

SENATE, No. 3135

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED OCTOBER 3, 2022

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

SYNOPSIS

Requires employer to provide certain accommodations to employee who is breast feeding.

CURRENT VERSION OF TEXT

As introduced.



S3135 RUIZ

2

1 AN ACT concerning protections provided to employees who are
2 breast feeding children and amending P.L.1945, c.169.

3

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

6

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

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

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

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 combination of those plans, of the employer of that employee which
2 equals in the aggregate at least \$27,000.00; and provided further
3 that an employer may restrict employment to citizens of the United
4 States where such restriction is required by federal law or is
5 otherwise necessary to protect the national interest.

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

10 For the purposes of this subsection, a "bona fide executive" is a
11 top level employee who exercises substantial executive authority
12 over a significant number of employees and a large volume of
13 business. A "high policy-making position" is a position in which a
14 person plays a significant role in developing policy and in
15 recommending the implementation thereof.

16 For the purposes of this subsection, an unlawful employment
17 practice occurs, with respect to discrimination in compensation or
18 in the financial terms or conditions of employment, each occasion
19 that an individual is affected by application of a discriminatory
20 compensation decision or other practice, including, but not limited
21 to, each occasion that wages, benefits, or other compensation are
22 paid, resulting in whole or in part from the decision or other
23 practice.

24 In addition to any other relief authorized by the "Law Against
25 Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.) for
26 discrimination in compensation or in the financial terms or
27 conditions of employment, liability shall accrue and an aggrieved
28 person may obtain relief for back pay for the entire period of time,
29 except not more than six years, in which the violation with regard to
30 discrimination in compensation or in the financial terms or
31 conditions of employment has been continuous, if the violation
32 continues to occur within the statute of limitations.

33 Nothing in this subsection shall prohibit the application of the
34 doctrine of "continuing violation" or the "discovery rule" to any
35 appropriate claim as those doctrines currently exist in New Jersey
36 common law. It shall be an unlawful employment practice to
37 require employees or prospective employees to consent to a
38 shortened statute of limitations or to waive any of the protections
39 provided by the "Law Against Discrimination," P.L.1945, c.169
40 (C.10:5-1 et seq.).

41 b. For a labor organization, because of the race, creed, color,
42 national origin, ancestry, age, marital status, civil union status,
43 domestic partnership status, affectional or sexual orientation,
44 gender identity or expression, disability, pregnancy or
45 breastfeeding, or sex of any individual, or because of the liability
46 for service in the Armed Forces of the United States or nationality
47 of any individual, to exclude or to expel from its membership such
48 individual or to discriminate in any way against any of its members,

1 against any applicant for, or individual included in, any apprentice
2 or other training program or against any employer or any individual
3 employed by an employer; provided, however, that nothing herein
4 contained shall be construed to bar a labor organization from
5 excluding from its apprentice or other training programs any person
6 on the basis of sex in those certain circumstances where sex is a
7 bona fide occupational qualification reasonably necessary to the
8 normal operation of the particular apprentice or other training
9 program.

10 c. For any employer or employment agency to print or circulate
11 or cause to be printed or circulated any statement, advertisement or
12 publication, or to use any form of application for employment, or to
13 make an inquiry in connection with prospective employment, which
14 expresses, directly or indirectly, any limitation, specification or
15 discrimination as to race, creed, color, national origin, ancestry,
16 age, marital status, civil union status, domestic partnership status,
17 affectional or sexual orientation, gender identity or expression,
18 disability, nationality, pregnancy or breastfeeding, or sex or liability
19 of any applicant for employment for service in the Armed Forces of
20 the United States, or any intent to make any such limitation,
21 specification or discrimination, unless based upon a bona fide
22 occupational qualification.

23 d. For any person to take reprisals against any person because
24 that person has opposed any practices or acts forbidden under this
25 act or because that person has sought legal advice regarding rights
26 under this act, shared relevant information with legal counsel,
27 shared information with a governmental entity, or filed a complaint,
28 testified or assisted in any proceeding under this act or to coerce,
29 intimidate, threaten or interfere with any person in the exercise or
30 enjoyment of, or on account of that person having aided or
31 encouraged any other person in the exercise or enjoyment of, any
32 right granted or protected by this act.

33 e. For any person, whether an employer or an employee or not,
34 to aid, abet, incite, compel or coerce the doing of any of the acts
35 forbidden under this act, or to attempt to do so.

36 f. (1) For any owner, lessee, proprietor, manager,
37 superintendent, agent, or employee of any place of public
38 accommodation directly or indirectly to refuse, withhold from or
39 deny to any person any of the accommodations, advantages,
40 facilities or privileges thereof, or to discriminate against any person
41 in the furnishing thereof, or directly or indirectly to publish,
42 circulate, issue, display, post or mail any written or printed
43 communication, notice, or advertisement to the effect that any of
44 the accommodations, advantages, facilities, or privileges of any
45 such place will be refused, withheld from, or denied to any person
46 on account of the race, creed, color, national origin, ancestry,
47 marital status, civil union status, domestic partnership status,
48 pregnancy or breastfeeding, sex, gender identity or expression,

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

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

43 In addition to the penalties otherwise provided for a violation of
44 P.L.1945, c.169 (C.10:5-1 et seq.), if the violator of paragraph (2)
45 of subsection f. of this section is the holder of an alcoholic beverage
46 license issued under the provisions of R.S.33:1-12 for that private
47 club or association, the matter shall be referred to the Director of
48 the Division of Alcoholic Beverage Control who shall impose an

1 appropriate penalty in accordance with the procedures set forth in
2 R.S.33:1-31.

3 g. For any person, including but not limited to, any owner,
4 lessee, sublessee, assignee or managing agent of, or other person
5 having the right of ownership or possession of or the right to sell,
6 rent, lease, assign, or sublease any real property or part or portion
7 thereof, or any agent or employee of any of these:

8 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise
9 to deny to or withhold from any person or group of persons any real
10 property or part or portion thereof because of race, creed, color,
11 national origin, ancestry, marital status, civil union status, domestic
12 partnership status, pregnancy or breastfeeding, sex, gender identity
13 or expression, affectional or sexual orientation, familial status,
14 disability, liability for service in the Armed Forces of the United
15 States, nationality, or source of lawful income used for rental or
16 mortgage payments;

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

27 (3) To print, publish, circulate, issue, display, post or mail, or
28 cause to be printed, published, circulated, issued, displayed, posted
29 or mailed any statement, advertisement, publication or sign, or to
30 use any form of application for the purchase, rental, lease,
31 assignment or sublease of any real property or part or portion
32 thereof, or to make any record or inquiry in connection with the
33 prospective purchase, rental, lease, assignment, or sublease of any
34 real property, or part or portion thereof which expresses, directly or
35 indirectly, any limitation, specification or discrimination as to race,
36 creed, color, national origin, ancestry, marital status, civil union
37 status, domestic partnership status, pregnancy or breastfeeding, sex,
38 gender identity, or expression, affectional or sexual orientation,
39 familial status, disability, liability for service in the Armed Forces
40 of the United States, nationality, or source of lawful income used
41 for rental or mortgage payments, or any intent to make any such
42 limitation, specification or discrimination, and the production of
43 any such statement, advertisement, publicity, sign, form of
44 application, record, or inquiry purporting to be made by any such
45 person shall be presumptive evidence in any action that the same
46 was authorized by such person; provided, however, that nothing
47 contained in this subsection shall be construed to bar any person
48 from refusing to sell, rent, lease, assign or sublease or from

1 advertising or recording a qualification as to sex for any room,
2 apartment, flat in a dwelling or residential facility which is planned
3 exclusively for and occupied by individuals of one sex to any
4 individual of the exclusively opposite sex on the basis of sex
5 provided individuals shall be qualified based on their gender
6 identity or expression;

7 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise
8 to deny to or withhold from any person or group of persons any real
9 property or part or portion thereof because of the source of any
10 lawful income received by the person or the source of any lawful
11 rent payment to be paid for the real property; or

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

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

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

42 (2) To discriminate against any person because of race, creed,
43 color, national origin, ancestry, marital status, civil union status,
44 domestic partnership status, familial status, pregnancy or
45 breastfeeding, sex, gender identity or expression, affectional or
46 sexual orientation, disability, liability for service in the Armed
47 Forces of the United States, nationality, or source of lawful income
48 used for rental or mortgage payments in the terms, conditions or

1 privileges of the sale, rental, lease, assignment or sublease of any
2 real property or part or portion thereof or in the furnishing of
3 facilities or services in connection therewith;

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

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

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

44 i. For any person, bank, banking organization, mortgage
45 company, insurance company or other financial institution, lender
46 or credit institution involved in the making or purchasing of any
47 loan or extension of credit, for whatever purpose, whether secured
48 by residential real estate or not, including but not limited to

1 financial assistance for the purchase, acquisition, construction,
2 rehabilitation, repair or maintenance of any real property or part or
3 portion thereof or any agent or employee thereof:

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

15 (2) To use any form of application for such loan, extension of
16 credit or financial assistance or to make record or inquiry in
17 connection with applications for any such loan, extension of credit
18 or financial assistance which expresses, directly or indirectly, any
19 limitation, specification or discrimination as to race, creed, color,
20 national origin, ancestry, marital status, civil union status, domestic
21 partnership status, pregnancy or breastfeeding, sex, gender identity
22 or expression, affectional or sexual orientation, disability, liability
23 for service in the Armed Forces of the United States, familial status
24 or nationality or any intent to make any such limitation,
25 specification or discrimination; unless otherwise required by law or
26 regulation to retain or use such information;

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

28 (4) To discriminate against any person or group of persons
29 because of the source of any lawful income received by the person
30 or the source of any lawful rent payment to be paid for the real
31 property; or

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

39 j. For any person whose activities are included within the
40 scope of this act to refuse to post or display such notices concerning
41 the rights or responsibilities of persons affected by this act as the
42 Attorney General may by regulation require.

43 k. For any real estate broker, real estate salesperson or
44 employee or agent thereof or any other individual, corporation,
45 partnership, or organization, for the purpose of inducing a
46 transaction for the sale or rental of real property from which
47 transaction such person or any of its members may benefit
48 financially, to represent that a change has occurred or will or may

1 occur in the composition with respect to race, creed, color, national
2 origin, ancestry, marital status, civil union status, domestic
3 partnership status, familial status, pregnancy or breastfeeding, sex,
4 gender identity or expression, affectional or sexual orientation,
5 disability, liability for service in the Armed Forces of the United
6 States, nationality, or source of lawful income used for rental or
7 mortgage payments of the owners or occupants in the block,
8 neighborhood or area in which the real property is located, and to
9 represent, directly or indirectly, that this change will or may result
10 in undesirable consequences in the block, neighborhood or area in
11 which the real property is located, including, but not limited to the
12 lowering of property values, an increase in criminal or anti-social
13 behavior, or a decline in the quality of schools or other facilities.

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

31 m. For any person to:

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

46 (2) Refuse to grant or accept any letter of credit or other
47 document which evidences the transfer of funds or credit, or refuse
48 to enter into any contract for the exchange of goods or services, on

1 the ground that it does not contain such a discriminatory provision
2 or certification.

3 The provisions of this subsection shall not apply to any letter of
4 credit, contract, or other document which contains any provision
5 pertaining to employee-employer collective bargaining, a labor
6 dispute or an unfair labor practice, or made in connection with the
7 protest of unlawful discrimination or an unlawful employment
8 practice, if the other provisions of such letter of credit, contract, or
9 other document do not otherwise violate the provisions of this
10 subsection.

11 n. For any person to aid, abet, incite, compel, coerce, or induce
12 the doing of any act forbidden by subsections l. and m. of section
13 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to
14 do so. Such prohibited conduct shall include, but not be limited to:

15 (1) Buying from, selling to, leasing from or to, licensing,
16 contracting with, trading with, providing goods, services, or
17 information to, or otherwise doing business with any person
18 because that person does, or agrees or attempts to do, any such act
19 or any act prohibited by this subsection; or

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

29 o. For any multiple listing service, real estate brokers'
30 organization or other service, organization or facility related to the
31 business of selling or renting dwellings to deny any person access
32 to or membership or participation in such organization, or to
33 discriminate against such person in the terms or conditions of such
34 access, membership, or participation, on account of race, creed,
35 color, national origin, ancestry, age, marital status, civil union
36 status, domestic partnership status, familial status, pregnancy or
37 breastfeeding, sex, gender identity or expression, affectional or
38 sexual orientation, disability, liability for service in the Armed
39 Forces of the United States or nationality.

40 p. Nothing in the provisions of this section shall affect the
41 ability of an employer to require employees to adhere to reasonable
42 workplace appearance, grooming and dress standards not precluded
43 by other provisions of State or federal law, except that an employer
44 shall allow an employee to appear, groom and dress consistent with
45 the employee's gender identity or expression.

46 q. (1) For any employer to impose upon a person as a condition
47 of obtaining or retaining employment, including opportunities for
48 promotion, advancement or transfers, any terms or conditions that

1 would require a person to violate or forego a sincerely held
2 religious practice or religious observance, including but not limited
3 to the observance of any particular day or days or any portion
4 thereof as a Sabbath or other holy day in accordance with the
5 requirements of the religion or religious belief, unless, after
6 engaging in a bona fide effort, the employer demonstrates that it is
7 unable to reasonably accommodate the employee's religious
8 observance or practice without undue hardship on the conduct of the
9 employer's business. Notwithstanding any other provision of law to
10 the contrary, an employee shall not be entitled to premium wages or
11 premium benefits for work performed during hours to which those
12 premium wages or premium benefits would ordinarily be
13 applicable, if the employee is working during those hours only as an
14 accommodation to his religious requirements. Nothing in this
15 subsection q. shall be construed as reducing:

16 (a) The number of the hours worked by the employee which are
17 counted towards the accruing of seniority, pension or other benefits;
18 or

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

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

37 (3) (a) For purposes of this subsection q., "undue hardship"
38 means an accommodation requiring unreasonable expense or
39 difficulty, unreasonable interference with the safe or efficient
40 operation of the workplace or a violation of a bona fide seniority
41 system or a violation of any provision of a bona fide collective
42 bargaining agreement.

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

45 (i) The identifiable cost of the accommodation, including the
46 costs of loss of productivity and of retaining or hiring employees or
47 transferring employees from one facility to another, in relation to
48 the size and operating cost of the employer.

1 (ii) The number of individuals who will need the particular
2 accommodation for a sincerely held religious observance or
3 practice.

4 (iii) For an employer with multiple facilities, the degree to
5 which the geographic separateness or administrative or fiscal
6 relationship of the facilities will make the accommodation more
7 difficult or expensive.

8 (c) An accommodation shall be considered to constitute an
9 undue hardship if it will result in the inability of an employee to
10 perform the essential functions of the position in which he or she is
11 employed.

12 (d) (i) The provisions of this subsection q. shall be applicable
13 only to reasonable accommodations of religious observances and
14 shall not supersede any definition of undue hardship or standards
15 for reasonable accommodation of the disabilities of employees.

16 (ii) This subsection q. shall not apply where the uniform
17 application of terms and conditions of attendance to employees is
18 essential to prevent undue hardship to the employer. The burden of
19 proof regarding the applicability of this subparagraph (d) shall be
20 upon the employer.

21 r. For any employer to take reprisals against any employee for
22 requesting from, discussing with, or disclosing to, any other
23 employee or former employee of the employer, a lawyer from
24 whom the employee seeks legal advice, or any government agency
25 information regarding the job title, occupational category, and rate
26 of compensation, including benefits, of the employee or any other
27 employee or former employee of the employer, or the gender, race,
28 ethnicity, military status, or national origin of the employee or any
29 other employee or former employee of the employer, regardless of
30 whether the request was responded to, or to require, as a condition
31 of employment, any employee or prospective employee to sign a
32 waiver, or to otherwise require an employee or prospective
33 employee to agree, not to make those requests or disclosures.
34 Nothing in this subsection shall be construed to require an
35 employee to disclose such information about the employee herself
36 to any other employee or former employee of the employer or to
37 any authorized representative of the other employee or former
38 employee.

39 s. For an employer to treat, for employment-related purposes, a
40 woman employee that the employer knows, or should know, is
41 affected by pregnancy or breastfeeding in a manner less favorable
42 than the treatment of other persons not affected by pregnancy or
43 breastfeeding but similar in their ability or inability to work. In
44 addition, an employer of an employee who is a woman affected by
45 pregnancy shall make available to the employee reasonable
46 accommodation in the workplace, such as bathroom breaks, breaks
47 for increased water intake, periodic rest, assistance with manual
48 labor, job restructuring or modified work schedules, and temporary

1 transfers to less strenuous or hazardous work, for needs related to
2 the pregnancy when the employee, based on the advice of her
3 physician, requests the accommodation, and, in the case of a
4 lactating employee **【breast feeding her infant child】** for such time
5 as the employee desires, the accommodation shall include
6 reasonable break time each day paid at the employee's regular rate
7 of compensation, job restructuring, and a modified work schedule to
8 the employee and a suitable room or other location with privacy,
9 free from intrusion of other employees or customers of the
10 employer's business, if applicable, other than a **【toilet stall】**
11 restroom, in close proximity to the work area for the employee to
12 express breast milk for the child, unless the employer can
13 demonstrate that providing the accommodation would be an undue
14 hardship on the business operations of the employer. The employer
15 shall not in any way penalize the employee in terms, conditions or
16 privileges of employment for requesting or using the
17 accommodation. Workplace accommodation provided pursuant to
18 this subsection and paid or unpaid leave provided to an employee
19 affected by pregnancy or breastfeeding shall not be provided in a
20 manner less favorable than accommodations or leave provided to
21 other employees not affected by pregnancy or breastfeeding but
22 similar in their ability or inability to work. This subsection shall
23 not be construed as otherwise increasing or decreasing any
24 employee's rights under law to paid or unpaid leave in connection
25 with pregnancy or breastfeeding.

26 For the purposes of this section "pregnancy or breastfeeding"
27 means pregnancy, childbirth, and breast feeding or expressing milk
28 for breastfeeding, or medical conditions related to pregnancy,
29 childbirth, or breastfeeding, including recovery from childbirth.

30 For the purposes of this subsection, in determining whether an
31 accommodation would impose undue hardship on the operation of
32 an employer's business, the factors to be considered include: the
33 overall size of the employer's business with respect to the number
34 of employees, number and type of facilities, and size of budget; the
35 type of the employer's operations, including the composition and
36 structure of the employer's workforce; the nature and cost of the
37 accommodation needed, taking into consideration the availability of
38 tax credits, tax deductions, and outside funding; and the extent to
39 which the accommodation would involve waiver of an essential
40 requirement of a job as opposed to a tangential or non-business
41 necessity requirement.

42 t. For an employer to pay any of its employees who is a
43 member of a protected class at a rate of compensation, including
44 benefits, which is less than the rate paid by the employer to
45 employees who are not members of the protected class for
46 substantially similar work, when viewed as a composite of skill,
47 effort and responsibility. An employer who is paying a rate of
48 compensation in violation of this subsection shall not reduce the

1 rate of compensation of any employee in order to comply with this
2 subsection. An employer may pay a different rate of compensation
3 only if the employer demonstrates that the differential is made
4 pursuant to a seniority system, a merit system, or the employer
5 demonstrates:

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

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

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

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

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

21 Comparisons of wage rates shall be based on wage rates in all of
22 an employer's operations or facilities. For the purposes of this
23 subsection, "member of a protected class" means an employee who
24 has one or more characteristics, including race, creed, color,
25 national origin, nationality, ancestry, age, marital status, civil union
26 status, domestic partnership status, affectional or sexual orientation,
27 genetic information, pregnancy, breastfeeding sex, gender identity
28 or expression, disability or atypical hereditary cellular or blood trait
29 of any individual, or liability for service in the armed forces, for
30 which subsection a. of this section prohibits an employer from
31 refusing to hire or employ or barring or discharging or requiring to
32 retire from employment or discriminating against the individual in
33 compensation or in terms, conditions or privileges of employment.
34 (cf: P.L.2021, c.248, s.2)

35

36 2. This act shall take effect immediately.

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STATEMENT

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41 This bill would clarify protections provided in the "Law Against
42 Discrimination" to working mothers who are breast feeding.
43 Specifically, the bill provides that an employer is required to
44 accommodate a lactating employee for as long as the employee
45 desires. Additionally, the bill clarifies that lactating employees are
46 entitled to reasonable break time paid at the employee's regular rate
47 of compensation, job restructuring, and a modified work schedule
48 for the purpose of milk expression.

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16

1 Further, the bill requires an employer to provide a suitable room
2 or other location with privacy, free from intrusion of other
3 employees or customers of the employer's business, if applicable,
4 other than a restroom, for the purpose of milk expression.