

## FEDERAL EMPLOYMENT LAWS THAT PERTAIN TO EMPLOYERS WITH ONE (1) TO NINETY-NINE (99) OR MORE EMPLOYEES

This list contains a majority of the federal employment laws that apply to employers with 1 to 99 employees. This list is not all-inclusive. Laws may vary depending upon an organization's legal status such as; non-profits, public, private, or government. Be sure to refer to your applicable state laws.

### **Age Discrimination in Employment Act (ADEA) - 1967**

Age Discrimination in Employment Act protects individuals who are 40 years of age or older from employment discrimination, based on age. This law applies to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age, with respect to any term or condition of employment, including but not limited to; hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training. With few exceptions, the ADEA prohibits a mandatory retirement based on age.

[Click here for more information on the EEOC website.](#)

### **Americans with Disabilities Act (ADA) - 1990**

Americans with Disabilities Act prohibits private employers, state and local governments, employment agencies, and labor unions from discriminating against qualified individuals with disabilities in all areas of employment. The areas of employment, include but are not limited to; the job application process, hiring, firing, promotions, compensation, job training or any other conditions of employment. Employers are required to make a reasonable accommodation for individuals with disabilities, unless it creates an "undue hardship" on the employer.

[Click here for more information on the ADA website.](#)

### **Consolidated Omnibus Budget Reconciliation Act (COBRA) - 1986**

The Consolidated Omnibus Budget Reconciliation Act (COBRA) gives workers who lose their health benefits the option to continue group health benefits provided by the plan under certain circumstances, by paying 102% of the cost for periods ranging from 18-36 months. Generally, employees lose benefits due to a separation of employment, or a reduction in hours, which makes them ineligible for the plan. With few exceptions, COBRA requires that group health plans sponsored by employers with 20 or more employees on 50% of the business days in the prior year, offer employees and their families the opportunity for a temporary extension of health coverage (called continuation coverage) in certain instances where coverage under the plan would otherwise end.

[Click here for more information on the DOL website.](#)

### **Consumer Credit Protection Act (CCPA) - 1968**

The Consumer Credit Protection Act protects employees from being terminated or discharged by their employer because their wages have been garnished for any one debt. In addition, it limits the garnishment amount of an employee's weekly earnings.

[Click here for more information on the DOL website.](#)

### **Davis Bacon Act – 1931**

The Davis Bacon Act covers federal contractors with contracts over \$2,000. Federal contractors and their subcontractors must pay wages and fringe benefits that are not less than the local prevailing wage for laborers and mechanics employed on similar projects in the area.

[Click here for more information on the DOL website.](#)

### **Drug-Free Workplace Act – 1988**

The Drug-Free Workplace Act requires federal contractors with contracts of \$100,000 or more, and *all* federal grantees, that they will provide a drug-free workplace as a condition of receiving a contract or grant from a federal agency. These employers must develop and distribute a written policy containing specified elements such as; a policy, drug awareness program, and actions to be taken if there are violations. This Act does **not** apply to subcontractors or sub-grantees.

[Click here for more information on the DOL website.](#)

### **Economic Growth & Tax Relief Reconciliation Act (EGTRRA) – 2001**

The EGTRRA made changes in the Internal Revenue Code around income tax rates, qualified retirement plans, estate and gift taxes. The highlights of law in the arena of retirement plans are as follows:

- Allowed catch-up contributions for employees age 50 and older.
- Changed distribution and rollover rules.
- Altered the employer matching contributions vesting schedules for plans made after 2001.
  - Employer matching contributions must become 100% vested no later than when an employee completes three years of service **OR**
  - Employer matching contributions are 20% vested after two years of service with 20% every year after at which time the employee will be 100% vested after six years of service.

[Click here for a Summary of EGTRRA Changes for Retirement Plans](#)

### **Employee Polygraph Protection Act - 1988**

The Employee Polygraph Protection Act prevents most private employers from using lie detector tests for pre-employment screening, or the use of a lie detector test during the course of employment. In addition, an employer cannot discipline, discharge, or discriminate against employees that refuse to take the test. This law does not apply to federal, state, local governments, and certain private sector employees that are involved in national security related functions. Employers are required to post information about this law.

[Click here for more information on the DOL website and to obtain a poster.](#)

### **Employee Retirement Income Security Act (ERISA) - 1974**

The Employee Retirement Income Security Act was established to protect the participants of benefit and welfare plans by establishing standards and requirements for employers. One provision of this law is that employers are required to provide new plan participants with a summary plan description (SPD) within 90 days after coverage. In addition, certain employers are required to file a 5500 form to the IRS that contains information about each benefit plan.

[Click here for more information on the DOL website.](#)

### **Equal Pay Act - 1963**

The Equal Pay Act requires that men and women be given equal pay of wages for jobs of equal skill, effort, responsibility, and working conditions unless the difference is based on seniority, merit, quantity or quality of production, or another factor other than sex. The Equal Pay Act is an amendment to the Wage and Hour Law and is enforced by the Equal Employment Opportunity Commission (EEOC).

[Click here for more information on the EEOC website.](#)

### **Executive Order 11246 (1965); 11375 (1967); 11478 (1969)**

These Executive Orders applies to federal contractors and subcontractors with contracts in excess of \$10,000, and requires that these employers do not discriminate against applicants and employees on the basis of race, color, religion, gender, national origin, age, and disability. In addition, federal contractors with contracts over \$50,000 and at least 50 employees must implement a written affirmative action plan.

### **Executive Order 12138**

Executive Order 12138 mandates that each federal department and federal agency take affirmative action to facilitate, preserve, support and strengthen women's business enterprises.

### **Fair Credit Reporting Act (FCRA) - 1971**

The Fair Credit Reporting Act requires that specific notices and authorizations are completed prior to conducting a third-party background check of an applicant or employee which includes but is not limited to, "A Summary of Your Rights under The Fair Credit Reporting Act.". If an employer chooses not to hire, promote, or transfer an applicant or employee due to information obtained from background information, they are required to follow adverse action procedures. These adverse action procedures include notifying the applicant or employee of the action taken, and a copy of the report which has to include the name, address, and phone number of the company which produced the report. In addition, the applicant and employee must be informed that the decision was made by the employer, not the company which produced the report.

[Click here for more information on the Federal Trade Commission website.](#)

### **Fair Labor Standards Act (FLSA) - 1938**

The Fair Labor Standards Act establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. In addition, this law defines the guidelines to determine exempt, non-exempt, or independent contractor status of an employee.

[Click here for more information and a poster on the DOL website.](#)

[Click here for more information on Child Labor laws on the DOL website.](#)

### **Family Medical Leave Act (FMLA) - 1993**

The Family Medical Leave Act requires employers to provide eligible employees to take up to 12 weeks of unpaid, job-protected leave, in a 12-month period for specified family, medical, and military reasons. Eligible employees (child, spouse, parent, or next of kin of covered service member) may take up to 26 weeks of job-protected leave in a "single 12-month period" to care for a covered service member with a serious injury or illness.

[Click here for more information on the DOL website.](#)

## **Genetic Information Nondiscrimination Act (GINA) – 2008**

Effective on November 21, 2009, GINA prohibits genetic information discrimination in employment. Genetic information includes information about genetic tests of applicants, employees, or their family members. The law forbids discrimination on the basis of genetic information when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoffs, training, fringe benefits and any other term or condition of employment. An employer may never use genetic information to make an employment decision because genetic information does not tell the employer anything about someone's current ability to work. Also, employers cannot harass or retaliate against an employee because of their genetic information. It is typically unlawful for an employer to obtain genetic information; however, there are some exceptions. Click on the link below to review the exceptions. Lastly, employers that are allowed to acquire genetic information are required to keep genetic information confidential and in a separate medical file.

[Click here for more information on GINA.](#)

[Click here for the EEOC poster which includes the GINA information.](#)

## **Health Insurance Portability and Accountability Act (HIPAA) - 1996**

HIPPA makes health insurance more portable when an employee moves from one employer to another, and it limits pre-existing condition exclusion periods, protections against discrimination, and special enrollment rights. In addition, it strictly regulates the privacy of Protected Health Information that includes medical records or other data that contains individually identifiable health information that may be used or disclosed in any form, such as; electronically, on paper, or orally.

[Click here for information on the DOL website.](#)

[Click here for more information on the Health & Human Services website.](#)

## **Immigration Reform and Control Act (IRCA) - 1986**

The Immigration Reform and Control Act forbid employers from hiring individuals that are not authorized to work in the United States. In addition, employers that are hiring, discharging, recruiting or referring for a fee, may not discriminate because of national origin or citizenship. Employers must demonstrate compliance with the law by following the verification (I-9 Form) requirements, and by treating all new hires the same.

[Click here for the most current I-9 form.](#)

[Click here for the employer instruction handbook for the I-9 Form.](#)

[Click here for more information on the IRCA.](#)

## **Internal Revenue Code (IRS) - 1882**

The Internal Revenue Code contains written tax laws regulating employer requirements regarding taxes in many areas, including but not limited to; wages, pensions, profit sharing, stock bonus plans, and retirement tax.

[Click here for tax information for businesses on the IRS website.](#)

## **Labor-Management Relations Act (LMRA, Taft Hartley Act) - 1947**

The LMRA regulates the relationships between workers and employers, and addressed unfair union labor practices. In essence, it balances the rights and needs of employers and employees, particularly in the area of collective bargaining, wage and hour issues, and working conditions. This Act was an amendment to the National Labor Relations Act.

### **Labor-Management Reporting and Disclosure Act (LMRDA) - 1959**

The LMRDA guarantees certain rights to union members, and imposes certain responsibilities on union officers (i.e. equal rights to participate in union activities; freedom of speech and assembly; voice in setting rates of dues, fees, and assessments; and protection of the right to sue safeguards against improper discipline).

### **National Labor Relations Act (NLRA, Wagner Act) - 1935**

The NLRA gave employees the right to form and join a union, and forbid employers from interfering with union and non-union employees who engage in concerted activity on issues of wages, hours, or working conditions. Similarly, labor organizations may not restrain or coerce employees in the exercise of these rights. In addition, it established procedures for labor management relations, such as; picketing, representation, union elections and prohibits discrimination on basis of union status. This law created the National Labor Relations Board which is a federal agency that administers the NLRA.

Effective January 31<sup>st</sup>, 2012 most private employers will be required to post a notice advising employees of their rights under the NLRA.

**[Click here for the poster and additional information from the National Labor Relations Board.](#)**

### **Occupational Safety and Health Act (OSHA) - 1970**

The Occupational Safety and Health Act set mandates for safety and health standards applicable to virtually every employer. The goal of this law is to prevent work-related illnesses, deaths, and injuries. This law is very extensive, and has significant penalties for violations. In addition, employers must post the OSHA poster and are responsible for recordkeeping of OSHA forms.

**[Click here for more information on the OSHA website.](#)**

**[Click here for the OSHA poster.](#)**

**[Click here for the OSHA forms.](#)**

### **Older Workers Benefit Protection Act (OWBPA) - 1990**

The Older Workers Benefit Protection Act is an amendment to the ADEA and prohibits discrimination against older workers (40 years of age and older) in all employee benefits. In the case of an individual termination or group termination, older workers must be given 21 days or 45 days respectively to review any agreement that would waive their rights under the ADEA. In addition, older workers must be provided a period of seven (7) days to withdraw an agreement after signing it.

**[Click here for more information on the EEOC website.](#)**

## **Patient Protection and Affordable Care Act - 2010**

The Patient Protection and Affordable Care Act establishes reforms to the private health insurance market through extensive provisions including but not limited to pre-existing conditions, prescription drug coverage, employer and health carrier requirements, establishing health insurance exchanges and changes to Medicare eligibility. Employers with over 50 employees will be heavily impacted by this federal statute. This law is very complex and regulations continue to be clarified and defined. It is recommended that all employers work closely with their health insurance brokers and health insurance carriers to ensure they know their responsibilities and the estimated timelines of these responsibilities.

[\*\*Click here for more information from U.S. Department of Health & Human Services\*\*](#)

## **Portal-to-Portal Act - 1947**

The Portal to Portal Act requires employers to compensate workers for working time that is spent on activities related to their job. Generally, work that starts and ends at the work site is considered working time, unless mandated otherwise in an employment contract. In general, as long as an employee is engaging in activities that benefits the employer, regardless of when they are performed, the employer has an obligation to pay the employee for his/her time. This law covers activities, such as; travel time, waiting time, meals, breaks, and training time.

[\*\*Click here for more information on the DOL website.\*\*](#)

## **Pregnancy Discrimination Act - 1978**

The Pregnancy Discrimination Act is an amendment to Title VII, and prohibits discrimination in employment, such as; hiring and terminating on the basis of pregnancy, childbirth, or related medical conditions. Women, who are pregnant or affected by related conditions, must be treated in the same manner as other applicants or employees with similar abilities or limitations. In essence, employers should treat pregnancy as a temporary disability.

[\*\*Click here for more information on the EEOC website\*\*](#)

## **Sarbanes-Oxley Act (SOX) - 2002**

Sarbanes-Oxley protects employees who work for publicly traded companies or companies that are required to file certain reports with the Securities and Exchange Commission (SEC) from retaliation for reporting illegal corporate practices, including accounting irregularities and securities fraud.

[\*\*Click here for OSHA Fact Sheet regarding SOX\*\*](#)

## **Title VII of the Civil Rights Act – 1964, 1991**

Title VII of the Civil Rights Act protects individuals against employment discrimination on the bases of race, color, national origin, sex, and religion. In later years, additional laws and amendments to Title VII expanded the protections to pregnancy, age, and disability. It is unlawful to discriminate against any individual in regard to recruiting, hiring, promotion, transfer, work assignments, performance measurements, work environment, job training, discipline, discharge, wages, benefits; or any other term, condition, or privilege of employment. In addition, this law prohibits harassment on any of the protected categories. The Civil Rights Act of 1991 established monetary damages where there is intentional employment discrimination, along with other provisions on disparate impact actions. Employers should adopt "best practices" to reduce the potential of discrimination.

[Click here for more information on the EEOC website.](#)

### **Uniform Guidelines on Employee Selection Procedures - 1978**

The Uniform Guidelines on Employee Selection Procedures pertains to any and all selection procedures which are used as the basis for any employment decision. This includes hiring, promotion, demotion, referral, retention, licensing, certification, training, and transfer. Employer practices and/or policies which have an adverse impact on employment opportunities of any sex, ethnic group, or race; are said to be discriminatory and are illegal, *unless* justified by business necessity.

[Click here for guidelines on Employment Tests and Selection Procedures](#)

### **Uniformed Services Employment and Reemployment Rights Act (USERRA) - 1994**

The Uniformed Services Employment and Reemployment Rights Act establishes the cumulative length of time that an individual may be absent from work for military duty, and retains the reemployment rights to five years. In addition, it establishes that reemployment protection does not depend on the timing, frequency, duration, or nature of an individual's service; as long as the basic eligibility criteria are met. This law provides protection for disabled veterans, requiring employers to make reasonable efforts to accommodate the disability.

[Click here for more information on the DOL website.](#)

[Click here for a poster.](#)

### **Vietnam Era Veterans Readjustment Assistance Act - 1974**

The Vietnam Era Veterans Readjustment Assistance Act requires federal contractors to take affirmative action to hire and promote qualified veterans. In addition, employers with at least 50 employees and 50,000 in federal contracts, have to have a written affirmative action plan which includes recordkeeping requirements.

[Click here for more information on the DOL website.](#)

### **Walsh Healey Act - 1936**

The Walsh Healey Act establishes labor standards for federal contractors that have employees working on supply contracts (produce, assemble, handle, or ship goods) with the federal government. These federal contractors need to pay minimum wage, overtime, and wages equal to the area.

[Click here for more information on the DOL website.](#)