

U. S. DEPARTMENT OF LABOR
Bureau of Labor Standards
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LEGISLATION RELATING TO EMPLOYMENT OF OLDER WORKERS.

Fourteen jurisdictions^{1/} have some legislation relating to the employment of older workers in private industry.

Anti-discrimination laws (enacted 1950-1960)

Ten of the 14 (Alaska, Connecticut, Delaware, Massachusetts, New York, Oregon, Pennsylvania, Puerto Rico, Rhode Island, and Wisconsin) prohibit discrimination in employment because of age just as they prohibit discrimination because of race, creed, color, or national origin. The laws prohibit employers from practicing discrimination based on age in regard to such employment processes as hiring, discharging, or promoting employees, and in working conditions.

Only the Delaware and Puerto Rico laws, however, apply to all employers. The others exempt such types of employment as domestic service, farm labor, family employment, or work for nonprofit organizations. Some of the laws have a numerical exemption also. The Connecticut law exempts employers having less than 5 employees; the Massachusetts, New York, and Oregon laws, those having less than 6; and the Pennsylvania law, those having less than 12.

In addition to prohibiting discrimination by employers, most of these laws also prohibit discrimination by labor unions with respect to union membership rights, and several prohibit discrimination by employment agencies in connection with referrals to jobs.

"Age" in these acts is defined as follows:

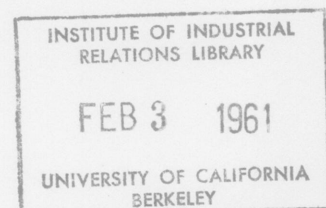
Alaska - "over 45"

Connecticut - 40 to 65 inclusive

Delaware - 45 to 65

Massachusetts - 45 to 65

^{1/} Alaska, California, Colorado, Connecticut, Delaware, Louisiana, Massachusetts, Michigan, New York, Oregon, Pennsylvania, Puerto Rico, Rhode Island, and Wisconsin.



Anti-discrimination laws (continued)

New York - 45 to 65. However, interpretive rulings of this provision, issued by the State Commission Against Discrimination, state that discrimination because of age "shall mean discrimination based on over age," and is not limited to the ages specified. Thus an employer may not discriminate against a person solely because the person is over the age the employer desires to employ. For instance, it would be unlawful for an employer to specify that he wanted a bookkeeper under the age of 35.

Oregon - 25 to 65

Pennsylvania - 40 to 62 inclusive

Puerto Rico - 30 to 65

Rhode Island - 45 to 65

Wisconsin - 40 to 65

Under 8 of these 10 laws (all but those of Delaware and Puerto Rico) the administrative agency is empowered to investigate complaints and by conciliation to eliminate any unlawful practice, or, if this fails, to issue cease-and-desist orders enforceable in the courts. Delaware and Puerto Rico provide penalties for violations of the act, but do not include authority for the issuance of cease-and-desist orders.

Laws prior to 1950

Three older acts affecting the hiring or discharging of older workers are on the statute books of Colorado, Louisiana, and Massachusetts.

The Louisiana act was passed in 1934. This law makes it unlawful for any employer having 25 or more employees to adopt any rule for the discharge of any employee or the rejection of a new employee under 50 years of age. The penalty is a fine up to \$500, a jail sentence up to 90 days, or both.

The Colorado act, passed in 1903, does not apply to the hiring of individuals but does affect discharge of employees. It specifies that no employer may discharge anyone between the ages of 18 and 60 because of age; the penalty is a fine of from \$100 to \$250.

A Massachusetts law enacted in 1937 makes unlawful any contract provisions preventing employment of any person between 45 and 65 because of age. The State Labor Commissioner is authorized to investigate any complaint and to publish the names of employers found to be in violation of the law. This act was not repealed by the Massachusetts act referred to under Anti-discrimination laws above.

Administrative functions

Four of the above States, Massachusetts, New York, Oregon, and Pennsylvania, and two others, California and Michigan, have passed laws relating to administrative functions in this field.

Massachusetts was the first to set up a particular division to deal expressly with the problems of older workers. The Division on the Employment of the Aging in the Department of Labor and Industries was set up in 1954; it was directed to cooperate with public and private groups in matters relating to the rehabilitation and employment of the aging, and to carry out the program developed by a Council on the Employment of the Aging, set up under the same act.

Michigan in 1955 authorized the establishment in each employment service office of a division whose function shall be to secure suitable employment for persons over 65.

Pennsylvania in 1956 authorized the establishment of an Advisory Board on Problems of Older Workers in the Department of Labor and Industry.

Oregon in 1957 provided for a State Council on Aging, including one member representing the State Employment Service and one representing the Oregon State Labor Council.

New York in recent years has made appropriations to the State labor department to be used solely for employing job counsellors to aid persons over 45 to get jobs.

California in 1959 directed the Director of Employment to establish and maintain job counseling and placement services for persons who are having or may have difficulty in securing or keeping a job principally because of their age.