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Posted on January 24, 2014 by [Epstein Becker & Green](#)

New Jersey Law Against Discrimination Amended to Add Protection for Employee Inquiries Regarding the Compensation of Others

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Retail industry employers are likely to be particularly impacted by amendments to the [New Jersey Law Against Discrimination \(“LAD”\)](#), which became effective January 22, 2014. The primary focus of the amendments was the addition of pregnancy as a protected classification and the requirement for employers to provide reasonable accommodation to allow women to maintain a healthy pregnancy or to recover from childbirth.[1] Employers should be aware, however, that the new law also added a provision to the LAD expressly prohibiting employer retaliation against employees for requesting information about any current or former employee’s:

- job title,
- occupational category,
- rate of compensation (including benefits),
- gender,
- race,
- ethnicity,
- military status, or
- national origin.

The law expressly protects information requests made for the purpose of assisting “in investigating the possibility of the occurrence of, or in taking of legal action regarding, potential discriminatory treatment concerning pay, compensation, bonuses, other compensation, or benefits.” The provision applies whether the requests have been made to current or former employees.

Of note, the law does not require an employee to whom an inquiry is made to disclose the requested information. Requesting employees are, however, protected from reprisal regardless of whether the request was responded to.

Available remedies under the LAD include back pay, reinstatement or front pay, compensatory damages (e.g., for emotional distress), and punitive damages. In addition, prevailing plaintiffs are entitled to their reasonable attorneys' fees along with the potential for enhancement. The LAD also permits individual liability for "aiding and abetting" a violation of the law.

[1] The amendment adding pregnancy as a protected classification and requiring reasonable accommodation because of pregnancy is discussed in our [Act Now Advisory](#).

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