

## ● HUMAN RIGHTS LAWS (*ILLEGAL DISCRIMINATION*)

*STATUTORY CITATION:* Mont. Code §§ 49-2-101 – 49-2-602

*GENERAL SUMMARY:* Chapter 2 of the state human rights laws includes provisions prohibiting employment discrimination and other civil rights violations. These provisions are generally applicable to all agricultural and non-agricultural employers in Montana.

### *SPECIFIC TERMS AND CONDITIONS*

**PROHIBITED PRACTICES** — It is unlawful for an employer to refuse to employ an individual, or to discriminate against an individual with respect to compensation, job conditions or privileges of employment, because of the individual's race, creed, religion, color, or national origin. Likewise, an employer may not discriminate on the basis of age, physical or mental disability, marital status or sex when the reasonable demands of the job do not require an age, physical or mental disability, marital status or sex distinction.

The publication or circulation of any employment advertisement or notice, or the use of a job application form, which expresses a preference, limitation or specification as to sex, marital status, age, physical or mental disability, race, creed, religion, color, or national origin is prohibited, unless such a preference, limitation or specification is based on a bona fide occupational qualification.

Employment agencies and labor organizations are also forbidden from engaging in comparable discriminatory acts.

**COMPLAINTS** — A complaint charging unlawful employment discrimination may be filed with the state enforcement agency by or on behalf of any aggrieved party, but a complaint may be processed only if filed within 180 days after the alleged act or practice occurred. If the state agency's staff investigation determines that the allegations are supported by substantial evidence, the staff must try to eliminate the discriminatory practice by mediation or conciliation. A formal hearing is required whenever such informal methods to resolve the matter are unsuccessful. A finding in favor of the complainant may result in an administrative order requiring the offending employer or other entity to compensate the complainant for any damages suffered, monetary or otherwise.

### *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** — *Human Rights Bureau, Montana Department of Labor and Industry, Helena, Montana 59624 (406-444-2884; toll-free 800-542-0807)*. The Bureau is authorized to investigate discrimination complaints, subpoena witnesses and documents, and issue remedial orders, as described above. The Bureau has authority to petition the courts to temporarily restrain a discriminatory practice or interference with the Bureau's work, or to enforce a final order. In addition to civil liability, anyone who violates the job discrimination provisions is subject to criminal prosecution.

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — *Montana Human Rights Commission, Helena, Montana 59624*. The Commission's role in discrimination complaints is limited largely to conducting hearings on dismissals of claims and appeals of final agency decisions issued by the Human Rights Bureau.

**PRIVATE CIVIL ACTION** — A worker is entitled to file a discrimination complaint in state district court only if the worker has first filed an administrative complaint with the Human Rights Bureau, and the Bureau (1) has been unable to resolve the matter within 180 days of filing and (2) concedes in a letter of release to the complainant that it will be unable to hold a hearing on the case within 12 months of the date of filing. The Bureau may also dismiss a complaint and allow the worker to take the matter to court if the staff determines that the Bureau lacks jurisdiction over the complaint, that the complaint is not supported by substantial evidence, or that the complainant has failed to cooperate with the Bureau. In no event, however, may district court take action on a suit filed later than 90 days from the time the complainant receives the letter of release from the state agency.