

34:6B-1 to 34:6B-4

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 34:6B-1 to 34:6B-4

(Smoker's rights--)

LAWS OF: 1991

CHAPTER: 207

Bill No: A4699

Sponsor(s): Brown and others

Date Introduced: March 21, 1991

Committee: Assembly: -----

Senate: Labor

Amended during passage: Yes

Date of Passage: Assembly: April 15, 1991

Senate: May 20, 1991

Date of Approval: July 15, 1991 (filed without Governor's signature)

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: No

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: No

See newspaper clippings--attached:

KBG/SLJ

P.L.1991, CHAPTER 207, filed July 15, 1991
1991 Assembly No. 4699 (First Reprint)

1 AN ACT concerning certain employment practices and
2 supplementing Title 34 of the Revised Statutes.

3

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

6 1. No employer shall refuse to hire or employ any person or
7 shall discharge from employment or take any adverse action
8 against any employee with respect to compensation, terms,
9 conditions or other privileges of employment because that person
10 ¹[smokes or uses] does or does not smoke or use¹ other tobacco
11 products, unless the employer has a rational basis for doing so
12 which is reasonably related to the employment, including the
13 responsibilities of the employee or prospective employee.

14 2. Nothing contained in this act shall be construed to affect
15 any applicable laws, rules or workplace policies concerning
16 smoking or the use of other tobacco products during the course of
17 employment.

18 3. Upon a violation of any provision of this act, an aggrieved
19 person may, in addition to any other available remedy, institute
20 civil action in a court of competent jurisdiction, within one year
21 from the date of the alleged violation, for relief as follows:

22 a. With respect to a prospective employee, the court may:

- 23 (1) order injunctive relief as it deems appropriate;
24 (2) award compensatory and consequential damages incurred
25 by the prospective employee as a result of the violation; or
26 (3) award reasonable attorneys' fees and court costs.

27 b. With respect to an employee or former employee, the court
28 may:

29 (1) order injunctive relief as it deems appropriate, including
30 reinstatement of the employee to the same position held before
31 the violation or the position the employee would have held but for
32 the violation, as well as the reinstatement of full fringe benefits
33 and seniority rights;

34 (2) award compensatory and consequential damages incurred
35 by the employee or former employee as a result of the violation,
36 including compensation for lost wages, benefits and other
37 remuneration; or

38 (3) award reasonable attorneys' fees and court costs.

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.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate SLI committee amendments adopted May 13, 1991.

1 4. Any employer who violates any provision of this act shall be
2 subject to a civil penalty in an amount not to exceed \$2,000 for
3 the first violation and \$5,000 for each subsequent violation,
4 collectible by the Commissioner of Labor in a summary
5 proceeding pursuant to "the penalty enforcement law,"
6 N.J.S.2A:58-1 et seq.

7 5. This act shall take effect immediately.

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LABOR

11

12 Prohibits employers from taking certain actions under certain
13 circumstances with respect to employees or prospective
14 employees who do or do not smoke or use tobacco products.

STATE OF NEW JERSEY

INTRODUCED MARCH 21, 1991

By Assemblymen BROWN, MARSELLA, Assemblywoman Mullen,
Assemblymen Zangari, Roberts, Naples, Catania, Kelly,
Doria, Bryant, Mattison and Assemblywoman Crecco

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5 State of New Jersey:

6 1. No employer shall refuse to hire or employ any person or
7 shall discharge from employment or take any adverse action
8 against any employee with respect to compensation, terms,
9 conditions or other privileges of employment because that person
10 smokes or uses other tobacco products, unless the employer has a
11 rational basis for doing so which is reasonably related to the
12 employment, including the responsibilities of the employee or
13 prospective employee.

14 2. Nothing contained in this act shall be construed to affect
15 any applicable laws, rules or workplace policies concerning
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STATEMENT

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9 This bill prohibits employers from refusing to hire any person
10 or discharging or taking adverse employment action against any
11 employee with respect to compensation, terms, conditions or
12 other privileges of employment because that person smokes or
13 uses other tobacco products, unless the employer has a rational
14 basis for doing so which is reasonably related to the employment,
15 including the responsibilities of the employee or prospective
16 employee.

17 Nothing contained in the bill is to be construed to affect any
18 applicable laws, rules or workplace policies concerning smoking
19 or the use of other tobacco products during the course of
20 employment.

21 Any prospective employee, employee or former employee
22 aggrieved under the provisions of the bill may bring action in a
23 court of competent jurisdiction for appropriate injunctive relief
24 and damages, including reasonable attorneys' fees and court
25 costs. In addition, the bill provides for the imposition of civil
26 penalties in an amount not to exceed \$2,000 for the first
27 violation, or \$5,000 for each subsequent violation, collectible by
28 the Commissioner of Labor.

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LABOR

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33 Prohibits employers from taking certain actions under certain
34 circumstances with respect to employees or prospective
35 employees who smoke or use tobacco products.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4699

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 13, 1991

The Senate Labor, Industry and Professions Committee reports favorably and with committee amendments Assembly Bill No. 4699.

This bill prohibits employers from refusing to hire any person or discharging or taking adverse employment action against any employee with respect to compensation, terms, conditions or other privileges of employment because that person does or does not smoke or use other tobacco products, unless the employer has a rational basis for doing so which is reasonably related to the employment, including the responsibilities of the employee or prospective employee.

The bill provides that nothing contained therein is to be construed to affect any applicable laws, rules or workplace policies concerning smoking or the use of other tobacco products during the course of employment. Furthermore, the committee notes that it is not the intent of the Legislature that the provisions of this bill have any impact on the terms and conditions of any employer-sponsored health or life insurance plans, including the right of such plans to differentiate between smokers and nonsmokers with regard to the amount of any employee contributions or copayments payable under those plans.

Any prospective employee, employee or former employee aggrieved under the provisions of the bill may bring action in a court of competent jurisdiction for appropriate injunctive relief and damages, including reasonable attorneys' fees and court costs. In addition, the bill provides for the imposition of civil penalties in an amount not to exceed \$2,000 for the first violation, or \$5,000 for each subsequent violation, collectible by the Commissioner of Labor.

SENATE SJI COMMITTEE

AMENDMENTS

to

ADOPTED

MAY 13 1991

ASSEMBLY, No. 4699

(Sponsored by ASSEMBLYMEN BROWN and MARSELLA)

REPLACE SECTION 1 TO READ:

1. No employer shall refuse to hire or employ any person or shall discharge from employment or take any adverse action against any employee with respect to compensation, terms, conditions or other privileges of employment because that person ¹[smokes or uses] does or does not smoke or use¹ other tobacco products, unless the employer has a rational basis for doing so which is reasonably related to the employment, including the responsibilities of the employee or prospective employee.

REPLACE SYNOPSIS TO READ:

LABOR

Prohibits employers from taking certain actions under certain circumstances with respect to employees or prospective employees who do or do not smoke or use tobacco products.

[FIRST REPRINT]
ASSEMBLY, No. 4699

STATE OF NEW JERSEY

INTRODUCED MARCH 21, 1991

By Assemblymen BROWN, MARSELLA, Assemblywoman Mullen,
Assemblymen Zangari, Roberts, Naples, Catania, Kelly,
Doria, Bryant, Mattison and Assemblywoman Crecco

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OFFICE OF THE GOVERNOR NEWS RELEASE

CN-001

Contact:

EMMA BYRNE
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609-292-8956

TRENTON, N.J. 08625

Release: MONDAY
JULY 1, 1991

STATEMENT BY GOVERNOR JIM FLORIO on SMOKERS' RIGHTS BILL

I am today announcing that I will allow A-4699 to become law.

This bill would allow individuals to bring civil suit against an employer if they feel they have been discriminated against with respect to smoking. Earlier this year, I vetoed legislation which would allow the same legal relief because the bill contained language which elevated smoking to a civil right equal to those rights protected by our Constitution.

In this instance, the language of the bill has been modified. This bill will allow individuals legal recourse, without creating a precedent that sets a poor example.

While legislation that in any way encourages smoking is not desirable, it is clear that an outright veto of this bill could in some ways restrict or abridge an employees' right of privacy.

New Jersey already has laws which prohibit or restrict smoking in the workplace and in public buildings. The intent of those laws is not to punish people because they smoke, but to offer protection to non-smokers. The action I am taking today reflects an attempt to strike a balance between the privacy rights of smokers and the legitimate health risks that smoking presents.

I will continue to make every effort to discourage smoking and raise public awareness of the dangers associated with it. New Jersey's resources should be directed toward helping people quit smoking and working to make sure our children never start.

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