

## Blog Post

# New Jersey's Proposed Ban on Height and Weight Discrimination: What Employers Should Know

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State and local employment laws continue to evolve in ways that can catch even well-prepared employers off guard. New Jersey's latest legislative effort is a good example. A bill pending in the New Jersey Legislature would add height and weight to the list of protected characteristics under the New Jersey Law Against Discrimination (NJLAD), placing the state among a small but growing group of jurisdictions that expressly regulate appearance-based bias in the workplace. While the proposal is still working its way through the legislative process, it reflects a broader national trend that employers — particularly those with multistate operations — should not ignore.

## What the New Jersey Bill Would Do

Senate Bill S1631 would amend the NJLAD to prohibit discrimination based on an individual's height or weight in employment, housing, and places of public accommodation. These characteristics would join the NJLAD's existing protected categories: race or color; religion or creed; national origin, nationality, or ancestry; sex, pregnancy, or breastfeeding; sexual orientation; gender identity or expression; disability; marital status or domestic partnership/civil union status; liability for military service; and, specific to employment: age; atypical

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hereditary cellular or blood trait; genetic information; and the refusal to submit to a genetic test or make available to an employer the results of a genetic test.

The bill passed the New Jersey Senate on February 24, 2026, by a 24–14 vote and is currently pending before the Assembly Judiciary Committee. If enacted, New Jersey would become the second state in the country, after Michigan, to adopt a statewide ban on height and weight discrimination.

Like Michigan’s long-standing statute, the New Jersey proposal includes a bona fide occupational qualification (BFOQ) exception. Employers would still be permitted to consider height or weight where doing so is genuinely necessary for job performance or safety, but those exceptions are expected to be construed narrowly.

### Why This Matters Beyond New Jersey

Height and weight are not recognized as protected classes under federal law, and most states do not expressly prohibit size-based discrimination. As a result, employers may not necessarily have given thought to physical criteria listed in job descriptions, hiring practices, or appearance standards.

That landscape is changing. Lawmakers and enforcement agencies have increasingly acknowledged that appearance-based bias can affect hiring, promotions, compensation, and workplace culture. While the Americans with Disabilities Act may offer limited protection for individuals whose weight qualifies as a disability, many workers experiencing size-based bias fall outside that framework. State and local governments have begun filling that gap.

### A Growing Patchwork of State and Local Protections

New Jersey’s bill does not stand alone. Other jurisdictions have already taken steps to regulate

height, weight, or physical appearance discrimination:

- Michigan has prohibited discrimination based on height and weight statewide since 1976 under the Elliott-Larsen Civil Rights Act.
- New York City amended its Human Rights Law in 2023 to ban discrimination based on actual or perceived height or weight, with limited job-related and safety-based exceptions.
- Washington, D.C., and several cities, including San Francisco, Santa Cruz, Madison (WI), Binghamton (NY), and Urbana (IL), provide similar protections through statutes addressing physical appearance or body size.

Bills modeled on these laws have also been introduced in states such as Massachusetts, reflecting continued legislative momentum even where proposals have not yet been enacted.

For employers, this trajectory is familiar. Similar state-by-state expansions have occurred with pay transparency requirements, marijuana protections, and noncompete restrictions, often leaving multistate employers scrambling to keep policies aligned.

### Why Employers Should Care

Much like many recent employment law developments arriving jurisdiction-by-jurisdiction, proposed bans on height and weight discrimination may initially appear narrow or highly localized. But New Jersey's pending legislation underscores how quickly these issues can take on broader significance.

At their core, height and weight protections challenge long-standing assumptions about which physical criteria employers may rely on when making employment decisions. Job requirements, appearance standards, and even informal screening practices that once drew little attention may now

invite closer scrutiny, particularly where employers cannot clearly articulate a job-related or safety-based justification.

For employers operating in multiple jurisdictions, this is another reminder of the growing patchwork problem. Practices that remain lawful in one state may already carry litigation risk in another. Early-adopter jurisdictions often shape expectations well beyond their borders, especially as employee awareness and enforcement activity increase.

Employers should also be mindful that these protections often extend beyond hiring and termination decisions. Depending on the jurisdiction, they may affect job postings, uniform and dress code policies, fitness-for-duty standards, and how managers communicate about physical fitness, health, or professional image. Seemingly casual remarks or subjective judgments can become far more consequential in this environment.

While these developments do not require employers to overhaul their policies overnight, they do present a timely opportunity to review job standards, update training, and ensure employment decisions are grounded in clearly documented business necessity. A proactive approach now may help employers avoid slipping as enforcement efforts and employee claims gain momentum.

For questions regarding the impact of emerging height and weight discrimination laws on workplace policies, or for assistance in reviewing current policies and practices, consider contacting a member of Akerman's Labor and Employment team for guidance.

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