

EMPLOYMENT LAW SUMMARY

Minnesota: Fair Employment Laws – Overview



Because You're Different

In addition to the workplace discrimination protections provided to employees under federal laws, such as Title VII of the Civil Rights Act, the Age Discrimination in Employment Act (ADEA) and the Americans with Disabilities Act (ADA), Minnesota law provides broad workplace discrimination protections to employees under the Minnesota Human Rights Act (MHRA). This Employment Law Summary provides an overview of the MHRA and its impact on employers.

COVERED EMPLOYERS

The MHRA differs from federal discrimination laws in that most of its provisions apply to **all employers**, employment agencies and labor unions with **one or more employees**. Accordingly, many Minnesota employers that are not covered under federal discrimination laws must comply with the MHRA's non-discrimination provisions.

PROHIBITED PRACTICES

The MHRA makes it illegal for employers to treat employees and applicants differently based on a protected status. Protected statuses include **race** (as of **Aug. 1, 2023**, this includes "traits associated with race, including but not limited to hair textures and hair styles such as braids, locs, and twists"), **color, creed, religion, national origin, sex, marital status, disability, status with regard to public assistance, age, sexual orientation, familial status, or membership in or activity with a local human rights commission**. As of **Jan. 1, 2024**, this list also includes **gender identity**.

Specifically, it is unlawful for an employer to do any of the following based on a protected status:

- Refuse to hire or maintain a system of employment that unreasonably excludes a person seeking employment;
- Unfairly discharge an employee;
- Discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities or privileges of employment;
- Retaliate against an individual because he or she opposes a practice forbidden by the MHRA, files a discrimination charge or participates in a matter brought by the Minnesota Department of Human Rights (MDHR);
- Fail to provide reasonable accommodations for disabled persons when required to do so;
- Seek or obtain any information about a job applicant's protected characteristics for the purpose of making an employment decision;
- Advertise a job vacancy or job opening with preferences, quotas, limitations or specifications regarding a protected characteristic; or
- Require or request that a job applicant furnish information that pertains to protected characteristics or undergo a physical examination.

PROHIBITION AGAINST SEEKING PAY HISTORY

On May 26, 2023, Minnesota enacted a new law ([House Bill 447](#)) that prohibits all employers in the state from seeking information about a job applicant's past or current wages. The new law is effective on **Jan. 1, 2024**. Under the new law, employers may not inquire into, consider or require disclosure of an applicant's pay history—from any source—for purposes of determining that applicant's wages, salary, earnings, benefits or other compensation.

PUBLIC RECORD EXCEPTION

Employers may still consider an applicant's pay history if that information is a matter of public record under federal or state law. However, this is only allowed if an employer does not seek out the records with the intent to use them in determining the applicant's pay.

HIGHER OFFER EXCEPTION

If an applicant voluntarily—and without asking, encouraging or prompting—discloses pay history for purposes of negotiating the pay amount for a job offer, the employer may consider that information, but only for purposes of supporting a higher offer than the initial one.

PERMITTED ACTIONS

The new law does not prevent an employer from:

- Providing information about the pay offered in relation to a position; or
- Asking or talking with an applicant about the applicant's pay expectations or requests.

DISABILITY

Under the MHRA, the term "disability" means any condition or characteristic that renders an individual a disabled person. A "disabled person" is any person who:

- Has a physical, sensory or mental impairment that materially limits one or more major life activities;
- Has a record of such an impairment; or
- Is regarded as having such impairment.

REASONABLE ACCOMMODATIONS

Minnesota employers with **15 or more employees** have a duty to make "reasonable accommodations" in order to avoid discriminating against an employee or applicant with a physical or mental disability. A reasonable accommodation is a step that must be taken, unless doing so would cause **undue hardship** for the employer, to accommodate the known physical or mental limitations of a qualified disabled person.

Reasonable accommodations include, but are not limited to, making facilities readily accessible to people with disabilities, job restructuring, modifying work schedules, reassigning disabled individuals to vacant positions, acquiring or modifying equipment or devices, or granting a leave of absence. In determining whether an accommodation imposes an undue hardship on the operation of a business or organization, a number of factors are considered. These include:

- The overall size of the business with respect to the number of employees and the number and type of facilities;
- The business' operations, including the composition and structure of the work force and the number of employees at the location where employment occurs;
- The nature and cost of the accommodation; and
- The reasonable ability to finance the accommodation at each site of the business.

Employers are not necessarily required to provide the accommodation preferred by an employee or job applicant, provided that the accommodation offered by the employer is effective.

AGE

Unlike the federal ADEA, which applies to employees who are 40 years of age or older, the MHRA's prohibition against unfair employment discrimination based on age applies to individuals over the "age of majority," which is 18. Accordingly, Minnesota employers may be subject to age discrimination claims for instances that are not covered under the federal age discrimination law.

PREGNANCY

The MHRA's prohibition against gender discrimination includes actions taken against an individual based on pregnancy, childbirth and disabilities related to pregnancy or childbirth.

On May 24, 2023, Minnesota enacted [Senate Bill \(SB\) 3035](#) to strengthen workplace accommodation and leave rights for employees affected by pregnancy or related conditions. The new law, which also imposes a new notice mandate on all employers in the state, went into effect on **July 1, 2023**.

NEW ACCOMMODATION EXAMPLES

Under existing law, employers must provide reasonable accommodations to employees affected by pregnancy or related health conditions upon request unless it would cause undue hardship. Examples of reasonable accommodations include temporary transfer to a less strenuous or hazardous position, seating, frequent restroom breaks and limitations on heavy lifting. SB 3035 added adds temporary leaves of absence and scheduling changes to this list.

EXPANDED PARENTAL LEAVE MANDATE

Existing law requires employers with 21 or more employees in one location to provide certain employees with unpaid leave for the birth or adoption of a child. SB 3035 expands this requirement to **all employers** in the state. This means employees who have worked at least half-time for at least 12 months for any employer in Minnesota may qualify for this leave.

NOTICE REQUIREMENTS

SB 3035 requires employers to provide all employees with written notice of their rights. This notice must be provided at the time of hire and when an employee asks about or requests parental leave. The notice must be provided in both English and the employee's primary language (as identified by the employee). Employers that provide an employee handbook to employees must also include information about the new law in the handbook. The new law directs the [Minnesota Department of Human Rights](#) (MDHR) to create the required notice.

SEXUAL HARASSMENT

Sexual harassment is a form of gender discrimination under the MHRA. Sexual harassment in the workplace includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature.

RELIGION

The MHRA makes it unlawful for employers to make employment decisions based on an individual's religion. However, the law contains an exemption for religious or fraternal corporations, associations and societies with respect to qualifications that are based on religion or sexual orientation, as long as religion or sexual orientation is a bona fide occupational qualification for employment.

EXEMPTIONS

The MHRA does not prevent employers from establishing the following policies or programs:

- **Bona fide seniority system** to mandate differences in things such as wages, hiring and layoff priorities, vacation credit and job assignments based on seniority, as long as the system the does attempt to evade the MHRA's requirements;
- **Insurance and fringe benefits** that vary based on employees' ages, as long as the employer's cost for the benefits is reasonably equivalent for all employees;
- **Mandatory retirement ages** for employees, but only for certain professions and only if required or consistent with state or federal law; and
- **Physical exams** to determine essential job-related abilities, as long as they are for allowable purposes under the law and are applied equally to all employees and applicants.

ENFORCEMENT AND PENALTIES

The Minnesota Department of Human Rights (MDHR) enforces the MHRA. Individuals who believe they have experienced discrimination may file a complaint with the MDHR **within one year** of the alleged discrimination. If the MDHR determines that the complaint is sufficient, it will file a charge against the employer on behalf of the individual. After a complaint is filed against an employer, the parties to the complaint may agree to mutually resolve their differences through mediation.

If a resolution cannot be reached through mediation, the MDHR will conduct a neutral investigation of the charges. The MDHR will bring charges against an employer if it determines that there is probable cause that the employer violated the MHRA. An employer that is found guilty of violating the MHRA may be ordered to:

- Hire, reinstate or promote aggrieved employees or applicants;
- Pay aggrieved individuals lost wages;
- Pay compensatory and punitive damages to aggrieved individuals;
- Pay civil fines to the State of Minnesota; and
- Comply with other relief orders determined to be just and equitable.

In addition, individuals have a right to file civil lawsuits alleging unlawful discrimination and to seek damages, injunctive relief and other appropriate relief.

MORE INFORMATION

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

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. Readers should contact legal counsel for legal advice. © 2021, 2023 Zywave, Inc. All rights reserved.