

44-1113. Unlawful employment practices based on age. (a) It is an unlawful employment practice based on age to engage in any of the following acts in any manner which would limit, deprive or tend to deprive any person of employment opportunities or otherwise adversely affect the person's status as an employee or applicant for employment:

(1) For an employer, because of the age of a person, to refuse to hire or employ the person, to bar or discharge the person from employment or to otherwise discriminate against the person in compensation or in terms, conditions or privileges of employment; to limit, segregate, separate, classify or make any distinction in regard to employees because of age without a valid business motive.

(2) For an employer to reduce the wage rate of any employee in order to comply with the Kansas age discrimination in employment act.

(3) For a labor organization, because of the age of a person, to exclude or to expel the person from its membership or to discriminate in any way against any of its members or against any employer or any person employed by an employer because of age.

(4) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, or any intent to make any such limitation, specification or discrimination.

(5) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because the person has opposed any practices or acts forbidden under this act or has filed a complaint, testified or assisted in any proceeding under this act.

(6) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of age to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to age.

(7) For an employer, labor organization, employment agency or school which provides, coordinates or controls apprenticeship, on-the-job or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of age, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

(8) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or attempt to do so.

(9) For an employer, employment agency, labor organization or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits:

(A) In the case of a benefit plan, the cessation of an employee's benefit accrual or the reduction of the rate of an employee's benefit accrual, because of age; or

(B) in the case of a contribution plan, the cessation of allocations to an employee's account or the reduction of the rate at which amounts are allocated to an employee's account, because of age.

Nothing in this subsection (a)(9) shall be construed to prohibit an employer, employment agency or labor organization or any combination thereof from observing any provision of an employee pension benefit plan to the extent that such provision imposes, without regard to age, a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

(b) It shall not be an unlawful employment practice to:

(1) Take any action on the basis of age, which is otherwise prohibited under subsection (a), if age is a bona fide occupational qualification necessary to the normal operation of the particular business or if the differentiation is based on necessary factors other than age;

(2) observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of article 10 of chapter 44 of Kansas Statutes Annotated, except that no such employee benefit plan shall excuse the failure to hire any individual and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual;

(3) observe the provisions of a retirement, pension or other benefit plan permitted by state or federal law or by ordinance or resolution; or

(4) Before January 1, 1994, for this state or any political subdivision of this state, or any agency or instrumentality thereof, or any interstate agency, to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken:

(A) With respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable state or local law on March 3, 1983, and

(B) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purpose of this act.

History: L. 1983, ch. 164, § 3; L. 1988, ch. 174, § 2; April 28.