

EMPLOYMENT LAW SUMMARY

Arizona Fair Employment Laws - Overview



Because You're Different

In addition to federal fair employment laws, Arizona law prohibits employers from engaging in certain discriminatory employment practices. Specifically, the following Arizona laws provide protection against employment discrimination to individuals in the state:

- The Arizona Civil Rights Act;
- The Arizona Equal Wages Law; and
- The Arizona Medical Marijuana Act.

This Employment Law Summary provides a general overview of these state laws.

ARIZONA CIVIL RIGHTS ACT

The Arizona Civil Rights Act (ACRA) generally applies to all Arizona employers with **15 or more employees** during 20 or more weeks of the current or preceding calendar year. It also applies to all employment agencies, labor organizations and joint labor-management committees in the state.

Employers that are subject to the ACRA must post a [notice](#) about the ACRA in conspicuous places where other notices to employees and applicants are customarily posted.

For any allegations of **sexual harassment** (or, under an amendment effective April 22, 2022, retaliation for opposing sexual harassment in any way) under the ACRA, **all employers with one or more employees** in the state may be subject to administrative and civil actions under the law.

PROTECTED TRAITS

The ACRA protects individuals from employment discrimination based on their:

- Race;
- Color;
- Sex (effective July 19, 2021, this includes pregnancy, childbirth and related medical conditions);
- Age (40 or older);
- Religion; or
- National Origin.

PROHIBITED ACTIONS

The ACRA prohibits employers from taking any of the following actions based on an individual's protected trait:

- Failing or refusing to hire, discharging or otherwise discriminating against the individual with respect to compensation, terms, conditions or privileges of employment; and

- Limiting, segregating or classifying the individual in any way that would deprive or tend to deprive him or her of employment opportunities or otherwise adversely affect the individual's status as an employee.

In addition, the ACRA prohibits employers from:

- Failing or refusing to hire, discharging or otherwise discriminating against any individual based on the results of a genetic test;
- Printing or publishing a job advertisement that indicates any preference, limitation, specification or discrimination based on an ACRA-protected trait (though there is a narrow exception if religion, sex, national origin or age is a bona fide occupational qualification for employment); and
- Taking any adverse employment action against an individual because he or she opposed a practice that is unlawful under the ACRA or made a charge, testified, assisted or in any other manner participated in an investigation, proceeding or hearing under the ACRA.

DISABILITY DISCRIMINATION

The ACRA defines "disability" as any physical or mental impairment that substantially limits one or more major life activities. Having a record of or being regarded as having such physical or mental impairment also falls under the definition.

Under the law, a "qualified individual" is a person with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the position held or desired. With respect to qualified individuals, the ACRA prohibits employers from:

- Participating in any arrangement or use any administrative methods that have the effect of subjecting them to employment discrimination based on disability;
- Refusing to make reasonable accommodations for their known limitations (unless the employer can demonstrate that an accommodation would impose an undue hardship); and
- Denying employment opportunities to them based on the need to make reasonable accommodations.

The ACRA's prohibitions against disability discrimination also make it unlawful for an employer to:

- Use selection criteria that screen out or tend to screen out individuals with disabilities (unless the selection criteria is shown to be job related for the position and is consistent with business necessity);
- Administer tests relating to employment that do not accurately reflect the skills or aptitude or other factor of an individual that the test purports to measure; and
- Denying equal jobs or benefits to an individual because of a known disability of an individual with whom the individual who qualified for the job or benefits is known to have a relationship.

ENFORCEMENT

The ACRA is enforced by the [Civil Rights Division of the Arizona Attorney General's Office](#). The Civil Rights Division will conduct an investigation whenever a charge is filed. Individuals must file a charge within **180 days** after an alleged violation occurred.

ARIZONA EQUAL WAGES LAW

Arizona's Equal Wages Law, which is enforced by the [Industrial Commission of Arizona](#), applies to **all employers** in the state. This law prohibits employers from paying an employee of one gender less than the wages they pay to an employee of the opposite gender for the same quantity and quality of the same type of work in the same establishment.

However, an employer may vary the wage rates for male and female employees in the same work classification if the difference is based on seniority, length of service, ability, skill or differences in:

- Duties or services performed (regularly or occasionally),
- The shift or time of day worked;
- Hours of work; or
- Any other reasonable factor (other than sex) when exercised in good faith.

ARIZONA MEDICAL MARIJUANA ACT

The Arizona Medical Marijuana Act (AMMA), enacted in 2010, allows individuals who have a debilitating medical condition to obtain the state's authorization to use marijuana for medical purposes. The AMMA does **not** restrict an employer's rights to:

- Administer drug tests to its employees or applicants;

- Prohibit marijuana use on its premises; or
- Prohibit its employees from using or being under the influence of marijuana during their work hours.

However, the AMMA includes certain employment-related protections for authorized marijuana users. The law specifies that, unless compliance would result in a loss of any monetary- or licensing-related benefit under federal law or regulations, employers are prohibited from taking any adverse employment action against:

- Any individual based on the fact that he or she is an authorized medical marijuana user; or
- An authorized medical marijuana user based on the fact that he or she tests positive for marijuana components or metabolites (unless the employer had reason to believe that the authorized marijuana user who tested positive had been using or was under the influence of marijuana at work).

Employers may not consider an authorized marijuana user to be “under the influence” of marijuana solely because a drug test shows the presence of metabolites or components of marijuana, if the concentration is not sufficient to cause impairment.

MORE INFORMATION

Contact Heffernan Insurance Brokers for more information on fair employment laws in Arizona.

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