

ASSEMBLY, No. 4692

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 21, 2020

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Prohibits employers from inquiring about gender of job applicants under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/24/2020)

1 **AN ACT** prohibiting employers from inquiring about job applicant's
2 gender and supplementing Title 34 of the Revised Statutes.

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

6
7 1. As used in this act:

8 “Advertisement” means any circulation, mailing, posting, or any
9 other form of publication, utilizing any media, promoting an
10 employer or intending to alert its audience, regardless of size, to the
11 availability of any position of employment.

12 “Applicant for employment” means any person whom an
13 employer considers when identifying potential employees, through
14 any means, including, but not limited to, recruitment, solicitation,
15 or seeking personal information, or any person who requests to be
16 considered for employment by an employer, or who requests
17 information from an employer related to seeking employment, and
18 shall include any person who currently is an employee of the
19 employer.

20 “Employee” means a person who is hired for a wage, salary, fee,
21 or payment to perform work for an employer, but excludes any
22 person employed in the domestic service of any family or person at
23 the person's home, any independent contractors, or any directors or
24 trustees. The term also shall include interns and apprentices.

25 “Employer” means any person, company, corporation, firm,
26 labor organization, or association which has 15 or more employees
27 over 20 calendar weeks and does business, employs persons, or
28 takes applications for employment within this State, and means the
29 State, any county or municipality, or any instrumentality thereof.
30 The term shall include job placement and referral agencies and
31 other employment agencies, but excludes the United States or any
32 of its departments, agencies, boards, or commissions, or any
33 employee or agent thereof.

34 “Employment” means any occupation, vocation, job, or work
35 with pay, including temporary or seasonal work, contingent work,
36 and work through the services of a temporary or other employment
37 agency; any form of vocational apprenticeship; or any internship.
38 The physical location of the prospective employment shall be in
39 whole, or substantial part, within this State.

40 “Employment application” means a form, questionnaire or
41 similar document or collection of documents that an applicant for
42 employment is required by an employer to complete.

43 “Gender” shall include an applicant's sex and gender identity or
44 expression as defined in P.L.1945, c.169 (C.10:5-5).

45 "Initial employment application process" means the period
46 beginning when an applicant for employment first makes an inquiry
47 to an employer about a prospective employment position or job
48 vacancy or when an employer first makes any inquiry to an

1 applicant for employment about a prospective employment position
2 or job vacancy, and ending when an employer has conducted a first
3 interview, whether in person or by any other means of an applicant
4 for employment.

5

6 2. a. Except as otherwise provided in section 3 of this act:

7 (1) an employer shall not require an applicant for employment
8 to complete any employment application that makes any inquiries
9 regarding an applicant's gender during the initial employment
10 application process; and

11 (2) an employer shall not make any oral or written inquiry
12 regarding an applicant's gender during the initial employment
13 application process.

14 b. An employer shall not be permitted to consider when making
15 an employment decision, or require any applicant to disclose or
16 reveal, or to take any adverse employment action against any
17 applicant on the basis of the applicant's gender.

18 c. Nothing set forth in this section shall be construed to
19 prohibit an employer from requiring an applicant for employment to
20 complete an employment application that makes any inquiries
21 regarding an applicant's gender after the initial employment
22 application process has concluded or from making written inquiries
23 regarding an applicant's gender after the initial employment
24 application process has concluded as may be required to satisfy any
25 other provision of State or federal law.

26

27 3. The provisions of this act shall not apply if the employment
28 sought or being considered is for a position on the basis of gender
29 in those certain circumstances where gender is a bona fide
30 occupational qualification, reasonably necessary to the normal
31 operation of the particular business or enterprise.

32

33 4. Any employer who violates this act shall be liable for a civil
34 penalty in an amount not to exceed \$1,000 for the first violation,
35 \$5,000 for the second violation, and \$10,000 for each subsequent
36 violation collectible by the Commissioner of Labor and Workforce
37 Development in a summary proceeding pursuant to the "Penalty
38 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
39 These penalties shall be in addition to any other violations of law by
40 an employer that may be brought by an applicant.

41

42 5. This act shall take effect the first day of the sixth month next
43 following the date of enactment, but the Commissioner of Labor
44 and Workforce Development may take any anticipatory
45 administrative action in advance as shall be necessary for the
46 implementation of this act.

STATEMENT

This bill prohibits employers from inquiring about job applicant's genders.

The bill prohibits employers from requiring applicants for employment to complete any employment application that makes any inquiries regarding the applicant's gender during the initial employment application process. Additionally, the bill prohibits employers from making any oral or written inquiry regarding an applicant's gender during the initial employment application process.

The bill provides that employers are not permitted to consider when making an employment decision, or to require any applicant to disclose or reveal, or to take any adverse employment action against any applicant on the basis of the applicant's gender.

Under the bill, employers may require applicants for employment to complete an employment application that makes any inquiries regarding an applicant's gender after the initial employment application process has concluded or make written inquiries regarding an applicant's gender after the initial employment application process has concluded as may be required to satisfy any other provision of State or federal law.

The provisions of the bill do not apply if the employment sought or being considered is for a position on the basis of gender in those certain circumstances where gender is a bona fide occupational qualification, reasonably necessary to the normal operation of the particular business or enterprise.