



Discrimination Against the Unemployed in New Jersey

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Welcome To The Garden State New Jersey Employment Law For The Out-Of-State Employer

This is the second in a series of alerts we are preparing to help acclimate out-of-state employers to the nuances of New Jersey law. We appreciate any feedback to help us better serve both our New Jersey based and out-of-state clients.

Discrimination Against the Unemployed in New Jersey

Employers in New Jersey are prohibited by law from specifying in job advertisements that unemployed candidates will not be considered for employment. In April 2011, Governor Christie signed into law the first legislation in the United States banning discrimination against the unemployed in job advertisements. Since then, Oregon passed a similar law, and New York City enacted a law with even greater protections for the unemployed.

New Jersey's law specifically prohibits publishing, in print or on the Internet, an advertisement for any job that includes:

1. a provision stating that the qualifications for the job include current employment;
2. a provision stating that the employer will not consider or review an application by anyone who is currently unemployed; or
3. a provision stating that the employer will only consider or review applications submitted by applicants who

are currently employed.

N.J.S.A. 34:8B-1.

The law does not, however, prohibit employers from requiring current and valid professional licenses or credentials, and it does not prohibit employers from limiting their job search to their own current employees.

Violation of the statute is subject to a fine of \$1,000 for an initial violation, \$5,000 for a second violation, and \$10,000 for each subsequent violation, collectible by the Commissioner of Labor and Workforce Development in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," N.J.S.A. 2A:58-10 to -12. The statute does not create a private cause of action for individuals against prospective employers.

In August 2014, Governor Christie vetoed a bill that would have prohibited employers from refusing to hire people because they were unemployed. The Governor explained his veto by stating that there was no practical way to enforce the proposed law and it would increase the cost of doing business in New Jersey. Nevertheless, New Jersey continues to be among the most employee-friendly states as a result of both its legislature and courts.

If you have any questions about how New Jersey's job advertisement laws could affect your organization, please contact [Scott Ohnegian](#), [Daniel Zappo](#), or any member of Riker Danzig's [Labor & Employment](#) Group.

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