

# ASSEMBLY, No. 2294

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 4, 2016

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblyman BOB ANDRZEJCZAK**

**District 1 (Atlantic, Cape May and Cumberland)**

**Assemblywoman ELIZABETH MAHER MUOIO**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Co-Sponsored by:**

**Assemblywomen Pinkin and Mosquera**

**SYNOPSIS**

Expands civil rights protections to include breastfeeding; requires employers to provide reasonable accommodations for breastfeeding mothers.

**CURRENT VERSION OF TEXT**

As introduced.

(Sponsorship Updated As Of: 12/19/2017)

1 AN ACT concerning breastfeeding and amending P.L.1945, c.169.

2

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

5

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

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

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

**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 retirement benefit from a pension, profit sharing, savings or  
2 deferred retirement plan, or any combination of those plans, of the  
3 employer of that employee which equals in the aggregate at least  
4 \$27,000.00; and provided further that an employer may restrict  
5 employment to citizens of the United States where such restriction  
6 is required by federal law or is otherwise necessary to protect the  
7 national interest.

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

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

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

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

1       d. For any person to take reprisals against any person because  
2 that person has opposed any practices or acts forbidden under this  
3 act or because that person has filed a complaint, testified or assisted  
4 in any proceeding under this act or to coerce, intimidate, threaten or  
5 interfere with any person in the exercise or enjoyment of, or on  
6 account of that person having aided or encouraged any other person  
7 in the exercise or enjoyment of, any right granted or protected by  
8 this act.

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

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

1 restaurant as defined in R.S.33:1-1 or place where alcoholic  
2 beverages are served.

3 (2) Notwithstanding the definition of "a place of public  
4 accommodation" as set forth in subsection l. of section 5 of  
5 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,  
6 manager, superintendent, agent, or employee of any private club or  
7 association to directly or indirectly refuse, withhold from or deny to  
8 any individual who has been accepted as a club member and has  
9 contracted for or is otherwise entitled to full club membership any  
10 of the accommodations, advantages, facilities or privileges thereof,  
11 or to discriminate against any member in the furnishing thereof on  
12 account of the race, creed, color, national origin, ancestry, marital  
13 status, civil union status, domestic partnership status, pregnancy or  
14 breastfeeding, sex, gender identity, or expression, affectional or  
15 sexual orientation, disability or nationality of such person.

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

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

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

37 (2) To discriminate against any person or group of persons  
38 because of 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, familial status, disability, nationality or source  
42 of lawful income used for rental or mortgage payments in the terms,  
43 conditions or privileges of the sale, rental or lease of any real  
44 property or part or portion thereof or in the furnishing of facilities  
45 or services in connection therewith;

46 (3) To print, publish, circulate, issue, display, post or mail, or  
47 cause to be printed, published, circulated, issued, displayed, posted  
48 or mailed any statement, advertisement, publication or sign, or to

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

25 (4) 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 the source of any  
28 lawful income received by the person or the source of any lawful  
29 rent payment to be paid for the real property; or

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

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

39 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
40 sale, rental, lease, assignment, or sublease any real property or part  
41 or portion thereof to any person or group of persons or to refuse to  
42 negotiate for the sale, rental, lease, assignment, or sublease of any  
43 real property or part or portion thereof to any person or group of  
44 persons because of race, creed, color, national origin, ancestry,  
45 marital status, civil union status, domestic partnership status,  
46 familial status, pregnancy or breastfeeding, sex, gender identity or  
47 expression, affectional or sexual orientation, disability, nationality,  
48 or source of lawful income used for rental or mortgage payments, or

1 to represent that any real property or portion thereof is not available  
2 for inspection, sale, rental, lease, assignment, or sublease when in  
3 fact it is so available, or otherwise to deny or withhold any real  
4 property or any part or portion of facilities thereof to or from any  
5 person or group of persons because of race, creed, color, national  
6 origin, ancestry, marital status, civil union status, domestic  
7 partnership status, familial status, pregnancy or breastfeeding, sex,  
8 gender identity or expression, affectional or sexual orientation,  
9 disability or nationality;

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

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

46 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
47 to deny to or withhold from any person or group of persons any real  
48 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, familial status or nationality, in the  
23 granting, withholding, extending, modifying, renewing, or  
24 purchasing, or in the fixing of the rates, terms, conditions or  
25 provisions of any such loan, extension of credit or financial  
26 assistance or purchase thereof or in the extension of services in  
27 connection therewith;

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

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

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

44 (5) To discriminate against any person or group of persons  
45 because that person's family includes children under 18 years of  
46 age, or to make an agreement or mortgage which provides that the  
47 agreement or mortgage shall be rendered null and void upon the  
48 birth of a child. This paragraph shall not apply to housing for older



1 persons as defined in subsection mm. of section 5 of P.L.1945,  
2 c.169 (C.10:5-5).

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

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

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

42 m. For any person to:

43 (1) Grant or accept any letter of credit or other document which  
44 evidences the transfer of funds or credit, or enter into any contract  
45 for the exchange of goods or services, where the letter of credit,  
46 contract, or other document contains any provisions requiring any  
47 person to discriminate against or to certify that he, she or it has not  
48 dealt with any other person on the basis of the race, creed, color,

1 national origin, ancestry, age, pregnancy or breastfeeding, sex,  
2 gender identity or expression, affectional or sexual orientation,  
3 marital status, civil union status, domestic partnership status,  
4 disability, liability for service in the Armed Forces of the United  
5 States, or nationality of such other person or of such other person's  
6 spouse, partners, members, stockholders, directors, officers,  
7 managers, superintendents, agents, employees, business associates,  
8 suppliers, or customers.

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

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

22 n. For any person to aid, abet, incite, compel, coerce, or induce  
23 the doing of any act forbidden by subsections l. and m. of section  
24 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
25 do so. Such prohibited conduct shall include, but not be limited to:

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

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

40 o. For any multiple listing service, real estate brokers'  
41 organization or other service, organization or facility related to the  
42 business of selling or renting dwellings to deny any person access  
43 to or membership or participation in such organization, or to  
44 discriminate against such person in the terms or conditions of such  
45 access, membership, or participation, on account of race, creed,  
46 color, national origin, ancestry, age, marital status, civil union  
47 status, domestic partnership status, familial status, pregnancy or

1 breastfeeding, sex, gender identity or expression, affectional or  
2 sexual orientation, disability or nationality.

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

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

27 (a) The number of the hours worked by the employee which are  
28 counted towards the accruing of seniority, pension or other benefits;  
29 or

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

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

1 (3) (a) For purposes of this subsection q., "undue hardship"  
2 means an accommodation requiring unreasonable expense or  
3 difficulty, unreasonable interference with the safe or efficient  
4 operation of the workplace or a violation of a bona fide seniority  
5 system or a violation of any provision of a bona fide collective  
6 bargaining agreement.

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

9 (i) The identifiable cost of the accommodation, including the  
10 costs of loss of productivity and of retaining or hiring employees or  
11 transferring employees from one facility to another, in relation to  
12 the size and operating cost of the employer.

13 (ii) The number of individuals who will need the particular  
14 accommodation for a sincerely held religious observance or  
15 practice.

16 (iii) For an employer with multiple facilities, the degree to which  
17 the geographic separateness or administrative or fiscal relationship  
18 of the facilities will make the accommodation more difficult or  
19 expensive.

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

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

28 (ii) This subsection q. shall not apply where the uniform  
29 application of terms and conditions of attendance to employees is  
30 essential to prevent undue hardship to the employer. The burden of  
31 proof regarding the applicability of this subparagraph (d) shall be  
32 upon the employer.

33 r. For any employer to take reprisals against any employee for  
34 requesting from any other employee or former employee of the  
35 employer information regarding the job title, occupational category,  
36 and rate of compensation, including benefits, of any employee or  
37 former employee of the employer, or the gender, race, ethnicity,  
38 military status, or national origin of any employee or former  
39 employee of the employer, regardless of whether the request was  
40 responded to, if the purpose of the request for the information was  
41 to assist in investigating the possibility of the occurrence of, or in  
42 taking of legal action regarding, potential discriminatory treatment  
43 concerning pay, compensation, bonuses, other compensation, or  
44 benefits. Nothing in this subsection shall be construed to require an  
45 employee to disclose such information about the employee herself  
46 to any other employee or former employee of the employer or to  
47 any authorized representative of the other employee or former  
48 employee.

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

31 For the purposes of this section "pregnancy or breastfeeding"  
32 means pregnancy, childbirth, and breast feeding or expressing milk  
33 for breastfeeding, or medical conditions related to pregnancy, **[or]**  
34 childbirth, or breastfeeding, including recovery from childbirth.

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

47 (cf: P.L.2013, c.220, s.2)

1       2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6       This bill expands certain civil rights protections under the "Law  
7 Against Discrimination" P.L.1945, c.169 (C.10:5-1 et seq.) to  
8 include breastfeeding and expressing milk or related medical  
9 conditions. Under this bill, it would be a civil rights violation for a  
10 working woman to be fired or otherwise discriminated against  
11 because of breastfeeding or expressing her milk during breaks.

12       The bill also requires an employer to provide reasonable break  
13 time each day and a suitable location for an employee who is  
14 breastfeeding to express her milk in private.