

Employment Law Summary

Missouri Fair Employment Laws – Overview



Several [federal laws](#) provide workplace discrimination protections. In addition, Missouri's state laws provide workplace discrimination protections for employees and applicants, as summarized below.

MISSOURI HUMAN RIGHTS ACT

The Missouri Human Rights Act ([MHRA](#)) applies to **employers with six or more employees** for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. This includes the state and its political and civil subdivisions. The MHRA also applies to employment agencies and labor organizations.

EXCEPTIONS

The MHRA does not apply to:

- Corporations and associations owned or operated by religious or sectarian organizations;
- The United States or a corporation wholly owned by it;
- An individual employed by an employer;
- A Native American tribe;
- Certain agencies of the District of Columbia; or
- A bona fide private membership club, other than a labor organization, that is exempt from taxation under federal law.

PROTECTED TRAITS

The MHRA protects against discrimination is based on the following characteristics, known as protected traits:

- Race;
- Color;
- Religion;
- National origin (which may include height, weight, language and other characteristics);
- Ancestry;
- Sex (including pregnancy, childbirth and related medical conditions);
- Disability; and
- Age (ages 40-69).

The law also protects individuals with HIV infection, AIDS and AIDS-related complex. However, this protection does not include individuals who have a currently contagious disease or infection and are unable to perform the duties of their employment because of it.

PROHIBITED ACTIONS

It is an unlawful employment practice to engage in any of the following if the action is based on a protected trait:

- Fail or refuse to hire an individual;
- Discharge an individual;
- Otherwise discriminate against an individual in compensation, terms, conditions or privileges of employment;
- Limit, segregate or classify individuals in any way that would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect their status as an employee;
- Print or circulate or cause to be printed or circulated any statement, advertisement or publication, or use any form of application for employment or make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification or discrimination unless based on a bona fide occupational qualification.

The Missouri Department of Labor and Industrial Relations ([MDOL](#)) provides guidance on [how these prohibitions apply in the context of preemployment inquiries](#).

Sexual harassment is prohibited as well. This includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that constitutes sexual harassment when:

- Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of the conduct is used as the basis for employment decisions affecting the individual; or
- The conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Also, under the law, employers may not:

- Aid, abet, incite, compel or coerce the commission of acts prohibited under the MHRA or attempt to do so;
- Retaliate or discriminate in any manner against any other person because the person has opposed any prohibited practice or because the person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing conducted under the MHRA; or
- Discriminate in any manner against any other person because of the person's association with any person protected under the law.

DISABILITY DISCRIMINATION

An individual has a disability if any of the following applies and the impairment, with or without reasonable accommodation, does not interfere with the performance of the job in question:

- The individual has a physical or mental impairment that substantially limits one or more of a person's major life activities;
- The individual is regarded as having such an impairment; or
- The individual has a record of having such an impairment.

For this purpose, disability does not include current, illegal use of or addiction to a controlled substance. However, an individual may be considered to have a disability if the individual:

- Has successfully completed a supervised drug rehabilitation program and:
 - Is no longer engaging in the illegal use of and is not currently addicted to a controlled substance; or
 - Has otherwise been rehabilitated successfully and is no longer engaging in such use and is not currently addicted;
- Is participating in a supervised rehabilitation program and is no longer engaging in illegal use of controlled substances; or
- Is erroneously regarded as currently illegally using or being addicted to a controlled substance.

PERMITTED ACTIONS

An employer may apply different standards of compensation or different terms, conditions or privileges of employment pursuant to the following, as long as the differences or systems are not intended, designed or used to discriminate based on a protected trait:

- Bona fide seniority or merit system;
- A system that measures earnings by quantity or quality of production; or
- Employees who work in different locations.

Employers may also give and act upon the results of any professionally developed ability test, as long as the test, its administration or action upon the results of it is not designed, intended or used to discriminate based on a protected trait.

In addition, despite the MHRA's prohibition against discriminating against individuals aged 40-69 based on age, employers may require an individual who is age 65 or older to retire if the individual is:

- Employed in a bona fide executive or high policy-making position for the two-year period immediately before retirement; and
- Entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit sharing, savings or deferred compensation plan, or any combination of these plans, of the employer, which equals, in the aggregate, at least \$44,000.

REASONABLE ACCOMMODATION REQUIREMENTS

Unless it would cause undue hardship on the operation of the employer's business, employers must provide reasonable accommodations for the known limitations of:

- Otherwise qualified individuals with **disabilities**; and
- Otherwise qualified individuals affected by **pregnancy**, childbirth and related medical conditions.

Reasonable accommodations may include but are not limited to:

- Making existing facilities readily accessible and usable;
- Job restructuring;
- Modifying work schedules;
- Reassigning to a vacant position;
- Acquiring or modifying equipment or devices;
- Adjusting or modifying examinations, training materials or policies; and
- Providing qualified readers or interpreters.

Undue hardship is generally defined as significant difficulty or expense when considered in light of factors such as the employer's size, financial resources, and the nature and structure of its operation. These factors include:

- The nature and cost of the accommodation needed;
- The size and nature of the business, including the number and type of facilities and the structure and composition of the workforce;
- The good-faith efforts previously made to accommodate similar disabilities; and
- The ownership interest in the subject of the proposed accommodation, including the authority to make the accommodation under the terms of any bona fide agreement such as a lease.

Employers must also make reasonable accommodations to the religious needs of employees and prospective employees where possible without causing undue hardship. For example, for this purpose, undue hardship may exist where an employee's needed work cannot be performed by another employee of substantially similar qualifications during the period when the employee requests to be absent to observe the Sabbath.

POSTING REQUIREMENT

Employers must post a [notice](#) regarding the MHRA in a place where other employee notices are posted or in a conspicuous place where employees will have access to it.

ENFORCEMENT

The MHRA is enforced by the Missouri Commission on Human Rights ([MCHR](#)). Individuals who believe an employer has engaged in an unlawful practice under the MHRA may file a written complaint with the MCHR **within 180 days** of the alleged act of discrimination.

After a complaint is filed, the MCHR will investigate, and if this results in a finding of probable cause, the agency will work with the parties to resolve the dispute through conference, conciliation and persuasion. If these efforts are not successful, the MCHR may either dismiss the claim or, after holding a hearing, order the employer to cease and desist the unlawful practices and remedy the violations through reinstatement or promotion, back pay, actual damages and civil penalties.

If the MCHR's investigation does not result in a finding of probable cause, the agency will provide the complainant with a [notice of the right to sue](#) the employer in court. A complainant may also receive this type of notice upon written request, but only if the MCHR has not completed its administrative processing after 180 days from the date the complaint was filed. A notice of the right to sue allows an individual to file a lawsuit within **90 days** from the date of the notice but no later than **two years** after the alleged cause occurred or its reasonable discovery.

If a court finds that an employer is about to violate or has violated the MCHR, the court may issue a permanent or temporary injunction, temporary restraining order or other order, which may require the employer to pay **actual and punitive damages, court costs and reasonable attorney fees**. However, the total amount of actual and punitive damages is limited to the amount of actual back pay and interest on back pay, plus a total of **between \$50,000 and \$500,000**, depending on the employer's size.

EQUAL PAY LAW

The Missouri Equal Pay Act (MEPA) prohibits **all employers** in the state from paying any female employee who is age 18 or older at wage rates less than the wage rates paid to male employees in the same establishment for the same quantity and quality of the same classification of work. For this purpose, the terms "wage rates" or "wages" include any compensation for labor measured by time, piece or otherwise.

However, this law does not prohibit a variation of rates of pay for male and female employees engaged in the same classification of work based on:

- A difference in seniority, length of service, ability or skill;
- A difference in duties or services performed;
- A difference in the shift or time of day worked, hours of work, or restrictions or prohibitions on lifting or moving objects in excess of specified weight; and
- Other reasonable differentiation or factors other than sex when exercised in good faith.

ENFORCEMENT

The MEPA is enforced by the Missouri Department of Labor and Industrial Relations Commission ([LIRC](#)). A female employee who believes that the wages paid to her are less than the wages she is entitled to under the MEPA may file a complaint with the LIRC. After a complaint is filed, the LIRC will provide notice to the employer and an opportunity to respond before setting a date for mediation of the dispute to help ensure that the employer pays the affected female employee any wages of which she was deprived by the employer's violation.

An affected female employee may also initiate a lawsuit in circuit court as long as it is filed **within six months** after the date of the alleged violation. In this type of case, the court may order the employer to pay the wages the employee is entitled to under the law, limited to a period of up to **30 days** prior to when the employee provided notice of the claim to the employer, along with the costs of the action.

RELATED LAWS

In addition to the provisions described above, Missouri has laws that prohibit all employers in the state from:

- Using any genetic information or genetic test results of an employee or prospective employee to distinguish between, discriminate against, or restrict any right or benefit otherwise due or available to the individual;
- Discriminating against individuals based on their lawful use of alcohol or tobacco products outside of work and working hours; and
- Discriminating against any individual for being in the military, preventing an individual in the military from performing military duties or attempting to dissuade an individual from joining the military.

MORE INFORMATION

For more information on fair employment laws in Missouri, visit the [MDOL website](#) or contact Heffernan Insurance Brokers.

Provided By Heffernan Insurance Brokers

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. © 2024 Zywave, Inc. All rights reserved.