

43:21-4 et al
LEGISLATIVE HISTORY CHECKLIST

WJSA 34:2-21.15 et al; 34:6-136.12; 34:8-33; (Sex discrimination in
34:11-56a30, 34:15-68, 43:21-4 et al, 10:5-2.1 employment--revise statutes)

LAYS OF 1980 CHAPTER 90

Bill No. S748

Sponsor(s) Lipman

Date Introduced Pre-filed

Committee: Assembly Labor

Senate State Govt., Federal & Interstate Relations & Veterans Affairs

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Following statements are attached if available:

Sponsor statement Yes xxx

Committee Statement: Assembly Yes xxx

Senate Yes xxx

Fiscal Note ~~xxx~~ No

Veto message ~~xxx~~ No

Message on signing ~~xxx~~ No

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Reports Yes xxx

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Report mentioned in sponsor's and committee statements:

974.90 New Jersey. Commission on Sex Discrimination
W872 in the Statutes.
1979d Sex discrimination in the employment statutes,
First report...October, 1979. Trenton, 1979.

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974.90 New Jersey. Commission on Sex Discrimination
W872 in the Statutes.
1979c Public hearing, held 6-27-79. Trenton, 1979.

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SENATE, No. 748

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1980 SESSION

By Senator LIPMAN

AN ACT concerning sex discrimination in employment, revising parts of the statutory law, and supplementing P. L. 1966, c. 113.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 ***[1. Section 3 of P. L. 1940, c. 153 (C. 34:2-21.3) is amended to
2 read as follows:

3 3. Except as provided in section 15 and except for domestic
4 service or messengers employed by communications companies
5 subject to the supervision and control of the Federal Communica-
6 tions Commission, no minor under 18 years of age shall be em-
7 ployed, permitted, or suffered to work in, about, or in connection
8 with any gainful occupation more than 6 consecutive days in any
9 1 week, or more than 40 hours in any 1 week, or more than 8 hours
10 in any 1 day, nor shall any minor under 16 years of age be so
11 employed, permitted, or suffered to work before 7 a.m. or after 6
12 p.m. of any day; nor shall any minor between 16 and 18 years of
13 age be so employed, permitted or suffered to work before 6 a.m.
14 or after 10 p.m. of any day; provided, that minors between 14 and
15 18 years of age may be employed in a concert or a theatrical per-
16 formance up to 11 p.m.; and provided, further, that [male] minors
17 between 16 and 18 years of age may be employed in any public
18 bowling alley up to 11:30 p.m.; and provided, further, that [male]
19 minors not less than 16 years of age and who are attending school
20 may be employed as pin-setters only in public bowling alleys up
21 to 11:30 p.m. during any regular school vacation season, but may
22 not be so employed during the school term without a special written
23 permit from the superintendent of schools or the supervising princi-
24 pal as the case may be, which permit must state that the [boy] *minor*
25 has undergone a complete physical examination by the medical in-

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

26 spector, and, in the opinion of the superintendent or supervising
 27 principal may be so employed without injury to health or inter-
 28 ference with progress in school, such special permits to be good
 29 for a period of 3 months only and are revocable in the discretion
 30 of the superintendent or supervising principal. Such permit may
 31 not be renewed until satisfactory evidence has been submitted to
 32 the superintendent or supervising principal showing that the [boy]
 33 *minor* has had a physical examination and [his] *the minor's* health
 34 is not being injured by said work; and provided, further, that
 35 [male] minors between 16 and 18 years of age may be employed
 36 until 11 p.m. during the regular school vacation seasons but not in
 37 or for a factory or in any occupation otherwise prohibited by law or
 38 by order or regulation made in pursuance of law. The combined
 38A hours of work and hours in school of [children] *minors* under 16
 39 employed outside school hours shall not exceed a total of 8 per day ;
 40 and provided, further, that minors between 16 and 18 years of age
 41 may be employed in any restaurant until 12 midnight unless such
 42 minors are regularly attending school in which case such minors
 43 may be employed until 12 midnight during any regular school
 44 vacation season and on such days which do not precede a regularly
 45 scheduled school day, but no such minor employed in any occupa-
 46 tion in a restaurant shall be paid at a wage rate less than that pro-
 47 vided pursuant to law for such occupation.

48 This section is not applicable to the employment of a minor be-
 49 tween 16 and 18 years of age during the months of June, July,
 50 August or September by a summer resident camp, conference or
 51 retreat operated by a nonprofit or religious corporation or associa-
 52 tion, unless the employment is primarily general maintenance work
 53 or food service activities.***

1 ***[2.]*** **1.*** Section 15 of P. L. 1940, c. 153 (C. 34:2-21.15)
 2 is amended to read as follows :

3-4 15. Except as hereinafter provided as to [newspaperboys] *news-*
 5 *paper carriers*, no [boy] *minor* under 14 years of age [and no girl
 6 under 18 years of age] may engage in any street trade, which term,
 7 for the purpose of this section shall include the selling, offering for
 8 sale, soliciting for, collecting for, displaying, or distributing any
 9 articles, goods, merchandise, commercial service, posters, circulars,
 10 newspapers or magazines or in blacking shoes on any street or other
 11 public place or from house to house. No [child] *minor* under 12
 12 years of age may be employed in agricultural pursuits.

13 Whenever a [child] *minor* has graduated from vocational school,
 14 approved by the Commissioner of Education and is ***[at least]***
 15 17 year of age, [his] *the minor's* diploma or certified copy thereof

16 and an employment certificate mailed to the employer by the issuing
17 officer shall be deemed a special permit to engage in those pursuits
18 in which **[he]** *the minor* majored in said vocational school during
19 those hours permitted for persons 18 years of age and over.

20 Except as hereinafter provided as to **[newspaperboys]** *news-*
21 *paper carriers*, whenever a **[child]** *minor* under 16 years of age
22 desires to work during such times as the schools of the district in
23 which **[he]** *the minor* resides are not in session in any street trade
24 or in agricultural pursuits, the parent, guardian or other person
25 having the custody and control of the **[child]** *minor* may file with
26 the issuing officer in the school district in which the **[child]** *minor*
27 resides an application for a special permit authorizing such work.
28 Such application shall show the exact character of the work the
29 **[child]** *minor* is to do, and the hours and wages and special condi-
30 tions under which said work is to be performed.

31 If upon investigation it is found that the facts set forth in the
32 application are true and that the work will not interfere with the
33 **[child's]** *minor's* health or standing in school, the issuing officer
34 shall, upon presentation to **[him]** *the minor* of the same proof of
35 age as is required for the issuance of an employment certificate,
36 issue a special permit, allowing the **[child]** *minor* to work at such
37 times as the public schools in the district are not in session, but
38 such work except in agricultural pursuits, and as **[newspaper-**
39 **boys]** *newspaper carriers*, to be otherwise subject to the maximum
40 hours of labor provisions set for minors under 16 years of age in
41 section 3 of this act; provided, that nothing in this act shall prevent
42 **[newspaperboys]** *newspaper carriers* as defined in this act, between
43 12 and 14 years of age, from delivering, soliciting, selling and
44 collecting for newspapers on routes in residential neighborhoods
45 between the hours of 6:00 o'clock in the morning and 7:00 o'clock
46 in the evening of any day; and **[newspaperboys]** *newspaper*
47 *carriers* 14 years of age and older from delivering, soliciting, selling
48 and collecting for newspapers on routes in residential neighbor-
49 hoods between the hours of 5:30 o'clock in the morning and 8:00
50 o'clock in the evening of any day; and provided further that no
51 **[newspaperboy]** *newspaper carrier* under the age of 18 years shall
52 be permitted to engage in such occupation beyond the period of time
53 wherein the combined hours devoted to said occupation as a **[news-**
54 **paperboy]** *newspaper carrier* and the hours in school shall exceed
55 a total of 40 hours per week and not more than 8 hours in any 1 day;
56 and provided, further, that **[children]** *minors* engaged in agricul-
57 tural pursuits may be employed no more than 10 hours per day.

57A Such special permit shall show the name, address, and date of
 58 birth of the minor for whom it is issued, the kind of proof of age
 59 submitted, the nature of the occupation in which the minor is to
 60 engage, and such other information as the commissioner of Edu-
 61 cation may require.

62 Any such special permit for work in agriculture shall be issued
 63 for a period not to exceed 6 months and shall show its date of
 64 expiration. Any person employing a minor under 16 years of age
 65 in agriculture shall obtain such a certificate from the minor and
 66 keep it on file during the period of the minor's employment and
 67 shall return it to the minor to whom it is issued upon termination
 68 of **his** *the minor's* employment.

69 Upon application by the parent, guardian or other person having
 70 custody and control of a **newspaperboy** *newspaper carrier* as
 71 defined in this act, between the ages of 12 and 18 years of age, to the
 72 publisher of any newspaper in this State and upon receiving satis-
 73 factory proof of age and a signed statement of physical fitness, such
 74 publisher may issue to such **newspaperboy** *newspaper carrier* a
 75 special permit on a form prescribed and approved by the Commis-
 76 sioner of Education, whereby **he** *the newspaper carrier* shall be
 77 permitted to deliver, solicit, sell and collect for newspapers outside
 78 of **his** *the newspaper carrier's* school hours on residential routes,
 79 and on Sundays and during school vacations and no other employ-
 80 ment certificate shall be required.

81 Such special permit shall show the name, address and date of
 82 birth of the **newspaperboy** *newspaper carrier* for whom it is
 83 issued, and such other information as the Commissioner of Educa-
 84 tion may require.

85 The publisher shall forthwith mail 3 copies of such special permit
 86 to the issuing officer as defined in section 1 of this act, one of which
 87 copies shall be forwarded to the Commissioner of Education and
 88 one copy to the Commissioner of Labor and Industry in such man-
 89 ner as may be provided by regulation of said commissioners. A
 90 copy of such special permit shall also be furnished by the publisher
 91 to the parent, guardian or other person having custody and control
 92 of the **newspaperboy** *newspaper carrier* and the publisher shall
 93 retain at all times a file copy thereof.

94 The special permit shall remain in full force and effect unless
 95 and until the publisher has knowledge of or is notified by the issuing
 96 officer or the Commissioner of Labor and Industry that the **news-
 97 paperboy** *newspaper carrier* is not physically fit or that in the
 98 opinion of the issuing officer or the Commissioner of Labor and
 99 Industry, engaging in the occupation as a **newspaperboy** *news-*

100 *paper carrier* will be harmful to [his] *the newspaper carrier's*
 101 education. In such case, the said special permit shall be suspended
 102 unless and until the issuing officer shall revoke said notification.
 103 In the event of such notification and suspension, however, if either
 104 the parent, guardian or other person having custody and control of
 105 the [newspaperboy] *newspaper carrier* or the publisher shall deem
 106 such decision to be erroneous, an appeal may be made to the Com-
 107 missioner of Education who shall have authority to affirm, reverse
 108 or modify such decision of the issuing officer or the Commissioner
 109 of Labor and Industry.

110 The publisher shall keep a record of the name, address and birth
 111 date of each [newspaperboy] *newspaper carrier* to whom such
 112 special permit is issued; the date said [newspaperboy] *newspaper*
 113 *carrier* commenced and ceased delivering newspapers published by
 114 said publisher together with a record of the number of newspapers
 115 sold to each [newspaperboy] *newspaper carrier* and a general
 116 description of the area of the route served by each [newspaperboy]
 117 *newspaper carrier*. Such records shall be kept on file by said
 118 publisher for a period of 2 years after the [newspaperboy] *news-*
 119 *paper carrier* has ceased delivering newspapers published by said
 120 publisher.

121 The special permit shall remain in full force and effect unless
 122 and until the publisher is notified by the issuing officer or the Com-
 123 missioner of Labor and Industry that the [newspaperboy] *news-*
 124 *paper carrier* is not physically fit or that the [newspaperboy's]
 125 *newspaper carrier's* school record is such that engaging in the
 126 occupation of a [newspaperboy] *newspaper carrier* will be harmful
 127 to [his] *the **newspaper** carrier's* education. In such case, how-
 128 ever, if either the parent, guardian or other person having custody
 129 and control of the [newspaperboy] *newspaper carrier* or the
 130 publisher shall deem such decision to be erroneous, an appeal may
 131 be made to the Commissioner of Education who shall have authority
 132 to reverse or modify such decision of the issuing officer or the Com-
 133 missioner of Labor and Industry.

1 ***[3.]*** **2.*** Section 17 of P. L. 1940, c. 153 (C. 34:2-21.17)

2 is amended to read as follows:

3 17. No minor under 16 years of age shall be employed, permitted
 4 or suffered to work in, about, or in connection with power-driven
 5 machinery.

6 No minor under 18 years of age shall be employed, permitted or
 7 suffered to work in, about, or in connection with the following:

8 The manufacture or packing of paints, colors, white lead, or red
 9 lead;

- 10 The handling of dangerous or poisonous acids or dyes; injurious
 11 quantities of toxic or noxious dust, gases, vapors or fumes;
- 12 Work involving exposure to benzol or any benzol compound which
 13 is violatile or which can penetrate the skin;
- 14 The manufacture, transportation or use of explosives or highly
 15 inflammable substances;
- 16 Oiling, wiping, or cleaning machinery in motion or assisting
 17 therein;
- 18 Operation or helping in the operation of power-driven wood-
 19 working machinery; provided, that apprentices operating under
 20 conditions of bona fide apprenticeship may operate such machines
 21 under competent instruction and supervision;
- 22 Grinding, abrasive, polishing or buffing machines; provided, that
 23 apprentices operating under conditions of bona fide apprentice-
 24 ship may grind their own tools;
- 25 Punch presses or stamping machines if the clearance between the
 26 ram and the dye or the stripper exceeds $\frac{1}{4}$ inch;
- 27 Cutting machines having a guillotine action;
- 28 Corrugating, crimping or embossing machines;
- 29 Paper lace machines;
- 30 Dough brakes or mixing machines in bakeries or cracker
 31 machinery;
- 32 Calender rolls or mixing rolls in rubber manufacturing;
- 33 Centrifugal extractors, or mangles in laundries or dry cleaning
 34 establishments;
- 35 Ore reduction works, smelters, hot rolling mills, furnaces,
 36 foundries, forging shops, or any other place in which the heating,
 37 melting, or heat treatment of metals is carried on;
- 38 Mines or quarries;
- 39 Steam boilers carrying a pressure in excess of 15 pounds;
- 40 Construction work of any kind;
- 41 Fabrication or assembly of ships;
- 42 Operation or repair of elevators or other hoisting apparatus;
- 43 The transportation of payrolls other than within the premises
 44 of the employer.
- 45 No minor under 18 years of age shall be employed, permitted, or
 46 suffered to work in, about, or in connection with any establishment
 47 where alcoholic liquors are distilled, rectified, compounded, brewed,
 48 manufactured, bottled, or are sold for consumption on the premises,
 49 or in a pool or billiard room; provided, however, this section shall
 50 not apply to minors 16 years of age or over, employed as pinsetters
 51 only in public bowling alleys as provided in section 3 hereof.
 52 Minors 14 years of age or over may be employed as golf course
 53 caddies and pool attendants.

54 **[No girl under the age of 18 years shall be employed, permitted,**
 55 **or suffered to work as a messenger in the distribution or delivery**
 56 **of goods or messages for any person, firm or corporation engaged**
 57 **in the business of transmitting or delivering goods or messages.]**

58 No minor under 18 years of age shall be employed, permitted, or
 59 suffered to work in any place of employment, or at any occupation
 60 hazardous or injurious to the life, health, safety, or welfare of
 61 such minor, as such occupation shall, from time to time, be de-
 62 termined and declared by the Commissioner of Labor and Industry
 63 to be hazardous or injurious to the life, health, safety, or welfare
 64 of such minors, after a public hearing thereon and after such notice
 65 as the commissioner may by regulation prescribe.

66 None of the provisions of this section regarding employment in
 67 connection with alcoholic liquors shall be construed to prevent the
 68 employment of minors *****[between]*** 16 *****[and 18]***** years
 69 of age or more in a restaurant as defined in section 1 and as pro-
 70 vided for in section 3 of this act, or in the executive offices, main-
 71 tenance departments, or pool or beach areas of a hotel, motel or
 72 guesthouse; provided, however, that no minor shall engage in the
 73 preparation, sale or serving of alcoholic beverages, nor in the sale
 74 of cigarettes or other tobacco products, nor in the preparation or
 75 sale of photographs, nor in any dancing or theatrical exhibition or
 75A performance while so employed.**

76 Nothing in this section shall be deemed to apply to the work done
 77 by pupils in public or private schools of New Jersey, under the
 78 supervision and instruction of officers or teachers of such organiza-
 79 tions or schools, or to a **[child] minor** who is *****[at least]***** 17
 80 years of age employed in the type of work in which **[he]**
 81 *****[the]*** *****such***** minor majored under the conditions of the
 82 special vocational school graduate permit provided in section 15
 83 of this act (C. 34:2-21.15).**

1 *****[4.]*** *****3.***** R. S. 34:2-29 is amended to read as follows:**

2 34:2-29. Every employer of one or more **[females] employees**
 3 in any manufacturing, mechanical or mercantile establishment or
 4 in the services and operations incident to any commercial employ-
 5 ment shall provide and maintain suitable seats conveniently situ-
 6 ated and shall permit the use of such seats by **[female] employees**
 7 at all times except when necessarily engaged in the discharge of
 8 duties that cannot properly be performed in a sitting position.

1 *****[5.]*** *****4.***** R. S. 34:2-30 is amended to read as follows:**

2 34:2-30. The commissioner shall see that the provisions of
 3 **[section] R. S. 34:2-29** of this title are carried out in all mercantile

4 establishments, and ***[he]*** shall, at reasonable intervals, ex-
 5 amine and inspect all such mercantile establishments to see that the
 6 seats required to be provided by [said section] R. S. 34:2-29 are
 7 fully maintained and that [female] employees are permitted to
 8 use them freely and without hindrance.

1 ***[6.]*** ***5.*** R. S. 34:2-33 is amended to read as follows:

2 34:2-33. Every mercantile establishment shall maintain sufficient,
 3 suitable, clean, convenient and separate water-closets for each sex
 4 which shall be properly screened and ventilated. The water-closets
 5 for ***[women]*** ***each sex*** shall have separate approaches.
 6 A suitable and convenient wash room ***for each sex*** shall be
 7 provided if ordered by the commissioner.

8 A dressing room shall be provided for [female] ***[em-
 9 ployees]*** ***each sex*** when the commissioner shall so order.

1 ***[7.]*** ***6.*** Section 12 of P. L. 1941, c. 308 (C.
 2 34:6-136.12) is amended to read as follows:

3 12. Conditions of manufacture. Industrial home work shall be
 4 performed; (1) Only by a person possessing a valid home worker's
 5 certificate, and resident in the home in which the work is done;
 6 (2) Only by persons 16 years of age or over; (3) Only in accord-
 7 ance with the wages, hours or working conditions established for
 8 labor in factories or businesses by persons of the same age [and
 9 sex] as the home workers by State law or regulation or any
 10 applicable Federal law or regulation; (4) Only in accordance with
 11 the provisions of any State law or regulation, including the provi-
 12 sions of this act, or of any applicable Federal law or regulation,
 13 relating to employment and applicable to home workers; and (5)
 14 Only in a home that is clean and sanitary and free from any
 15 infectious, contagious or communicable disease.

16 Every employer shall be deemed to have accepted responsibility
 17 for the observance of the conditions of manufacture specified by
 18 this section and of such terms and conditions as may be specified
 19 pursuant to section 6 of this act; and each of such conditions shall
 20 be deemed to be a condition of the employer's permit to the same
 21 extent as though it were expressly set forth therein.

1 ***[8.]*** ***7.*** Section 10 of P. L. 1951, c. 337 (C. 34:8-33)
 2 is amended to read as follows:

3 10. No employment agency shall:

4 (1) Conduct a lodging house for the unemployed unless it is
 5 separate and apart from the agency.

6 (2) Conduct its business, or any phase thereof, in any room or
 7 place where

8 (a) person or persons sleep or conduct their household
9 affairs, or

10 (b) boarders or lodgers are kept.

11 (3) Charge or accept payment of any fees other than shown by
12 its schedule of fees filed with the commissioner and posted in the
13 agency.

14 (4) Accept and receive any valuable thing or gift as or in lieu
15 of a fee.

16 (5) Divide or offer to divide fees, directly or indirectly, with
17 prospective or actual employers or any agent, employee, or repre-
18 sentative of said employers.

19 (6) Accept payment of any fee or attempt to collect any fees for
20 any service rendered with relation to any specific help or employ-
21 ment which the applicant has not accepted or obtained through the
22 agency in cases where it is established that the applicant did not
23 accept or obtain such help or employment through the agency.

24 (7) Make any statement or in any way allege or indicate to any
25 applicant sent to seek employment at any place or by any prospec-
26 tive employer that work or employment is available at any such
27 place or by any such prospective employer unless the agency does
28 have a bona fide order for an employee to fill the job alleged or
29 indicated as being available.

30 (8) Send or cause to be sent any [female] *person* to become a
31 servant or inmate of, or to enter, any place of bad repute, house of
32 ill-fame or assignation, or to any house or place of amusement kept
33 for immoral purposes, or to a place resorted to for the purposes
34 of prostitution, or to [a] *an illegal* gambling house.

35 (9) Knowingly permit persons of bad character, prostitutes,
36 [gamblers,] intoxicated persons or procurers to frequent the
37 agency.

38 (10) Accept any application for employment made by or on
39 behalf of any [child] *minor* under the age of 16 years, or place or
40 assist in placing any such [child] *minor* in any employment what-
41 ever or place or assist in placing any minor under 18 years of age
41A in any unlawful occupation.

42 (11) Induce or compel any person to enter the agency, for any
43 purpose, by the use of force or by taking forcible possession of
44 such person's property.

45 (12) Publish or cause to be published any false or fraudulent or
46 misleading notice or advertisement. All advertisements of any
47 agency by means of cards, circulars or signs, or in newspapers and
48 other publications, and all letterheads, receipts and blanks shall
49 contain the name and address of the agency, and no agency shall

50 give any false promise or false representation concerning employ-
 51 ment to any applicant for employment or help, or enter into any
 52 contract with any applicant for help or employment or induce or
 53 try to induce any applicant for help or employment to make any
 54 agreement, the provisions of which contract or agreement, if ful-
 55 filled, is in violation of any provisions of this act.

56 (13) Induce or attempt to induce any **persons** *person*
 57 working under contract with **this** *an* employer to leave
 58 the employment **under which he is working** under said
 59 contract until such time as said contract is completed or the em-
 60 ployee is no longer responsible for its completion.

1 **9.** **8.** (New section) Except with respect to the
 2 minimum wage rates established by P. L. 1966, c. 113, s. 5, the pro-
 3 visions of the "New Jersey State Wage and Hour Law," P. L. 1966,
 4 c. 113 (C. 34:11-56a1 et seq.) are applicable to the employment of
 5 minors. Wage orders pertaining to minors *including those pro-*
 6 *mulgated under R. S. 34:11-34 through R. S. 34:11-56,* on the
 7 effective date of this act shall remain in force until superseded by
 8 wage orders or regulations issued pursuant to P. L. 1966, c. 113.

1 **9.** Section 18 of P. L. 1966, c. 113 (C. 34:11-56 a 17) is
 2 amended to read as follows:

3 18. (a) The commissioner, to the extent necessary in order to
 4 prevent curtailment of opportunities for employment, shall by
 5 regulation provide for the employment of learners, apprentices
 6 and students, under special certificates issued pursuant to regula-
 7 tions of the commissioner, at such wages lower than the minimum
 8 wage applicable under the provisions of this act and subject to such
 9 limitations as to time, number, proportion and length of service as
 10 the commissioner shall prescribe.

11 (b) For any occupation for which minimum fair wage order rates
 12 *or minimum wage rates* are established by or pursuant to this act
 13 the commissioner or the director may cause to be issued to an
 14 employee, including a learner, apprentice or student, whose earning
 15 capacity is impaired by age or physical or mental deficiency or
 16 injury, a special license authorizing employment at such wages
 17 less than such minimum **fair** wage rates and for such period of
 18 time as shall be fixed by the commissioner or the director and stated
 19 in the license. *******

1 10. R. S. 34:15-68 is amended to read as follows:

2 34:15-68. In all cases where it shall be necessary to make a
 3 physical examination of **a female** *an* employee in an inquiry to
 4 award compensation, the examination shall be made by a **female**
 5 **physician if the employee so requests** *physician who is the same*
 6 *sex as the employee if so requested by the employee.*

1 ***[11. Section 2 of P. L. 1955, c. 64 (C. 34:16-21) is amended to
2 read as follows:

3 2. There is hereby established the Rehabilitation Commission
4 which is placed in the Department of Labor and Industry for
5 housekeeping purposes. The commission is hereby designated as
6 the sole State agency to administer and supervise vocational re-
7 habilitation and independent living rehabilitation authorized by
8 this chapter. The commission shall consist of the Commissioner
9 of Labor and Industry, the Commissioner of Education, the Com-
10 missioner of the Department of [Institutions and Agencies] *Human*
11 *Services*, the Commissioner of Health, ex officio, or such deputy as
12 any of them respectfully designate, and eight members appointed
13 by the Governor.

14 Of the eight members so appointed by the Governor, one and only
15 one shall be a person who by reason of vocation, activities and
16 affiliations can be considered as a representative of the employers
17 of labor of the State. One member, and only one, shall be a person
18 who by reason of vocation, activities and affiliations can be con-
19 sidered as a representative of organized labor of the State. Two
20 members[, one of whom shall be a woman,] shall be chosen because
21 of their special interest in and knowledge of the field of social
22 welfare.]***

1 ***[12.]*** ***11.*** R. S. 43:21-4 is amended to read as
1A follows:

2 43:21-4. Benefit eligibility conditions. An unemployed individual
3 shall be eligible to receive benefits with respect to any week only if
4 it appears that:

5 (a) [He] *The individual* has registered for work at, and there-
6 after continued to report at, an employment office in accordance
7 with such regulations as the division may prescribe, except that the
8 division may, by regulation, waive or alter either or both of the
9 requirements of this subsection as to individuals attached to regu-
10 lar jobs, and as to such other types of cases or situations with re-
11 spect to which the division finds that compliance with such require-
12 ments would be oppressive, or would be inconsistent with the pur-
13 pose of this act; provided, that no such regulation shall conflict
14 with subsection (a) of R. S. 43:21-3.

15 (b) [He] *The individual* has made a claim for benefits in accord-
16 ance with the provisions of subsection (a) of R. S. 43:21-6.

17 (c) [He] *The individual* is able to work, and is available for
18 work, and has demonstrated [that he is] *to be* actively seeking
19 work, except as hereinafter provided in this subsection or in sub-
20 section (f) of this section:

21 The director may*[,] * [in his] * [using discretion,]* modify the
22 requirement of actively seeking work if*[,] * [in his judgment]
23 * [judging that,]* such modification of this requirement is war-
24 ranted by economic conditions.

25 No individual, who is otherwise eligible, shall be deemed ineligi-
26 ble, or unavailable for work, because [he] *the individual* is on
27 vacation, without pay, during said week, if said vacation is not the
28 result of [his] *the individual's* own action as distinguished from
29 any collective action of a collective bargaining agent or other action
30 beyond [his individual] *the individual's* control.

31 Subject to such limitations and conditions as the division may
32 prescribe, an individual, who is otherwise eligible, shall not be
33 deemed unavailable for work or ineligible because [he] *the indi-*
34 *vidual* is attending a training program approved for [him] *the*
35 *individual* by the division to enhance [his] *the individual's* employ-
36 ment opportunities or because [he] *the individual* failed or refused
37 to accept work while attending such program. An unemployed
38 individual, who is otherwise eligible, shall not be deemed unavail-
39 able for work or ineligible solely by reason of [his] *the individual's*
40 attendance before a court in response to a summons for service on
41 a jury.

42 (d) [He] *The individual* has been totally or partially unem-
43 ployed for a waiting period of 1 week in the benefit year which
44 includes that week. When benefits become payable with respect to
45 the third consecutive week next following the waiting period, [he]
46 *the individual* shall be eligible to receive benefits as appropriate
47 with respect to the waiting period. No week shall be counted as a
48 week of unemployment for the purposes of this subsection:

49 (1) If benefits have been paid, or are payable with respect
50 thereto; provided, that the requirements of this paragraph shall be
51 waived with respect to any benefits paid or payable for a waiting
52 period as provided in this subsection;

53 (2) If it has constituted a waiting period week under temporary
54 disability benefits law;

55 (3) Unless the individual fulfills the requirements of subsections
56 (a) and (c) of this section;

57 (4) If with respect thereto, claimant was disqualified for benefits
58 in accordance with the provisions of subsection (d) of R. S. 43:21-5.

59 (e) With respect to a base year as defined in subsection (c) of
60 R. S. 43:21-19 [he] *the individual* has established at least 20 base
61 weeks as defined in subsection (t) of R. S. 43:21-19, or, in the
62 alternative, has earned \$2,200.00 or more in [his] *the individual's*
63 base year, except that with respect to benefit years commencing on

64 or after January 1, 1978, an individual's base week wages in **[his]**
 65 *the* base year shall include wages paid for previously uncovered
 66 services. For the purposes of this subsection, the term "previously
 67 uncovered services" means services—

68 (1) Which were not employment as defined in R. S. 43:21-19
 69 (i)(1) and were not services covered pursuant to R. S. 43:21-8 at
 70 any time during the 1-year period ending December 31, 1975; and

71 (2) Which—

72 (A) are agricultural labor (as defined in R. S. 43:21-19(i)(1)(I))
 73 or domestic service (as defined in R. S. 43:21-19(i)(1)(J)), or

74 (B) are services performed by an employee of a governmental
 75 unit or instrumentality in employment as defined in R. S. 43:21-19
 76 (i)(1)(B)(ii), or by an employee of a nonprofit educational institu-
 77 tion which is not an institution of higher education, as provided in
 78 R. S. 43:21-19(i)(1)(D)(iii):

79 except to the extent that assistance under Title II of the Emergency
 80 Jobs and Unemployment Assistance Act of 1974 was paid on the
 81 basis of such services. To the extent that the unemployment com-
 82 pensation fund is reimbursed pursuant to Section 121 of the
 83 Federal Unemployment Compensation Amendments of 1976 (Public
 84 Law 94-566), an employer's account shall not be charged for that
 85 portion of benefits paid to any individual attributable to base year
 86 wages for previously uncovered services, nor shall any nonprofit
 87 organization or governmental unit or instrumentality which elects
 88 to make payments in lieu of contributions into the unemployment
 89 fund be liable to make payments with respect to that portion of
 90 benefits paid to any individual attributable to base year wages for
 91 previously uncovered services as defined herein.

92 (f) (1) **[He]** *The individual* has suffered any accident or sickness
 93 not compensable under the Workers' Compensation Law (Title 34
 94 of the Revised Statutes) and resulting in **[his]** *the individual's*
 95 total disability to perform any work for remuneration, and would
 96 be eligible to receive benefits under this chapter (R. S. 43:21-1 et
 97 seq.) (without regard to the maximum amount of benefits payable
 98 during any benefit year) except for **[his]** *the* inability to work and
 99 has furnished notice and proof of claim to the division, in accord-
 100 ance with its rules and regulations, and payment is not precluded
 101 by the provisions of R. S. 43:21-3 (d); provided, however, that
 102 benefits paid under this subsection (f) shall be computed on the
 103 basis of only those base year wages earned by the claimant as a
 104 "covered individual" as defined in R. S. 43:21-27 (b); provided
 105 further, that no benefits shall be payable under this subsection to
 106 any individual:

107 (A) For any period during which such individual is not under
 108 the care of a legally licensed physician, dentist ***[or]*** **[podia-**
 109 **trist]***, *podiatrist or* chiropractor*;

110 (B) **[**For any period of disability due to pregnancy or resulting
 111 childbirth, miscarriage, or abortion, except for disability existing
 111A during the 4 weeks immediately before the expected birth of child,
 112 and the 4 weeks following the termination of the pregnancy;**]**
 113 (*Deleted by amendment, P. L., c.*)

114 (C) For any period of disability due to willfully or intention-
 115 ally self-inflicted injury, or to injuries sustained in the perpetration
 116 by the individual of a high misdemeanor;

117 (D) For any week with respect to which or a part of which **[he]**
 118 *the individual* has received or is seeking benefits under any unem-
 119 ployment compensation or disability benefit law of any other state
 120 or of the United States; provided, that if the appropriate agency
 121 of such other state or of the United States finally determines that
 122 **[he]** *the individual* is not entitled to such benefits, ****[his]****
 123 ****this**** disqualification shall not apply;

124 (E) For any week with respect to which or part of which **[he]**
 125 *the individual* has received or is seeking disability benefits under
 126 the temporary disability benefits law;

127 (F) For any period of disability commencing while such indi-
 128 vidual is a "covered individual" as defined in subsection 3 (b) of
 129 the temporary disability benefits law (P. L. 1948, c. 110).

130 (2) Benefit payments under this subsection shall be charged to
 131 and paid from the State disability benefits fund established by the
 132 temporary disability benefits law, and shall not be charged to any
 133 employer account in computing any employer's experience rate
 134 for contributions payable under this chapter.

135 (g) Benefits based on service in employment defined in sub-
 136 paragraphs (B) and (C) of R. S. 43:21-19 (i) (1) shall be payable
 137 in the same amount and on the terms and subject to the same
 138 conditions as benefits payable on the basis of other service subject
 139 to the Unemployment Compensation Law; except that notwith-
 140 standing any other provisions of the Unemployment Compensa-
 141-142 tion Law:

143 (1) With respect to service performed after December 31, 1977,
 144 in an instructional, research, or principal administrative capacity
 145 for an educational institution, benefits shall not be paid based on
 146 such services for any week of unemployment commencing during
 147 the period between 2 successive academic years, or during a sim-
 148 ilar period between two regular terms, whether or not successive,

149 or during a period of paid sabbatical leave provided for in the
150 individual's contract, to any individual if such individual performs
151 such services in the first of such academic years (or terms) and if
152 there is a contract or a reasonable assurance that such individual
153 will perform services in any such capacity for any educational
154 institution in the second of such academic years or terms;

155 (2) With respect to service performed after December 31, 1977,
156 in any other capacity for an educational institution (other than an
157 institution of higher education as defined in R. S. 43:21-19 (y)(2))
158 benefits shall not be paid on the basis of such services to any in-
159 dividual for any week which commences during a period between 2
160-161 successive academic years or terms if such individual performs
162 such services in the first of such academic years or terms and there
163 is a reasonable assurance that such individual will perform such
164 services in the second of such academic years or terms;

165 (3) With respect to those services described in paragraphs (1)
166 and (2) above, benefits shall not be paid on the basis of such services
167 to any individual for any week which commences during an estab-
168 lished and customary vacation period or holiday recess if such in-
169 dividual performs such services in the period immediately before
170 such vacation period or holiday recess, and there is a reasonable
171 assurance that such individual will perform such services in the
172 period immediately following such period or holiday recess.

173 (h) Benefits shall not be paid to any individual on the basis of
174 any services, substantially all of which consist of participating in
175 sports or athletic events or training or preparing to so participate,
176 for any week which commences during the period between two
177 successive sport seasons (or similar periods) if such individual
178 performed such services in the first of such seasons (or similar
179 periods) and there is a reasonable assurance that such individual
180 will perform such services in the later of such seasons (or similar
181 periods).

182 (i) (1) Benefits shall not be paid on the basis of services per-
183 formed by an alien unless such alien is an individual who has been
184 lawfully admitted for permanent residence or otherwise is per-
185 manently residing in the United States under color of law (includ-
186 ing an alien who is lawfully present in the United States as a result
187 of the application of the provisions of section 203 (a)(7) or section
188 212 (d)(5) of the Immigration and Nationality Act); provided,
189 that any modifications of the provisions of section 3304 (a)(14)
190 of the Federal Unemployment Tax Act as provided by Public Law
191 94-566 which specify other conditions or other effective dates than

192 stated herein for the denial of benefits based on services performed
 193 by aliens and which modifications are required to be implemented
 194 under State law as a condition for full tax credit against the tax
 195 imposed by the Federal Unemployment Tax Act, shall be deemed
 196 applicable under the provisions of this section.

197 (2) Any data or information required of individuals applying for
 198 benefits to determine whether benefits are not payable to them be-
 199 cause of their alien status shall be uniformly required from all
 200 applicants for benefits.

201 (3) In the case of an individual whose application for benefits
 202 would otherwise be approved, no determination that benefits to
 203 such individual are not payable because of [his] alien status shall
 204 be made except upon a preponderance of the evidence.

205 (j) Notwithstanding any other provision of this chapter, the
 206 director may, to the extent that [he deems] *it may be deemed* effi-
 207 cient and economical, provide for consolidated administration by
 208 one or more representatives or deputies of claims made pursuant
 209 to subsection (f) of this section with those made pursuant to Arti-
 210 cle III (State plan) of the Temporary Disability Benefits Law.

1 ***[13.]*** **12.*** R. S. 43:21-5 is amended to read as
 1A follows:

2 43:21-5. An individual shall be disqualified for benefits:

3 (a) For the week in which [he] *the individual* has left work
 4 voluntarily without good cause attributable to such work, and for
 5 each week thereafter until [he] *the individual* has earned in
 6 employment (which may be with an employing unit having in
 7 employment one or more individuals) at least four times [his]
 8 *the individual's* weekly benefit rate, as determined in each case[;
 9 provided, however, that no disqualification shall be applicable to
 10 a woman who left or was separated from her work solely by
 11 reason of her pregnancy].

12 (b) For the week in which [he] *the individual* has been suspended
 13 or discharged for misconduct connected with [his] work, and
 14 for the 5 weeks which immediately follow such week (in addition to
 15 the waiting period), as determined in each case. In the event such
 16 discharge should be rescinded by the employer voluntarily or as a
 17 result of mediation or arbitration this subsection (b) shall not
 18 apply, provided, however, an individual who is restored to employ-
 19 ment with back pay shall return any benefits received under this
 20 chapter for any week of unemployment for which [he] *the indi-*
 21 *vidual* is subsequently compensated by ***[his]*** **the***
 21A employer.

22 (c) If it is found that **[he]** *the individual* has failed, without good
 23 cause, either to apply for available, suitable work when so directed
 24 by the employment office or the director or to accept suitable work
 25 when *it is* offered **[him]**, or to return to **[his]** *the individual's*
 26 customary self-employment (if any) when so directed by the
 27 director. Such disqualification shall continue for the week in which
 28 such failure occurred and for the 3 weeks which immediately follow
 29 such week (in addition to the waiting period), as determined:

30 (1) In determining whether or not any work is suitable for an
 31 individual, consideration shall be given to the degree of risk in-
 32 volved to **[his]** health, safety and morals, **[his]** *the individual's*
 33 physical fitness and prior training, ****[his]**** experience and prior
 34 earnings, **[his]** *the individual's* length of unemployment and
 35 prospects for securing local work in **[his]** *the individual's* custom-
 36 ary occupation, and the distance of the available work from **[his]**
 37 *the individual's* residence.

38 (2) Notwithstanding any other provisions of this chapter, no
 39 work shall be deemed suitable and benefits shall not be denied under
 40 this chapter to any otherwise eligible individual for refusing to
 41 accept new work under any of the following conditions: (a) If the
 42 position offered is vacant due directly to a strike, lockout, or other
 43 labor dispute; (b) If the remuneration, hours, or other conditions
 44 of the work offered are substantially less favorable to the individual
 45 than those prevailing for similar work in the locality; (c) If as a
 46 condition of being employed the individual would be required to
 47 join a company union or to resign from or refrain from joining
 48 any bona fide labor organization.

49 (d) If it is found that this unemployment is due to a stoppage
 50 of work which exists because of a labor dispute at the factory,
 51 establishment or other premises at which *****[he]***** *****the indi-**
 52 **vidual***** is or was last employed**[,]**. **[no]** No disqualification
 53 under this subsection shall apply if it is shown that:

54 (1) **[He]** *The individual* is not participating in or financing or
 55 directly interested in the labor dispute which caused the stoppage
 56 of work; and

57 (2) **[He]** *The individual* does not belong to a grade or class of
 58 workers of which, immediately before the commencement of the
 59 stoppage, there were members employed at the premises at which
 60 the stoppage occurs, any of whom are participating in or financing
 61 or directly interested in the dispute; provided, that if in any case
 62 in which (1) or (2) above applies separate branches of work which
 63 are commonly conducted as separate businesses in separate prem-

64 ises are conducted in separate departments of the same premises,
 65 each such department shall for the purposes of this subsection,
 66 be deemed to be a separate factory, establishment, or other
 67 premises:

68 (e) For any week with respect to which **[he]** *the individual* is
 69 receiving or has received remuneration in lieu of notice.

70 (f) For any week with respect to which or a part of which **[he]**
 71 *the individual* has received or is seeking unemployment benefits
 72 under an unemployment compensation law of any other state or of
 73 the United States: provided, that if the appropriate agency of such
 74 other state or of the United States finally determines that **[he]** *the*
 75 *individual* is not entitled to such unemployment benefits, this dis-
 76 qualification shall not apply.

77 (g) (1) For a period of 17 weeks from the date of the discovery
 78 by the division of the illegal receipt of benefits contrary to the
 79 provisions of this chapter as the result of any false or fraudulent
 80 representation and **[his]** *the individual's* maximum total benefits
 81 shall be reduced by an amount equal to 17 times **[his]** *the indi-*
 82 *vidual's* weekly benefit rate in the benefit year in existence at the
 83 time of the discovery and in a benefit year established within
 84 1 year thereafter, but the maximum reduction shall not exceed
 85 17 times the weekly benefit rate; provided, that any such disquali-
 86 fication may be appealed in the same manner as any other
 87 disqualification imposed hereunder; and, provided further, that a
 88 conviction in the courts of this State arising out of the illegal
 89 receipt of such benefits in any proceeding instituted against **[him]**
 90 *the individual* under the provisions of this chapter or any other law
 91 of this State, shall be conclusive upon the appeals tribunal and the
 92 board of review.

93 (2) A disqualification under this subsection shall not preclude
 94 the prosecution of any civil, criminal or administrative action or
 95 proceeding to enforce other provisions of this chapter for the
 96 assessment and collection of penalties or the refund of any amounts
 97 collected as benefits under the provisions of R. S. 43:21-16, or to
 98 enforce any other law where an individual obtains or attempts to
 99 obtain by theft or robbery or false statements or representations
 100 any money from any fund created or established under this chapter
 101 or any negotiable or nonnegotiable instrument for the payment
 102 of money from such funds, or to recover money erroneously or
 103 illegally obtained by an individual from any fund created or estab-
 104 lished under this chapter.

1 *****[14.]***** ***13.*** Section 5 of P. L. 1948, c. 110 (C. 43:21-29)
 2 is amended to read as follows:

3 5. Compensable disability. Disability shall be compensable sub-
 4 ject to the limitations of this act, where a covered individual suffers
 5 any accident or sickness not arising out of and in the course of
 6 **[his]** *the individual's* employment or if so arising not compensable
 7 under the **[workmen's]** *workers'* compensation law (Title 34 of
 8 the Revised Statutes), and resulting in *****[his]***** ****the indi-*
 9 *vidual's**** total inability to perform the duties of **[his]** employ-
 10 ment. **[For the purposes of this act, pregnancy may be deemed to**
 11 **be a sickness during the 4 weeks immediately preceding the ex-**
 12 **pected birth of child and the 4 weeks immediately following the**
 13 **termination of the pregnancy.]**

1 *****[15.]***** *****14.***** Section 15 of P. L. 1940, c. 110 (C.
 2 43:21-39) is amended to read as follows:

3 15. Limitation of benefits. Notwithstanding any other provision
 4 of the Temporary Disability Benefits Law, no benefits shall be pay-
 5 able under the State Plan to any person:

6 (a) for the first 7 consecutive days of each period of disability
 7 except that if benefits shall be payable for 3 consecutive weeks with
 8 respect to any period of disability commencing on or after January
 9 1, 1968, then benefits shall also be payable with respect to the first
 10 7 days thereof;

11 (b) for more than 26 weeks with respect to any one period of
 12 disability;

13 (c) for any period of disability which did not commence while the
 14 claimant was a covered individual;

15 (d) for any period during which the claimant is not under the
 16 care of a legally licensed physician, dentist, **[chiropracist]** *podia-*
 17 *trist* or chiropractor, who, when requested by the division, shall
 18 certify within the scope of **[his]** *the ***practitioner's**** practice,
 19 the disability of the claimant, the probable duration thereof, and
 20 the medical facts within **[his]** *the practitioner's* knowledge;

21 (e) **[for any period of disability due to pregnancy or resulting**
 22 **childbirth, miscarriage, or abortion, except for disability existing**
 23 **during the 4 weeks immediately before the expected birth of child**
 24 **and the 4 weeks following the termination of the pregnancy:]**
 25 *(deleted by amendment, P. L. , c. .)*

26 (f) for any period of disability due to willfully and intentionally
 27 self-inflicted injury, or to injury sustained in the perpetration by
 28 the claimant of a high misdemeanor;

29 (g) for any period during which the claimant performs any work
 30 for remuneration or profit;

31 (h) in a weekly amount which together with any remuneration

32 **[he]** *the claimant* continues to receive from **[his]** *the* employer
 33 would exceed **[his]** regular weekly wages immediately prior to
 34 disability;

35 (i) for any period during which a covered individual would be
 36 disqualified for unemployment compensation benefits under sub-
 37 section (d) of **[section]** *R. S. 43:21-5* **[of the Revised Statutes]**
 38 unless the disability commenced prior to such disqualification;
 39 and there shall be no other cause of disqualification or ineligi-
 40 bility to receive disability benefits hereunder except as may be
 41 specifically provided in this act.

1 *****[16.]***** ***15.*** Section 25 of P. L. 1948, c. 110 (C.
 2 43:21-49) is amended to read as follows:

3 25. (a) In the event of the disability of any individual covered
 4 under the State plan, the employer shall on the ninth day of dis-
 5 ability issue to the individual and to the division printed notices
 6 on division forms containing the name, address and Social Security
 7 number of the individual, such wage information as the division
 8 may require to determine the individual's eligibility for benefits,
 9 and the name, address, and division identity number of the em-
 10 ployer, together with a printed copy of benefit instructions of the
 11 division. Not later than 30 days after the commencement of the
 12 period of disability for which such notice is furnished, the in-
 13 dividual shall furnish to the division a notice and claim for dis-
 14 ability benefits under the State plan or for disability during
 15 unemployment. Upon the submission of such notices by the em-
 16 ployer and the individual, the division may issue benefit payments
 17 for periods not exceeding 3 weeks pending the receipt of medical
 18 proof. When requested by the division, such notice and proof
 19 shall include certification of total disability by the attending
 20 physician, or a record of hospital confinement. Failure to furnish
 21 notice and proof within the time or in the manner above provided
 22 shall not invalidate or reduce any claim if it shall be shown to
 23 the satisfaction of the division not to have been reasonably possible
 24 to furnish such notice and proof and that such notice and proof
 25 was furnished as soon as reasonably possible.

26 (b) A person claiming benefits under the State plan or for dis-
 27 ability during unemployment shall, when requested by the division,
 28 submit ****[himself]**** at intervals, but not more often than once a
 29 week, ****[for]**** ***to an** examination by a legally licensed physi-
 30 cian, dentist, **[chiropracist]** *podiatrist**, *chiropractor**, or public
 31 health nurse designated by the division. In all cases of physical
 32 examination of a **[female]** claimant, the examination shall be made

33 by a [female] designee of the division[, if the claimant so re-
 34 quests] **who shall be* the same sex as the claimant if so requested*
 35 *by the claimant.* All such examinations by physicians, dentists,
 36 [chiropractors] *podiatrists, **chiropractors*** or nurses designated
 37 by the division shall be without cost to the claimant and shall be
 38 held at a reasonable time and place. Refusal to submit to such a
 39 requested examination shall disqualify the claimant from all bene-
 40 fits for the period of disability in question, except as to benefits
 40a already paid.

41 (c) All medical records of the division, except to the extent
 42 necessary for the proper administration of this act, shall be con-
 43 fidential and shall not be published or be open to public inspection
 44 (other than to public employees in the performance of their public
 45 duties) in any manner revealing the identity of the claimant, or
 46 the nature or cause of [his] disability nor admissible in evidence in
 47 any action or special proceeding other than one arising under this
 48 act.

1 ***[17.]*** **16.** Section 8 of P. L. 1962, c. 37 (C. 10:5-2.1)
 2 is amended to read as follows:

3 8. Nothing contained in this act or in the act to which this is a
 4 supplement shall be construed to require or authorize any act
 5 prohibited by law, [nor to conflict with the provisions of chapter 2
 6 (child and female labor) of Title 34 (Labor) of the Revised Stat-
 7 utes,] ****nor to conflict with the provisions of chapter 2 (child*
 8 *labor) of Title 34 of the Revised Statutes,**** nor to require the em-
 9 ployment of any person under the age of [21] 18, nor to prohibit
 10 the establishment and maintenance of bona fide occupational quali-
 11 fications or the establishment and maintenance of apprenticeship
 12 requirements based upon a reasonable minimum age nor to prevent
 13 the termination or change of the employment of any person who
 14 in the opinion of [his] *the* employer, reasonably arrived at, is un-
 15 able to perform adequately [his] *the* duties ****of employment****,
 16 nor to preclude discrimination among individuals on the basis of
 17 competence, performance, conduct or any other reasonable stan-
 18 dard, nor to interfere with the operation of the terms or conditions
 19 and administration of any bona fide retirement, pension, employee
 20 benefit or insurance plan or program.

1 ***[18.]*** **17.** R. S. 34:1-26 through R. S. 34:1-28, R. S.
 2 34:11-20, R. S. 34:11-34 through R. S. 34:11-56, and R. S. 34:14-1
 3 through R. S. 34:14-11 are repealed.

1 ***[19.]*** **18.** This act shall take effect 120 days follow-
 2 ing enactment.

STATEMENT

This bill revises various sexually discriminatory sections of New Jersey's employment statutes. It implements the statutory recommendations made in the report on "Sex Discrimination in the Employment Statutes" which was recently issued by the Commission on Sex Discrimination in the Statutes. Created by P. L. 1978, c. 68, the commission is empowered both to review all statutes containing sex-based classifications in order to determine their relevance to contemporary standards of equality, and to propose a comprehensive revision of those statutes. This legislation reflects the commission's extensive survey of Title 34, Chapter 21 of Title 43 and Title 10 of the Revised Statutes.

Section 1 provides that female minors may work the same hours as male minors.

Section 2 provides that female minors may engage in "street trade" employment the same as male minors.

Section 3 provides that female minors may be employed as messengers the same as male minors.

Sections 4 and 5 provide that seats in places of employment be made available to men as well as women.

Section 6 provides that dressing rooms in places of employment be made available to men as well as women.

Section 7 removes the designation of sex from the regulation of industrial home work.

Section 8 provides that no male, as well as female, should be referred by an employment agency to a place of illegal activity.

Section 9 supplements the 1966 "New Jersey State Wage and Hour Law" so that its provisions are applicable to the employment of minors. Currently R. S. 34:11-34 through 56, enacted in 1933, authorizes the fixing of minimum wage standards for minors and women. Under this bill R. S. 34:11-34 through 56 is repealed because it is largely duplicative of the "New Jersey State Wage and Hour Law."

Section 10 allows an employee to request a physician of the same sex for a physical examination. Presently only female employees have this right.

Section 11 deletes the phrase requiring the appointment of one woman to the Rehabilitation Commission. This type of minimal quota is no longer appropriate. Women should be appointed to commissions to ultimately reflect their proportion in the population.

Sections 12, 13, 14 and 15 delete provisions in the Unemployment Compensation Law and Temporary Disability Benefits Law restricting the payment of temporary disability benefits for preg-

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nancy. Effective April 29, 1979, Title VII of the Civil Rights Act of 1964 was amended (P. L. 95-552) to require "that women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefits programs, as other persons not so affected but similar in their ability or inability to work." The United States Attorney General advised New Jersey that its provisions restricting the payment of temporary disability benefits to 4 weeks before the expected date of birth and 4 weeks following the termination of pregnancy were in conflict with the Federal amendment and could not be enforced as of April 29, 1979. These sections bring New Jersey into conformity with Title VII. Technical amendments describing chiropodists as podiatrists, in accordance with recognized modern usage, are also made.

Section 16 allows a claimant to request a physician of the same sex for a physical examination. Presently only female claimants have this right.

Section 17 deletes the phrase stating that the "Law Against Discrimination" should not conflict with the provisions of Title 34, chapter 2 (Child and Female Labor) of the Revised Statutes. There is no longer any need to refer to Title 34. Leaving in the exemption goes against the principle of the "Law Against Discrimination."

Section 18 repeals several employment statutes which are outmoded and no longer appropriate.

SENATE STATE GOVERNMENT, FEDERAL AND
INTERSTATE RELATIONS AND VETERANS AFFAIRS
COMMITTEE

STATEMENT TO
SENATE, No. 748
with Senate committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 4, 1980

This bill revises Title 34 (Labor and Worker's Compensation), Chapter 21 of Title 43 (Unemployment Compensation Law) and Title 10 (Civil Rights) in order to eliminate language based on sex discrimination. The bill implements the recommendations made in the report of the Commission on Sex Discrimination in the Statutes, created pursuant to P. L. 1978, c. 68.

The proposed changes in present statutes are as follows:

Section 1 provides that female minors may work the same hours as male minors.

Section 2 amends present law to make it possible for female minors to engage in such activities as selling, collecting or distributing articles, goods or services "on any street or other public place or from house to house," if they are over 14 years of age. Present law already permits such activities for male minors of that age.

Section 3 provides that female minors may be employed as messengers the same as male minors.

Sections 4 and 5 provide that seats in places of employment be made available to men as well as women.

Section 6 provides that dressing rooms in places of employment be made available to men as well as women.

Section 7 removes the designation of sex from regulation of industrial work done at home.

Section 8 provides that neither males nor females should be referred by an employment agency to a place of illegal activity.

Section 9 supplements the 1966 "New Jersey State Wage and Hour Law" so that its provisions are applicable to the employment of minors. Currently R. S. 34:11-34 through 56, enacted in 1933, authorizes the fixing of minimum wage standards for minors and women. Under this bill R. S. 34:11-34 through 56 is repealed because it is largely duplicative of the "New Jersey State Wage and Hour Law."

Section 10 allows an employee to request a physician of the same sex

for a physical examination. Presently, only female employees have this right.

Section 11 deletes the phrase which requires the appointment of one woman to the Rehabilitation Commission in the Department of Labor and Industry. This type of quota reflects the spirit of a time when women were given minimal representation on commissions and boards. By deleting the minimal quota the Legislature is reinforcing the right of women to representation on all commissions in proportion to their percentage of the population.

Sections 12, 13, 14 and 15 delete provisions in the Unemployment Compensation Law and Temporary Disability Benefits Law restricting the payment of temporary disability benefits for pregnancy. Effective April 29, 1979, Title VII of the Civil Rights Act of 1964 was amended (P. L. 95-552) to require "that women affected by pregnancy, childbirth or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefits programs, as other persons not so affected but similar in their ability or inability to work." The United States Attorney General advised New Jersey that its provisions restricting the payment of temporary disability benefits to 4 weeks before the expected date of birth and 4 weeks following the termination of pregnancy were in conflict with the Federal amendment and could not be enforced as of April 29, 1979. These sections bring New Jersey into conformity with Title VII. Technical amendments describing chiropodists as podiatrists, in accordance with recognized modern usage, are also made.

Section 16 allows a claimant to request a physician of the same sex for a physical examination. Presently only female claimants have this right.

Section 17 amends that section of the "Law Against Discrimination" (Title 10, C. 10:5-2.1) to delete the statement that nothing in the "Law Against Discrimination" is to be construed to be in conflict with chapter 2 of Title 34 (Child and Female Labor). The revisions to the law effected by this amendatory and supplementary act make such language unnecessary.

Section 18 repeals several employment statutes which are outmoded and no longer appropriate.

COMMITTEE AMENDMENTS

The committee made certain technical amendments in the language of the bill.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

SENATE, No. 748

[SECOND OFFICIAL COPY REPRINT]

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 9, 1980

The Assembly Labor Committee reports favorably this legislation proposed by the New Jersey Commission on Sex Discrimination in the Statutes to “contribute to the elimination of sex discrimination in employment.”

The committee reported the bill with a number of essentially technical amendments which will:

- (1) Reflect the recent enactment of P. L. 1980, c. 22, which made the kind of “sex-neutral” language changes proposed in section 1.;
- (2) Clarify age requirements in two sections of the child labor law for conformity with the Age of Majority Law;
- (3) Eliminate additional “sex-based gender references” based largely on requests of the State Division on Civil Rights and the aforementioned Commission;
- (4) Clarify the bill’s language to allow for separate sex employee wash rooms and dressing rooms in mercantile establishments;
- (5) Continue the application of the 1933-based wage orders pre-dating the current Wage and Hour Law and covering minors in mercantile, restaurant, beauty culture, laundry and cleaning and dyeing occupations;
- (6) Retain authorization for sub-minimum wage rates (below \$3.10 per hour in 1980) for the physically and mentally handicapped—including thousands of “sheltered workshop” personnel; and
- (7) Ensure that the prescribed age standards for employment in the “hazardous” activities section of the child labor law are neither brought into conflict with or preempted by the age discrimination provisions of the “Law Against Discrimination.”

A facet of the bill not specifically described in the sponsor’s statement or in the Senate committee statement is the deletion of the current provision in the State’s unemployment compensation law that now pro-

hibits disqualifications for unemployment benefits where a woman has voluntarily or involuntarily left her employment "solely by reason of her pregnancy." Presumably, the aforesaid right of pregnant women (who are able and available for work), is no longer considered by the commission to be justified under P. L. 95-555 (42 U.S.C. 2000 e-2), the most recent amendments to the Federal Civil Rights Act of 1964, effective April 29, 1979. Those amendments required that "women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work."
