

● EMPLOYMENT DISCRIMINATION LAW

STATUTORY CITATION: Tex. Labor Code §§ 21.001 – 21.556

GENERAL SUMMARY: Chapter 21 of the state labor statutes outlaws certain forms of employment discrimination in Texas and designates a state agency to receive, investigate, conciliate, and judge complaints alleging violations. The law generally applies to all agricultural and non-agricultural employers who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

SPECIFIC TERMS AND CONDITIONS

UNLAWFUL EMPLOYMENT PRACTICES — With some exceptions, it is illegal for a subject employer to engage in any of the following acts, among others:

- (1) To fail or refuse to hire a job applicant, to discharge an employee, or to otherwise discriminate against an individual with respect to compensation or the terms, conditions or privileges of employment, because of race, color, disability, religion, sex, national origin, or age (40 and older).
- (2) To limit, segregate or classify a job applicant or employee on any of the same grounds in a way that would tend to deprive a person of employment opportunities or otherwise adversely affect employment status.
- (3) To publish or circulate an employment notice or advertisement indicating a preference or specification based on race, color, disability, religion, sex, national origin, or age.

Employment agencies and labor organizations are barred from comparable discriminatory practices.

Exceptions — The law does not prevent employers from applying different standards of compensation, or different terms, conditions or privileges of employment, under a bona fide seniority system, merit system, employee benefit plan, or a system which measures earnings by quantity or quality or production, provided such differences do not discriminate on the basis of race, color, disability, religion, sex, national origin, or age.

COMPLAINTS — Any employee or job applicant who is aggrieved by a discriminatory practice prohibited under these provisions, or the representative of any such worker, may file a complaint with the state enforcement agency at any time within 180 days after the alleged practice occurred. The complaint must be promptly investigated by the agency's staff to determine if there is reasonable cause to believe that the employer or other respondent named in the complaint has, in fact, committed a violation. A determination that reasonable cause exists requires the agency to attempt to eliminate the unlawful practice informally, but if a conciliation agreement cannot be reached within a reasonable time, the agency or the complainant may bring civil action against the respondent to enforce compliance.

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 — *Civil Rights Division, Texas Workforce Commission, Austin, Texas 78778 (512-463-2642; toll-free 888-452-4778).* In performing its investigatory functions under the employment discrimination law, the Commission is authorized to compel the attendance of witnesses and subpoena personnel records and other documents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — Under certain circumstances, the Commission may refer a complaint, or defer jurisdiction over the subject matter of a complaint, to any local commission created by one or more political subdivisions in the state to promote the law's anti-discrimination purposes. In any such case, the local commission must investigate the violation alleged in the complaint and take remedial action, but if the local body fails to act on the complaint within 60 days, the state may assume or reassert jurisdiction over the case.

PRIVATE CIVIL ACTION — Whenever a complaint is dismissed by the Commission, or if the Commission has not successfully negotiated a conciliation agreement or brought suit to enforce compliance within 180 days after the complaint is filed, the complainant may take legal action against the respondent directly, using a private attorney or public legal service provider. Whether brought by the complainant or by the Commission, civil action may not be commenced later than 2 years after the date the complaint was originally filed with the agency.