

ASSEMBLY, No. 4289

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 22, 2020

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

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District 31 (Hudson)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Codifies protections in Law Against Discrimination for persons suffering discrimination on grounds of disparate impact.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2020)

1 AN ACT concerning the Law Against Discrimination and amending
2 P.L.1945, c.169 and P.L.1972, c.114.

3

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

6

7 1. Section 3 of P.L.1945, c.169 (C.10:5-3) is amended to read
8 as follows:

9 3. The Legislature finds and declares that practices of
10 discrimination against any of its inhabitants, because of race, creed,
11 color, national origin, ancestry, age, sex, gender identity or
12 expression, affectional or sexual orientation, marital status, familial
13 status, liability for service in the Armed Forces of the United States,
14 disability or nationality, are matters of concern to the government
15 of the State, and that such discrimination threatens not only the
16 rights and proper privileges of the inhabitants of the State but
17 menaces the institutions and foundation of a free democratic State;
18 provided, however, that nothing in this expression of policy
19 prevents the making of legitimate distinctions between citizens and
20 aliens when required by federal law or otherwise necessary to
21 promote the national interest.

22 The Legislature further declares its opposition to such practices
23 of discrimination when directed against any person by reason of the
24 race, creed, color, national origin, ancestry, age, sex, gender
25 identity or expression, affectional or sexual orientation, marital
26 status, liability for service in the Armed Forces of the United States,
27 disability or nationality of that person or that person's family
28 members, partners, members, stockholders, directors, officers,
29 managers, superintendents, agents, employees, business associates,
30 suppliers, or customers, in order that the economic prosperity and
31 general welfare of the inhabitants of the State may be protected and
32 ensured.

33 The Legislature further finds that because of discrimination,
34 people suffer personal hardships, and the State suffers a grievous
35 harm. The personal hardships include: economic loss; time loss;
36 physical and emotional stress; and in some cases severe emotional
37 trauma, illness, homelessness or other irreparable harm resulting
38 from the strain of employment controversies; relocation, search and
39 moving difficulties; anxiety caused by lack of information,
40 uncertainty, and resultant planning difficulty; career, education,
41 family and social disruption; and adjustment problems, which
42 particularly impact on those protected by this act. Such harms,
43 under the common law, may result from disparate treatment of the
44 affected class or the disparate impact of a facially neutral policy on
45 members of the affected class. Such harms have, under the common

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 law, given rise to legal remedies, including compensatory and
2 punitive damages. The Legislature intends that such damages be
3 available to all persons protected by this act and that this act shall
4 be liberally construed in combination with other protections
5 available under the laws of this State.

6 (cf: P.L.2019, c.436, s.1)

7
8 2. Section 2 of P.L.1972, c.114 (C.10:5-4.1) is amended to read
9 as follows:

10 2. All of the provisions of the act to which this act is a
11 supplement shall be construed to prohibit any unlawful
12 discrimination against any person because such person is or has
13 been at any time disabled or any unlawful employment practice
14 against such person, unless the nature and extent of the disability
15 reasonably precludes the performance of the particular employment.
16 It shall be unlawful discrimination under the "Law Against
17 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) to discriminate
18 against any buyer or renter because of the disability of a person
19 residing in or intending to reside in a dwelling after it is sold, rented
20 or made available or because of any person associated with the
21 buyer or renter. The unlawful discrimination set forth in this
22 section includes, but is not limited to, the disparate treatment of a
23 person who is or has been at any time disabled or the disparate
24 impact of a facially neutral policy on such a person.

25 (cf: P.L.2003, c.180, s.5)

26
27 3. This act shall take effect immediately.

30 STATEMENT

31
32 This bill would amend the "Law Against Discrimination,"
33 P.L.1945, c.169 (C.10:5-1 et seq.) (the "LAD") to codify case law
34 providing that the LAD protects those plaintiffs suffering
35 discrimination on grounds of "disparate impact."

36 Pursuant to the case law, the LAD protects two kinds of
37 plaintiffs who are members of a protected class (such as race, creed,
38 color, national origin, ancestry, age, sex, gender identity or
39 expression, affectional or sexual orientation, marital status, liability
40 for service in the Armed Forces of the United States, disability or
41 nationality, among others): those plaintiffs who suffer disparate
42 treatment because of their membership in the protected class, and
43 those who suffer from the disparate impact of a facially neutral
44 policy that in fact falls more harshly on them because of their
45 membership in the protected class. See Gerety v. Atl. City Hilton
46 Casino Resort, 184 N.J. 391 (2004).