

U.S.

● IMMIGRATION AND NATIONALITY ACT (*IMMIGRATION-RELATED EMPLOYMENT DISCRIMINATION*)

STATUTORY CITATION: 8 USC § 1324b

RELATED REGULATIONS: 28 CFR Parts 0 and 44

GENERAL SUMMARY: As amended in 1986, the Immigration and Nationality Act outlaws certain forms of employment discrimination based on national origin or citizenship status, prohibitions which apply equally to agricultural and non-agricultural employers.

SPECIFIC TERMS AND CONDITIONS

UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES — In general, no one who employs more than 3 employees may discriminate against any individual (other than an undocumented worker) with respect to hiring, firing, job recruitment or job referral, when such discrimination is because of the individual's national origin or the individual's status as (1) a U.S. citizen, or (2) a lawfully admitted permanent resident who applied for U.S. citizenship within 6 months of becoming eligible but has not yet been naturalized and is still within the prescribed 2-year window after application.

EXCEPTION — It is not regarded as unlawful for an employer or other entity to prefer to hire, recruit or refer a U.S. citizen over a non-citizen, if the two individuals are equally qualified.

COMPLAINTS — A person (or the authorized representative of a person) who has been subjected to an apparent act of unfair immigration-related employment discrimination may, within 180 days after the act occurs, file a written charge of violation with the enforcement agency. Within 120 days after receipt of the worker's charge, the agency must undertake an investigation and determine whether or not to file a formal complaint against the respondent. In the event the agency fails to file a complaint with an administrative law judge within 120 days after timely receipt of a worker's charge of unfair immigration-related employment discrimination, the worker has 90 days from the end of the 120-day period to file the complaint with an administrative law judge directly. A finding by an ALJ that the person named in the complaint has, in fact, engaged in an illegal act of employment discrimination will generally result in an order requiring the person to cease the unlawful practice. The order may also compel the respondent to hire or rehire the complainant and any other worker adversely affected by the violation, with or without back pay.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for anyone to intimidate, threaten or retaliate against a person because the person has filed a complaint, participated in an investigation, or exercised or attempted to exercise any other right under these provisions.

PREEMPTION OF JURISDICTION — The Immigrant and Employee Rights Section will not accept any complaint regarding an unfair immigration-related employment practice if the same complaint has been filed with the Equal Employment Opportunity Commission under the Civil Rights Act of 1964, unless the charge has been dismissed by the EEOC as outside the scope of that law. Charges filed incorrectly with either agency will be forwarded to the other.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Immigrant and Employee Rights Section, Civil Rights Division, U.S. Department of Justice, Washington, D.C. 20530 (202-616-5594; toll-free 800-255-7688)*. This agency is responsible for investigating charges and prosecuting administrative complaints relating to unfair employment practices under the Immigration and Nationality Act. The agency's Special Counsel for Immigration-Related Unfair Employment Practices and the agency's hearing officers are authorized to examine evidence and subpoena witnesses in connection with the investigation of charges or any related hearing. Employers and other entities found out of compliance with the Act's anti-discrimination provisions are subject to civil money penalties of up to \$2,000 for each individual adversely affected by the first violation, and up to \$5,000 per individual for the second violation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Hawaii

● STATE LABOR LAWS (*UNLAWFUL SUSPENSION OR DISCHARGE*)

STATUTORY CITATION: Haw. Rev. Stat. §§ 378-31 – 378-38

GENERAL SUMMARY: Part III of the employment practice provisions in the state labor laws makes it unlawful, among other prohibited acts, for employers to suspend, discharge or discriminate against an employee solely because the employee has suffered a work-related injury covered by the state workers' compensation law, unless the employee is no longer capable of performing his or her normal job due to the injury and the employer has no other work which the employee is capable of performing. Any worker who is discharged because of work-related injury must be given first preference for re-employment by the employer in any position which the worker is capable of performing and which becomes available after the discharge or until the worker secures new employment.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions implicitly apply to agricultural employers and workers to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Wage Standards Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-8777). An employee aggrieved by alleged unlawful suspension, discharge or discrimination related to a work-related injury may file a written complaint with the nearest district office of the Department. In most cases, the complaint must be filed within 30 days after the alleged incident took place. On notice to the parties and in the event of a formal finding that the allegation is valid, the Department may order reinstatement of the employee with or without back pay, or may order payment of back pay without reinstatement.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Idaho

● STATE LABOR LAWS (*EMPLOYMENT CONTRACTS*)

STATUTORY CITATION: Idaho Code § 44-902

GENERAL SUMMARY: Chapter 9 of the state labor laws, which governs employment contracts in Idaho, contains a provision making it unlawful for employers or other parties to impose as a condition for employment any terms controlling where or with whom an employee is to board or reside, specifying a particular establishment at which an employee must purchase goods, or dictating how or where a worker's wages are to be spent. It is similarly illegal for an employer to dismiss a worker for reasons related to where or with whom the worker resides, where the worker purchases goods, or how or where the worker spends his or her wages.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies equally to agricultural and non-agricultural employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court. An employer who violates these worker protections is subject to a fine of up to \$300, imprisonment for up to 90 days, or both.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Louisiana

● STATE LABOR LAWS (*INDIVIDUAL RIGHTS*)

STATUTORY CITATION: La. Rev. Stat. §§ 23:961 – 23:968

GENERAL SUMMARY: Chapter 9, Part III of the state labor statutes contains provisions, applicable to all industry sectors, banning interference by employers with certain individual rights of their employees, including the free exercise of political rights, the expression of political opinions, the exercise of consumer choice, and the right to benefit from labor protections.

SPECIFIC TERMS AND CONDITIONS

POLITICAL RIGHTS — No employer who regularly employs 20 or more workers may forbid or prevent any such worker from participating in politics or running for public office, nor may such an employer control or direct the political activities or affiliations of any employee, or coerce or influence the political activities of an employee through threats of discharge or loss of employment.

POLITICAL OPINIONS — It is illegal for any planter, manager, overseer or other employer of laborers, regardless of number, to discharge any such laborer prior to the expiration of the term of service on account of the laborer's political opinions, or to control the vote or restrict the voting rights of a worker by any agreement or contract whatsoever.

PURCHASE OF MERCHANDISE — An employer may not coerce or require any of his or her employees to deal with or purchase any article of food, clothing or merchandise of any kind (other than work uniforms) from any particular person or establishment, or penalize any worker for failing to do so.

EXERCISE OF LABOR PROTECTIONS — All employers in Louisiana are prohibited from discharging or discriminating in any other manner against any employee because the employee has testified in an investigation or proceeding relative to the enforcement of any state labor law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of Workforce Development, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-2679)*. This agency may institute civil proceedings in the appropriate district court to enforce its rulings, or seek injunctive relief to restrain and prevent violations of these provisions.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — With respect to an apparent violation of an employee's political rights, as described above, the worker has a right to private civil action against the employer involved, for recovery of damages and other equitable relief.

Michigan

● HUMAN TRAFFICKING NOTIFICATION ACT

STATUTORY CITATION: Mich. Comp. Laws §§ 752.1031 – 752.1040

GENERAL SUMMARY: Michigan's Human Trafficking Notification Act requires posting of certain notices relating to human trafficking, which explicitly includes compelling someone to perform farmwork against his or her will.

SPECIFIC TERMS AND CONDITIONS: The state transportation department is required to post a human trafficking notice conspicuously at each rest stop and welcome facility in Michigan, and each local unit of government that operates such a facility or that provides bus or rail transportation services to the public must also post the notice. The notice must meet prescribed size and readability standards, be of durable construction, and be posted in English, Spanish and any other language determined appropriate by the state enforcement agency. The notice must read as follows:

"If you or someone you know is being forced to engage in any activity and cannot leave, whether the activity is commercial sex, housework, farm work, or any other activity, please contact the National Human Trafficking Resource Center hotline at 1-888-373-7888 or text 233733 to access help and services. The victims of human trafficking are protected under U.S. laws and the laws of this state."

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (517-284-7800; toll-free 855-464-9243). Copies of the human trafficking poster — in English and Spanish — can be downloaded from the Department's website (<http://www.michigan.gov/lara>; search for "Trafficking") or sent by mail upon request.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Michigan Department of Transportation, Lansing, Michigan 48909 (517-373-2090). This agency is responsible for posting the human trafficking notice at state rest stops and welcome facilities.

Montana

● CONSTITUTION OF THE STATE OF MONTANA (*INDIVIDUAL DIGNITY*)

STATUTORY CITATION: Mont. Const. Art. II, § 4

GENERAL SUMMARY: The state constitution prohibits public and private discrimination on the basis of race, color, sex, culture, social origin or condition, or political or religious ideas. The constitutional ban on discrimination on these grounds would include discriminatory acts against employees by their employers.

PROVISIONS APPLICABLE TO AGRICULTURE: This provision applies to all persons in Montana, regardless of occupational classification or employment status.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY - *None.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - *None.*

PRIVATE CIVIL ACTION — Workers who believe they have been discriminated against because of their culture, political ideas, or social origin or condition, may wish to consult with a private attorney or public legal services program about the possibility of legal action under this provision.

Nevada

● MISCELLANEOUS EMPLOYMENT LAWS (*COMPULSORY TRADE*)

STATUTORY CITATION: Nev. Rev. Stat. § 613.140

GENERAL SUMMARY: Chapter 613 of the state statutes regulates employment practices in Nevada, and includes a provision prohibiting compulsory trade arrangements by employers. This provision generally applies equally to all occupations and industries in the state.

SPECIFIC TERMS AND CONDITIONS: Any employer or other person conducting business in Nevada who by coercion, intimidation, threats or undue influence compels or induces his or her employees to trade at any particular store is guilty of a misdemeanor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – This provision is enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — A worker who has suffered damages as a result of an apparent violation of this provision should consult a private attorney or public legal service provider concerning possible civil action against the offending party.

Ohio

● MISCELLANEOUS LABOR LAWS (*COMPULSORY SALES TO EMPLOYEES*)

STATUTORY CITATION: Ohio Rev. Code § 4113.18

GENERAL SUMMARY: No one may compel or attempt to coerce an employee to purchase goods or supplies from a particular person, firm or corporation.

PROVISIONS APPLICABLE TO AGRICULTURE: The prohibition against compulsory sales to employees applies to all employers in all trades and industries in the state.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – When a complaint is received by a local prosecuting attorney, an alleged violation of this provision may be prosecuted as a criminal offense.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — Using private counsel or a public legal service provider, a worker forced to purchase tools, supplies or other goods in violation of this provision may file suit against the offending party. Such a worker is entitled to recover *double* the amount of the charges made for the merchandise, or *double* the amount paid in excess of its reasonable or current cash market value.

Puerto Rico

● **WAGE PAYMENT LAWS (UNLAWFUL WAGE AND HOUSING RESTRICTIONS)**

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 171 – 179

GENERAL SUMMARY: Chapter 9 of the labor statutes, which applies to virtually all classes of employment in Puerto Rico, contains prohibitions against employer interference with certain worker rights.

SPECIFIC TERMS AND CONDITIONS: It is illegal for an employer to directly or indirectly impose any condition on where or how workers may spend their wages, or to dismiss workers for having spent their pay at a certain place, in a certain way, or with a specified person.

Likewise, employers may not compel their employees to reside on the employer's property.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). A worker who is aggrieved by an alleged violation of these provisions may file a complaint with the Department, which is obliged to investigate and attempt to resolve the matter to the worker's satisfaction.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

● **WAGE PAYMENT LAWS (DISCHARGE WITHOUT GOOD CAUSE)**

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 185a – 185m

GENERAL SUMMARY: Chapter 9 of the labor statutes, which applies to virtually all classes of employment in Puerto Rico, contains prohibitions against unjustified dismissal of employees.

SPECIFIC TERMS AND CONDITIONS: In addition to any wages due, an employee who is fired or dismissed from the job without good cause is entitled to receive from the employer (1) an additional 3 months' pay as indemnity, provided the employee has completed the applicable probationary period, and (2) additional compensation equivalent to 2 weeks' pay for each accrued year of service. In no case may the additional compensation exceed 9 months' pay.

Discharge generally may not be deemed for good cause unless it is predicated on (1) a pattern of improper or disorderly conduct by the worker, (2) inefficient, negligent, tardy or poor job performance by the worker, (3) the worker's repeated violation of written work rules, (4) full, temporary or partial closure of the employer's establishment, (5) technological changes or reorganization of the establishment, (6) changes in the product produced, or (7) a general workforce reduction.

It is generally up to the employee to prove that termination was without just cause.

SPECIAL NOTES OR ADVISORIES

RECENT AMENDMENTS — The summary above reflects significant amendments enacted in the Puerto Rico Labor Transformation and Flexibility Act, a measure intended to address chronic troubles plaguing the economy of Puerto Rico. Some provisions of the Labor Transformation and Flexibility Act apply only to workers hired after the law went into effect, on January 26, 2017. In general, however, employees hired before that date are entitled to the same rights and benefits that applied to them before.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – To recover the indemnity authorized for a worker discharged without good cause, the worker must file suit against the employer involved, using a private attorney or public legal service provider. Civil court action must be instituted no later than one year after the effective date of discharge.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

● **MISCELLANEOUS LABOR LAWS (COMMISSARIES AND CASH ADVANCES)**

STATUTORY CITATION: 29 Laws P.R. Ann. §§ 144 – 145

GENERAL SUMMARY: Every person, firm or other entity in Puerto Rico employing more than 10 workers is generally prohibited from operating or holding any interest in a business which sells food, clothing, tools or other goods to its employees.

Likewise, an employer may not directly or indirectly make any cash advances to a worker for the purpose of enabling the worker to purchase goods from a particular vendor or commercial establishment dictated by the employer.

PROVISIONS APPLICABLE TO AGRICULTURE: These provisions apply to agricultural employers and protect agricultural workers to the same extent as their counterparts in other industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Labor Standards, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-754-2100). Any worker who is compelled by an employer to purchase goods or merchandise from the employer, or from a particular establishment identified by the employer, should report the matter to the Department. For

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each day on which an employer does business in violation of these provisions, he or she is subject to a fine of from \$50 to \$200, a jail term of between 30 and 90 days, or both such penalties.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY - *None.*

Tennessee

● WAGE REGULATIONS (*COMPULSORY TRADE*)

STATUTORY CITATION: Tenn. Code § 50-2-106

GENERAL SUMMARY: Chapter 2, Part 1 of the state labor laws contains a provision prohibiting agricultural and non-agricultural employers from engaging in certain compulsory trade practices.

SPECIFIC TERMS AND CONDITIONS: It is illegal for any employer who owns or controls a store, or the agent of such an employer, to influence or compel his or her workers to purchase goods at the employer's store by withholding wages beyond the usual time of payment. It is also unlawful for an employer to require as a condition of employment, or continued employment, that a worker trade at a store specified by the employer.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Labor Standards Unit, Regulations and Compliance Division, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243 (615-781-5343; toll-free 844-224-5818). This agency has authority to investigate worker complaints of forced trade under this provision, and to assist in prosecution of violations, which are treated as Class C misdemeanors.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

West Virginia

● WAGE PAYMENT AND COLLECTION LAW (*COMPULSORY PURCHASES*)

STATUTORY CITATION: W. Va. Code § 21-5-5

GENERAL SUMMARY: Article 5 of the West Virginia labor laws regulates the payment of agricultural and non-agricultural wages in the state, and includes a provision outlawing compulsory purchases as a form of payment.

SPECIFIC TERMS AND CONDITIONS: It is a misdemeanor for an employer to compel an employee to purchase goods or supplies, from any source, in payment of wages. Furthermore, if a worker is coerced into such a purchase at a price higher than the reasonable or current market value, the employer is liable to the employee in an amount equal to *double* the difference between the price paid and fair value.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – The prohibition against forced trade in lieu of cash wages is enforced by public prosecuting attorneys in criminal court.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

PRIVATE CIVIL ACTION — Utilizing a private attorney or public legal service provider, a worker who has been victimized by a violation of this provision may recover unpaid wages and the excess cost of the goods involved, if any, by bringing suit against the offending employer. The court is authorized to award the worker reasonable attorney's fees if the worker prevails in any such action.