



Older workers - Laws, statutes, etc.

THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.

U.S. DEPARTMENT OF LABOR

Wage & Hour
& Public Contracts

Divisions

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APR 17 1968

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THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

(Public Law 90-202, 81 Statute 602, effective June 12, 1968)

The Age Discrimination in Employment Act of 1967 promotes the employment of the older worker based on ability rather than age; prohibits arbitrary age discrimination in employment; and helps employers and employees find ways to meet problems arising from the impact of age on employment.

The Secretary of Labor is responsible for administering and enforcing the Act. In addition, the Secretary will provide a program of education and information concerning the needs and abilities of older workers and their potential for continued employment and contribution to the economy. This program will include the publication of the results of studies and encourage the expansion of opportunities and advancement of older persons through public and private agencies. The Secretary will sponsor and assist State and community information and education efforts.

THE LAW

Protects individuals 40 to 65 years old from age discrimination by:

- Employers* of 25 or more persons in an industry affecting interstate commerce**
- Employment agencies serving such employers
- Labor organizations with 25 or more members in an industry affecting interstate commerce***

* The term employer does not include the United States, a corporation wholly owned by the Government of the United States, or a State or a political subdivision thereof.

** 50 or more prior to June 30, 1968.

*** 50 or more prior to July 1, 1968.

IT IS AGAINST THE LAW

For an employer:

- to fail or refuse to hire, or to discharge, or otherwise discriminate against any individual as to compensation, terms, conditions, or privileges of employment, because of age;
- to limit, segregate, or classify his employees so as to deprive any individual of employment opportunities, or adversely affect his status as an employee, because of age;
- to reduce the wage rate of any employee in order to comply with the Act.

For an employment agency:

- to fail or refuse to refer for employment, or otherwise discriminate against, any individual because of age, or to classify or refer anyone for employment on the basis of age.

For a labor organization:

- to discriminate against anyone because of age by excluding or expelling any individual from membership, or by limiting, segregating, or classifying its membership on the basis of age, or by other means;
- to fail or refuse to refer anyone for employment so as to result in a deprivation or limitation of employment opportunities or otherwise adversely affect the individual's status as an employee because of age;
- to cause or attempt to cause an employer to discriminate against any individual because of age.

For employers, employment agencies, or labor organizations:

- to discriminate against a person for opposing a practice made unlawful by

the Act, or for making a charge, assisting, or participating in any investigation, proceeding, or litigation under it;

- to use printed or published notices or advertisements indicating any preference, limitation, specification, or discrimination, based on age.

EXCEPTIONS

The prohibitions against discrimination because of age do not apply:

- where age is a bona fide occupational qualification reasonably necessary to the normal operations of the particular business;
- where the differentiation is based on reasonable factors other than age;
- where the differentiation is caused by observing the terms of a bona fide seniority system or any bona fide employee benefit plan. This applies to new and existing employee benefit plans, and to the establishment and maintenance of such plans. However, no employee benefit plan shall excuse the failure to hire any individual.
- where the discharge or discipline of an individual is for good cause.

RECORD KEEPING AND POSTING REQUIREMENTS

Employers, employment agencies, and labor organizations must post an officially approved notice in a prominent place where employees may see it, and maintain the records required by the Secretary of Labor.

ENFORCEMENT

The Act is enforced by the Secretary of Labor, who can make investigations, issue rules and regulations for administration of the law, and enforce its provisions by legal proceedings when voluntary compliance cannot be obtained.

Prohibited acts under the age discrimination law are to be deemed prohibited also by the Fair Labor Standards Act. Amounts owing to any person as a result of a violation are to be treated as unpaid compensation under the provisions of the Fair Labor Standards Act which authorize enforcement through civil actions in the courts.

The Secretary or any aggrieved person may bring suit under the Act. Suits to enforce the Act must be brought within 2 years after the violation, or in the case of a willful violation, within 3 years.

Before the Secretary begins court action, the Act requires him to attempt to secure voluntary compliance by informal conciliation, conference, and persuasion. Before an individual brings court action, he must give the Secretary not less than 60 days' notice of his intention.

This notice must be filed within 180 days of the occurrence of the alleged unlawful practice except, when a State has taken action in accordance with its own laws prohibiting age discrimination, then an individual must file within 300 days of the alleged violation. The law provides that after receiving such a notice, the Secretary will notify the prospective defendants and try to eliminate any alleged unlawful practice by informal conciliation, conference, and persuasion.

Following are methods to recover amounts owed which result from violations of this Act:

1. The Secretary is authorized to supervise the payment of amounts owed;
2. In certain circumstances, the Secretary may bring suit upon written request of the individual;
3. An individual may sue for payment, plus attorney's fees and court costs. In the case of willful violations, an additional amount up to the total of the amount owed, may be claimed as liquidated damages. (An employee may not bring suit if he has been

paid the amount owed under the supervision of the Secretary, or if the Secretary has filed suit to enjoin the employer from retaining the amount due the employee.)

4. The Secretary may obtain a court injunction to restrain any person from violating the law, including the unlawful withholding of proper compensation.

The courts, in enforcement actions, are authorized to grant any relief appropriate to carry out the Act's purposes, including among other things judgments compelling employment, reinstatement, or promotion.

Interference with representatives of the Secretary of Labor engaged in duties under the Act may be prosecuted criminally and the violator subjected to a fine of not more than \$500 or imprisonment, or both.

ADDITIONAL INFORMATION

Inquiries about the Age Discrimination in Employment Act of 1967 will be answered by mail, telephone, or personal interview at any office of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor. Offices are listed in the telephone directory under the U.S. Department of Labor in the U.S. Government listing. These offices also supply publications free of charge.

Offices listed in *italics* are staffed by investigation personnel whose duties frequently require them to be away from the office. Telephone messages and requests for information may be left at these offices when regular personnel are not on duty. Personal appointments may be arranged by either telephone or mail.

Alabama: *Andalusia, Anniston, Birmingham, Dothan, Florence, Gadsden, Huntsville, Mobile, Montgomery, Opelika, Selma, Tuscaloosa*
 Alaska: *Anchorage*
 Arizona: *Phoenix, Tucson*
 Arkansas: *El Dorado, Fayetteville, Fort Smith, Hope, Jonesboro, Little Rock, Pine Bluff*
 California: *Bakersfield, Fresno, Hollywood, Long Beach, Los Angeles, Modesto, Monterey, Oakland, Redding, Riverside, Sacramento, San Diego, San Francisco, San Jose, San Mateo, Santa Ana, Santa Rosa, Stockton, West Covina, Whittier*
 Colorado: *Denver, Pueblo*
 Connecticut: *Bridgeport, Hartford, New Haven, New London*
 Delaware: *Wilmington*
 District of Columbia: *College Park*
 Florida: *Clearwater, Cocoa, Fort Lauderdale, Fort Myers, Jacksonville, Lakeland, Leesburg, Miami, North Miami, Orlando, Pensacola, St. Petersburg, Tampa, West Palm Beach*
 Georgia: *Albany, Athens, Atlanta, Augusta, Columbus, Gainesville, Hapeville, Macon, Rome, Savannah, Thomasville, Valdosta*
 Hawaii: *Honolulu*
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 Illinois: *Chicago, Springfield*
 Indiana: *Evansville, Indianapolis, South Bend*
 Iowa: *Burlington, Cedar Rapids, Davenport, Des Moines, Fort Dodge, Mason City, Sioux City, Waterloo*
 Kansas: *Pittsburg, Salina, Topeka, Wichita*
 Kentucky: *Ashland, Lexington, Louisville, Middlesboro, Pikeville*
 Louisiana: *Alexandria, Baton Rouge, Hammond, Houma, Lafayette, Lake Charles, Monroe, New Orleans, Shreveport*
 Maine: *Portland*
 Maryland: *Baltimore, College Park, Hagerstown, Salisbury*
 Massachusetts: *Boston, Lowell, Springfield, Worcester*
 Michigan: *Detroit, Grand Rapids, Lansing*
 Minnesota: *Minneapolis*
 Mississippi: *Biloxi, Columbus, Clarksdale, Greenwood, Hattiesburg, Jackson, Tupelo*
 Missouri: *Cape Girardeau, Columbia, Joplin, Kansas City, St. Joseph, St. Louis, Springfield*
 Montana: *Great Falls*
 Nebraska: *Grand Island, Lincoln, Omaha*
 Nevada: *Reno*
 New Hampshire: *Manchester, Laconia*
 New Jersey: *Camden, Newark, Paterson, Trenton*
 New Mexico: *Albuquerque, Las Cruces, Roswell*
 New York: *Albany, Bronx, Brooklyn, Buffalo, Hempstead, New York, Rochester, Syracuse*

North Carolina: *Asheville, Charlotte, Durham, Fayetteville, Goldsboro, Greensboro, Hickory, High Point, Raleigh, Wilmington, Winston-Salem*
 North Dakota: *Bismarck*,
 Ohio: *Cincinnati, Cleveland, Columbus*
 Oklahoma: *Ardmore, Enid, Lawton, Muskogee, Oklahoma City, Tulsa*
 Oregon: *Eugene, Medford, Portland, Selma*
 Pennsylvania: *Allentown, Altoona, Chester, DuBois, Erie, Greensburg, Harrisburg, Indiana, Johnstown, Lancaster, Lewistown, McKeesport, New Castle, Philadelphia, Pittsburgh, Reading, Scranton, Uniontown, Washington, Wilkes-Barre*
 Rhode Island: *Providence*
 South Carolina: *Charleston, Columbia, Florence, Greenville, Spartanburg*
 South Dakota: *Aberdeen, Rapid City, Sioux Falls*
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 Wisconsin: *Madison, Milwaukee, Oshkosh*
 Wyoming: *Casper, Cheyenne*
 Puerto Rico: *Arecibo, Caguas, Hato Rey, Mayaguez, Ponce, Santurce*
 Canal Zone, Virgin Islands: *Santurce, Puerto Rico*
 American Samoa, Eniwetok Atoll, Guam, Johnston Island, Kwajalein Atoll, Wake Island: *Honolulu, Hawaii*

