar work, when viewed as a composite of skill,
15 effort and responsibility. An employer who is paying a rate of
16 compensation in violation of this subsection shall not reduce the
17 rate of compensation of any employee in order to comply with this
18 subsection. An employer may pay a different rate of compensation
19 only if the employer demonstrates that the differential is made
20 pursuant to a seniority system, a merit system, or the employer
21 demonstrates:

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

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

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

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

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

37 Comparisons of wage rates shall be based on wage rates in all of
38 an employer's operations or facilities. For the purposes of this
39 subsection, "member of a protected class" means an employee who
40 has one or more characteristics, including race, creed, color,
41 national origin, nationality, ancestry, age, marital status, civil union
42 status, domestic partnership status, affectional or sexual orientation,
43 genetic information, pregnancy, sex, gender identity or expression,
44 disability or atypical hereditary cellular or blood trait of any
45 individual, or liability for service in the armed forces, for which
46 subsection a. of this section prohibits an employer from refusing to
47 hire or employ or barring or discharging or requiring to retire from

1 employment or discriminating against the individual in
2 compensation or in terms, conditions or privileges of employment.

3 (cf: P.L.2018, c.9, s.2)

4
5 8. Section 1 of P.L.2001, c.385 (C.10:5-12.6) is amended to
6 read as follows:

7 1. No employer, public or private, shall discharge or
8 discriminate against an employee or intern in compensation or in
9 terms, conditions or privileges of employment or internship for
10 displaying the American flag on the employee's or intern's person
11 or work station, provided the display does not substantially and
12 materially interfere with the employee's or intern's job duties. An
13 employer who discharges or discriminates against an employee or
14 intern as described in this section shall be liable to the employee or
15 intern for damages caused by the discharge or discrimination,
16 including punitive damages, and for reasonable attorney's fees as
17 part of the costs of any action for damages. If the court determines
18 that the action for damages was brought without substantial
19 justification, the court may award costs and reasonable attorney's
20 fees to the employer.

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

22
23 9. Section 1 of P.L.1986, c.105 (C.34:19-1) is amended to read
24 as follows:

25 1. This act shall be known and may be cited as the
26 "Conscientious Employee and Intern Protection Act."

27 (cf: P.L.1986, c.105, s.1)

28
29 10. Section 2 of P.L.1986, c.105 (C.34:19-2) is amended to read
30 as follows:

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

32 a. "Employer" means any individual, partnership, association,
33 corporation or any person or group of persons acting directly or
34 indirectly on behalf of or in the interest of an employer with the
35 employer's consent and shall include all branches of State
36 Government, or the several counties and municipalities thereof, or
37 any other political subdivision of the State, or a school district, or
38 any special district, or any authority, commission, or board or any
39 other agency or instrumentality thereof.

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

43 (2) "Intern" means an individual who performs services for an
44 employer on a temporary basis whose work: (a) provides training or
45 supplements training given in an educational environment such that
46 the employability of the individual performing the work may be
47 enhanced; (b) provides experience for the benefit of the individual
48 performing the work; and (c) is performed under the supervision of

1 existing staff. The term “intern” shall include individuals without
2 regard to whether the employer pays them a salary or wage.

3 c. "Public body" means:

4 (1) the United States Congress, and State legislature, or any
5 popularly-elected local governmental body, or any member or
6 employee thereof;

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

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

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

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

15 (6) any division, board, bureau, office, committee or
16 commission of any of the public bodies described in the above
17 paragraphs of this subsection.

18 d. "Supervisor" means any individual with an employer's
19 organization who has the authority to direct and control the work
20 performance of the affected employee or intern, who has authority
21 to take corrective action regarding the violation of the law, rule or
22 regulation of which the employee or intern complains, or who has
23 been designated by the employer on the notice required under
24 section 7 of **[this act]** P.L.1986, c.105 (C.34:19-1 et seq.).

25 e. "Retaliatory action" means the discharge, suspension or
26 demotion of an employee or intern, or other adverse employment
27 action taken against an employee or intern in the terms and
28 conditions of the employment or internship.

29 f. "Improper quality of patient care" means, with respect to
30 patient care, any practice, procedure, action or failure to act of an
31 employer that is a health care provider which violates any law or
32 any rule, regulation or declaratory ruling adopted pursuant to law,
33 or any professional code of ethics.

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

35

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

38 3. An employer shall not take any retaliatory action against an
39 employee or intern because the employee or intern does any of the
40 following:

41 a. Discloses, or threatens to disclose to a supervisor or to a
42 public body an activity, policy or practice of the employer, or
43 another employer, with whom there is a business relationship, that
44 the employee or intern reasonably believes:

45 (1) is in violation of a law, or a rule or regulation promulgated
46 pursuant to law, including any violation involving deception of, or
47 misrepresentation to, any shareholder, investor, client, patient,
48 customer, employee, former employee, intern, former intern, retiree

1 or pensioner of the employer or any governmental entity, or, in the
2 case of an employee or intern who is a licensed or certified health
3 care professional, reasonably believes constitutes improper quality
4 of patient care; or

5 (2) is fraudulent or criminal, including any activity, policy or
6 practice of deception or misrepresentation which the employee or
7 intern reasonably believes may defraud any shareholder, investor,
8 client, patient, customer, employee, former employee, intern,
9 former intern, retiree or pensioner of the employer or any
10 governmental entity;

11 b. Provides information to, or testifies before, any public body
12 conducting an investigation, hearing or inquiry into any violation of
13 law, or a rule or regulation promulgated pursuant to law by the
14 employer, or another employer, with whom there is a business
15 relationship, including any violation involving deception of, or
16 misrepresentation to, any shareholder, investor, client, patient,
17 customer, employee, former employee, intern, former intern, retiree
18 or pensioner of the employer or any governmental entity, or, in the
19 case of an employee or intern who is a licensed or certified health
20 care professional, provides information to, or testifies before, any
21 public body conducting an investigation, hearing or inquiry into the
22 quality of patient care; or

23 c. Objects to, or refuses to participate in any activity, policy or
24 practice which the employee or intern reasonably believes:

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

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

38 (3) is incompatible with a clear mandate of public policy
39 concerning the public health, safety or welfare or protection of the
40 environment.

41 (cf: P.L.2005, c.329, s.1)

42
43 12. Section 4 of P.L.1986, c.105 (C.34:19-4) is amended to read
44 as follows:

45 4. The protection against retaliatory action provided by **【this**
46 **act】** P.L.1986, c.105 (C.34:19-1 et seq.) pertaining to disclosure to
47 a public body shall not apply to an employee or intern who makes a
48 disclosure to a public body unless the employee or intern has

1 brought the activity, policy or practice in violation of a law, or a
2 rule or regulation promulgated pursuant to law to the attention of a
3 supervisor of the employee or intern by written notice and has
4 afforded the employer a reasonable opportunity to correct the
5 activity, policy or practice. Disclosure shall not be required where
6 the employee or intern is reasonably certain that the activity, policy
7 or practice is known to one or more supervisors of the employer or
8 where the employee or intern reasonably fears physical harm as a
9 result of the disclosure provided, however, that the situation is
10 emergency in nature.

11 (cf: P.L.1986, c.105, s.4)

12

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

15 5. Upon a violation of any of the provisions of **[this act]**
16 P.L.1986, c.105 (C.34:19-1 et seq.), an aggrieved employee or
17 former employee, or intern or former intern may, within one year,
18 institute a civil action in a court of competent jurisdiction. Upon
19 the application of any party, a jury trial shall be directed to try the
20 validity of any claim under **[this act]** P.L.1986, c.105 (C.34:19-1 et
21 seq.) specified in the suit. All remedies available in common law
22 tort actions shall be available to prevailing plaintiffs. These
23 remedies are in addition to any legal or equitable relief provided by
24 **[this act]** P.L.1986, c.105 (C.34:19-1 et seq.) or any other statute.
25 The court shall also order, where appropriate and to the fullest
26 extent possible:

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

30 b. The reinstatement of the employee or intern to the same
31 position held before the retaliatory action, or to an equivalent
32 position;

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

34 d. The compensation for all lost wages, benefits and other
35 remuneration; and

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

38 In addition, the court or jury may order: the assessment of a civil
39 fine of not more than \$10,000 for the first violation of **[this act]**
40 P.L.1986, c.105 (C.34:19-1 et seq.) and not more than \$20,000 for
41 each subsequent violation, which shall be paid to the State
42 Treasurer for deposit in the General Fund; punitive damages; or
43 both a civil fine and punitive damages. In determining the amount
44 of punitive damages, the court or jury shall consider not only the
45 amount of compensatory damages awarded to the employee or
46 intern, but also the amount of all damages caused to shareholders,
47 investors, clients, patients, customers, employees, former

1 employees, interns, former interns, retirees or pensioners of the
2 employer, or to the public or any governmental entity, by the
3 activities, policies or practices of the employer which the employee
4 or intern disclosed, threatened to disclose, provided testimony
5 regarding, objected to, or refused to participate in.

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

7
8 14. Section 6 of P.L.1986, c.105 (C.34:19-6) is amended to read
9 as follows:

10 6. A court, upon notice of motion in accordance with the Rules
11 Governing the Courts of the State of New Jersey, may also order
12 that reasonable attorneys' fees and court costs be awarded to an
13 employer if the court determines that an action brought by an
14 employee or intern under **[this act]** P.L.1986, c.105 (C.34:19-1 et
15 seq.) was without basis in law or in fact. However, an employee or
16 intern shall not be assessed attorneys' fees under this section if, after
17 exercising reasonable and diligent efforts after filing a suit, the
18 employee or intern files a voluntary dismissal concerning the
19 employer, within a reasonable time after determining that the
20 employer would not be found to be liable for damages.

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

22
23 15. Section 7 of P.L.1986, c.105 (C.34:19-7) is amended to read
24 as follows:

25 7. An employer shall conspicuously display, **[and]** annually
26 distribute to all employees, and distribute to all interns at the time
27 of their initial engagement in an internship, written or electronic
28 notices of its employees' and interns' protections, obligations, rights
29 and procedures under **[this act]** P.L.1986, c.105 (C.34:19-1 et seq.),
30 and use other appropriate means to keep its employees and interns
31 so informed. Each notice posted or distributed pursuant to this
32 section shall be in English, Spanish and at the employer's
33 discretion, any other language spoken by the majority of the
34 employer's employees and interns. The notice shall include the
35 name of the person or persons the employer has designated to
36 receive written notifications pursuant to section 4 of **[this act]**
37 P.L.1986, c.105 (C.34:19-1-4). The Commissioner of Labor and
38 Workforce Development shall make available to employers a text of
39 a notice fulfilling the requirements of this section and provide
40 copies of the notice suitable for display and distribution to any
41 employers who request the copies, charging them as much as is
42 needed to pay the costs of the department. The commissioner shall
43 also provide notices printed in a language other than English and
44 Spanish, at the request of the employer.

45 The requirement that an employer **[annually]** distribute to all
46 employees and interns written notices of the protections,
47 obligations, rights and procedures provided to the employees and

1 interns by the provisions of P.L.1986, c.105 (C.34:19-1 et seq.)
2 shall not apply to any employer who has less than 10 employees and
3 interns.
4 (cf: P.L.2004, c.148, s.1)

5
6 16. Section 8 of P.L.1986, c.105 (C.34:19-8) is amended to read
7 as follows:

8 8. Nothing in **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.)
9 shall be deemed to diminish the rights, privileges, or remedies of
10 any employee or intern under any other federal or State law or
11 regulation or under any collective bargaining agreement or
12 employment contract; except that the institution of an action in
13 accordance with **【this act】** P.L.1986, c.105 (C.34:19-1 et seq.) shall
14 be deemed a waiver of the rights and remedies available under any
15 other contract, collective bargaining agreement, State law, rule or
16 regulation or under the common law.
17 (cf: P.L.1986, c.105, s.8)

18
19 17. Section 1 of P.L.2006, c.53 (C.34:19-9) is amended to read
20 as follows:

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

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

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

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

30 "Political matters" include political party affiliation and
31 decisions to join or not join or participate in any lawful political,
32 social, or community organization or activity.

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

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

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

44 **【This act】** P.L.2006, c.53 (C.34:19-9 et seq.) shall not be
45 construed as prohibiting an employer from permitting its employees
46 or interns to voluntarily attend employer-sponsored meetings or
47 providing other communications to the employees or interns, if the

1 employer notifies the employees or interns that they may refuse to
2 attend the meetings or accept the communications without penalty.
3 (cf: P.L.2006, c.53, s.2)

4
5 19. Section 3 of P.L.2006, c.53 (C.34:19-11) is amended to read
6 as follows:

7 3. a. An employer or its agent, representative or designee may
8 communicate to employees and interns information about religious
9 or political matters that the employer is required by law to
10 communicate, but only to the extent required by law.

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

13 (1) A religious organization from requiring its employees or
14 interns to attend an employer-sponsored meeting or to participate in
15 any communications with the employer or its agents or
16 representatives, the purpose of which is to communicate the
17 employer's religious beliefs, practices or tenets;

18 (2) A political organization or party from requiring its
19 employees or interns to attend an employer-sponsored meeting or to
20 participate in any communications with the employer or its agents
21 or representatives, the purpose of which is to communicate the
22 employer's political tenets or purposes; or

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

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

27
28 20. Section 4 of P.L.2006, c.53 (C.34:19-12) is amended to read
29 as follows:

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

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

38
39 21. Section 5 of P.L.2006, c.53 (C.34:19-13) is amended to read
40 as follows:

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

47 a. A restraining order against any continuing violation;

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

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