

U.S.

● AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

STATUTORY CITATION: 29 USC §§ 621 – 634

RELATED REGULATIONS: 29 CFR Parts 1625 – 1627

GENERAL SUMMARY: The Age Discrimination in Employment Act protects persons who are at least 40 years of age against arbitrary age discrimination by employers engaged in any industry affecting commerce — including agriculture — and who have 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Employment agencies that regularly procure employees for at least one covered employer, as well as most labor organizations with 25 or more members, are also subject to the Act.

SPECIFIC TERMS AND CONDITIONS

PROHIBITED ACTS — It is unlawful for employers subject to the Act to fail or refuse to hire a job applicant, to harass or discharge an employee, or to otherwise discriminate against an individual with respect to compensation and other terms or conditions of employment, because of the individual's age. Likewise, employers may not limit, segregate or classify employees in any way which would deprive or tend to deprive a person of employment opportunities, or otherwise adversely affect his or her status as an employee, by reason of the person's age.

EXCEPTIONS — The Act does not forbid employment practices based on age where age is a bona fide occupational qualification, nor does it bar an employer from observing the terms of a bona fide seniority or benefit plan or from differentiating among employees on the basis of reasonable factors other than age.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline or discriminate in any manner against an employee or job applicant because the employee or applicant has filed a complaint, participated in a proceeding, or opposed an illegal practice under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Equal Employment Opportunity Commission, Washington, D.C. 20507 (202-663-4900; toll-free 800-669-4000)*. The Commission may conduct investigations, gather compliance data, enter and inspect workplaces, review personnel records, and interview employees. In general, any worker 40 years of age or older who has been denied rights protected under the Age Discrimination in Employment Act may file a complaint with the Commission at any time within 180 days after the apparent violation took place. Before instituting civil action to enforce the Act, the Commission must attempt to eliminate the alleged discriminatory practice and effect voluntary compliance through informal methods of conciliation, conference and persuasion. In any judgment in a complainant's favor, the Act authorizes recovery of back wages and, in instances of willful violations, liquidated damages.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – The Commission may delegate primary responsibility for acting on civil rights complaints brought to its attention to any state or local fair employment practices agency which enforces anti-discrimination provisions similar to those described under this law and which meets certain other criteria. Puerto Rico and all states except Arkansas and Mississippi have statewide or local agencies to which EEOC will defer all or certain types of charges under the Act.

PRIVATE CIVIL ACTION — Using a private attorney or public legal service provider, a worker who has been adversely affected by a violation of the Age Discrimination in Employment Act may bring suit against the employer or other offending party. However, in no event may an individual commence private action under the Act until 60 days after a charge of age discrimination has been filed with the Commission, and the right to sue privately ends once the Commission initiates court action to enforce the employee's rights under the Act.

Alabama

● ALABAMA AGE DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Ala. Code 1975 §§ 25-1-20 – 25-1-29

GENERAL SUMMARY: It is unlawful for an employer who has 20 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year to discriminate against a worker 40 years of age or older in hiring, job retention, compensation or other terms or conditions of employment. This law also prohibits age discrimination against persons age 40 and over by employment agencies and labor organizations.

PROVISIONS APPLICABLE TO AGRICULTURE: Provided they employ at least 20 workers for each working day in each of 20 or more calendar weeks in the current or preceding year, farm operators and other agricultural establishments are subject to the Act to the same extent as their non-agricultural counterparts.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer subject to the Act, or for an employment agency or labor organization, to discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.* A person who has suffered age discrimination at the hands of a subject employer, employment agency or labor organization may bring a civil action in the state circuit court of the county in which the person was or is employed. The person is not required to file an administrative complaint or charge before filing suit in state court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Georgia

● GENERAL LABOR LAWS (*AGE DISCRIMINATION*)

STATUTORY CITATION: Ga. Code § 34-1-2

GENERAL SUMMARY: Chapter 1 of the state labor laws includes a provision prohibiting any person, firm or other entity conducting business in Georgia from firing, or refusing to hire, employ or license, any individual between the ages of 40 and 70 solely on the basis of age, when the reasonable demands of the job do not require such an age distinction and the individual is qualified physically and mentally and by training and experience to satisfactorily perform the job. The law provides for exceptions in the case of executive and policy-making positions, and where compulsory retirement systems are not used as a subterfuge to evade the anti-discriminatory intent of the law.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law applies without distinction between agricultural and non-agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — A person who has been subjected to age discrimination in violation of this law must seek redress through the state civil courts, using a private attorney or public legal service provider.

Indiana

○ AGE DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Ind. Code § 22-9-2-1 – 22-9-2-11

GENERAL SUMMARY: With few exceptions, it is unlawful for an employer to dismiss from employment, or to refuse to employ or rehire, any person who is at least 40 years of age but below the age of 75 solely because of the person's age.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law **does not apply** to anyone employed as a farm laborer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Wage and Hour Division, Indiana Department of Labor, Indianapolis, Indiana 46204.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Kansas

● KANSAS AGE DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Kan. Stat. §§ 44-1111 – 44-1121

GENERAL SUMMARY: The Kansas Age Discrimination in Employment Act makes it an unlawful employment practice for an employer of 4 or more workers to discriminate against a person 40 years of age or older, by refusing to hire, discharging, segregating, limiting, or otherwise discriminating against any such person because of age. The Act enumerates related practices by employers, employment agencies and labor organizations that are likewise illegal. Among certain other exceptions, it is not unlawful to make employment decisions based on age where age is a bona fide occupational qualification necessary to the normal operation of the particular business, or to observe the terms of a bona fide seniority system or employee benefit plan which is not simply a subterfuge to evade the purposes of the state civil rights laws.

PROVISIONS APPLICABLE TO AGRICULTURE: The Age Discrimination in Employment Act applies to agricultural employers with 4 or more workers, to the same extent as in non-agricultural sectors.

SPECIAL NOTES OR ADVISORIES

CORRECTIVE ACTION — Without the worker's express or implied consent, an employer is not permitted to reduce the wage rate of any worker or otherwise alter the terms or conditions of a worker's employment in order to comply with the Act.

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Kansas Human Rights Commission, Topeka, Kansas 66612 (785-296-3206)*. The Commission is responsible for investigating all properly filed complaints charging age discrimination under the Act. The Commission must process such complaints in the same manner as prescribed in the Kansas Act Against Discrimination. Violation of the age discrimination in employment provisions is a misdemeanor, punishable by imprisonment for up to one year, a fine of up to \$500, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Massachusetts

○ STATE LABOR LAWS (*AGE DISCRIMINATION*)

STATUTORY CITATION: Mass. Gen. Laws Ch. 149, §§ 24A – 24J

GENERAL SUMMARY: With few exceptions, the dismissal from private-sector employment of any person over the age of 40, or refusal to employ such a person, because of the person's age, is a criminal offense, punishable by a fine of up to \$500. Any contract, agreement or understanding that prevents the private employment of individuals over 40 on the basis of age is generally null and void. After a formal hearing and a finding that an employer has committed an act of age discrimination, the state enforcement agency may publish in one or more newspapers of general circulation the employer's name and a notice of the employer's violation of this provision.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law **does not apply** to persons employed as farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of the Massachusetts Attorney General, Boston, Massachusetts 02108.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Minnesota

● STATE LABOR LAWS (*AGE DISCRIMINATION*)

STATUTORY CITATION: Minn. Stat. § 181.81

GENERAL SUMMARY: With only narrow exceptions, it is unlawful for any private-sector employer in Minnesota to refuse to hire a person who is under 70 years of age, or to discharge, retire or demote a person under 70, because of the person's age.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against age discrimination implicitly applies to agricultural employers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Labor Standards Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5070).* The Department is responsible for advising workers and employers of their rights and duties under the age discrimination provision and is authorized to attempt through conciliation to resolve disputes involving job-related age discrimination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — Any worker under the age of 70 who has suffered from an act of employment discrimination due to age may bring suit in district court, utilizing a private attorney or a public legal service provider. If a violation is found, the court may award reinstatement, back pay, or some other form of affirmative action, plus court costs and attorney's fees.

Nebraska

● AGE DISCRIMINATION IN EMPLOYMENT ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-1001 – 48-1010

GENERAL SUMMARY: The Age Discrimination in Employment Act generally outlaws employment discrimination on the basis of age, when committed by employers who have 20 or more employees for each working day in each of 20 different calendar weeks in the current or preceding calendar year. The law applies to agricultural and non-agricultural employment without distinction.

SPECIFIC TERMS AND CONDITIONS: It is unlawful for an employer subject to the Act to refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to employment conditions because of the individual's age, when the reasonable demands of the position do not require such an age distinction. It is likewise illegal for an employer to willfully utilize an employment agency, labor organization or any other source of job applicants in the hiring or recruitment of individuals for employment when the employer is aware that the agency or organization discriminates against job-seekers on the basis of age.

The Act bans age discrimination only against persons who are at least 40 years of age, and permits certain age distinctions when age is a bona fide occupational qualification reasonably necessary to the normal operations of the business involved, or when the differentiation is based on reasonable factors other than age, such as physical conditions.

SPECIAL NOTES OR ADVISORIES

RETALIATION — A person may not discharge, discipline or discriminate in any manner against an employee because the employee has filed a complaint, participated in a proceeding, or exercised any other right afforded by these provisions.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Nebraska Equal Opportunity Commission, Lincoln, Nebraska 68509 (402-471-2024; toll-free 800-642-6112).* Anyone aggrieved by a suspected violation of the Act may file a complaint with the Commission, which must investigate the charges. When the evidence indicates that unlawful age discrimination has occurred, the Commission is authorized to bring civil action to compel compliance and enforce the rights of the complainant. A charge must be filed no later than 300 days after the alleged discriminatory act occurred.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — If the Equal Opportunity Commission does not file suit within 60 days after receipt of a complaint, the person aggrieved may take private legal action for relief on his or her own, through a private attorney or a public legal service provider. Filing of a civil suit by either the Commission or the complainant bars the filing of such an action by the other.

North Dakota

● GENERAL LABOR LAWS (*AGE DISCRIMINATION*)

STATUTORY CITATION: N.D. Cent. Code § 34-01-17

GENERAL SUMMARY: No one carrying on any business in North Dakota may refuse to hire a job applicant or discharge an employee solely on the basis of age, when the reasonable demands of the position do not require an age distinction and the individual is otherwise qualified for the job. This provision does not, however, preclude operation of any retirement policy or system as long as the system is not used merely to evade the statutory prohibition against age discrimination.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination provision applies to all employment in North Dakota, without respect to industry or occupation.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – None. A violation of the age discrimination in employment provision is defined as a Class B misdemeanor and can be prosecuted as such by state's attorneys.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

PRIVATE CIVIL ACTION — A person who has suffered damages due to an act of age discrimination in employment may pursue civil action against the employer involved, using a private attorney or public legal service provider.

Ohio

● AGE DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Ohio Rev. Code § 4112.14

GENERAL SUMMARY: It is unlawful for an employer to discriminate against an applicant with respect to a job opening, or to discharge an employee without just cause, when the applicant or employee is 40 years of age or older, is physically able to perform the duties of the job, and otherwise meets the established requirements of the position.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment law implicitly applies to all agricultural employers, and protects all farmworkers in Ohio, the same as their counterparts in non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *None.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — Anyone 40 years of age or older who has been subjected to age discrimination in violation of this provision may file a civil suit against the offending employer, using a private attorney or public legal service provider. If the complaint is sustained, the court may order appropriate corrective action by the employer, including hiring or reinstatement on the job, plus court costs and attorney's fees. Civil action under the wage discrimination in employment law precludes bringing suit or filing an administrative complaint under the state civil rights law (*see previous entry*).

Washington

● AGE DISCRIMINATION IN EMPLOYMENT LAW

STATUTORY CITATION: Wash. Rev. Code § 49.44.090

GENERAL SUMMARY: In general, it is an unfair practice for an employer to refuse to hire a job applicant, to fire an employee, or to discriminate against an applicant or employee in promotion, compensation, or other terms or conditions of employment, because the applicant or employee is 40 years of age or older.

Subject to state approval, however, an employer may establish reasonable minimum and maximum age limits for job candidates when the position involved requires extraordinary physical effort, endurance or training.

PROVISIONS APPLICABLE TO AGRICULTURE: The age discrimination in employment provisions apply equally to agricultural and non-agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Employment Standards, Apprenticeship and Crime Victims Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (toll-free 866-219-7321).* The Department has authority to enforce all state laws relating to employment, including the age discrimination provisions. Representatives of the Department may enter any place of employment for the purpose of inspecting working conditions and investigating reported or suspected violations of the labor laws.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*