



**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

RWH 6/6/08

P.L. 2007, CHAPTER 325, *approved January 13, 2008*  
Assembly, No. 3451 (*Second Reprint*)

1 **AN ACT** concerning discrimination of religious practices in the  
2 workplace 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 5 of P.L.1945, c.169 (C.10:5-5) is amended to read  
8 as follows:

9 5. As used in this act, unless a different meaning clearly  
10 appears from the context:

11 a. "Person" includes one or more individuals, partnerships,  
12 associations, organizations, labor organizations, corporations, legal  
13 representatives, trustees, trustees in bankruptcy, receivers, and  
14 fiduciaries.

15 b. "Employment agency" includes any person undertaking to  
16 procure employees or opportunities for others to work.

17 c. "Labor organization" includes any organization which exists  
18 and is constituted for the purpose, in whole or in part, of collective  
19 bargaining, or of dealing with employers concerning grievances,  
20 terms or conditions of employment, or of other mutual aid or  
21 protection in connection with employment.

22 d. "Unlawful employment practice" and "unlawful  
23 discrimination" include only those unlawful practices and acts  
24 specified in section 11 of this act.

25 e. "Employer" includes all persons as defined in subsection a.  
26 of this section unless otherwise specifically exempt under another  
27 section of this act, and includes the State, any political or civil  
28 subdivision thereof, and all public officers, agencies, boards or  
29 bodies.

30 f. "Employee" does not include any individual employed in the  
31 domestic service of any person.

32 g. "Liability for service in the Armed Forces of the United  
33 States" means subject to being ordered as an individual or member  
34 of an organized unit into active service in the Armed Forces of the  
35 United States by reason of membership in the National Guard, naval  
36 militia or a reserve component of the Armed Forces of the United  
37 States, or subject to being inducted into such armed forces through  
38 a system of national selective service.

39 h. "Division" means the "Division on Civil Rights" created by  
40 this act.

41 i. "Attorney General" means the Attorney General of the State  
42 of New Jersey or his representative or designee.

43 j. "Commission" means the Commission on Civil Rights

**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:

<sup>1</sup>Assembly ALA committee amendments adopted February 26, 2007.

<sup>2</sup>Senate floor amendments adopted December 10, 2007.

1 created by this act.

2 k. "Director" means the Director of the Division on Civil  
3 Rights.

4 l. "A place of public accommodation" shall include, but not be  
5 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
6 summer camp, day camp, or resort camp, whether for entertainment  
7 of transient guests or accommodation of those seeking health,  
8 recreation or rest; any producer, manufacturer, wholesaler,  
9 distributor, retail shop, store, establishment, or concession dealing  
10 with goods or services of any kind; any restaurant, eating house, or  
11 place where food is sold for consumption on the premises; any  
12 place maintained for the sale of ice cream, ice and fruit preparations  
13 or their derivatives, soda water or confections, or where any  
14 beverages of any kind are retailed for consumption on the premises;  
15 any garage, any public conveyance operated on land or water, or in  
16 the air, any stations and terminals thereof; any bathhouse,  
17 boardwalk, or seashore accommodation; any auditorium, meeting  
18 place, or hall; any theatre, motion-picture house, music hall, roof  
19 garden, skating rink, swimming pool, amusement and recreation  
20 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
21 pool parlor, or other place of amusement; any comfort station; any  
22 dispensary, clinic or hospital; any public library; any kindergarten,  
23 primary and secondary school, trade or business school, high  
24 school, academy, college and university, or any educational  
25 institution under the supervision of the State Board of Education, or  
26 the Commissioner of Education of the State of New Jersey.  
27 Nothing herein contained shall be construed to include or to apply  
28 to any institution, bona fide club, or place of accommodation, which  
29 is in its nature distinctly private; nor shall anything herein contained  
30 apply to any educational facility operated or maintained by a bona  
31 fide religious or sectarian institution, and the right of a natural  
32 parent or one in loco parentis to direct the education and upbringing  
33 of a child under his control is hereby affirmed; nor shall anything  
34 herein contained be construed to bar any private secondary or post  
35 secondary school from using in good faith criteria other than race,  
36 creed, color, national origin, ancestry<sup>1</sup>, gender identity or  
37 expression<sup>1</sup> or affectional or sexual orientation in the admission of  
38 students.

39 m. "A publicly assisted housing accommodation" shall include  
40 all housing built with public funds or public assistance pursuant to  
41 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,  
42 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,  
43 c.184, and all housing financed in whole or in part by a loan,  
44 whether or not secured by a mortgage, the repayment of which is  
45 guaranteed or insured by the federal government or any agency  
46 thereof.

47 n. The term "real property" includes real estate, lands,  
48 tenements and hereditaments, corporeal and incorporeal, and

1 leaseholds, provided, however, that, except as to publicly assisted  
2 housing accommodations, the provisions of this act shall not apply  
3 to the rental: (1) of a single apartment or flat in a two-family  
4 dwelling, the other occupancy unit of which is occupied by the  
5 owner as a residence; or (2) of a room or rooms to another person or  
6 persons by the owner or occupant of a one-family dwelling  
7 occupied by the owner or occupant as a residence at the time of  
8 such rental. Nothing herein contained shall be construed to bar any  
9 religious or denominational institution or organization, or any  
10 organization operated for charitable or educational purposes, which  
11 is operated, supervised or controlled by or in connection with a  
12 religious organization, in the sale, lease or rental of real property,  
13 from limiting admission to or giving preference to persons of the  
14 same religion or denomination or from making such selection as is  
15 calculated by such organization to promote the religious principles  
16 for which it is established or maintained. Nor does any provision  
17 under this act regarding discrimination on the basis of familial  
18 status apply with respect to housing for older persons.

19 o. "Real estate broker" includes a person, firm or corporation  
20 who, for a fee, commission or other valuable consideration, or by  
21 reason of promise or reasonable expectation thereof, lists for sale,  
22 sells, exchanges, buys or rents, or offers or attempts to negotiate a  
23 sale, exchange, purchase, or rental of real estate or an interest  
24 therein, or collects or offers or attempts to collect rent for the use of  
25 real estate, or solicits for prospective purchasers or assists or directs  
26 in the procuring of prospects or the negotiation or closing of any  
27 transaction which does or is contemplated to result in the sale,  
28 exchange, leasing, renting or auctioning of any real estate, or  
29 negotiates, or offers or attempts or agrees to negotiate a loan  
30 secured or to be secured by mortgage or other encumbrance upon or  
31 transfer of any real estate for others; or any person who, for  
32 pecuniary gain or expectation of pecuniary gain conducts a public  
33 or private competitive sale of lands or any interest in lands. In the  
34 sale of lots, the term "real estate broker" shall also include any  
35 person, partnership, association or corporation employed by or on  
36 behalf of the owner or owners of lots or other parcels of real estate,  
37 at a stated salary, or upon a commission, or upon a salary and  
38 commission or otherwise, to sell such real estate, or any parts  
39 thereof, in lots or other parcels, and who shall sell or exchange, or  
40 offer or attempt or agree to negotiate the sale or exchange, of any  
41 such lot or parcel of real estate.

42 p. "Real estate salesperson" includes any person who, for  
43 compensation, valuable consideration or commission, or other thing  
44 of value, or by reason of a promise or reasonable expectation  
45 thereof, is employed by and operates under the supervision of a  
46 licensed real estate broker to sell or offer to sell, buy or offer to buy  
47 or negotiate the purchase, sale or exchange of real estate, or offers  
48 or attempts to negotiate a loan secured or to be secured by a

1 mortgage or other encumbrance upon or transfer of real estate, or to  
2 lease or rent, or offer to lease or rent any real estate for others, or to  
3 collect rents for the use of real estate, or to solicit for prospective  
4 purchasers or lessees of real estate, or who is employed by a  
5 licensed real estate broker to sell or offer to sell lots or other parcels  
6 of real estate, at a stated salary, or upon a commission, or upon a  
7 salary and commission, or otherwise to sell real estate, or any parts  
8 thereof, in lots or other parcels.

9 q. "Disability" means physical disability, infirmity,  
10 malformation or disfigurement which is caused by bodily injury,  
11 birth defect or illness including epilepsy and other seizure  
12 disorders, and which shall include, but not be limited to, any degree  
13 of paralysis, amputation, lack of physical coordination, blindness or  
14 visual impediment, deafness or hearing impediment, muteness or  
15 speech impediment or physical reliance on a service or guide dog,  
16 wheelchair, or other remedial appliance or device, or any mental,  
17 psychological or developmental disability resulting from  
18 anatomical, psychological, physiological or neurological conditions  
19 which prevents the normal exercise of any bodily or mental  
20 functions or is demonstrable, medically or psychologically, by  
21 accepted clinical or laboratory diagnostic techniques. Disability  
22 shall also mean AIDS or HIV infection.

23 r. "Blind person" means any individual whose central visual  
24 acuity does not exceed 20/200 in the better eye with correcting lens  
25 or whose visual acuity is better than 20/200 if accompanied by a  
26 limit to the field of vision in the better eye to such a degree that its  
27 widest diameter subtends an angle of no greater than 20 degrees.

28 s. "Guide dog" means a dog used to assist deaf persons or  
29 which is fitted with a special harness so as to be suitable as an aid to  
30 the mobility of a blind person, and is used by a blind person who  
31 has satisfactorily completed a specific course of training in the use  
32 of such a dog, and has been trained by an organization generally  
33 recognized by agencies involved in the rehabilitation of the blind or  
34 deaf as reputable and competent to provide dogs with training of  
35 this type.

36 t. "Guide or service dog trainer" means any person who is  
37 employed by an organization generally recognized by agencies  
38 involved in the rehabilitation of persons with disabilities as  
39 reputable and competent to provide dogs with training, and who is  
40 actually involved in the training process.

41 u. "Housing accommodation" means any publicly assisted  
42 housing accommodation or any real property, or portion thereof,  
43 which is used or occupied, or is intended, arranged, or designed to  
44 be used or occupied, as the home, residence or sleeping place of one  
45 or more persons, but shall not include any single family residence  
46 the occupants of which rent, lease, or furnish for compensation not  
47 more than one room therein.

- 1 v. "Public facility" means any place of public accommodation  
2 and any street, highway, sidewalk, walkway, public building, and  
3 any other place or structure to which the general public is regularly,  
4 normally or customarily permitted or invited.
- 5 w. "Deaf person" means any person whose hearing is so  
6 severely impaired that the person is unable to hear and understand  
7 normal conversational speech through the unaided ear alone, and  
8 who must depend primarily on a supportive device or visual  
9 communication such as writing, lip reading, sign language, and  
10 gestures.
- 11 x. "Atypical hereditary cellular or blood trait" means sickle cell  
12 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
13 fibrosis trait.
- 14 y. "Sickle cell trait" means the condition wherein the major  
15 natural hemoglobin components present in the blood of the  
16 individual are hemoglobin A (normal) and hemoglobin S (sickle  
17 hemoglobin) as defined by standard chemical and physical analytic  
18 techniques, including electrophoresis; and the proportion of  
19 hemoglobin A is greater than the proportion of hemoglobin S or one  
20 natural parent of the individual is shown to have only normal  
21 hemoglobin components (hemoglobin A, hemoglobin A2,  
22 hemoglobin F) in the normal proportions by standard chemical and  
23 physical analytic tests.
- 24 z. "Hemoglobin C trait" means the condition wherein the major  
25 natural hemoglobin components present in the blood of the  
26 individual are hemoglobin A (normal) and hemoglobin C as defined  
27 by standard chemical and physical analytic techniques, including  
28 electrophoresis; and the proportion of hemoglobin A is greater than  
29 the proportion of hemoglobin C or one natural parent of the  
30 individual is shown to have only normal hemoglobin components  
31 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
32 proportions by standard chemical and physical analytic tests.
- 33 aa. "Thalassemia trait" means the presence of the thalassemia  
34 gene which in combination with another similar gene results in the  
35 chronic hereditary disease Cooley's anemia.
- 36 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
37 which in combination with another similar gene results in the  
38 chronic hereditary disease Tay-Sachs.
- 39 cc. "Cystic fibrosis trait" means the presence of the cystic  
40 fibrosis gene which in combination with another similar gene  
41 results in the chronic hereditary disease cystic fibrosis.
- 42 dd. "Service dog" means any dog individually trained to the  
43 requirements of a person with a disability including, but not limited  
44 to minimal protection work, rescue work, pulling a wheelchair or  
45 retrieving dropped items. This term shall include a "seizure dog"  
46 trained to alert or otherwise assist persons subject to epilepsy or  
47 other seizure disorders.

- 1 ee. "Qualified Medicaid applicant" means an individual who is a  
2 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 3 ff. "AIDS" means acquired immune deficiency syndrome as  
4 defined by the Centers for Disease Control and Prevention of the  
5 United States Public Health Service.
- 6 gg. "HIV infection" means infection with the human  
7 immunodeficiency virus or any other related virus identified as a  
8 probable causative agent of AIDS.
- 9 hh. "Affectional or sexual orientation" means male or female  
10 heterosexuality, homosexuality or bisexuality by inclination,  
11 practice, identity or expression, having a history thereof or being  
12 perceived, presumed or identified by others as having such an  
13 orientation.
- 14 ii. "Heterosexuality" means affectional, emotional or physical  
15 attraction or behavior which is primarily directed towards persons  
16 of the other gender.
- 17 jj. "Homosexuality" means affectional, emotional or physical  
18 attraction or behavior which is primarily directed towards persons  
19 of the same gender.
- 20 kk. "Bisexuality" means affectional, emotional or physical  
21 attraction or behavior which is directed towards persons of either  
22 gender.
- 23 ll. "Familial status" means being the natural parent of a child,  
24 the adoptive parent of a child, the resource family parent of a child,  
25 having a "parent and child relationship" with a child as defined by  
26 State law, or having sole or joint legal or physical custody, care,  
27 guardianship, or visitation with a child, or any person who is  
28 pregnant or is in the process of securing legal custody of any  
29 individual who has not attained the age of 18 years.
- 30 mm. "Housing for older persons" means housing:
- 31 (1) provided under any State program that the Attorney General  
32 determines is specifically designed and operated to assist elderly  
33 persons (as defined in the State program); or provided under any  
34 federal program that the United States Department of Housing and  
35 Urban Development determines is specifically designed and  
36 operated to assist elderly persons (as defined in the federal  
37 program); or
- 38 (2) intended for, and solely occupied by persons 62 years of age  
39 or older; or
- 40 (3) intended and operated for occupancy by at least one person  
41 55 years of age or older per unit. In determining whether housing  
42 qualifies as housing for older persons under this subsection, the  
43 Attorney General shall adopt regulations which require at least the  
44 following factors:
- 45 (a) the existence of significant facilities and services  
46 specifically designed to meet the physical or social needs of older  
47 persons, or if the provision of such facilities and services is not



1 practicable, that such housing is necessary to provide important  
2 housing opportunities for older persons; and

3 (b) that at least 80 percent of the units are occupied by at least  
4 one person 55 years of age or older per unit; and

5 (c) the publication of, and adherence to, policies and procedures  
6 which demonstrate an intent by the owner or manager to provide  
7 housing for persons 55 years of age or older.

8 Housing shall not fail to meet the requirements for housing for  
9 older persons by reason of: persons residing in such housing as of  
10 September 13, 1988 not meeting the age requirements of this  
11 subsection, provided that new occupants of such housing meet the  
12 age requirements of this subsection; or unoccupied units, provided  
13 that such units are reserved for occupancy by persons who meet the  
14 age requirements of this subsection.

15 nn. "Genetic characteristic" means any inherited gene or  
16 chromosome, or alteration thereof, that is scientifically or medically  
17 believed to predispose an individual to a disease, disorder or  
18 syndrome, or to be associated with a statistically significant  
19 increased risk of development of a disease, disorder or syndrome.

20 oo. "Genetic information" means the information about genes,  
21 gene products or inherited characteristics that may derive from an  
22 individual or family member.

23 pp. "Genetic test" means a test for determining the presence or  
24 absence of an inherited genetic characteristic in an individual,  
25 including tests of nucleic acids such as DNA, RNA and  
26 mitochondrial DNA, chromosomes or proteins in order to identify a  
27 predisposing genetic characteristic.

28 qq. "Domestic partnership" means a domestic partnership  
29 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

30 rr. "Gender identity or expression" means having or being  
31 perceived as having a gender related identity or expression whether  
32 or not stereotypically associated with a person's assigned sex at  
33 birth.

34 ss. "Civil Union" means a legally recognized union of two  
35 eligible individuals established pursuant to R.S.37:1-1 et seq. and  
36 P.L.2006, c.103 (C.37:1-28 et al.).

37 tt.<sup>1</sup> "Premium wages" means<sup>2</sup>[overtime pay, compensatory time  
38 off,]<sup>2</sup> additional remuneration for night, weekend or holiday work,  
39 or for standby or irregular duty.

40 <sup>1</sup>[ss.] uu.<sup>1</sup> "Premium benefit" means an employment benefit,  
41 such as seniority, group life insurance, health insurance, disability  
42 insurance, sick leave, annual leave, or an educational or pension  
43 benefit that is greater than the employment benefit due the  
44 employee for an equivalent period of work performed during the  
45 regular work schedule of the employee.

46 (cf: P.L.2006, c.103, s.87)

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

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

5       a. For an employer, because of the race, creed, color, national  
6 origin, ancestry, age, marital status, 'civil union status,' domestic  
7 partnership status, affectional or sexual orientation, genetic  
8 information, sex, 'gender identity or expression,' disability or  
9 atypical hereditary cellular or blood trait of any individual, or  
10 because of the liability for service in the Armed Forces of the  
11 United States or the nationality of any individual, or because of the  
12 refusal to submit to a genetic test or make available the results of a  
13 genetic test to an employer, to refuse to hire or employ or to bar or  
14 to discharge or require to retire, unless justified by lawful  
15 considerations other than age, from employment such individual or  
16 to discriminate against such individual in compensation or in terms,  
17 conditions or privileges of employment; provided, however, it shall  
18 not be an unlawful employment practice to refuse to accept for  
19 employment an applicant who has received a notice of induction or  
20 orders to report for active duty in the armed forces; provided further  
21 that nothing herein contained shall be construed to bar an employer  
22 from refusing to accept for employment any person on the basis of  
23 sex in those certain circumstances where sex is a bona fide  
24 occupational qualification, reasonably necessary to the normal  
25 operation of the particular business or enterprise; provided further  
26 that nothing herein contained shall be construed to bar an employer  
27 from refusing to accept for employment or to promote any person  
28 over 70 years of age; provided further that it shall not be an  
29 unlawful employment practice for a club exclusively social or  
30 fraternal to use club membership as a uniform qualification for  
31 employment, or for a religious association or organization to utilize  
32 religious affiliation as a uniform qualification in the employment of  
33 clergy, religious teachers or other employees engaged in the  
34 religious activities of the association or organization, or in  
35 following the tenets of its religion in establishing and utilizing  
36 criteria for employment of an employee; provided further, that it  
37 shall not be an unlawful employment practice to require the  
38 retirement of any employee who, for the two-year period  
39 immediately before retirement, is employed in a bona fide executive  
40 or a high policy-making position, if that employee is entitled to an  
41 immediate non-forfeitable annual retirement benefit from a pension,  
42 profit sharing, savings or deferred retirement plan, or any  
43 combination of those plans, of the employer of that employee which  
44 equals in the aggregate at least \$27,000.00; and provided further  
45 that an employer may restrict employment to citizens of the United  
46 States where such restriction is required by federal law or is  
47 otherwise necessary to protect the national interest.

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

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

11 b. For a labor organization, because of the race, creed, color,  
12 national origin, ancestry, age, marital status, <sup>1</sup>civil union status,<sup>1</sup>  
13 domestic partnership status, affectional or sexual orientation,  
14 <sup>1</sup>gender identity or expression,<sup>1</sup> disability or sex of any individual,  
15 or because of the liability for service in the Armed Forces of the  
16 United States or nationality of any individual, to exclude or to expel  
17 from its membership such individual or to discriminate in any way  
18 against any of its members, against any applicant for, or individual  
19 included in, any apprentice or other training program or against any  
20 employer or any individual employed by an employer; provided,  
21 however, that nothing herein contained shall be construed to bar a  
22 labor organization from excluding from its apprentice or other  
23 training programs any person on the basis of sex in those certain  
24 circumstances where sex is a bona fide occupational qualification  
25 reasonably necessary to the normal operation of the particular  
26 apprentice or other training program.

27 c. For any employer or employment agency to print or circulate  
28 or cause to be printed or circulated any statement, advertisement or  
29 publication, or to use any form of application for employment, or to  
30 make an inquiry in connection with prospective employment, which  
31 expresses, directly or indirectly, any limitation, specification or  
32 discrimination as to race, creed, color, national origin, ancestry,  
33 age, marital status, <sup>1</sup>civil union status,<sup>1</sup> domestic partnership status,  
34 affectional or sexual orientation, <sup>1</sup>gender identity or expression,<sup>1</sup>  
35 disability, nationality or sex or liability of any applicant for  
36 employment for service in the Armed Forces of the United States,  
37 or any intent to make any such limitation, specification or  
38 discrimination, unless based upon a bona fide occupational  
39 qualification.

40 d. For any person to take reprisals against any person because  
41 that person has opposed any practices or acts forbidden under this  
42 act or because that person has filed a complaint, testified or assisted  
43 in any proceeding under this act or to coerce, intimidate, threaten or  
44 interfere with any person in the exercise or enjoyment of, or on  
45 account of that person having aided or encouraged any other person  
46 in the exercise or enjoyment of, any right granted or protected by  
47 this act.

- 1 e. For any person, whether an employer or an employee or not,  
2 to aid, abet, incite, compel or coerce the doing of any of the acts  
3 forbidden under this act, or to attempt to do so.
- 4 f. (1) For any owner, lessee, proprietor, manager,  
5 superintendent, agent, or employee of any place of public  
6 accommodation directly or indirectly to refuse, withhold from or  
7 deny to any person any of the accommodations, advantages,  
8 facilities or privileges thereof, or to discriminate against any person  
9 in the furnishing thereof, or directly or indirectly to publish,  
10 circulate, issue, display, post or mail any written or printed  
11 communication, notice, or advertisement to the effect that any of  
12 the accommodations, advantages, facilities, or privileges of any  
13 such place will be refused, withheld from, or denied to any person  
14 on account of the race, creed, color, national origin, ancestry,  
15 marital status, <sup>1</sup>civil union status, <sup>1</sup>domestic partnership status, sex,  
16 <sup>1</sup>gender identity or expression,<sup>1</sup> affectional or sexual orientation,  
17 disability or nationality of such person, or that the patronage or  
18 custom thereat of any person of any particular race, creed, color,  
19 national origin, ancestry, marital status, <sup>1</sup>civil union status,<sup>1</sup>  
20 domestic partnership status, sex, <sup>1</sup>gender identity or expression,<sup>1</sup>  
21 affectional or sexual orientation, disability or nationality is  
22 unwelcome, objectionable or not acceptable, desired or solicited,  
23 and the production of any such written or printed communication,  
24 notice or advertisement, purporting to relate to any such place and  
25 to be made by any owner, lessee, proprietor, superintendent or  
26 manager thereof, shall be presumptive evidence in any action that  
27 the same was authorized by such person; provided, however, that  
28 nothing contained herein shall be construed to bar any place of  
29 public accommodation which is in its nature reasonably restricted  
30 exclusively to individuals of one sex, and which shall include but  
31 not be limited to any summer camp, day camp, or resort camp,  
32 bathhouse, dressing room, swimming pool, gymnasium, comfort  
33 station, dispensary, clinic or hospital, or school or educational  
34 institution which is restricted exclusively to individuals of one sex,  
35 <sup>2</sup>provided individuals shall be admitted based on their gender  
36 identity or expression,<sup>2</sup> from refusing, withholding from or denying  
37 to any individual of the opposite sex any of the accommodations,  
38 advantages, facilities or privileges thereof on the basis of sex;  
39 provided further, that the foregoing limitation shall not apply to any  
40 restaurant as defined in R.S.33:1-1 or place where alcoholic  
41 beverages are served.
- 42 (2) Notwithstanding the definition of "a place of public  
43 accommodation" as set forth in subsection 1. of section 5 of  
44 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,  
45 manager, superintendent, agent, or employee of any private club or  
46 association to directly or indirectly refuse, withhold from or deny to  
47 any individual who has been accepted as a club member and has

1 contracted for or is otherwise entitled to full club membership any  
2 of the accommodations, advantages, facilities or privileges thereof,  
3 or to discriminate against any member in the furnishing thereof on  
4 account of the race, creed, color, national origin, ancestry, marital  
5 status, <sup>1</sup>civil union status, <sup>1</sup>domestic partnership status, sex, <sup>1</sup>gender  
6 identity, or expression, <sup>1</sup>affectional or sexual orientation, disability  
7 or nationality of such person.

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

16 g. For any person, including but not limited to, any owner,  
17 lessee, sublessee, assignee or managing agent of, or other person  
18 having the right of ownership or possession of or the right to sell,  
19 rent, lease, assign, or sublease any real property or part or portion  
20 thereof, or any agent or employee of any of these:

21 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
22 to deny to or withhold from any person or group of persons any real  
23 property or part or portion thereof because of race, creed, color,  
24 national origin, ancestry, marital status, <sup>1</sup>civil union status, <sup>1</sup>  
25 domestic partnership status, sex, <sup>1</sup>gender identity or expression, <sup>1</sup>  
26 affectional or sexual orientation, familial status, disability,  
27 nationality, or source of lawful income used for rental or mortgage  
28 payments;

29 (2) To discriminate against any person or group of persons  
30 because of race, creed, color, national origin, ancestry, marital  
31 status, <sup>1</sup>civil union status, <sup>1</sup>domestic partnership status, sex, <sup>1</sup>gender  
32 identity or expression, <sup>1</sup>affectional or sexual orientation, familial  
33 status, disability, nationality or source of lawful income used for  
34 rental or mortgage payments in the terms, conditions or privileges  
35 of the sale, rental or lease of any real property or part or portion  
36 thereof or in the furnishing of facilities or services in connection  
37 therewith;

38 (3) To print, publish, circulate, issue, display, post or mail, or  
39 cause to be printed, published, circulated, issued, displayed, posted  
40 or mailed any statement, advertisement, publication or sign, or to  
41 use any form of application for the purchase, rental, lease,  
42 assignment or sublease of any real property or part or portion  
43 thereof, or to make any record or inquiry in connection with the  
44 prospective purchase, rental, lease, assignment, or sublease of any  
45 real property, or part or portion thereof which expresses, directly or  
46 indirectly, any limitation, specification or discrimination as to race,  
47 creed, color, national origin, ancestry, marital status, <sup>1</sup>civil union

1 status,<sup>1</sup> domestic partnership status, sex, <sup>1</sup>gender identity, or  
2 expression,<sup>1</sup> affectional or sexual orientation, familial status,  
3 disability, nationality, or source of lawful income used for rental or  
4 mortgage payments, or any intent to make any such limitation,  
5 specification or discrimination, and the production of any such  
6 statement, advertisement, publicity, sign, form of application,  
7 record, or inquiry purporting to be made by any such person shall  
8 be presumptive evidence in any action that the same was authorized  
9 by such person; provided, however, that nothing contained in this  
10 subsection shall be construed to bar any person from refusing to  
11 sell, rent, lease, assign or sublease or from advertising or recording  
12 a qualification as to sex for any room, apartment, flat in a dwelling  
13 or residential facility which is planned exclusively for and occupied  
14 by individuals of one sex to any individual of the exclusively  
15 opposite sex on the basis of sex <sup>1</sup>provided individuals shall be  
16 qualified based on their gender identity or expression<sup>1</sup>;

17 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
18 to deny to or withhold from any person or group of persons any real  
19 property or part or portion thereof because of the source of any  
20 lawful income received by the person or the source of any lawful  
21 rent payment to be paid for the real property; or

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

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

31 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
32 sale, rental, lease, assignment, or sublease any real property or part  
33 or portion thereof to any person or group of persons or to refuse to  
34 negotiate for the sale, rental, lease, assignment, or sublease of any  
35 real property or part or portion thereof to any person or group of  
36 persons because of race, creed, color, national origin, ancestry,  
37 marital status, <sup>1</sup>civil union status,<sup>1</sup> domestic partnership status,  
38 familial status, sex, <sup>1</sup>gender identity or expression,<sup>1</sup> affectional or  
39 sexual orientation, disability, nationality, or source of lawful  
40 income used for rental or mortgage payments, or to represent that  
41 any real property or portion thereof is not available for inspection,  
42 sale, rental, lease, assignment, or sublease when in fact it is so  
43 available, or otherwise to deny or withhold any real property or any  
44 part or portion of facilities thereof to or from any person or group of  
45 persons because of race, creed, color, national origin, ancestry,  
46 marital status, <sup>1</sup>civil union status,<sup>1</sup> domestic partnership status,

1 familial status, sex, 'gender identity or expression,' affectional or  
2 sexual orientation, disability or nationality;

3 (2) To discriminate against any person because of race, creed,  
4 color, national origin, ancestry, marital status, 'civil union status,'  
5 domestic partnership status, familial status, sex, 'gender identity or  
6 expression,' affectional or sexual orientation, disability, nationality,  
7 or source of lawful income used for rental or mortgage payments in  
8 the terms, conditions or privileges of the sale, rental, lease,  
9 assignment or sublease of any real property or part or portion  
10 thereof or in the furnishing of facilities or services in connection  
11 therewith;

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

38 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
39 to deny to or withhold from any person or group of persons any real  
40 property or part or portion thereof because of the source of any  
41 lawful income received by the person or the source of any lawful  
42 rent payment to be paid for the real property; or

43 (5) To refuse to rent or lease any real property to another person  
44 because that person's family includes children under 18 years of  
45 age, or to make an agreement, rental or lease of any real property  
46 which provides that the agreement, rental or lease shall be rendered  
47 null and void upon the birth of a child. This paragraph shall not

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

3 i. For any person, bank, banking organization, mortgage  
4 company, insurance company or other financial institution, lender  
5 or credit institution involved in the making or purchasing of any  
6 loan or extension of credit, for whatever purpose, whether secured  
7 by residential real estate or not, including but not limited to  
8 financial assistance for the purchase, acquisition, construction,  
9 rehabilitation, repair or maintenance of any real property or part or  
10 portion thereof or any agent or employee thereof:

11 (1) To discriminate against any person or group of persons  
12 because of race, creed, color, national origin, ancestry, marital  
13 status, 'civil union status,' domestic partnership status, sex, 'gender  
14 identity or expression,' affectional or sexual orientation, disability,  
15 familial status or nationality, in the granting, withholding,  
16 extending, modifying, renewing, or purchasing, or in the fixing of  
17 the rates, terms, conditions or provisions of any such loan,  
18 extension of credit or financial assistance or purchase thereof or in  
19 the extension of services in connection therewith;

20 (2) To use any form of application for such loan, extension of  
21 credit or financial assistance or to make record or inquiry in  
22 connection with applications for any such loan, extension of credit  
23 or financial assistance which expresses, directly or indirectly, any  
24 limitation, specification or discrimination as to race, creed, color,  
25 national origin, ancestry, marital status, 'civil union status,'  
26 domestic partnership status, sex, 'gender identity or expression,'  
27 affectional or sexual orientation, disability, familial status or  
28 nationality or any intent to make any such limitation, specification  
29 or discrimination; unless otherwise required by law or regulation to  
30 retain or use such information;

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

32 (4) To discriminate against any person or group of persons  
33 because of the source of any lawful income received by the person  
34 or the source of any lawful rent payment to be paid for the real  
35 property; or

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

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

47 k. For any real estate broker, real estate salesperson or  
48 employee or agent thereof or any other individual, corporation,



1 partnership, or organization, for the purpose of inducing a  
2 transaction for the sale or rental of real property from which  
3 transaction such person or any of its members may benefit  
4 financially, to represent that a change has occurred or will or may  
5 occur in the composition with respect to race, creed, color, national  
6 origin, ancestry, marital status, 'civil union status,' domestic  
7 partnership status, familial status, sex, 'gender identity or  
8 expression,' affectional or sexual orientation, disability, nationality,  
9 or source of lawful income used for rental or mortgage payments of  
10 the owners or occupants in the block, neighborhood or area in  
11 which the real property is located, and to represent, directly or  
12 indirectly, that this change will or may result in undesirable  
13 consequences in the block, neighborhood or area in which the real  
14 property is located, including, but not limited to the lowering of  
15 property values, an increase in criminal or anti-social behavior, or a  
16 decline in the quality of schools or other facilities.

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

33 m. For any person to:

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

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

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

14 n. For any person to aid, abet, incite, compel, coerce, or induce  
15 the doing of any act forbidden by subsections l. and m. of section  
16 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
17 do so. Such prohibited conduct shall include, but not be limited to:

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

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

32 o. For any multiple listing service, real estate brokers'  
33 organization or other service, organization or facility related to the  
34 business of selling or renting dwellings to deny any person access  
35 to or membership or participation in such organization, or to  
36 discriminate against such person in the terms or conditions of such  
37 access, membership, or participation, on account of race, creed,  
38 color, national origin, ancestry, age, marital status, <sup>1</sup>civil union  
39 status,<sup>1</sup> domestic partnership status, familial status, sex, <sup>1</sup>gender  
40 identity or expression,<sup>1</sup> affectional or sexual orientation, disability  
41 or nationality.

42 p. <sup>1</sup>Nothing in the provisions of this section shall affect the  
43 ability of an employer to require employees to adhere to reasonable  
44 workplace appearance, grooming and dress standards not precluded  
45 by other provisions of State or federal law, except that an employer  
46 shall allow an employee to appear, groom and dress consistent with  
47 the employee's gender identity or expression.

1       q.<sup>1</sup> (1) For any employer<sup>1</sup> [, employee or an agent thereof.]<sup>1</sup> to  
2 impose upon a person as a condition of obtaining or retaining  
3 employment, including opportunities for promotion, advancement  
4 or transfers, any terms or conditions that would require a person to  
5 violate or forego a sincerely held religious practice or religious  
6 observance, including but not limited to the observance of any  
7 particular day or days or any portion thereof as a Sabbath or other  
8 holy day in accordance with the requirements of the religion or  
9 religious belief, unless, after engaging in a bona fide effort, the  
10 employer demonstrates that it is unable to reasonably accommodate  
11 the employee's religious observance or practice without undue  
12 hardship on the conduct of the employer's business.  
13 <sup>1</sup>[Notwithstanding any other provision of law to the contrary, an  
14 employee shall not be entitled to premium wages or premium  
15 benefits for work performed during hours to which those premium  
16 wages or premium benefits would ordinarily be applicable, if the  
17 employee is working during those hours only as an accommodation  
18 to his religious requirements.] <sup>2</sup>Notwithstanding any other  
19 provision of law to the contrary, an employee shall not be entitled  
20 to premium wages or premium benefits for work performed during  
21 hours to which those premium wages or premium benefits would  
22 ordinarily be applicable, if the employee is working during those  
23 hours only as an accommodation to his religious requirements.<sup>2</sup>  
24 Nothing in this subsection q. shall be construed as reducing:  
25       (a) The number of the hours worked by the employee which are  
26 counted towards the accruing of seniority, pension or other benefits;  
27 or  
28       (b) Any premium wages or benefits provided to an employee  
29 pursuant to a collective bargaining agreement.<sup>1</sup>  
30       (2) For an employer to refuse to permit an employee to utilize  
31 leave, as provided for in <sup>1</sup>[paragraph (3) of] <sup>1</sup>this subsection q.,  
32 <sup>1</sup>[solely because the leave will be] which is solely<sup>1</sup> used to  
33 accommodate the employee's sincerely held religious observance or  
34 practice. <sup>1</sup>[(3)]<sup>1</sup> Except where it would cause an employer to incur  
35 an undue hardship, no person shall be required to remain at his  
36 place of employment during any day or days or portion thereof that,  
37 as a requirement of his religion, he observes as his Sabbath or other  
38 holy day, including a reasonable time prior and subsequent thereto  
39 for travel between his place of employment and his home; provided  
40 that any such absence from work shall, wherever practicable in the  
41 reasonable judgment of the employer, be made up by an equivalent  
42 amount of time and work at some other mutually convenient time,  
43 or shall be charged against any leave with pay ordinarily granted,  
44 other than sick leave, and any such absence not so made up or  
45 charged, may be treated by the employer of that person as leave  
46 taken without pay.

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

7        (b) In determining whether the accommodation constitutes an  
8 undue '[economic]' hardship '[a court shall consider], the factors  
9 considered shall include':

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

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

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

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

25        '(d) (1) The provisions of this subsection q. shall be applicable  
26 only to reasonable accommodations of religious observances and  
27 shall not supercede any definition of undue hardship or standards  
28 for reasonable accommodation of the disabilities of employees.

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

34 (cf: P.L.2006, c.103, s.88)

35  
36        3. This act shall take effect immediately.

37  
38  
39  
40  
41        \_\_\_\_\_  
42        Makes it unlawful to discriminate against employees because of  
religious practices.

# ASSEMBLY, No. 3451

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 19, 2006

**Sponsored by:**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen, Essex and Passaic)**

**Assemblyman NEIL M. COHEN**

**District 20 (Union)**

**Co-Sponsored by:**

**Assemblymen Steele, Johnson, Assemblywoman Voss, Assemblyman Chivukula, Assemblywomen Oliver, Beck and Assemblyman Scalera**

**SYNOPSIS**

Makes it unlawful to discriminate against employees because of religious practices.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/27/2007)

1 AN ACT concerning discrimination of religious practices in the  
2 workplace 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 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as  
8 follows:

9 5. As used in this act, unless a different meaning clearly appears  
10 from the context:

11 a. "Person" includes one or more individuals, partnerships,  
12 associations, organizations, labor organizations, corporations, legal  
13 representatives, trustees, trustees in bankruptcy, receivers, and  
14 fiduciaries.

15 b. "Employment agency" includes any person undertaking to  
16 procure employees or opportunities for others to work.

17 c. "Labor organization" includes any organization which exists  
18 and is constituted for the purpose, in whole or in part, of collective  
19 bargaining, or of dealing with employers concerning grievances,  
20 terms or conditions of employment, or of other mutual aid or  
21 protection in connection with employment.

22 d. "Unlawful employment practice" and "unlawful  
23 discrimination" include only those unlawful practices and acts  
24 specified in section 11 of this act.

25 e. "Employer" includes all persons as defined in subsection a. of  
26 this section unless otherwise specifically exempt under another  
27 section of this act, and includes the State, any political or civil  
28 subdivision thereof, and all public officers, agencies, boards or  
29 bodies.

30 f. "Employee" does not include any individual employed in the  
31 domestic service of any person.

32 g. "Liability for service in the Armed Forces of the United  
33 States" means subject to being ordered as an individual or member  
34 of an organized unit into active service in the Armed Forces of the  
35 United States by reason of membership in the National Guard, naval  
36 militia or a reserve component of the Armed Forces of the United  
37 States, or subject to being inducted into such armed forces through  
38 a system of national selective service.

39 h. "Division" means the "Division on Civil Rights" created by  
40 this act.

41 i. "Attorney General" means the Attorney General of the State of  
42 New Jersey or his representative or designee.

43 j. "Commission" means the Commission on Civil Rights created  
44 by this act.

45 k. "Director" means the Director of the Division on Civil Rights.

**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       l. "A place of public accommodation" shall include, but not be  
2 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
3 summer camp, day camp, or resort camp, whether for entertainment  
4 of transient guests or accommodation of those seeking health,  
5 recreation or rest; any producer, manufacturer, wholesaler,  
6 distributor, retail shop, store, establishment, or concession dealing  
7 with goods or services of any kind; any restaurant, eating house, or  
8 place where food is sold for consumption on the premises; any  
9 place maintained for the sale of ice cream, ice and fruit preparations  
10 or their derivatives, soda water or confections, or where any  
11 beverages of any kind are retailed for consumption on the premises;  
12 any garage, any public conveyance operated on land or water, or in  
13 the air, any stations and terminals thereof; any bathhouse,  
14 boardwalk, or seashore accommodation; any auditorium, meeting  
15 place, or hall; any theatre, motion-picture house, music hall, roof  
16 garden, skating rink, swimming pool, amusement and recreation  
17 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
18 pool parlor, or other place of amusement; any comfort station; any  
19 dispensary, clinic or hospital; any public library; any kindergarten,  
20 primary and secondary school, trade or business school, high  
21 school, academy, college and university, or any educational  
22 institution under the supervision of the State Board of Education, or  
23 the Commissioner of Education of the State of New Jersey.  
24 Nothing herein contained shall be construed to include or to apply  
25 to any institution, bona fide club, or place of accommodation, which  
26 is in its nature distinctly private; nor shall anything herein contained  
27 apply to any educational facility operated or maintained by a bona  
28 fide religious or sectarian institution, and the right of a natural  
29 parent or one in loco parentis to direct the education and upbringing  
30 of a child under his control is hereby affirmed; nor shall anything  
31 herein contained be construed to bar any private secondary or post  
32 secondary school from using in good faith criteria other than race,  
33 creed, color, national origin, ancestry or affectional or sexual  
34 orientation in the admission of students.

35       m. "A publicly assisted housing accommodation" shall include  
36 all housing built with public funds or public assistance pursuant to  
37 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,  
38 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,  
39 c.184, and all housing financed in whole or in part by a loan,  
40 whether or not secured by a mortgage, the repayment of which is  
41 guaranteed or insured by the federal government or any agency  
42 thereof.

43       n. The term "real property" includes real estate, lands, tenements  
44 and hereditaments, corporeal and incorporeal, and leaseholds,  
45 provided, however, that, except as to publicly assisted housing  
46 accommodations, the provisions of this act shall not apply to the  
47 rental: (1) of a single apartment or flat in a two-family dwelling,  
48 the other occupancy unit of which is occupied by the owner as a

1 residence; or (2) of a room or rooms to another person or persons by  
2 the owner or occupant of a one-family dwelling occupied by the  
3 owner or occupant as a residence at the time of such rental.  
4 Nothing herein contained shall be construed to bar any religious or  
5 denominational institution or organization, or any organization  
6 operated for charitable or educational purposes, which is operated,  
7 supervised or controlled by or in connection with a religious  
8 organization, in the sale, lease or rental of real property, from  
9 limiting admission to or giving preference to persons of the same  
10 religion or denomination or from making such selection as is  
11 calculated by such organization to promote the religious principles  
12 for which it is established or maintained. Nor does any provision  
13 under this act regarding discrimination on the basis of familial  
14 status apply with respect to housing for older persons.

15 o. "Real estate broker" includes a person, firm or corporation  
16 who, for a fee, commission or other valuable consideration, or by  
17 reason of promise or reasonable expectation thereof, lists for sale,  
18 sells, exchanges, buys or rents, or offers or attempts to negotiate a  
19 sale, exchange, purchase, or rental of real estate or an interest  
20 therein, or collects or offers or attempts to collect rent for the use of  
21 real estate, or solicits for prospective purchasers or assists or directs  
22 in the procuring of prospects or the negotiation or closing of any  
23 transaction which does or is contemplated to result in the sale,  
24 exchange, leasing, renting or auctioning of any real estate, or  
25 negotiates, or offers or attempts or agrees to negotiate a loan  
26 secured or to be secured by mortgage or other encumbrance upon or  
27 transfer of any real estate for others; or any person who, for  
28 pecuniary gain or expectation of pecuniary gain conducts a public  
29 or private competitive sale of lands or any interest in lands. In the  
30 sale of lots, the term "real estate broker" shall also include any  
31 person, partnership, association or corporation employed by or on  
32 behalf of the owner or owners of lots or other parcels of real estate,  
33 at a stated salary, or upon a commission, or upon a salary and  
34 commission or otherwise, to sell such real estate, or any parts  
35 thereof, in lots or other parcels, and who shall sell or exchange, or  
36 offer or attempt or agree to negotiate the sale or exchange, of any  
37 such lot or parcel of real estate.

38 p. "Real estate salesperson" includes any person who, for  
39 compensation, valuable consideration or commission, or other thing  
40 of value, or by reason of a promise or reasonable expectation  
41 thereof, is employed by and operates under the supervision of a  
42 licensed real estate broker to sell or offer to sell, buy or offer to buy  
43 or negotiate the purchase, sale or exchange of real estate, or offers  
44 or attempts to negotiate a loan secured or to be secured by a  
45 mortgage or other encumbrance upon or transfer of real estate, or to  
46 lease or rent, or offer to lease or rent any real estate for others, or to  
47 collect rents for the use of real estate, or to solicit for prospective  
48 purchasers or lessees of real estate, or who is employed by a



1 licensed real estate broker to sell or offer to sell lots or other parcels  
2 of real estate, at a stated salary, or upon a commission, or upon a  
3 salary and commission, or otherwise to sell real estate, or any parts  
4 thereof, in lots or other parcels.

5 q. "Disability" means physical disability, infirmity, malformation  
6 or disfigurement which is caused by bodily injury, birth defect or  
7 illness including epilepsy and other seizure disorders, and which  
8 shall include, but not be limited to, any degree of paralysis,  
9 amputation, lack of physical coordination, blindness or visual  
10 impediment, deafness or hearing impediment, muteness or speech  
11 impediment or physical reliance on a service or guide dog,  
12 wheelchair, or other remedial appliance or device, or any mental,  
13 psychological or developmental disability resulting from  
14 anatomical, psychological, physiological or neurological conditions  
15 which prevents the normal exercise of any bodily or mental  
16 functions or is demonstrable, medically or psychologically, by  
17 accepted clinical or laboratory diagnostic techniques. Disability  
18 shall also mean AIDS or HIV infection.

19 r. "Blind person" means any individual whose central visual  
20 acuity does not exceed 20/200 in the better eye with correcting lens  
21 or whose visual acuity is better than 20/200 if accompanied by a  
22 limit to the field of vision in the better eye to such a degree that its  
23 widest diameter subtends an angle of no greater than 20 degrees.

24 s. "Guide dog" means a dog used to assist deaf persons or which  
25 is fitted with a special harness so as to be suitable as an aid to the  
26 mobility of a blind person, and is used by a blind person who has  
27 satisfactorily completed a specific course of training in the use of  
28 such a dog, and has been trained by an organization generally  
29 recognized by agencies involved in the rehabilitation of the blind or  
30 deaf as reputable and competent to provide dogs with training of  
31 this type.

32 t. "Guide or service dog trainer" means any person who is  
33 employed by an organization generally recognized by agencies  
34 involved in the rehabilitation of persons with disabilities as  
35 reputable and competent to provide dogs with training, and who is  
36 actually involved in the training process.

37 u. "Housing accommodation" means any publicly assisted  
38 housing accommodation or any real property, or portion thereof,  
39 which is used or occupied, or is intended, arranged, or designed to  
40 be used or occupied, as the home, residence or sleeping place of one  
41 or more persons, but shall not include any single family residence  
42 the occupants of which rent, lease, or furnish for compensation not  
43 more than one room therein.

44 v. "Public facility" means any place of public accommodation  
45 and any street, highway, sidewalk, walkway, public building, and  
46 any other place or structure to which the general public is regularly,  
47 normally or customarily permitted or invited.

- 1 w. "Deaf person" means any person whose hearing is so  
2 severely impaired that the person is unable to hear and understand  
3 normal conversational speech through the unaided ear alone, and  
4 who must depend primarily on a supportive device or visual  
5 communication such as writing, lip reading, sign language, and  
6 gestures.
- 7 x. "Atypical hereditary cellular or blood trait" means sickle cell  
8 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
9 fibrosis trait.
- 10 y. "Sickle cell trait" means the condition wherein the major  
11 natural hemoglobin components present in the blood of the  
12 individual are hemoglobin A (normal) and hemoglobin S (sickle  
13 hemoglobin) as defined by standard chemical and physical analytic  
14 techniques, including electrophoresis; and the proportion of  
15 hemoglobin A is greater than the proportion of hemoglobin S or one  
16 natural parent of the individual is shown to have only normal  
17 hemoglobin components (hemoglobin A, hemoglobin A2,  
18 hemoglobin F) in the normal proportions by standard chemical and  
19 physical analytic tests.
- 20 z. "Hemoglobin C trait" means the condition wherein the major  
21 natural hemoglobin components present in the blood of the  
22 individual are hemoglobin A (normal) and hemoglobin C as defined  
23 by standard chemical and physical analytic techniques, including  
24 electrophoresis; and the proportion of hemoglobin A is greater than  
25 the proportion of hemoglobin C or one natural parent of the  
26 individual is shown to have only normal hemoglobin components  
27 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
28 proportions by standard chemical and physical analytic tests.
- 29 aa. "Thalassemia trait" means the presence of the thalassemia  
30 gene which in combination with another similar gene results in the  
31 chronic hereditary disease Cooley's anemia.
- 32 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
33 which in combination with another similar gene results in the  
34 chronic hereditary disease Tay-Sachs.
- 35 cc. "Cystic fibrosis trait" means the presence of the cystic  
36 fibrosis gene which in combination with another similar gene  
37 results in the chronic hereditary disease cystic fibrosis.
- 38 dd. "Service dog" means any dog individually trained to the  
39 requirements of a person with a disability including, but not limited  
40 to minimal protection work, rescue work, pulling a wheelchair or  
41 retrieving dropped items. This term shall include a "seizure dog"  
42 trained to alert or otherwise assist persons subject to epilepsy or  
43 other seizure disorders.
- 44 ee. "Qualified Medicaid applicant" means an individual who is a  
45 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 46 ff. "AIDS" means acquired immune deficiency syndrome as  
47 defined by the Centers for Disease Control and Prevention of the  
48 United States Public Health Service.

- 1       gg. "HIV infection" means infection with the human  
2 immunodeficiency virus or any other related virus identified as a  
3 probable causative agent of AIDS.
- 4       hh. "Affectional or sexual orientation" means male or female  
5 heterosexuality, homosexuality or bisexuality by inclination,  
6 practice, identity or expression, having a history thereof or being  
7 perceived, presumed or identified by others as having such an  
8 orientation.
- 9       ii. "Heterosexuality" means affectional, emotional or physical  
10 attraction or behavior which is primarily directed towards persons  
11 of the other gender.
- 12       jj. "Homosexuality" means affectional, emotional or physical  
13 attraction or behavior which is primarily directed towards persons  
14 of the same gender.
- 15       kk. "Bisexuality" means affectional, emotional or physical  
16 attraction or behavior which is directed towards persons of either  
17 gender.
- 18       ll. "Familial status" means being the natural parent of a child,  
19 the adoptive parent of a child, the resource family parent of a child,  
20 having a "parent and child relationship" with a child as defined by  
21 State law, or having sole or joint legal or physical custody, care,  
22 guardianship, or visitation with a child, or any person who is  
23 pregnant or is in the process of securing legal custody of any  
24 individual who has not attained the age of 18 years.
- 25       mm. "Housing for older persons" means housing:
- 26       (1) provided under any State program that the Attorney General  
27 determines is specifically designed and operated to assist elderly  
28 persons (as defined in the State program); or provided under any  
29 federal program that the United States Department of Housing and  
30 Urban Development determines is specifically designed and  
31 operated to assist elderly persons (as defined in the federal  
32 program); or
- 33       (2) intended for, and solely occupied by persons 62 years of age  
34 or older; or
- 35       (3) intended and operated for occupancy by at least one person  
36 55 years of age or older per unit. In determining whether housing  
37 qualifies as housing for older persons under this subsection, the  
38 Attorney General shall adopt regulations which require at least the  
39 following factors:
- 40       (a) the existence of significant facilities and services specifically  
41 designed to meet the physical or social needs of older persons, or if  
42 the provision of such facilities and services is not practicable, that  
43 such housing is necessary to provide important housing  
44 opportunities for older persons; and
- 45       (b) that at least 80 percent of the units are occupied by at least  
46 one person 55 years of age or older per unit; and

1 (c) the publication of, and adherence to, policies and procedures  
2 which demonstrate an intent by the owner or manager to provide  
3 housing for persons 55 years of age or older.

4 Housing shall not fail to meet the requirements for housing for  
5 older persons by reason of: persons residing in such housing as of  
6 September 13, 1988 not meeting the age requirements of this  
7 subsection, provided that new occupants of such housing meet the  
8 age requirements of this subsection; or unoccupied units, provided  
9 that such units are reserved for occupancy by persons who meet the  
10 age requirements of this subsection.

11 nn. "Genetic characteristic" means any inherited gene or  
12 chromosome, or alteration thereof, that is scientifically or medically  
13 believed to predispose an individual to a disease, disorder or  
14 syndrome, or to be associated with a statistically significant  
15 increased risk of development of a disease, disorder or syndrome.

16 oo. "Genetic information" means the information about genes,  
17 gene products or inherited characteristics that may derive from an  
18 individual or family member.

19 pp. "Genetic test" means a test for determining the presence or  
20 absence of an inherited genetic characteristic in an individual,  
21 including tests of nucleic acids such as DNA, RNA and  
22 mitochondrial DNA, chromosomes or proteins in order to identify a  
23 predisposing genetic characteristic.

24 qq. "Domestic partnership" means a domestic partnership  
25 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

26 rr. "Premium wages" means overtime pay, compensatory time  
27 off, additional remuneration for night, weekend or holiday work, or  
28 for standby or irregular duty.

29 ss. "Premium benefit" means an employment benefit, such as  
30 seniority, group life insurance, health insurance, disability  
31 insurance, sick leave, annual leave, or an educational or pension  
32 benefit that is greater than the employment benefit due the  
33 employee for an equivalent period of work performed during the  
34 regular work schedule of the employee.

35 (cf: P.L.2004, c.130, s.37)

36  
37 2. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read  
38 as follows:

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

41 a. For an employer, because of the race, creed, color, national  
42 origin, ancestry, age, marital status, domestic partnership status,  
43 affectional or sexual orientation, genetic information, sex, disability  
44 or atypical hereditary cellular or blood trait of any individual, or  
45 because of the liability for service in the Armed Forces of the  
46 United States or the nationality of any individual, or because of the  
47 refusal to submit to a genetic test or make available the results of a  
48 genetic test to an employer, to refuse to hire or employ or to bar or

1 to discharge or require to retire, unless justified by lawful  
2 considerations other than age, from employment such individual or  
3 to discriminate against such individual in compensation or in terms,  
4 conditions or privileges of employment; provided, however, it shall  
5 not be an unlawful employment practice to refuse to accept for  
6 employment an applicant who has received a notice of induction or  
7 orders to report for active duty in the armed forces; provided further  
8 that nothing herein contained shall be construed to bar an employer  
9 from refusing to accept for employment any person on the basis of  
10 sex in those certain circumstances where sex is a bona fide  
11 occupational qualification, reasonably necessary to the normal  
12 operation of the particular business or enterprise; provided further  
13 that nothing herein contained shall be construed to bar an employer  
14 from refusing to accept for employment or to promote any person  
15 over 70 years of age; provided further that it shall not be an  
16 unlawful employment practice for a club exclusively social or  
17 fraternal to use club membership as a uniform qualification for  
18 employment, or for a religious association or organization to utilize  
19 religious affiliation as a uniform qualification in the employment of  
20 clergy, religious teachers or other employees engaged in the  
21 religious activities of the association or organization, or in  
22 following the tenets of its religion in establishing and utilizing  
23 criteria for employment of an employee; provided further, that it  
24 shall not be an unlawful employment practice to require the  
25 retirement of any employee who, for the two-year period  
26 immediately before retirement, is employed in a bona fide executive  
27 or a high policy-making position, if that employee is entitled to an  
28 immediate non-forfeitable annual retirement benefit from a pension,  
29 profit sharing, savings or deferred retirement plan, or any  
30 combination of those plans, of the employer of that employee which  
31 equals in the aggregate at least \$27,000.00; and provided further  
32 that an employer may restrict employment to citizens of the United  
33 States where such restriction is required by federal law or is  
34 otherwise necessary to protect the national interest.

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

39 For the purposes of this subsection, a "bona fide executive" is a  
40 top level employee who exercises substantial executive authority  
41 over a significant number of employees and a large volume of  
42 business. A "high policy-making position" is a position in which a  
43 person plays a significant role in developing policy and in  
44 recommending the implementation thereof.

45 b. For a labor organization, because of the race, creed, color,  
46 national origin, ancestry, age, marital status, domestic partnership  
47 status, affectional or sexual orientation, disability or sex of any  
48 individual, or because of the liability for service in the Armed

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

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

25 d. For any person to take reprisals against any person because  
26 that person has opposed any practices or acts forbidden under this  
27 act or because that person has filed a complaint, testified or assisted  
28 in any proceeding under this act or to coerce, intimidate, threaten or  
29 interfere with any person in the exercise or enjoyment of, or on  
30 account of that person having aided or encouraged any other person  
31 in the exercise or enjoyment of, any right granted or protected by  
32 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, domestic partnership status, sex, affectional or sexual  
48 orientation, disability or nationality of such person, or that the

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

23 (2) Notwithstanding the definition of "a place of public  
24 accommodation" as set forth in subsection l. of section 5 of  
25 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,  
26 manager, superintendent, agent, or employee of any private club or  
27 association to directly or indirectly refuse, withhold from or deny to  
28 any individual who has been accepted as a club member and has  
29 contracted for or is otherwise entitled to full club membership any  
30 of the accommodations, advantages, facilities or privileges thereof,  
31 or to discriminate against any member in the furnishing thereof on  
32 account of the race, creed, color, national origin, ancestry, marital  
33 status, domestic partnership status, sex, affectional or sexual  
34 orientation, disability or nationality of such person.

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

43 g. For any person, including but not limited to, any owner,  
44 lessee, sublessee, assignee or managing agent of, or other person  
45 having the right of ownership or possession of or the right to sell,  
46 rent, lease, assign, or sublease any real property or part or portion  
47 thereof, or any agent or employee of any of these:

1 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
2 to deny to or withhold from any person or group of persons any real  
3 property or part or portion thereof because of race, creed, color,  
4 national origin, ancestry, marital status, domestic partnership status,  
5 sex, affectional or sexual orientation, familial status, disability,  
6 nationality, or source of lawful income used for rental or mortgage  
7 payments;

8 (2) To discriminate against any person or group of persons  
9 because of race, creed, color, national origin, ancestry, marital  
10 status, domestic partnership status, sex, affectional or sexual  
11 orientation, familial status, disability, nationality or source of  
12 lawful income used for rental or mortgage payments in the terms,  
13 conditions or privileges of the sale, rental or lease of any real  
14 property or part or portion thereof or in the furnishing of facilities  
15 or services in connection therewith;

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

40 (4) To refuse to sell, rent, lease, assign, or sublease or otherwise  
41 to deny to or withhold from any person or group of persons any real  
42 property or part or portion thereof because of the source of any  
43 lawful income received by the person or the source of any lawful  
44 rent payment to be paid for the real property; or

45 (5) To refuse to rent or lease any real property to another person  
46 because that person's family includes children under 18 years of  
47 age, or to make an agreement, rental or lease of any real property  
48 which provides that the agreement, rental or lease shall be rendered



1 null and void upon the birth of a child. This paragraph shall not  
2 apply to housing for older persons as defined in subsection mm. of  
3 section 5 of P.L.1945, c.169 (C.10:5-5).

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

6 (1) To refuse to sell, rent, assign, lease or sublease, or offer for  
7 sale, rental, lease, assignment, or sublease any real property or part  
8 or portion thereof to any person or group of persons or to refuse to  
9 negotiate for the sale, rental, lease, assignment, or sublease of any  
10 real property or part or portion thereof to any person or group of  
11 persons because of race, creed, color, national origin, ancestry,  
12 marital status, domestic partnership status, familial status, sex,  
13 affectional or sexual orientation, disability, nationality, or source of  
14 lawful income used for rental or mortgage payments, or to represent  
15 that any real property or portion thereof is not available for  
16 inspection, sale, rental, lease, assignment, or sublease when in fact  
17 it is so available, or otherwise to deny or withhold any real property  
18 or any part or portion of facilities thereof to or from any person or  
19 group of persons because of race, creed, color, national origin,  
20 ancestry, marital status, domestic partnership status, familial status,  
21 sex, affectional or sexual orientation, disability or nationality;

22 (2) To discriminate against any person because of race, creed,  
23 color, national origin, ancestry, marital status, domestic partnership  
24 status, familial status, sex, affectional or sexual orientation,  
25 disability, nationality, or source of lawful income used for rental or  
26 mortgage payments in the terms, conditions or privileges of the  
27 sale, rental, lease, assignment or sublease of any real property or  
28 part or portion thereof or in the furnishing of facilities or services in  
29 connection therewith;

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

1 from refusing to sell, rent, lease, assign or sublease or from  
2 advertising or recording a qualification as to sex for any room,  
3 apartment, flat in a dwelling or residential facility which is planned  
4 exclusively for and occupied exclusively by individuals of one sex  
5 to any individual of the opposite sex on the basis of sex;

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

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

18 i. For any person, bank, banking organization, mortgage  
19 company, insurance company or other financial institution, lender  
20 or credit institution involved in the making or purchasing of any  
21 loan or extension of credit, for whatever purpose, whether secured  
22 by residential real estate or not, including but not limited to  
23 financial assistance for the purchase, acquisition, construction,  
24 rehabilitation, repair or maintenance of any real property or part or  
25 portion thereof or any agent or employee thereof:

26 (1) To discriminate against any person or group of persons  
27 because of race, creed, color, national origin, ancestry, marital  
28 status, domestic partnership status, sex, affectional or sexual  
29 orientation, disability, familial status or nationality, in the granting,  
30 withholding, extending, modifying, renewing, or purchasing, or in  
31 the fixing of the rates, terms, conditions or provisions of any such  
32 loan, extension of credit or financial assistance or purchase thereof  
33 or in the extension of services in connection therewith;

34 (2) To use any form of application for such loan, extension of  
35 credit or financial assistance or to make record or inquiry in  
36 connection with applications for any such loan, extension of credit  
37 or financial assistance which expresses, directly or indirectly, any  
38 limitation, specification or discrimination as to race, creed, color,  
39 national origin, ancestry, marital status, domestic partnership status,  
40 sex, affectional or sexual orientation, disability, familial status or  
41 nationality or any intent to make any such limitation, specification  
42 or discrimination; unless otherwise required by law or regulation to  
43 retain or use such information;

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

45 (4) To discriminate against any person or group of persons  
46 because of the source of any lawful income received by the person  
47 or the source of any lawful rent payment to be paid for the real  
48 property; or

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

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

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

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

44 m. For any person to:

45 (1) Grant or accept any letter of credit or other document which  
46 evidences the transfer of funds or credit, or enter into any contract  
47 for the exchange of goods or services, where the letter of credit,  
48 contract, or other document contains any provisions requiring any

1 person to discriminate against or to certify that he, she or it has not  
2 dealt with any other person on the basis of the race, creed, color,  
3 national origin, ancestry, age, sex, affectional or sexual orientation,  
4 marital status, domestic partnership status, disability, liability for  
5 service in the Armed Forces of the United States, or nationality of  
6 such other person or of such other person's spouse, partners,  
7 members, stockholders, directors, officers, managers,  
8 superintendents, agents, employees, business associates, suppliers,  
9 or customers.

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

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

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

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

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

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

1 partnership status, familial status, sex, affectional or sexual  
2 orientation, disability or nationality.

3 p. (1) For any employer, employee or an agent thereof, to  
4 impose upon a person as a condition of obtaining or retaining  
5 employment, including opportunities for promotion, advancement  
6 or transfers, any terms or conditions that would require a person to  
7 violate or forego a sincerely held religious practice or religious  
8 observance, including but not limited to the observance of any  
9 particular day or days or any portion thereof as a Sabbath or other  
10 holy day in accordance with the requirements of the religion or  
11 religious belief, unless, after engaging in a bona fide effort, the  
12 employer demonstrates that it is unable to reasonably accommodate  
13 the employee's religious observance or practice without undue  
14 hardship on the conduct of the employer's business.  
15 Notwithstanding any other provision of law to the contrary, an  
16 employee shall not be entitled to premium wages or premium  
17 benefits for work performed during hours to which those premium  
18 wages or premium benefits would ordinarily be applicable, if the  
19 employee is working during those hours only as an accommodation  
20 to his religious requirements.

21 (2) For an employer to refuse to permit an employee to utilize  
22 leave, as provided for in paragraph (3) of this subsection p., solely  
23 because the leave will be used to accommodate the employee's  
24 sincerely held religious observance or practice.

25 (3) Except where it would cause an employer to incur an undue  
26 hardship, no person shall be required to remain at his place of  
27 employment during any day or days or portion thereof that, as a  
28 requirement of his religion, he observes as his Sabbath or other holy  
29 day, including a reasonable time prior and subsequent thereto for  
30 travel between his place of employment and his home; provided that  
31 any such absence from work shall, wherever practicable in the  
32 reasonable judgment of the employer, be made up by an equivalent  
33 amount of time and work at some other mutually convenient time,  
34 or shall be charged against any leave with pay ordinarily granted,  
35 other than sick leave, and any such absence not so made up or  
36 charged, may be treated by the employer of that person as leave  
37 taken without pay.

38 (4) (a) For purposes of this section, "undue hardship" means an  
39 accommodation requiring significant expense or difficulty,  
40 interference with the safe or efficient operation of the workplace or  
41 a violation of a bona fide seniority system.

42 (b) In determining whether the accommodation constitutes an  
43 undue economic hardship a court shall consider:

44 (i) The identifiable cost of the accommodation, including the  
45 costs of loss of productivity and of retaining or hiring employees or  
46 transferring employees from one facility to another, in relation to  
47 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. An accommodation shall be considered to  
8 constitute an undue hardship if it will result in the inability of an  
9 employee to perform the essential functions of the position in which  
10 he or she is employed.

11 (cf: P.L.2003, c.246, s.12.)

12

13       3. This act shall take effect immediately.

14

15

16

#### STATEMENT

17

18       This bill expands certain civil rights protections under the "Law  
19 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et. seq.), by  
20 making it an unlawful employment practice for any employer,  
21 employee or an agent thereof, to impose upon a person as a  
22 condition of obtaining or retaining employment, including  
23 opportunities for promotion, advancement or transfers, any terms or  
24 conditions that would require a person to violate or forego a  
25 sincerely held religious practice or religious observation, including  
26 but not limited to the observance of any particular day or days or  
27 any portion thereof as a Sabbath or other holy day in accordance  
28 with the requirements of the religion or religious belief, unless,  
29 after engaging in bona fide effort, the employer demonstrates that it  
30 is unable to reasonably accommodate the employee's religious  
31 observance or practice without undue hardship on the conduct of the  
32 employer's business.

33       The bill provides that a person is not required to remain at his  
34 place of employment during any day or days or portion thereof that,  
35 as a requirement of his religion, he observes as his Sabbath or other  
36 holy day, including a reasonable time prior and subsequent thereto  
37 for travel between his place of employment and his home.  
38 However, any absence from work is to be made up by an equivalent  
39 amount of time and work at another mutually convenient time, or  
40 will be charged against any leave with pay ordinarily granted, other  
41 than sick leave. Any absence not so made up or charged may be  
42 treated by the employer as leave taken without pay.

43       The bill further provides that an employee is not entitled to  
44 premium wages or premium benefits for work performed during  
45 hours to which the premium wages or premium benefits would  
46 ordinarily be applicable, if the employee is working during those  
47 hours only as an accommodation to his religious requirements.

1 For purposes of the bill, “premium wages” mean overtime pay  
2 and compensatory time off, and additional remuneration for night,  
3 weekend or holiday work, or for standby or irregular duty and  
4 “premium benefits” mean an employment benefit, such as seniority,  
5 group life insurance, health insurance, disability insurance, sick  
6 leave, annual leave, or an educational or pension benefit that is  
7 greater than the employment benefit due the employee for an  
8 equivalent period of work performed during the regular work  
9 schedule of the employee. “Undue hardship” means an  
10 accommodation requiring significant expense or difficulty,  
11 interference with the safe or efficient operation of the workplace or  
12 a violation of a bona fide seniority system.

# ASSEMBLY LABOR COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3451**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 26, 2007

The Assembly Labor committee reports favorably and with committee amendments Assembly Bill No. 3451.

This bill extends the protections provided to employees under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et. seq.), by making it an unlawful employment practice for any employer to impose upon a person, as a condition of obtaining or retaining employment, including opportunities for promotion, advancement or transfers, any terms or conditions that would require a person to violate or forego a sincerely held religious practice or religious observance, including, but not limited to, the observance of any particular day or days or any portion thereof as a Sabbath or other holy day in accordance with the requirements of the religion or religious belief, unless, after engaging in bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's religious observance or practice without undue hardship on the conduct of the employer's business.

The bill requires an employer, except where it would cause undue hardship, to permit an employee to use leave from his place of employment during any day or days or portion thereof that, as a requirement of his religion, he observes as his Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his place of employment and his home. However, any absence from work is to be made up by an equivalent amount of time and work at another mutually convenient time, or will be charged against any leave with pay ordinarily granted, other than sick leave. Any absence not so made up or charged may be treated by the employer as leave taken without pay.

The bill states that it is not intended to reduce any premium wage or benefit provided by a collective bargaining agreement or reduce the number of hours worked by an employee which are counted towards the accrual of seniority, pension or other benefits.

The bill defines "undue hardship" as an accommodation requiring unreasonable expense or difficulty, interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system or collective bargaining agreement. The standards of the bill for undue hardship for employers apply only to employer



accommodations for religious services and do not supercede existing standards regarding undue employer hardship and accommodations for employee disabilities.

#### COMMITTEE AMENDMENTS

The amendments adopted by the committee limit the liability for violations of the bill to employers, removing liability for employees and agents of the employer.

The amendments indicate that the bill is not intended to reduce any premium wage or benefit provided by a collective bargaining agreement or reduce the number of hours worked by an employee which are counted towards the accrual of seniority, pension or other benefits. The amendments removed a provision of the bill which made it possible for an employee to lose overtime if the employee worked more than 40 hour per week but had work times changed to accommodate religious practices.

The amendments specify that any accommodation which requires a violation of a collective bargaining agreement is regarded as an “undue hardship” to the employer and exempts the employer from making the accommodation. The amendments specify that the standards of the bill for undue hardship for employers apply only to employer accommodations for religious services and do not supercede existing standards regarding undue employer hardship and accommodations for employee disabilities.

Technical amendments are also made to the bill to reflect the most recent version of the provisions of the “Law Against Discrimination” amended by the bill.

# SENATE LABOR COMMITTEE

## STATEMENT TO

[First Reprint]

**ASSEMBLY, No. 3451**

# **STATE OF NEW JERSEY**

DATED: JUNE 21, 2007

The Senate Labor Committee reports favorably Assembly Bill No. 3451 (1R).

This bill extends the protections provided to employees under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et. seq.), by making it an unlawful employment practice for any employer to impose upon a person, as a condition of obtaining or retaining employment, including opportunities for promotion, advancement or transfers, any terms or conditions that would require a person to violate or forego a sincerely held religious practice or religious observance, including, but not limited to, the observance of any particular day or days or any portion thereof as a Sabbath or other holy day in accordance with the requirements of the religion or religious belief, unless, after engaging in bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's religious observance or practice without undue hardship on the conduct of the employer's business.

The bill requires an employer, except where it would cause undue hardship, to permit an employee to use leave from his place of employment during any day or days or portion thereof that, as a requirement of his religion, he observes as his Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his place of employment and his home. However, any absence from work is to be made up by an equivalent amount of time and work at another mutually convenient time, or will be charged against any leave with pay ordinarily granted, other than sick leave. Any absence not so made up or charged may be treated by the employer as leave taken without pay.

The bill states that it is not intended to reduce any premium wage or benefit provided by a collective bargaining agreement or reduce the number of hours worked by an employee which are counted towards the accrual of seniority, pension or other benefits.

The bill defines "undue hardship" as an accommodation requiring unreasonable expense or difficulty, interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system or collective bargaining agreement. The standards of

the bill for undue hardship for employers apply only to employer accommodations for religious services and do not supersede existing standards regarding undue employer hardship and accommodations for employee disabilities.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 3451**

with Senate Floor Amendments  
(Proposed By Senator WEINBERG)

ADOPTED: DECEMBER 10, 2007

These amendments provide that an employee is not entitled to premium wages or premium benefits for work performed during hours to which those premium wages or premium benefits would ordinarily be applicable, if the employee is working during those hours only as an accommodation to his religious requirements. The amendments also specify that overtime pay and compensatory time are not regarded as “premium wages.”

**SENATE, No. 2488**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED JANUARY 25, 2007

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator PAUL A. SARLO**

**District 36 (Bergen, Essex and Passaic)**

**Co-Sponsored by:**

**Senators Coniglio and Karcher**

**SYNOPSIS**

Makes it unlawful to discriminate against employees because of religious practices.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/6/2007)**

1 AN ACT concerning discrimination of religious practices in the  
2 workplace 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 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as  
8 follows:

9 5. As used in this act, unless a different meaning clearly appears  
10 from the context:

11 a. "Person" includes one or more individuals, partnerships,  
12 associations, organizations, labor organizations, corporations, legal  
13 representatives, trustees, trustees in bankruptcy, receivers, and  
14 fiduciaries.

15 b. "Employment agency" includes any person undertaking to  
16 procure employees or opportunities for others to work.

17 c. "Labor organization" includes any organization which exists  
18 and is constituted for the purpose, in whole or in part, of collective  
19 bargaining, or of dealing with employers concerning grievances,  
20 terms or conditions of employment, or of other mutual aid or  
21 protection in connection with employment.

22 d. "Unlawful employment practice" and "unlawful  
23 discrimination" include only those unlawful practices and acts  
24 specified in section 11 of this act.

25 e. "Employer" includes all persons as defined in subsection a. of  
26 this section unless otherwise specifically exempt under another  
27 section of this act, and includes the State, any political or civil  
28 subdivision thereof, and all public officers, agencies, boards or  
29 bodies.

30 f. "Employee" does not include any individual employed in the  
31 domestic service of any person.

32 g. "Liability for service in the Armed Forces of the United  
33 States" means subject to being ordered as an individual or member  
34 of an organized unit into active service in the Armed Forces of the  
35 United States by reason of membership in the National Guard, naval  
36 militia or a reserve component of the Armed Forces of the United  
37 States, or subject to being inducted into such armed forces through  
38 a system of national selective service.

39 h. "Division" means the "Division on Civil Rights" created by  
40 this act.

41 i. "Attorney General" means the Attorney General of the State of  
42 New Jersey or his representative or designee.

43 j. "Commission" means the Commission on Civil Rights created  
44 by this act.

45 k. "Director" means the Director of the Division on Civil Rights.

**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       l. "A place of public accommodation" shall include, but not be  
2 limited to: any tavern, roadhouse, hotel, motel, trailer camp,  
3 summer camp, day camp, or resort camp, whether for entertainment  
4 of transient guests or accommodation of those seeking health,  
5 recreation or rest; any producer, manufacturer, wholesaler,  
6 distributor, retail shop, store, establishment, or concession dealing  
7 with goods or services of any kind; any restaurant, eating house, or  
8 place where food is sold for consumption on the premises; any  
9 place maintained for the sale of ice cream, ice and fruit preparations  
10 or their derivatives, soda water or confections, or where any  
11 beverages of any kind are retailed for consumption on the premises;  
12 any garage, any public conveyance operated on land or water, or in  
13 the air, any stations and terminals thereof; any bathhouse,  
14 boardwalk, or seashore accommodation; any auditorium, meeting  
15 place, or hall; any theatre, motion-picture house, music hall, roof  
16 garden, skating rink, swimming pool, amusement and recreation  
17 park, fair, bowling alley, gymnasium, shooting gallery, billiard and  
18 pool parlor, or other place of amusement; any comfort station; any  
19 dispensary, clinic or hospital; any public library; any kindergarten,  
20 primary and secondary school, trade or business school, high  
21 school, academy, college and university, or any educational  
22 institution under the supervision of the State Board of Education, or  
23 the Commissioner of Education of the State of New Jersey.  
24 Nothing herein contained shall be construed to include or to apply  
25 to any institution, bona fide club, or place of accommodation, which  
26 is in its nature distinctly private; nor shall anything herein contained  
27 apply to any educational facility operated or maintained by a bona  
28 fide religious or sectarian institution, and the right of a natural  
29 parent or one in loco parentis to direct the education and upbringing  
30 of a child under his control is hereby affirmed; nor shall anything  
31 herein contained be construed to bar any private secondary or post  
32 secondary school from using in good faith criteria other than race,  
33 creed, color, national origin, ancestry, gender identity or expression  
34 or affectional or sexual orientation in the admission of students.

35       m. "A publicly assisted housing accommodation" shall include  
36 all housing built with public funds or public assistance pursuant to  
37 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,  
38 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949,  
39 c.184, and all housing financed in whole or in part by a loan,  
40 whether or not secured by a mortgage, the repayment of which is  
41 guaranteed or insured by the federal government or any agency  
42 thereof.

43       n. The term "real property" includes real estate, lands, tenements  
44 and hereditaments, corporeal and incorporeal, and leaseholds,  
45 provided, however, that, except as to publicly assisted housing  
46 accommodations, the provisions of this act shall not apply to the  
47 rental: (1) of a single apartment or flat in a two-family dwelling,  
48 the other occupancy unit of which is occupied by the owner as a

1 residence; or (2) of a room or rooms to another person or persons by  
2 the owner or occupant of a one-family dwelling occupied by the  
3 owner or occupant as a residence at the time of such rental.  
4 Nothing herein contained shall be construed to bar any religious or  
5 denominational institution or organization, or any organization  
6 operated for charitable or educational purposes, which is operated,  
7 supervised or controlled by or in connection with a religious  
8 organization, in the sale, lease or rental of real property, from  
9 limiting admission to or giving preference to persons of the same  
10 religion or denomination or from making such selection as is  
11 calculated by such organization to promote the religious principles  
12 for which it is established or maintained. Nor does any provision  
13 under this act regarding discrimination on the basis of familial  
14 status apply with respect to housing for older persons.

15 o. "Real estate broker" includes a person, firm or corporation  
16 who, for a fee, commission or other valuable consideration, or by  
17 reason of promise or reasonable expectation thereof, lists for sale,  
18 sells, exchanges, buys or rents, or offers or attempts to negotiate a  
19 sale, exchange, purchase, or rental of real estate or an interest  
20 therein, or collects or offers or attempts to collect rent for the use of  
21 real estate, or solicits for prospective purchasers or assists or directs  
22 in the procuring of prospects or the negotiation or closing of any  
23 transaction which does or is contemplated to result in the sale,  
24 exchange, leasing, renting or auctioning of any real estate, or  
25 negotiates, or offers or attempts or agrees to negotiate a loan  
26 secured or to be secured by mortgage or other encumbrance upon or  
27 transfer of any real estate for others; or any person who, for  
28 pecuniary gain or expectation of pecuniary gain conducts a public  
29 or private competitive sale of lands or any interest in lands. In the  
30 sale of lots, the term "real estate broker" shall also include any  
31 person, partnership, association or corporation employed by or on  
32 behalf of the owner or owners of lots or other parcels of real estate,  
33 at a stated salary, or upon a commission, or upon a salary and  
34 commission or otherwise, to sell such real estate, or any parts  
35 thereof, in lots or other parcels, and who shall sell or exchange, or  
36 offer or attempt or agree to negotiate the sale or exchange, of any  
37 such lot or parcel of real estate.

38 p. "Real estate salesperson" includes any person who, for  
39 compensation, valuable consideration or commission, or other thing  
40 of value, or by reason of a promise or reasonable expectation  
41 thereof, is employed by and operates under the supervision of a  
42 licensed real estate broker to sell or offer to sell, buy or offer to buy  
43 or negotiate the purchase, sale or exchange of real estate, or offers  
44 or attempts to negotiate a loan secured or to be secured by a  
45 mortgage or other encumbrance upon or transfer of real estate, or to  
46 lease or rent, or offer to lease or rent any real estate for others, or to  
47 collect rents for the use of real estate, or to solicit for prospective  
48 purchasers or lessees of real estate, or who is employed by a



1 licensed real estate broker to sell or offer to sell lots or other parcels  
2 of real estate, at a stated salary, or upon a commission, or upon a  
3 salary and commission, or otherwise to sell real estate, or any parts  
4 thereof, in lots or other parcels.

5 q. "Disability" means physical disability, infirmity,  
6 malformation or disfigurement which is caused by bodily injury,  
7 birth defect or illness including epilepsy and other seizure  
8 disorders, and which shall include, but not be limited to, any degree  
9 of paralysis, amputation, lack of physical coordination, blindness or  
10 visual impediment, deafness or hearing impediment, muteness or  
11 speech impediment or physical reliance on a service or guide dog,  
12 wheelchair, or other remedial appliance or device, or any mental,  
13 psychological or developmental disability resulting from  
14 anatomical, psychological, physiological or neurological conditions  
15 which prevents the normal exercise of any bodily or mental  
16 functions or is demonstrable, medically or psychologically, by  
17 accepted clinical or laboratory diagnostic techniques. Disability  
18 shall also mean AIDS or HIV infection.

19 r. "Blind person" means any individual whose central visual  
20 acuity does not exceed 20/200 in the better eye with correcting lens  
21 or whose visual acuity is better than 20/200 if accompanied by a  
22 limit to the field of vision in the better eye to such a degree that its  
23 widest diameter subtends an angle of no greater than 20 degrees.

24 s. "Guide dog" means a dog used to assist deaf persons or which  
25 is fitted with a special harness so as to be suitable as an aid to the  
26 mobility of a blind person, and is used by a blind person who has  
27 satisfactorily completed a specific course of training in the use of  
28 such a dog, and has been trained by an organization generally  
29 recognized by agencies involved in the rehabilitation of the blind or  
30 deaf as reputable and competent to provide dogs with training of  
31 this type.

32 t. "Guide or service dog trainer" means any person who is  
33 employed by an organization generally recognized by agencies  
34 involved in the rehabilitation of persons with disabilities as  
35 reputable and competent to provide dogs with training, and who is  
36 actually involved in the training process.

37 u. "Housing accommodation" means any publicly assisted  
38 housing accommodation or any real property, or portion thereof,  
39 which is used or occupied, or is intended, arranged, or designed to  
40 be used or occupied, as the home, residence or sleeping place of one  
41 or more persons, but shall not include any single family residence  
42 the occupants of which rent, lease, or furnish for compensation not  
43 more than one room therein.

44 v. "Public facility" means any place of public accommodation  
45 and any street, highway, sidewalk, walkway, public building, and  
46 any other place or structure to which the general public is regularly,  
47 normally or customarily permitted or invited.

- 1 w. "Deaf person" means any person whose hearing is so  
2 severely impaired that the person is unable to hear and understand  
3 normal conversational speech through the unaided ear alone, and  
4 who must depend primarily on a supportive device or visual  
5 communication such as writing, lip reading, sign language, and  
6 gestures.
- 7 x. "Atypical hereditary cellular or blood trait" means sickle cell  
8 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic  
9 fibrosis trait.
- 10 y. "Sickle cell trait" means the condition wherein the major  
11 natural hemoglobin components present in the blood of the  
12 individual are hemoglobin A (normal) and hemoglobin S (sickle  
13 hemoglobin) as defined by standard chemical and physical analytic  
14 techniques, including electrophoresis; and the proportion of  
15 hemoglobin A is greater than the proportion of hemoglobin S or one  
16 natural parent of the individual is shown to have only normal  
17 hemoglobin components (hemoglobin A, hemoglobin A2,  
18 hemoglobin F) in the normal proportions by standard chemical and  
19 physical analytic tests.
- 20 z. "Hemoglobin C trait" means the condition wherein the major  
21 natural hemoglobin components present in the blood of the  
22 individual are hemoglobin A (normal) and hemoglobin C as defined  
23 by standard chemical and physical analytic techniques, including  
24 electrophoresis; and the proportion of hemoglobin A is greater than  
25 the proportion of hemoglobin C or one natural parent of the  
26 individual is shown to have only normal hemoglobin components  
27 (hemoglobin A, hemoglobin A2, hemoglobin F) in normal  
28 proportions by standard chemical and physical analytic tests.
- 29 aa. "Thalassemia trait" means the presence of the thalassemia  
30 gene which in combination with another similar gene results in the  
31 chronic hereditary disease Cooley's anemia.
- 32 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene  
33 which in combination with another similar gene results in the  
34 chronic hereditary disease Tay-Sachs.
- 35 cc. "Cystic fibrosis trait" means the presence of the cystic  
36 fibrosis gene which in combination with another similar gene  
37 results in the chronic hereditary disease cystic fibrosis.
- 38 dd. "Service dog" means any dog individually trained to the  
39 requirements of a person with a disability including, but not limited  
40 to minimal protection work, rescue work, pulling a wheelchair or  
41 retrieving dropped items. This term shall include a "seizure dog"  
42 trained to alert or otherwise assist persons subject to epilepsy or  
43 other seizure disorders.
- 44 ee. "Qualified Medicaid applicant" means an individual who is a  
45 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 46 ff. "AIDS" means acquired immune deficiency syndrome as  
47 defined by the Centers for Disease Control and Prevention of the  
48 United States Public Health Service.

- 1       gg. "HIV infection" means infection with the human  
2 immunodeficiency virus or any other related virus identified as a  
3 probable causative agent of AIDS.
- 4       hh. "Affectional or sexual orientation" means male or female  
5 heterosexuality, homosexuality or bisexuality by inclination,  
6 practice, identity or expression, having a history thereof or being  
7 perceived, presumed or identified by others as having such an  
8 orientation.
- 9       ii. "Heterosexuality" means affectional, emotional or physical  
10 attraction or behavior which is primarily directed towards persons  
11 of the other gender.
- 12       jj. "Homosexuality" means affectional, emotional or physical  
13 attraction or behavior which is primarily directed towards persons  
14 of the same gender.
- 15       kk. "Bisexuality" means affectional, emotional or physical  
16 attraction or behavior which is directed towards persons of either  
17 gender.
- 18       ll. "Familial status" means being the natural parent of a child,  
19 the adoptive parent of a child, the resource family parent of a child,  
20 having a "parent and child relationship" with a child as defined by  
21 State law, or having sole or joint legal or physical custody, care,  
22 guardianship, or visitation with a child, or any person who is  
23 pregnant or is in the process of securing legal custody of any  
24 individual who has not attained the age of 18 years.
- 25       mm. "Housing for older persons" means housing:
- 26       (1) provided under any State program that the Attorney General  
27 determines is specifically designed and operated to assist elderly  
28 persons (as defined in the State program); or provided under any  
29 federal program that the United States Department of Housing and  
30 Urban Development determines is specifically designed and  
31 operated to assist elderly persons (as defined in the federal  
32 program); or
- 33       (2) intended for, and solely occupied by persons 62 years of age  
34 or older; or
- 35       (3) intended and operated for occupancy by at least one person  
36 55 years of age or older per unit. In determining whether housing  
37 qualifies as housing for older persons under this subsection, the  
38 Attorney General shall adopt regulations which require at least the  
39 following factors:
- 40       (a) the existence of significant facilities and services specifically  
41 designed to meet the physical or social needs of older persons, or if  
42 the provision of such facilities and services is not practicable, that  
43 such housing is necessary to provide important housing  
44 opportunities for older persons; and
- 45       (b) that at least 80 percent of the units are occupied by at least  
46 one person 55 years of age or older per unit; and

1 (c) the publication of, and adherence to, policies and procedures  
2 which demonstrate an intent by the owner or manager to provide  
3 housing for persons 55 years of age or older.

4 Housing shall not fail to meet the requirements for housing for  
5 older persons by reason of: persons residing in such housing as of  
6 September 13, 1988 not meeting the age requirements of this  
7 subsection, provided that new occupants of such housing meet the  
8 age requirements of this subsection; or unoccupied units, provided  
9 that such units are reserved for occupancy by persons who meet the  
10 age requirements of this subsection.

11 nn. "Genetic characteristic" means any inherited gene or  
12 chromosome, or alteration thereof, that is scientifically or medically  
13 believed to predispose an individual to a disease, disorder or  
14 syndrome, or to be associated with a statistically significant  
15 increased risk of development of a disease, disorder or syndrome.

16 oo. "Genetic information" means the information about genes,  
17 gene products or inherited characteristics that may derive from an  
18 individual or family member.

19 pp. "Genetic test" means a test for determining the presence or  
20 absence of an inherited genetic characteristic in an individual,  
21 including tests of nucleic acids such as DNA, RNA and  
22 mitochondrial DNA, chromosomes or proteins in order to identify a  
23 predisposing genetic characteristic.

24 qq. "Domestic partnership" means a domestic partnership  
25 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

26 rr. "Gender identity or expression" means having or being  
27 perceived as having a gender related identity or expression whether  
28 or not stereotypically associated with a person's assigned sex at  
29 birth.

30 ss. "Civil Union" means a legally recognized union of two  
31 eligible individuals established pursuant to R.S.37:1-1 et seq. and  
32 P.L.2006, c.103 (C.37:1-28 et al.).

33 tt. "Premium wages" means overtime pay, compensatory time  
34 off, additional remuneration for night, weekend or holiday work, or  
35 for standby or irregular duty.

36 uu. "Premium benefit" means an employment benefit, such as  
37 seniority, group life insurance, health insurance, disability  
38 insurance, sick leave, annual leave, or an educational or pension  
39 benefit that is greater than the employment benefit due the  
40 employee for an equivalent period of work performed during the  
41 regular work schedule of the employee.

42 (cf: P.L.2006, c.103, s.87)

43  
44 2. Section 11 of P.L.1945, c.169 (C.10:5-12) is amended to read  
45 as follows:

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

1 a. For an employer, because of the race, creed, color, national  
2 origin, ancestry, age, marital status, civil union status, domestic  
3 partnership status, affectional or sexual orientation, genetic  
4 information, sex, gender identity or expression, disability or  
5 atypical hereditary cellular or blood trait of any individual, or  
6 because of the liability for service in the Armed Forces of the  
7 United States or the nationality of any individual, or because of the  
8 refusal to submit to a genetic test or make available the results of a  
9 genetic test to an employer, to refuse to hire or employ or to bar or  
10 to discharge or require to retire, unless justified by lawful  
11 considerations other than age, from employment such individual or  
12 to discriminate against such individual in compensation or in terms,  
13 conditions or privileges of employment; provided, however, it shall  
14 not be an unlawful employment practice to refuse to accept for  
15 employment an applicant who has received a notice of induction or  
16 orders to report for active duty in the armed forces; provided further  
17 that nothing herein contained shall be construed to bar an employer  
18 from refusing to accept for employment any person on the basis of  
19 sex in those certain circumstances where sex is a bona fide  
20 occupational qualification, reasonably necessary to the normal  
21 operation of the particular business or enterprise; provided further  
22 that nothing herein contained shall be construed to bar an employer  
23 from refusing to accept for employment or to promote any person  
24 over 70 years of age; provided further that it shall not be an  
25 unlawful employment practice for a club exclusively social or  
26 fraternal to use club membership as a uniform qualification for  
27 employment, or for a religious association or organization to utilize  
28 religious affiliation as a uniform qualification in the employment of  
29 clergy, religious teachers or other employees engaged in the  
30 religious activities of the association or organization, or in  
31 following the tenets of its religion in establishing and utilizing  
32 criteria for employment of an employee; provided further, that it  
33 shall not be an unlawful employment practice to require the  
34 retirement of any employee who, for the two-year period  
35 immediately before retirement, is employed in a bona fide executive  
36 or a high policy-making position, if that employee is entitled to an  
37 immediate non-forfeitable annual retirement benefit from a pension,  
38 profit sharing, savings or deferred retirement plan, or any  
39 combination of those plans, of the employer of that employee which  
40 equals in the aggregate at least \$27,000.00; and provided further  
41 that an employer may restrict employment to citizens of the United  
42 States where such restriction is required by federal law or is  
43 otherwise necessary to protect the national interest.

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

1 For the purposes of this subsection, a "bona fide executive" is a  
2 top level employee who exercises substantial executive authority  
3 over a significant number of employees and a large volume of  
4 business. A "high policy-making position" is a position in which a  
5 person plays a significant role in developing policy and in  
6 recommending the implementation thereof.

7 b. For a labor organization, because of the race, creed, color,  
8 national origin, ancestry, age, marital status, civil union status,  
9 domestic partnership status, affectional or sexual orientation,  
10 gender identity or expression, disability or sex of any individual, or  
11 because of the liability for service in the Armed Forces of the  
12 United States or nationality of any individual, to exclude or to expel  
13 from its membership such individual or to discriminate in any way  
14 against any of its members, against any applicant for, or individual  
15 included in, any apprentice or other training program or against any  
16 employer or any individual employed by an employer; provided,  
17 however, that nothing herein contained shall be construed to bar a  
18 labor organization from excluding from its apprentice or other  
19 training programs any person on the basis of sex in those certain  
20 circumstances where sex is a bona fide occupational qualification  
21 reasonably necessary to the normal operation of the particular  
22 apprentice or other training program.

23 c. For any employer or employment agency to print or circulate  
24 or cause to be printed or circulated any statement, advertisement or  
25 publication, or to use any form of application for employment, or to  
26 make an inquiry in connection with prospective employment, which  
27 expresses, directly or indirectly, any limitation, specification or  
28 discrimination as to race, creed, color, national origin, ancestry,  
29 age, marital status, civil union status, domestic partnership status,  
30 affectional or sexual orientation, gender identity or expression,  
31 disability, nationality or sex or liability of any applicant for  
32 employment for service in the Armed Forces of the United States,  
33 or any intent to make any such limitation, specification or  
34 discrimination, unless based upon a bona fide occupational  
35 qualification.

36 d. For any person to take reprisals against any person because  
37 that person has opposed any practices or acts forbidden under this  
38 act or because that person has filed a complaint, testified or assisted  
39 in any proceeding under this act or to coerce, intimidate, threaten or  
40 interfere with any person in the exercise or enjoyment of, or on  
41 account of that person having aided or encouraged any other person  
42 in the exercise or enjoyment of, any right granted or protected by  
43 this act.

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

47 f. (1) For any owner, lessee, proprietor, manager,  
48 superintendent, agent, or employee of any place of public

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

37 (2) Notwithstanding the definition of "a place of public  
38 accommodation" as set forth in subsection 1. of section 5 of  
39 P.L.1945, c.169 (C.10:5-5), for any owner, lessee, proprietor,  
40 manager, superintendent, agent, or employee of any private club or  
41 association to directly or indirectly refuse, withhold from or deny to  
42 any individual who has been accepted as a club member and has  
43 contracted for or is otherwise entitled to full club membership any  
44 of the accommodations, advantages, facilities or privileges thereof,  
45 or to discriminate against any member in the furnishing thereof on  
46 account of the race, creed, color, national origin, ancestry, marital  
47 status, civil union status, domestic partnership status, sex, gender

1 identity or expression, affectional or sexual orientation, disability or  
2 nationality of such person.

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

11 g. For any person, including but not limited to, any owner,  
12 lessee, sublessee, assignee or managing agent of, or other person  
13 having the right of ownership or possession of or the right to sell,  
14 rent, lease, assign, or sublease any real property or part or portion  
15 thereof, or any agent or employee of any of these:

16 (1) To refuse to sell, rent, lease, assign, or sublease or otherwise  
17 to deny to or withhold from any person or group of persons any real  
18 property or part or portion thereof because of race, creed, color,  
19 national origin, ancestry, marital status, civil union status, domestic  
20 partnership status, sex, gender identity or expression, affectional or  
21 sexual orientation, familial status, disability, nationality, or source  
22 of lawful income used for rental or mortgage payments;

23 (2) To discriminate against any person or group of persons  
24 because of race, creed, color, national origin, ancestry, marital  
25 status, civil union status, domestic partnership status, sex, gender  
26 identity or expression, affectional or sexual orientation, familial  
27 status, disability, nationality or source of lawful income used for  
28 rental or mortgage payments in the terms, conditions or privileges  
29 of the sale, rental or lease of any real property or part or portion  
30 thereof or in the furnishing of facilities or services in connection  
31 therewith;

32 (3) To print, publish, circulate, issue, display, post or mail, or  
33 cause to be printed, published, circulated, issued, displayed, posted  
34 or mailed any statement, advertisement, publication or sign, or to  
35 use any form of application for the purchase, rental, lease,  
36 assignment or sublease of any real property or part or portion  
37 thereof, or to make any record or inquiry in connection with the  
38 prospective purchase, rental, lease, assignment, or sublease of any  
39 real property, or part or portion thereof which expresses, directly or  
40 indirectly, any limitation, specification or discrimination as to race,  
41 creed, color, national origin, ancestry, marital status, civil union  
42 status, domestic partnership status, sex, gender identity or  
43 expression, affectional or sexual orientation, familial status,  
44 disability, nationality, or source of lawful income used for rental or  
45 mortgage payments, or any intent to make any such limitation,  
46 specification or discrimination, and the production of any such  
47 statement, advertisement, publicity, sign, form of application,  
48 record, or inquiry purporting to be made by any such person shall



1 be presumptive evidence in any action that the same was authorized  
2 by such person; provided, however, that nothing contained in this  
3 subsection shall be construed to bar any person from refusing to  
4 sell, rent, lease, assign or sublease or from advertising or recording  
5 a qualification as to sex for any room, apartment, flat in a dwelling  
6 or residential facility which is planned exclusively for and occupied  
7 by individuals of one sex to any individual of the exclusively  
8 opposite sex on the basis of sex, provided individuals shall be  
9 qualified based on their gender identity or expression;

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

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

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

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

1 thereof or in the furnishing of facilities or services in connection  
2 therewith;

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

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

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

41 i. For any person, bank, banking organization, mortgage  
42 company, insurance company or other financial institution, lender  
43 or credit institution involved in the making or purchasing of any  
44 loan or extension of credit, for whatever purpose, whether secured  
45 by residential real estate or not, including but not limited to  
46 financial assistance for the purchase, acquisition, construction,  
47 rehabilitation, repair or maintenance of any real property or part or  
48 portion thereof or any agent or employee thereof:

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

10 (2) To use any form of application for such loan, extension of  
11 credit or financial assistance or to make record or inquiry in  
12 connection with applications for any such loan, extension of credit  
13 or financial assistance which expresses, directly or indirectly, any  
14 limitation, specification or discrimination as to race, creed, color,  
15 national origin, ancestry, marital status, civil union status, domestic  
16 partnership status, sex, gender identity or expression, affectional or  
17 sexual orientation, disability, familial status or nationality or any  
18 intent to make any such limitation, specification or discrimination;  
19 unless otherwise required by law or regulation to retain or use such  
20 information;

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

22 (4) To discriminate against any person or group of persons  
23 because of the source of any lawful income received by the person  
24 or the source of any lawful rent payment to be paid for the real  
25 property; or

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

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

37 k. For any real estate broker, real estate salesperson or employee  
38 or agent thereof or any other individual, corporation, partnership, or  
39 organization, for the purpose of inducing a transaction for the sale  
40 or rental of real property from which transaction such person or any  
41 of its members may benefit financially, to represent that a change  
42 has occurred or will or may occur in the composition with respect to  
43 race, creed, color, national origin, ancestry, marital status, civil  
44 union status, domestic partnership status, familial status, sex,  
45 gender identity or expression, affectional or sexual orientation,  
46 disability, nationality, or source of lawful income used for rental or  
47 mortgage payments of the owners or occupants in the block,  
48 neighborhood or area in which the real property is located, and to

1 represent, directly or indirectly, that this change will or may result  
2 in undesirable consequences in the block, neighborhood or area in  
3 which the real property is located, including, but not limited to the  
4 lowering of property values, an increase in criminal or anti-social  
5 behavior, or a decline in the quality of schools or other facilities.

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

22 m. For any person to:

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

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

41 The provisions of this subsection shall not apply to any letter of  
42 credit, contract, or other document which contains any provision  
43 pertaining to employee-employer collective bargaining, a labor  
44 dispute or an unfair labor practice, or made in connection with the  
45 protest of unlawful discrimination or an unlawful employment  
46 practice, if the other provisions of such letter of credit, contract, or  
47 other document do not otherwise violate the provisions of this  
48 subsection.

1 n. For any person to aid, abet, incite, compel, coerce, or induce  
2 the doing of any act forbidden by subsections l. and m. of section  
3 11 of P.L.1945, c.169 (C.10:5-12), or to attempt, or to conspire to  
4 do so. Such prohibited conduct shall include, but not be limited to:

5 (1) Buying from, selling to, leasing from or to, licensing,  
6 contracting with, trading with, providing goods, services, or  
7 information to, or otherwise doing business with any person  
8 because that person does, or agrees or attempts to do, any such act  
9 or any act prohibited by this subsection; or

10 (2) Boycotting, commercially blacklisting or refusing to buy  
11 from, sell to, lease from or to, license, contract with, provide goods,  
12 services or information to, or otherwise do business with any person  
13 because that person has not done or refuses to do any such act or  
14 any act prohibited by this subsection; provided that this subsection  
15 shall not prohibit refusals or other actions either pertaining to  
16 employee-employer collective bargaining, labor disputes, or unfair  
17 labor practices, or made or taken in connection with a protest of  
18 unlawful discrimination or unlawful employment practices.

19 o. For any multiple listing service, real estate brokers'  
20 organization or other service, organization or facility related to the  
21 business of selling or renting dwellings to deny any person access  
22 to or membership or participation in such organization, or to  
23 discriminate against such person in the terms or conditions of such  
24 access, membership, or participation, on account of race, creed,  
25 color, national origin, ancestry, age, marital status, civil union  
26 status, domestic partnership status, familial status, sex, gender  
27 identity or expression, affectional or sexual orientation, disability or  
28 nationality.

29 p. Nothing in the provisions of this section shall affect the  
30 ability of an employer to require employees to adhere to reasonable  
31 workplace appearance, grooming and dress standards not precluded  
32 by other provisions of State or federal law, except that an employer  
33 shall allow an employee to appear, groom and dress consistent with  
34 the employee's gender identity or expression.

35 q. (1) For any employer, employee or an agent thereof, to  
36 impose upon a person as a condition of obtaining or retaining  
37 employment, including opportunities for promotion, advancement  
38 or transfers, any terms or conditions that would require a person to  
39 violate or forego a sincerely held religious practice or religious  
40 observance, including but not limited to the observance of any  
41 particular day or days or any portion thereof as a Sabbath or other  
42 holy day in accordance with the requirements of the religion or  
43 religious belief, unless, after engaging in a bona fide effort, the  
44 employer demonstrates that it is unable to reasonably accommodate  
45 the employee's religious observance or practice without undue  
46 hardship on the conduct of the employer's business.  
47 Notwithstanding any other provision of law to the contrary, an  
48 employee shall not be entitled to premium wages or premium

1 benefits for work performed during hours to which those premium  
2 wages or premium benefits would ordinarily be applicable, if the  
3 employee is working during those hours only as an accommodation  
4 to his religious requirements.

5 (2) For an employer to refuse to permit an employee to utilize  
6 leave, as provided for in paragraph (3) of this subsection p., solely  
7 because the leave will be used to accommodate the employee's  
8 sincerely held religious observance or practice.

9 (3) Except where it would cause an employer to incur an undue  
10 hardship, no person shall be required to remain at his place of  
11 employment during any day or days or portion thereof that, as a  
12 requirement of his religion, he observes as his Sabbath or other holy  
13 day, including a reasonable time prior and subsequent thereto for  
14 travel between his place of employment and his home; provided that  
15 any such absence from work shall, wherever practicable in the  
16 reasonable judgment of the employer, be made up by an equivalent  
17 amount of time and work at some other mutually convenient time,  
18 or shall be charged against any leave with pay ordinarily granted,  
19 other than sick leave, and any such absence not so made up or  
20 charged, may be treated by the employer of that person as leave  
21 taken without pay.

22 (4) (a) For purposes of this section, "undue hardship" means an  
23 accommodation requiring significant expense or difficulty,  
24 interference with the safe or efficient operation of the workplace or  
25 a violation of a bona fide seniority system.

26 (b) In determining whether the accommodation constitutes an  
27 undue economic hardship a court shall consider:

28 (i) The identifiable cost of the accommodation, including the  
29 costs of loss of productivity and of retaining or hiring employees or  
30 transferring employees from one facility to another, in relation to  
31 the size and operating cost of the employer.

32 (ii) The number of individuals who will need the particular  
33 accommodation for a sincerely held religious observance or  
34 practice.

35 (iii) For an employer with multiple facilities, the degree to  
36 which the geographic separateness or administrative or fiscal  
37 relationship of the facilities will make the accommodation more  
38 difficult or expensive. An accommodation shall be considered to  
39 constitute an undue hardship if it will result in the inability of an  
40 employee to perform the essential functions of the position in which  
41 he or she is employed.

42 (cf: P.L.2006, c.103, s.88)

43

44 3. This act shall take effect immediately.

STATEMENT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44

This bill expands certain civil rights protections under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et. seq.), by making it an unlawful employment practice for any employer, employee or an agent thereof, to impose upon a person as a condition of obtaining or retaining employment, including opportunities for promotion, advancement or transfers, any terms or conditions that would require a person to violate or forego a sincerely held religious practice or religious observation, including but not limited to the observance of any particular day or days or any portion thereof as a Sabbath or other holy day in accordance with the requirements of the religion or religious belief, unless, after engaging in bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's religious observance or practice without undue hardship on the conduct of the employer's business.

The bill provides that a person is not required to remain at his place of employment during any day or days or portion thereof that, as a requirement of his religion, he observes as his Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his place of employment and his home. However, any absence from work is to be made up by an equivalent amount of time and work at another mutually convenient time, or will be charged against any leave with pay ordinarily granted, other than sick leave. Any absence not so made up or charged may be treated by the employer as leave taken without pay.

The bill further provides that an employee is not entitled to premium wages or premium benefits for work performed during hours to which the premium wages or premium benefits would ordinarily be applicable, if the employee is working during those hours only as an accommodation to his religious requirements.

For purposes of the bill, "premium wages" mean overtime pay and compensatory time off, and additional remuneration for night, weekend or holiday work, or for standby or irregular duty and "premium benefits" mean an employment benefit, such as seniority, group life insurance, health insurance, disability insurance, sick leave, annual leave, or an educational or pension benefit that is greater than the employment benefit due the employee for an equivalent period of work performed during the regular work schedule of the employee. "Undue hardship" means an accommodation requiring significant expense or difficulty, interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system.

# SENATE LABOR COMMITTEE

## STATEMENT TO

### **SENATE, No. 2488**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 21, 2007

The Senate Labor Committee reports favorably and with committee amendments Senate Bill No. 2488.

This bill, as amended, expands certain civil rights protections under the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et. seq.), by making it an unlawful employment practice for any employer, to impose upon a person as a condition of obtaining or retaining employment, including opportunities for promotion, advancement or transfers, any terms or conditions that would require a person to violate or forego a sincerely held religious practice or religious observance, including but not limited to the observance of any particular day or days or any portion thereof as a Sabbath or other holy day in accordance with the requirements of the religion or religious belief, unless, after engaging in bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's religious observance or practice without undue hardship on the conduct of the employer's business.

The bill, as amended by the Senate Labor Committee, requires an employer, except where it would cause undue hardship, to permit an employee to use leave from his place of employment during any day or days or portion thereof that, as a requirement of his religion, he observes as his Sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his place of employment and his home. However, any absence from work is to be made up by an equivalent amount of time and work at another mutually convenient time, or will be charged against any leave with pay ordinarily granted, other than sick leave. Any absence not so made up or charged may be treated by the employer as leave taken without pay.

The bill states that it is not intended to reduce any premium wage or benefit provided by a collective bargaining agreement or reduce the number of hours worked by an employee which are counted towards the accrual of seniority, pension or other benefits.

The amended bill defines "undue hardship" as an accommodation requiring unreasonable expense or difficulty, interference with the safe or efficient operation of the workplace or a violation of a bona fide



seniority system or collective bargaining agreement. The standards of the bill for undue hardship for employers apply only to employer accommodations for religious services and do not supersede existing standards regarding undue employer hardship and accommodations for employee disabilities.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 2488**

with Senate Floor Amendments  
(Proposed By Senator WEINBERG)

ADOPTED: DECEMBER 10, 2007

These amendments provide that an employee is not entitled to premium wages or premium benefits for work performed during hours to which those premium wages or premium benefits would ordinarily be applicable, if the employee is working during those hours only as an accommodation to his religious requirements. The amendments also specify that overtime pay and compensatory time are not regarded as “premium wages.”