

SENATE, No. 3139

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 6, 2024

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

Concerns conditions of employment of certain cannabis workers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/6/2024)

S3139 SINGLETON, BEACH

2

1 AN ACT concerning conditions of employment for certain cannabis
2 workers, amending P.L.1968, c.303, and supplementing Title 34
3 of the Revised Statutes.

4

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

7

8 1. Section 5 of P.L.1968, c.303 (C.34:13A-5.1) is amended to
9 read as follows:

10 5. There is hereby established a Division of Public
11 Employment Relations and a Division of Private Employment
12 Dispute Settlement.

13 (a) The Division of Public Employment Relations shall be
14 concerned exclusively with matters of public employment related to
15 determining negotiating units, elections, certifications and
16 settlement of public employee representative and public employer
17 disputes and grievance procedures. For the purpose of complying
18 with the provisions of Article V, Section IV, paragraph 1 of the
19 New Jersey Constitution, the Division of Public Employment
20 Relations is hereby allocated within the Department of Labor and
21 Workforce Development, and located in the city of Trenton, but
22 notwithstanding said allocation, the office shall be independent of
23 any supervision or control by the department or by any board or
24 officer thereof.

25 (b) The Division of Private Employment Dispute Settlement
26 shall assist the New Jersey State Board of Mediation in the
27 resolution of disputes in private employment. The New Jersey State
28 Board of Mediation, its objectives and the powers and duties
29 granted by this act and the act of which this act is amendatory and
30 supplementary shall be concerned exclusively with matters of
31 private employment and the office shall continue to be located in
32 the city of Newark.

33 (c) In the case of a private employer that has any employees not
34 subject to the provisions of the National Labor Relations Act (29
35 U.S.C. s.151 et seq.), or is not regulated by the National Labor
36 Relations Board pursuant to [the National Labor Relations Act (29
37 U.S.C. s.151 et seq.)] that act, the New Jersey State Board of
38 Mediation shall designate a representative for a unit of those
39 employees of the private employer, or any employees of the
40 employer if the employer is not regulated by that act, for the
41 purposes of collective bargaining when:

42 (1) In any case in which the board determines that there is no
43 current majority representative and only one employee organization
44 is seeking to be the majority representative, that organization
45 demonstrates that a majority of employees in the unit have shown

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 their preference to have that organization be their representative by
2 signing authorization cards indicating that preference; or

3 (2) The employees in the unit have selected a representative by
4 an election that conforms with the procedures outlined in section
5 159 of the National Labor Relations Act (29 U.S.C. s.159).

6 For the purposes of paragraph (1) of this subsection, an
7 authorization card indicating preference shall not be valid unless it
8 is printed in a language understood by the employee who signs it.

9 An employee organization seeking to be recognized as a majority
10 representative, either by a card authorization procedure pursuant to
11 paragraph (1) of this subsection or by an election pursuant to
12 paragraph (2) of this subsection, is permitted, but not required, to
13 petition the New Jersey State Board of Mediation to require the
14 employer to file, within not more than 48 hours, and in the manner
15 required by the board, a complete and accurate list of the full
16 names, current street addresses, and job classifications of the
17 current employees, and phone numbers or other employee contact
18 information available to the employer, which the board shall
19 immediately convey to the employee organization. Any employer
20 who refuses to provide information requested by the New Jersey
21 State Board of Mediation or otherwise acts to prevent the board
22 from carrying out its responsibilities pursuant to this subsection (c)
23 shall have violated this subsection and shall be liable to a fine of not
24 more than **[\$1,000]** \$5,000 for each day that the employer fails to
25 provide a complete response or otherwise prevents the board from
26 carrying out its responsibilities, to be recovered under the "Penalty
27 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) in
28 the name of the board and to be used by the board for costs of
29 implementing this subsection. In addition, an employee
30 organization seeking to represent the employees of the employer
31 may institute an action in a court of competent jurisdiction to obtain
32 an injunction to restrain any continuation of the violation, to
33 reimburse the employee organization or any affected employee for
34 any damages caused by the violation plus reasonable costs and
35 attorney's fees of the action.

36 The provisions of this subsection (c) shall not apply to religious
37 or parochial schools or their employees or to any private nonprofit
38 organization exempt from federal taxation under section 501 of the
39 Internal Revenue Code of 1986 (26 U.S.C. s. 501).

40 (d) In the case of a private employer regulated by the National
41 Labor Relations Board pursuant to the National Labor Relations Act
42 (29 U.S.C. s. 151 et seq.), the New Jersey State Board of Mediation
43 shall, based on the mutual agreement of the private employer and an
44 organization seeking to represent employees of the employer,
45 designate a representative for a unit of employees of the private
46 employer for the purposes of collective bargaining when:

47 (1) In any case in which the board determines that only one
48 employee organization is seeking to be the majority representative,

1 that organization demonstrates, in a manner mutually agreed upon
2 by the representative and the employer, that a majority of
3 employees in the unit have shown their preference to have that
4 organization be their representative by signing authorization cards
5 indicating that preference; or

6 (2) the employees in the unit have selected the representative by
7 an election that conforms with the procedures outlined in section
8 159 of the National Labor Relations Act (29 U.S.C. s.159).

9 (e) For the purposes of subsections (c) and (d) of this section,
10 "employee unit" means an appropriate group of employees for the
11 purposes of collective bargaining as determined, if necessary, by
12 the New Jersey State Board of Mediation.

13 (cf: P.L.2005, c.161, s.1)

14
15 2. (New section) a. Cannabis employers and their
16 representatives and agents are prohibited from the following unfair
17 practices with respect to cannabis workers:

18 (1) Interfering with, restraining, or coercing employees in their
19 exercise of rights guaranteed by P.L. , c. (C.) (pending
20 before the Legislature as this bill).

21 (2) Dominating or interfering with the formation, existence or
22 administration of any employee organization, including any
23 violation of the provisions of section 3 of P.L. , c. (C.)
24 (pending before the Legislature as this bill).

25 (3) Discharging, threatening to discharge, or otherwise
26 discriminating with respect to hire or tenure of employment or any
27 term or condition of employment to encourage or discourage
28 employees from signing or filing an affidavit, petition or complaint
29 or disclosing any information or testimony, or exercising any other
30 rights guaranteed by P.L. , c. (C.) (pending before the
31 Legislature as this bill).

32 (4) Refusing to negotiate in good faith with a majority
33 representative of employees concerning terms and conditions of
34 employment, refusing to process grievances, or refusing to reduce
35 to writing and sign a negotiated agreement.

36 (5) Violating any rules or regulations adopted by the State
37 Board of Mediation.

38 b. Organizations representing, or seeking to represent, cannabis
39 workers and representatives and agents of those organizations and
40 agents are prohibited from the following unfair practices with
41 respect to cannabis workers:

42 (1) Interfering with, restraining or coercing employees in the
43 exercise of the rights guaranteed to them by
44 P.L. , c. (C.)(pending before the Legislature as this bill).

45 (2) Interfering with, restraining or coercing a cannabis employer
46 in the selection of the employer's representative for the purposes of
47 negotiations or the adjustment of grievances.

1 (3) Refusing to negotiate in good faith with a cannabis employer
2 concerning terms and conditions of employment, or refusing to
3 reduce to writing and sign a negotiated agreement.

4 (4) Violating any rules or regulations adopted by the State
5 Board of Mediation.

6 c. The State Board of Mediation shall have exclusive power to
7 prevent anyone from engaging in any unfair practice listed in
8 subsections a. and b. of this section. Whenever it is charged that
9 any party has engaged or is engaging in an unfair practice, the
10 board, or its designated agent, shall have authority to issue and
11 cause to be served upon the party a complaint stating the specific
12 unfair practice charged and including a notice of hearing containing
13 the date and place of hearing before the board or its designated
14 agent, except that no complaint shall be based on an unfair practice
15 occurring more than six months prior to the filing of the charge
16 unless the aggrieved person was prevented from filing the charge, in
17 which event the six-month period shall be computed from the day
18 the person was no longer prevented. If the board determines that
19 any party charged has engaged or is engaging in an unfair practice,
20 the board shall state its findings of fact and conclusions of law and
21 issue and cause to be served on the party an order requiring the
22 party to cease and desist from the unfair practice, and to take
23 reasonable remedial or affirmative action as will effectuate the
24 policies of P.L. , c. (C.) (pending before the Legislature as
25 this bill), which shall, in the case of a discharge or other
26 discrimination against any employee for exercising rights
27 guaranteed by P.L. , c. (C.) (pending before the Legislature
28 as this bill), include reinstatement to any employment from which
29 the employee was discharged, the payment of any wages lost due to
30 the discrimination, reasonable costs of action, and liquidated
31 damages equal to the wages due. Any case in which a complaint
32 and notice of hearing are issued by the board shall be prosecuted
33 before the board by a representative of the employee organization
34 or other party filing the charge.

35 d. The board shall have the power to apply to the Appellate
36 Division of the Superior Court for an appropriate order enforcing
37 any order of the board issued pursuant to subsection c. of this
38 section, and its findings of fact, if based upon substantial evidence
39 on the record as a whole, shall not be set aside or modified, and any
40 order for remedial or affirmative action, if reasonably designed to
41 effectuate the provisions of P.L. , c. (C.) (pending before the
42 Legislature as this bill), shall be affirmed and enforced.

43
44 3. (New section) a. If an employee organization seeking to be
45 a majority representative of cannabis workers employed by a
46 cannabis employer petitions the New Jersey State Board of
47 Mediation to require the employer to provide a list of the current
48 employees with contact information pursuant to section 5 of

1 P.L.1968, c.303 (C.34:13A-5.1), the employer shall, along with
2 providing the list and contact information, provide the employee
3 organization access to the employees. The required access to
4 employees shall include, but not be limited to, permitting
5 representatives of the organization to meet with employees on the
6 premises of the employer during the work day, and permitting
7 representatives of the organization to meet with employees at any
8 employee living quarters under the control of the employer.

9 b. A cannabis employer shall permit any employee organization
10 which is a majority representative of employees of the employer:

11 (1) to access the employer's premises to investigate and discuss
12 with the employees grievances, workplace-related complaints, and
13 other workplace issues;

14 (2) to conduct worksite meetings during non-work breaks, and
15 before and after the workday, to discuss workplace issues, collective
16 negotiations, the administration of collective negotiations agreements,
17 other matters related to the governance, business, and duties of the
18 employee organization; and

19 (3) to meet with a newly hired employee within five days after
20 hire, without charge to the pay or leave time of the employee.

21 c. A cannabis employer shall provide the majority representative
22 with timely notification of any new hiring by the employer or change
23 in the contact information of current employees.

24 d. A cannabis employer shall carry out payroll deductions of
25 membership dues for the majority representative, and payroll
26 deductions for representation fees from non-members, as agreed to
27 in negotiations between the employer and the majority
28 representative, or, if an agreement is not reached, as set by the State
29 Board of Mediation.

30 e. A cannabis employer shall not discourage an employee from
31 joining, forming or assisting an employee organization, or
32 encourage employees to resign or relinquish membership in an
33 employee organization, or revoke authorization of the deduction of
34 dues or fees to an employee organization.

35 f. A cannabis employer who violates any provision of this
36 section shall be regarded as having engaged in an unfair practice in
37 violation of section 2 of P.L. , c. (C.) (pending before the
38 Legislature as this bill), and, upon a finding that the violation has
39 occurred, the board, in addition to implementing any other remedies
40 authorized by that section, shall order the cannabis employer to
41 make whole the employee organization for any losses suffered by
42 the organization as a result of the violation.

43
44 4. (New section) Notwithstanding any law to the contrary, an
45 organization representing cannabis workers, and its members,
46 representatives, and supporters, shall have the right to engage in
47 publicity, including picketing, for the purpose of truthfully advising
48 the public, including consumers, that products or the ingredients of

1 products are produced by a cannabis employer with which the
2 organization has a dispute, including publicity which has the effect
3 of requesting the public to cease patronizing businesses which
4 distribute or sell those products. Nothing in
5 P.L. , c. (C.)(pending before the Legislature as this bill) shall
6 be construed so as to interfere with or impede or diminish in any
7 way the right of employees of private employers to strike or engage
8 in other concerted actions.

9
10 5. (New section) The New Jersey State Board of Mediation
11 shall adopt regulations as needed regarding the conduct of the
12 selection of majority representatives through election or
13 authorization card procedures pursuant to subsection (c) of section
14 5 of P.L.1968, c.303 (C.34:13A-5.1), procedures for negotiations
15 between majority representatives and cannabis employers, the
16 resolution of grievances, the collection of dues and fees for the
17 majority representatives, and other matters concerning terms and
18 conditions of employment.

19
20 6. (New section) For the purposes of sections 2 through 6 of
21 P.L. , c. (C.)(pending before the Legislature as this bill):

22 “Cannabis employer” means any private employer who is
23 provided a permit, license, or other authorization to operate as a
24 medical cannabis cultivator, medical cannabis manufacturer,
25 medical cannabis dispensary, clinical registrant, cannabis cultivator,
26 cannabis manufacturer, cannabis wholesaler, cannabis distributor,
27 cannabis retailer, or cannabis delivery service, and who employs
28 workers not subject to the provisions of the National Labor
29 Relations Act (29 U.S.C. s.151 et seq.).

30 “Cannabis worker” means a worker who is an employee of a
31 cannabis employer and is not subject to the provisions of the
32 National Labor Relations Act (29 U.S.C. s.151 et seq.).

33 “Majority representative” means an employee organization
34 designated by the State Board of Mediation pursuant to subsection
35 (c) of section 5 of P.L.1968, c.303 (C.34:13A-5.1) to be a
36 representative of a unit of employees of a cannabis employer.

37
38 7. This act shall take effect immediately.

39
40
41 STATEMENT

42
43 This bill provides cannabis workers employed by cannabis
44 employers rights and protections equal to the rights and protections
45 provided to other workers with respect to employee representation,
46 collective bargaining, and unfair labor practices. Cannabis
47 employers are defined in the bill as employers who are licensed or
48 regulated under chapter 6I of Title 24 of the Revised Statutes.

1 Currently, certain cannabis workers, most notably those
2 employed by licensed cannabis cultivators, are excluded from
3 protections against unfair labor practices provided to most private
4 sector workers by the federal National Labor Relations Act (29
5 U.S.C. s.151 et seq.)(“NLRA”), and provided to public employees
6 by the State public employment relations law, P.L.1968, c.303
7 (C.34:13A-5.1 et seq.)(“PERL”) and the Workplace Democracy
8 Enhancement Act, P.L.2018, c.15 (C.34:13A-5.11 et seq.)
9 (“WDEA”).

10 This bill brings those cannabis workers under protections similar
11 to those laws, by expanding the responsibilities of the State Board
12 of Mediation in the Department of Labor and Workforce
13 Development regarding cannabis employment not regulated by the
14 NLRA. It provides the board with the power to prevent specified
15 unfair labor practices, thus providing rights to the cannabis workers
16 similar to the rights provided to other private sector workers by the
17 NLRA, and the rights provided to public employees by the PERL
18 and the WDEA.

19 The bill prohibits cannabis employers and their representatives
20 and agents from the following unfair practices:

- 21 1. Interfering with, restraining, or coercing employees in the
22 exercise of the rights granted by the bill.
- 23 2. Dominating or interfering with any employee organization.
- 24 3. Discriminating against employees for making disclosures or
25 otherwise exercising their rights.
- 26 4. Refusing to negotiate in good faith or sign a negotiated
27 agreement.
- 28 5. Violating any board regulation.

29 The bill similarly prohibits cannabis worker organizations and
30 their representatives and agents from the following unfair practices:

- 31 1. Interfering with, restraining or coercing employees in the
32 exercise of their rights.
- 33 2. Interfering with, restraining, or coercing a cannabis
34 employer in the selection of a representative for negotiations or
35 grievance procedures.
- 36 3. Refusing to negotiate in good faith or sign a negotiated
37 agreement.
- 38 4. Violating any board regulation.

39 The board may order an offending party to cease any unfair
40 practice and take reasonable remedial action, including, in the case
41 of a discharge, reinstatement, paying lost wages, costs of action,
42 and damages equal to the wages due. It is also an unfair practice
43 under the bill for a cannabis employer to encourage or discourage
44 employees from joining, forming or assisting an employee
45 organization, or encourage them to end their employee organization
46 membership or revoke authorization of the deduction of dues or
47 fees. The board is required to order the employer to make whole

1 the employee organization for any resulting losses to the
2 organization.

3 Current law, section 5 of P.L.1968, c.303 (C.34:13A-5.1), directs
4 the New Jersey State Board of Mediation to designate a labor
5 organization to represent employees of any private sector employer
6 not regulated under the NLRA, including an employer who is not a
7 cannabis employer, if the employees select the organization in an
8 election conforming with NLRA procedures, or, if only one labor
9 organization seeks to represent the employees, a majority of the
10 employees sign cards showing that they prefer that organization.
11 The bill provides that in such cases, including cases of non-
12 cannabis employers, the employee organization may petition the
13 board to require the employer to provide a list of current employees
14 with contact information. The bill increases penalties for employer
15 non-compliance from not more than \$1,000 to not more than \$5,000
16 per day of non-compliance. Finally, the bill clarifies that the
17 provisions of section 5 of P.L.1968, c.303 (C.34:13A-5.1)
18 concerning private employers not subject to the NLRA apply to
19 employees not subject to the NLRA even if employed by an
20 employer who has both employees not subject to the NLRA and
21 employees who are subject to the NLRA.

22 The bill provides, with respect to cannabis workers and
23 employers, that if the employee organization petitions the board for
24 that information, then the employer must also give the organization
25 access to the employees, including allowing meetings in the
26 workplace and employer-controlled living quarters. The bill
27 provides that once the organization is designated as the employee
28 representative, the employer must give the organization access to
29 the employer's premises to investigate and discuss grievances and
30 other issues, conduct meetings, and meet newly hired employees.

31 The bill gives cannabis worker organizations the right to engage
32 in publicity regarding products produced by an employer with
33 which the organization has a dispute, including publicity asking the
34 public to not patronize businesses distributing or selling the
35 products.