

Employment Law Summary

Fair Employment Laws – Overview



Because You're Different

In addition to the workplace discrimination protections provided to employees under federal law, Maine law affords broad workplace discrimination protections under the Maine Human Rights Act ([MHRA](#)) and other laws relating to employment.

This Employment Law Summary provides a high-level overview of the MHRA and information about related provisions under other state laws.

COVERED EMPLOYMENT

The MHRA generally applies to all employers in Maine. This includes employers that are located outside of the state but have any number of employees whose usual place of employment is inside the state. It also applies to labor organizations, regardless of whether they are organized on a religious, fraternal or sectarian basis, with respect to their employment of employees.

EXEMPTIONS

Nonprofit religious and fraternal organizations are generally exempt from the MHRA, but only with respect to their employees who are members of the same religion, sect or fraternity. Religious entities may give employment preference to individuals of the same religion to perform work connected with the entity's carrying on of its activities. They may also require all applicants and employees to conform to their religious tenets. Finally, individuals employed by their own parents, spouse or child are generally excluded from the law's protections.

However, none of these exemptions is available for purposes of age- or disability-related discrimination.

PROTECTED TRAITS AND ACTIVITIES

The MHRA protects against discrimination that is based on certain characteristics, which are known as protected traits. These include:

- Race (including traits associated with race, such as hair texture, Afro hairstyles and protective hairstyles);
- Color;
- Sex (including pregnancy and medical conditions that result from pregnancy);
- Sexual orientation or gender identity;
- Physical or mental disability;
- Religion;
- Age (all ages, except as provided for in child labor laws);
- Ancestry;
- National origin; and
- Familial status.

The law also prohibits discrimination based on certain activities by an individual, including:

- Asserting a workers' compensation claim;
- Taking legal actions related to an order of protection against domestic abuse; or
- Reporting or refusing to commit illegal acts.

PROHIBITED ACTIONS

Under the MHRA, it is unlawful for an employer to take any of the following actions against an individual based on a protected trait or protected activity:

- Refuse to hire or otherwise discriminate against an individual;
- Discharge or discriminate against an individual with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment or any other matter directly or indirectly related to employment.

With limited exceptions, the MHRA also makes it unlawful for an employer to:

- Elicit or attempt to elicit information about an individual's protected trait or activity;
- Make or keep a record of an individual's protected trait or activity;
- Include any questions about an individual's protected trait or activity on a job application or other employment form;
- Indicate a preference related to a protected trait or action in any job advertisement or notice;
- Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment of any group because of a protected trait or action of that group;
- Take any adverse action against an individual because the individual opposed a practice that would violate any applicable law or because the individual has made a charge, testified or assisted in any investigation, proceeding or hearing under the MHRA;
- Use an employment agency that the employer knows or has reasonable cause to know engages in unlawful discrimination;
- Require an employee to retire at a specified age or after completion of a specified number of years of service;
- Use standards, criteria or methods of administration that have the effect of or perpetuate unlawful discrimination by others;
- Exclude or otherwise deny equal jobs or benefits based on the protected trait or action of a person with whom an individual associates or has a relationship;
- Treat a pregnant person who is not able to work because of a disability or illness resulting from pregnancy or a related medical condition in a different manner from other employees who are not able to work because of other disabilities or illnesses;
- Fail to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability or an employee with a pregnancy-related condition, absent undue hardship;
- Deny employment opportunities based on the need to make reasonable accommodations;
- Use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual or a class of individuals based on a protected trait or activity (unless job-related for the position in question and consistent with business necessity);
- Fail to ensure that a test administered to an individual with a disability accurately reflects the skills, aptitude or any other factor that the test purports to measure rather than the individual's impairments;
- Coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of the rights granted or protected by the MHRA or because that individual has exercised or enjoyed or has aided or encouraged another individual in the exercise or enjoyment of those rights; or
- Retaliate against an individual for opposing any practices forbidden under the MHRA or for filing a complaint, testifying or otherwise participating in any proceeding under the MHRA.

ASKING ABOUT PAST PAY

Under an MHRA provision that aims to promote equal pay for comparable work on jobs with comparable requirements relating to skill, effort and responsibility, employer inquiries about an applicant's compensation history may be used as evidence that the employer engaged in unlawful discrimination.

However, an employer may inquire about or otherwise seek information about past pay after making an offer of employment that includes all terms of compensation. Also, if an applicant voluntarily discloses pay history information without prompting, the employer may seek to confirm that information prior to a job offer.

This provision also carves out an exception for any applicable state or federal law that specifically requires disclosure or verification of compensation history for employment purposes.

REASONABLE ACCOMMODATION REQUIREMENTS

The MHRA requires employers to provide reasonable accommodations for physical or mental disabilities and known limitations of an employee's ability to perform the functions of a job due to pregnancy, childbirth or related medical conditions unless they can prove that no accommodations are possible without causing undue hardship on their businesses. Determining undue hardship generally involves consideration of several factors, such as the nature and cost of the accommodation needed, the employer's overall size and financial resources, and the type of operation.

DISABILITY ACCOMMODATIONS

Reasonable accommodations for disability may include but are not limited to:

- Making existing facilities used by employees readily accessible to and usable by individuals with disabilities;
- Job restructuring;
- Part-time or modified work schedules;
- Reassignment to a vacant position;
- Leaves of absence;
- Acquisition or modification of equipment or devices;
- Adjustment to examinations, training materials or policies; and
- Provision of qualified readers or interpreters.

ACCOMMODATIONS FOR PREGNANCY AND RELATED CONDITIONS

Reasonable accommodation for pregnancy or related conditions may be any change to a job or workplace that enables an individual to perform the essential duties of a position successfully or to enjoy the same employment rights and privileges as other employees. Examples of accommodations for individuals limited by pregnancy or related conditions include:

- More frequent or longer breaks;
- Temporary modification in work schedules,
- Seating or equipment;
- Temporary relief from lifting requirements;
- Temporary transfer to less strenuous or hazardous work; and
- Provisions for lactation.

ENFORCEMENT

The MHRA is enforced by the [Maine Human Rights Commission](#) (MHRC). Individuals who believe an employer has violated the law may file a complaint with the MHRC within **300 days** of the alleged violation. The MHRC itself may file a complaint against the employer as well.

Once a complaint is filed, the MHRC will investigate and attempt to resolve the dispute. If the MHRC finds evidence of a violation and its efforts to resolve the dispute fail, it may file a civil lawsuit with the Maine Superior Court against the employer or issue a letter allowing the aggrieved individual to do so. This type of lawsuit must be filed within the later of the following: up to **two years** after the act of unlawful discrimination or **90 days** after the MHRC's efforts conclude (through an agreement between the parties, the MRHC's dismissal or the date the MRHC issued a right-to-sue letter).

If the court finds that an employer engaged in unlawful discrimination occurred, it may order the employer to:

- Cease and desist from the unlawful practices;
- Employ or reinstate an individual with or without back pay; and
- Pay the following:
 - If the employer has 14 or fewer employees, civil penal damages of up to \$20,000 for an initial violation, \$50,000 for a second violation, and \$100,000 for a third or subsequent violation;
 - If the employer has 15 or more employees, compensatory and punitive damages of up to between \$100,000 and \$1,000,000, depending on the actual number of employees; and
 - Attorneys fees and costs.

MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the [MHRC's website](#) for more information on employment discrimination laws in Maine.

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