

EMPLOYMENT LAW SUMMARY

Tennessee: Fair Employment Laws - Overview



Because You're Different

In addition to the federal fair employment laws, Tennessee law makes it unlawful for employers to engage in certain discriminatory employment practices. The **Tennessee Human Rights Act**, **Disability Act** and **Equal Pay Act** provide discrimination protections for employees and job applicants in the state.

This Employment Law Summary provides a high-level overview of Tennessee's employment nondiscrimination laws and suggests compliance steps for employers.

TENNESSEE HUMAN RIGHTS ACT (THRA)

The THRA applies to Tennessee employers that have **8 or more employees** in the state. Under this law, employers may not discriminate against or provide preferential treatment to any individual based on his or her **race, creed, color, religion, sex, age** (40 and older) or **national origin**. As of July 1, 2022, race includes characteristics associated with race, including hair texture and protective hairstyles such as braids, locks and twists. The THRA also prohibits employers from retaliating against any individual because he or she has made a charge, filed a complaint, testified, assisted or participated in an investigation, proceeding or hearing under the law.

However, the THRA allows employers to make certain employment decisions that would otherwise be prohibited, as long as the decisions are based on bona fide occupational qualifications (BFOQs). A BFOQ is a special situation where an employer may make decisions based on an individual's protected class only if they are justified by business necessity.

For example, an employer may publish an advertisement or publication that indicates a preference, limitation, or specification based on religion or sex when **religion** or **sex** is a BFOQ reasonably necessary to the normal operation of the employer's particular business or enterprise. Other BFOQ exceptions are also available under the law.

REQUIRED POSTER

Employers subject to the THRA must post a notice of the law's requirements in a conspicuous place on their premises. The THRC provides a model poster that employers may use to satisfy this requirement.

TENNESSEE DISABILITY ACT

Like the THRA, the Tennessee Disability Act (TDA) applies to Tennessee employers that have **8 or more employees** in the state. This law prohibits employment discrimination against a job applicant based solely on the individual's physical, mental or visual disability. The TDA also specifically prohibits discrimination against a blind person based on the fact that he or she is accompanied by a guide dog.

The TDA provides an exception for situations in which an applicant's disability prevents him or her from performing the required job duties or impairs his or her work performance. While this law does not require employers to provide reasonable accommodations for an individual's disability, this may be required under federal law provisions.

TENNESSEE EQUAL PAY ACT

The Tennessee Equal Pay Act prohibits **all employers** in the state from discriminating in pay based on sex. This applies in relation to male and female employees who work in the same establishment, performing comparable work, under similar working conditions, in jobs requiring comparable skill, effort, and responsibility. However, different wages or salaries are permitted if they are based on seniority, merit, quality or quantity of production or a reasonable factor other than sex.

ENFORCEMENT

Tennessee's fair employment laws are enforced by the [Tennessee Human Rights Commission](#) (THRC). The THRC may investigate an employer's practices at any time, either on its own initiative or after an individual files a charge against the employer.

Employees may also file lawsuits alleging unlawful discrimination against employers. In these lawsuits, a court may award job reinstatement, back pay, damages for any injury (including humiliation and embarrassment), costs, injunctive relief and any other appropriate relief.

COMPLIANCE STEPS

In general, state employment nondiscrimination laws provide similar, but not identical, protections to employees as the federal employment nondiscrimination laws. Employers should work with their advisors to become familiar with how both federal and state laws apply to their employment practices. Employers can also help protect themselves from discrimination claims by creating a work environment that discourages employment discrimination. To create this type of environment, employers should consider the following steps:

- Confirm that workplace nondiscrimination policies are complete, accurate and up-to-date, and that they are actually being followed;
- Update the policies as necessary to include a strict "no tolerance" policy for prohibited discrimination, and include information on how employees can report incidents of discrimination to the employer;
- Train managers and supervisors on the updated policies and educate employees regarding employment discrimination, including sexual harassment training; and
- Respond to employee complaints in a timely and professional manner.

MORE INFORMATION

Contact Heffernan Insurance Brokers for more information on Tennessee's fair employment laws.

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