

West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 23. Labor and Workers' Compensation ([Refs & Annos](#))

▢ [Chapter 3-A. Prohibited Discrimination in Employment \(Refs & Annos\)](#)

→ [Part I. General Provisions \(Refs & Annos\)](#)

→ **§ 301. Short title**

This Chapter shall be known and may be cited as the “Louisiana Employment Discrimination Law”.

§ 302. Definitions

For purposes of this Chapter and unless the context clearly indicates otherwise, the following terms shall have the following meanings ascribed to them:

(1) “Employee” means an individual employed by an employer.

(2) “Employer” means a person, association, legal or commercial entity, the state, or any state agency, board, commission, or political subdivision of the state receiving services from an employee and, in return, giving compensation of any kind to an employee. The provisions of this Chapter shall apply only to an employer who employs twenty or more employees within this state for each working day in each of twenty or more calendar weeks in the current or preceding calendar year. “Employer” shall also include an insurer, as defined in [R.S. 22:46](#), with respect to appointment of agents, regardless of the character of the agent's employment. This Chapter shall not apply to the following:

(a) Employment of an individual by a parent, spouse, or child or to employment in the domestic service of the employer.

(b) Employment of an individual by a private educational or religious institution or any nonprofit corporation, or the employment by a school, college, university, or other educational institution or institution of learning of persons having a particular religion if the school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of the school, college, university, other educational institution, or institution of learning is directed toward the propagation of a particular religion.

(3) “Employment agency” means any person or agency, public or private, regularly undertaking, with or without compensation, the procurement of employees for an employer or the procurement of opportunities for employees to work for an employer.

(4) “Genetic monitoring” means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased occurrence of mutations, that may have developed in the course of employment due to exposure to toxic substances in the workplace, in order to identify, evaluate, respond to the effects of, or control adverse environmental exposures in the workplace.

(5) “Genetic services” means health services, including genetic tests, provided to obtain, assess, or interpret genetic information for diagnostic or therapeutic purposes, or for genetic education or counseling.

(6) “Genetic test” means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis, including but not limited to a chemical analysis, of body fluids, unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.

(7) “Labor organization” means any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in relation to employment or any agent acting for such an organization.

(8) “Protected genetic information” means information about an individual's genetic tests, the genetic tests of an individual's family members, or the occurrence of a disease, or medical condition or disorder in family members of the individual.

§ 303. Civil suits authorized

A. A plaintiff who has a cause of action against an employer, employment agency, or labor organization for a violation of this Chapter may file a civil suit in a district court seeking compensatory damages, back pay, benefits, reinstatement, or if appropriate, front pay, reasonable attorney fees, and court costs. In such a suit, the venue shall be the district court in the parish in which the alleged violation occurred.

B. A plaintiff found by a court to have brought a frivolous claim under this Chapter shall be held liable to the defendant for reasonable damages incurred as a result of the claim, reasonable attorney fees, and court costs.

C. A plaintiff who believes he or she has been discriminated against, and who intends to pursue court action shall give the person who has allegedly discriminated written notice of this fact at least thirty days before initiating court action, shall detail the alleged discrimination, and both parties shall make a good faith effort to resolve the dispute prior to initiating court action.

D. Any cause of action provided in this Chapter shall be subject to a prescriptive period of one year. However, this one-year period shall be suspended during the pendency of any administrative review or investigation of the claim conducted by the federal Equal Employment Opportunity Commission or the Louisiana Commission on Human Rights. No suspension authorized pursuant to this Subsection of this one-year prescriptive period shall last longer than six months.

E. Notwithstanding Subsection D of this Section, there shall be no interruption of prescription resulting from a plaintiff's giving or failing to give the notice required in Subsection C of this Section.

§§ 304 to 310. Reserved

§§ 304 to 310. Reserved

§ 311. Application

The prohibitions of this Part shall be limited to individuals who are at least forty years of age.

§ 312. Prohibition of age discrimination; exceptions

A. It is unlawful for an employer to engage in any of the following practices:

(1) Fail or refuse to hire, or to discharge, any individual or otherwise discriminate against any individual with respect to his compensation, or his terms, conditions, or privileges of employment because of the individual's age.

(2) Limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of the individual's age.

(3) Reduce the wage rate of any employee in order to comply with this Part.

B. It is unlawful for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of the individual's age, or to classify or refer for employment any individual on the basis of the individual's age.

C. It is unlawful for a labor organization to engage in any of the following practices:

(1) Exclude or expel from its membership, or otherwise discriminate against, any individual because of his

age.

(2) Limit, segregate, or classify its membership, or classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities, or limit such employment opportunities, or otherwise adversely affect his status as an employee or as an applicant for employment, because of the individual's age.

(3) Cause or attempt to cause an employer to discriminate against an individual in violation of this Section.

D. It is unlawful for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership because the individual, member, or applicant for membership has opposed any practice made unlawful by this Section, or because such individual, member, or applicant for membership has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation pursuant to this Part.

E. It is unlawful for an employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer or membership in or any classification or referral for employment by a labor organization, or relating to any classification or referral for employment by an employment agency indicating any preference, limitation, specification, or discrimination based on age.

F. It is not unlawful for an employer, employment agency, or labor organization to engage in any of the following practices:

(1) Take any action otherwise prohibited under Subsection A, B, C, or E, where age is a bona fide occupational qualification reasonably necessary for the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age.

(2) Take any action otherwise prohibited under Subsection A, B, C, or E to observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Part except that no such employee benefit plan shall excuse the failure to hire any individual.

(3) Discharge or otherwise discipline an individual for good cause.

§ 313. Repealed by Acts 1999, No. 1366, § 2

§ 314. Notices to be posted

Every employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises a notice, to be prepared by the Louisiana Workforce Commission, setting forth information the commission deems appropriate to effectuate the purposes of this Part.

§§ 315 to 320. Reserved

§§ 315 to 320. Reserved

§ 321. Repealed by Acts 1999, No. 1366, § 2

§ 322. Definitions

For the purposes of this Part, the following terms shall have the following meanings ascribed to them:

- (1) “Adaptive devices” means any items utilized to compensate for a physical or mental impairment, including but not limited to braces or other supports, wheelchairs, talking boards, hearing aids, corrective devices, corrective lenses, or seeing eye dogs.
- (2) “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation.
- (3) “Disabled person” means any person who has a physical or mental impairment which substantially limits one or more of the major life activities, or has a record of such an impairment, or is regarded as having such an impairment.
- (4) “Discrimination” shall include unreasonable segregation or separation.
- (5) “Essential functions” means the fundamental job duties of the employment position the disabled person holds or desires. “Essential functions” does not include the marginal functions of the position.
- (6) “Impairment” means retardation, any physical or physiological disorder or condition, or prior mental disorder or condition, but, at the discretion of the employer, may not include chronic alcoholism or any other form of active drug addiction, any cosmetic disfigurement, or an anatomical loss of body systems.
- (7) “Major life activities” means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- (8) “Otherwise qualified disabled person” means a disabled person who, with reasonable accommodation, can

perform the essential functions of the employment position that such person holds or desires.

(9) "Reasonable accommodation" means an adjustment or modification to a known physical limitation of an otherwise qualified disabled person which would not impose an undue hardship on the employer. This shall not require an employer to spend more for architectural modifications than that amount now allowed as a federal tax deduction. However, "reasonable accommodation" shall not be construed to impose on any private sector employer, unless otherwise required by law or under any contract with a federal, state, or local governmental body or subdivision, any additional costs in the hiring or the promotion of a disabled person. Undue hardship is determined on a case-by-case basis taking into account all of the following:

- (a) The employee or applicant for which accommodation is to be made.
- (b) The specific disability of employee or applicant.
- (c) The essential job duties of the position.
- (d) The working environment.

§ 323. Discrimination

A. No otherwise qualified disabled person shall, on the basis of a disability, be subjected to discrimination in employment.

B. An employer, labor organization, or employment agency shall not engage in any of the following practices:

- (1) Fail or refuse to hire, promote, or reasonably accommodate an otherwise qualified disabled person on the basis of a disability, when it is unrelated to the individual's ability, with reasonable accommodation, to perform the duties of a particular job or position.
- (2) Discharge or otherwise discriminate against an otherwise qualified disabled person with respect to compensation or the terms, conditions, or privileges of employment on the basis of a disability when it is unrelated to the individual's ability to perform the duties of a particular job or position.
- (3) Limit, segregate, or classify an otherwise qualified disabled person in a way which deprives the individual of employment opportunities or otherwise adversely affects the status of the individual on the basis of a disability when it is unrelated to the individual's ability to perform the duties of a particular job or position.
- (4) Fail or refuse to hire or to promote an otherwise qualified disabled person on the basis of physical or mental examinations or preemployment interviews that are not directly related to the requirements of the specific

job, or which are not required of all employees or applicants.

(5) Discharge or take other discriminatory action against an otherwise qualified disabled person on the basis of physical or mental examinations or preemployment interviews that are not directly related to the requirements of the specific job, or are not required of all employees or applicants.

(6) Fail or refuse to hire or to promote an otherwise qualified disabled person when adaptive devices or aids may need to be utilized to enable that individual, at the individual's own expense, to perform the specific requirements of the job.

(7) Discharge or take other discriminatory action against an otherwise qualified disabled person when adaptive devices or aids may need to be utilized to enable that individual, at the individual's own expense, to perform the specific requirements of the job.

(8) Make or use a written or oral inquiry or form of application that elicits, or attempts to elicit, information concerning the disability of a prospective employee for discriminatory purposes contrary to the provisions or purposes of this Part.

(9) Make or keep a record of information, or disclose information, concerning the disability of a prospective employee for discriminatory purposes contrary to the provisions or purposes of this Part.

(10) Make or use a written or oral inquiry or form of application that expresses a preference, limitation, or specification based on the disability of a prospective employee for discriminatory purposes contrary to the provisions or purposes of this Part.

C. Specifically, a labor organization shall not engage in any of the following practices:

(1) Exclude or expel from membership, or otherwise discriminate against, an otherwise qualified member or applicant for membership on the basis of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position which entitled him to membership.

(2) Limit, segregate, or classify membership, or applicants for membership, or classify or fail or refuse to refer for employment an otherwise qualified disabled person in a way which would deprive or tend to deprive him of employment opportunities, or which would limit employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, on the basis of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.

D. An employer, labor organization, or joint labor management committee controlling apprenticeship, on-the-job training, or other training programs shall not engage in any of the following practices:

(1) Discriminate against an otherwise qualified disabled person because of disability that is not related to the individual's ability to perform the duties of a particular job or position in admission to, or continuation in, a program established to provide such apprenticeship or other training.

(2) Print, publish, or cause to be printed or published a notice or advertisement relating to employment, indicating a preference, limitation, specification, or discrimination, based on a disability that is unrelated to an otherwise qualified disabled person's ability to perform the duties of a particular job or position.

§ 324. Defenses

A. It may be a defense to a charge of discrimination under this Part that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to a disabled person has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this Part.

B. The term “qualification standards” may include a requirement that an individual shall not pose a direct threat to the health or safety of himself or other individuals in the workplace.

§ 325. Repealed by Acts 1999, No. 1366, § 2

§§ 326 to 330. Reserved

§§ 326 to 330. Reserved

§ 331. Repealed by Acts 1999, No. 1366, § 2

§ 332. Intentional discrimination in employment

A. It shall be unlawful discrimination in employment for an employer to engage in any of the following practices:

(1) Intentionally fail or refuse to hire or to discharge any individual, or otherwise to intentionally discriminate against any individual with respect to his compensation, or his terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, or national origin.

(2) Intentionally limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, sex, or national origin.

B. It shall be unlawful discrimination in employment for an employment agency to intentionally fail or refuse to refer for employment, or otherwise to intentionally discriminate against, any individual because of his race, color, religion, sex, or national origin, or to intentionally classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin.

C. It shall be unlawful discrimination in employment for a labor organization to engage in any of the following practices:

(1) Intentionally exclude or intentionally expel from its membership, or otherwise intentionally discriminate against, any individual because of his race, color, religion, sex, or national origin.

(2) Intentionally limit, segregate, or classify its membership or applicants for membership, or intentionally classify or fail or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities, or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's race, color, religion, sex, or national origin.

(3) Intentionally cause or attempt to cause an employer to discriminate against an individual in violation of this Section.

D. It shall be unlawful discrimination in employment for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

E. It shall be unlawful discrimination in employment for an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by an employer or membership in or any classification or referral for employment by a labor organization, or relating to any classification or referral for employment by an employment agency, or relating to admission to, or employment in, any program established to provide apprenticeship or other training by a joint labor-management committee, indicating any preference, limitation, specification, or discrimination based on race, color, religion, sex, or national origin. However, a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.

F. It shall be unlawful discrimination in employment for an insurer to engage in any of the following practices:

(1) Intentionally fail or refuse to appoint or to discharge any insurance agent, or otherwise to intentionally discriminate against any insurance agent with respect to his compensation, terms, conditions, or privileges of em-

ployment, because of the insurance agent's race, color, religion, sex, or national origin.

(2) Intentionally limit, segregate, or classify his insurance agents or applicants for an insurance agent in any way which would deprive or tend to deprive any insurance agent or applicant of employment opportunities, or otherwise adversely affect his status as an insurance agent or applicant because of the insurance agent's or applicant's race, color, religion, sex, or national origin.

G. Nothing contained in this Section shall be construed so as to create a cause of action against an employer, employment agency, labor organization, or insurer for employment practices pursuant to any affirmative action plan.

H. Notwithstanding any other provision of this Section, it shall not be unlawful discrimination in employment for:

(1) An employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program on the basis of his religion, sex, or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary for the normal operation of that particular business or enterprise.

(2) A school, college, university, or other educational institution or institution of learning to hire and employ employees of a particular religion if such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled, or managed by a particular religion or by a particular religious corporation, association, or society, or if the curriculum of the school, college, university, or other educational institution or institution of learning is directed toward the propagation of a particular religion.

(3) An employer to apply different standards of compensation or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production, or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin.

(4) An employer to give and to act upon the results of any professionally developed ability test, provided that such test, its administration, or action upon the results is not designed, intended, or used to discriminate because of race, color, religion, sex, or national origin.

§ 333. Repealed by Acts 1999, No. 1366, § 2

§ 334. Affirmative action programs; applicable definition

Notwithstanding any other provision of law, whenever any employer in this state sponsors or initiates a program of affirmative action designed to cure or eradicate the effects of discrimination in employment, and the intent of such program is to affect the recruitment, selection, appointment, promotion, or other personnel procedures or functions in a manner so as to insure equal employment opportunity for minorities, the term “minority” means a person who is a citizen or lawful permanent resident of the United States and who can establish by information contained on his birth certificate, by tribal records, or by other reliable records that he is any of the following:

- (1) Black: having origins in any of the black racial groups of Africa.
- (2) Hispanic: of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.
- (3) Asian American: having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or Pacific Islands.
- (4) American Indian or Alaskan Native: having origins in any of the original peoples of North America.

§§ 335 to 340. Reserved**§§ 335 to 340. Reserved****§ 341. Application**

A. The provisions of this Part shall apply only to an employer who employs more than twenty-five employees within this state for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.

B. (1) For purposes of this Part, pregnancy, childbirth, and related medical conditions are treated as any other temporary disability. However, no employer shall be required to provide a female employee disability leave on account of normal pregnancy, childbirth, or related medical condition for a period exceeding six weeks.

(2) Nothing in this Part shall be construed to require an employer to provide his employees with health insurance coverage for the medical costs of pregnancy, childbirth, or related medical conditions. The inclusion in any such health insurance coverage of any provisions or coverage relating to medical costs of pregnancy, childbirth, or related medical conditions shall not be construed to require the inclusion of any other provisions or coverage, nor shall coverage of any related medical conditions be required by virtue of coverage of any medical costs of pregnancy, childbirth, or other related medical conditions.

C. The provisions of this Chapter shall apply to the awarding of a contract or subcontract for providing goods or services.

§ 342. Unlawful practice by employers prohibited; pregnancy, childbirth, or related medical condition; benefits and leaves of absence; transfer of position

It shall be an unlawful employment practice unless based upon a bona fide occupational qualification:

(1) For any employer, because of the pregnancy, childbirth, or related medical condition of any female employee, to refuse to promote her, or to refuse to select her for a training program leading to promotion, provided she is able to complete the training program at least three months prior to the anticipated date of departure for her pregnancy leave, or to discharge her from employment or from a training program leading to promotion, or to discriminate against her in compensation or in terms, conditions, or privileges of employment.

(2) For any employer to refuse to allow a female employee affected by pregnancy, childbirth, or related medical conditions either:

(a) To receive the same benefits or privileges of employment granted by that employer to other persons not so affected who are similar in their ability or inability to work, including to take disability or sick leave or any other accrued leave which is made available by the employer to temporarily disabled employees.

(b) To take a leave on account of pregnancy for a reasonable period of time, provided such period shall not exceed four months. Such employee shall be entitled to utilize any accrued vacation leave during this period of time. "Reasonable period of time" means that period during which the female employee is disabled on account of pregnancy, childbirth, or related medical conditions. Nothing herein shall be construed to limit the provisions of [R.S. 23:341\(C\)](#) or Subparagraph (2)(a) of this Section. An employer may require any employee who plans to take a leave pursuant to this Section to give the employer reasonable notice of the date such leave shall commence and the estimated duration of such leave.

(3) For an employer who has a policy, practice, or collective bargaining agreement requiring or authorizing the transfer of temporarily disabled employees to less strenuous or hazardous positions for the duration of the disability to refuse to transfer a pregnant female employee who so requests.

(4) For any employer to refuse to temporarily transfer a pregnant female employee to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where such transfer can be reasonably accommodated, provided, however, that no employer shall be required by this Part to create additional employment which the employer would not otherwise have created, nor shall such employer be required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job.

§ 343. Reserved

§§ 344 to 350. Reserved

§§ 344 to 350. Reserved

§ 351. Repealed by Acts 1999, No. 1366, § 2

§ 352. Prohibition of sickle cell trait discrimination; exceptions

A. It is unlawful for an employer to engage in any of the following practices:

(1) Fail or refuse to hire, or to discharge, any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because such individual has sickle cell trait.

(2) Limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his status as an employee, because such individual has sickle cell trait.

(3) Reduce the wage rate of any employee in order to comply with this Part.

B. It is unlawful for an employment agency to fail to refer or refuse to refer for employment, or otherwise to discriminate against, any individual because such individual has sickle cell trait, or to classify or refer for employment any individual on the basis that such individual has sickle cell trait.

C. It is unlawful for a labor organization to engage in any of the following practices:

(1) Exclude or expel from its membership, or otherwise discriminate against, any individual because of sickle cell trait.

(2) Limit, segregate, or classify its membership, or classify or fail to refer or refuse to refer for employment any individual in any way which would deprive or tend to deprive any individual of employment opportunities, or limit such employment opportunities, or otherwise adversely affect his status as an employee or as an applicant for employment, solely because such individual has sickle cell trait.

(3) Cause or attempt to cause an employer to discriminate against an individual in violation of this Section.

D. It is unlawful for an employer to discriminate against any of his employees or applicants for employment,

for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership because such individual, member, or applicant for membership has opposed any practice made unlawful by this Section, or because the individual, member, or applicant for membership has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Part.

E. It is unlawful for an employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such employment agency indicating any preference, limitation, specification, or discrimination based on sickle cell trait.

§ 353. Repealed by Acts 1999, No. 1366, § 2

§ 354. Notices to be posted

Every employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises a notice, to be prepared by the Louisiana Workforce Commission, setting forth information as the commission deems appropriate to effectuate the purposes of this Part.

§§ 355 to 367. Repealed by Acts 1976, No. 624, § 5, eff. Aug. 4, 1976

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§ 368. Prohibition of genetic discrimination in the workplace; privacy

A. No otherwise qualified person shall, on the basis of protected genetic information, be subjected to discrimination in employment.

B. An employer, labor organization, or employment agency shall not engage in any of the following practices:

(1) Discharge, fail or refuse to hire, or otherwise discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of that employee, because of protected genetic information with respect to the employee, or because of information about a request for or the receipt of genetic services by such employee.

(2) Limit, segregate, or classify employees in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect that employee's status, because of protected genetic information with respect to the employee or because of information about a request for or the receipt of genetic services by such employee.

(3) Require, collect, or purchase protected genetic information with respect to an employee, or information about a request for or the receipt of genetic services by such employee.

(4) Disclose protected genetic information with respect to an employee, or information about a request for or the receipt of genetic services by an employee except:

(a) To the employee who is the subject of the information, at his or her request.

(b) To an occupational or other health researcher, if the research conducted complies with the regulations and protections provided for under Part 46 of Title 45, of the Code of Federal Regulations.

(c) If required by a federal or state statute, legislative subpoena, or an order issued by a court of competent jurisdiction, except that if the subpoena or court order was secured without the knowledge of the individual to whom the information refers, the employer shall provide the individual with adequate notice to challenge the

subpoena or court order, unless the subpoena or court order also imposes confidentiality requirements.

(d) To executive branch officials investigating compliance with this order, if the information is relevant to the investigation.

(5) Maintain protected genetic information or information about a request for or the receipt of genetic services in general personnel files; such information shall be treated as confidential medical records and kept separate from personnel files.

C. Specifically, a labor organization shall not engage in any of the following practices:

(1) Exclude or expel from membership, or otherwise discriminate against, an otherwise qualified member or applicant for membership on the basis of protected genetic information.

(2) Limit, segregate, or classify membership, or applicants for membership, or classify or fail or refuse to refer for employment an otherwise qualified person in a way which would deprive or tend to deprive him of employment opportunities, or which would limit employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, on the basis of protected genetic information.

D. An employer, labor organization, or joint labor management committee controlling apprenticeship, on-the-job training, or other training programs shall not engage in any of the following practices:

(1) Discriminate against an otherwise qualified person based on protected genetic information.

(2) Print, publish, or cause to be printed or published a notice or advertisement relating to employment, indicating a preference, limitation, specification, or discrimination, based on protected genetic information.

E. The following exceptions shall apply to the nondiscrimination requirements:

(1) An employer, labor organization, or employment agency may request or require protected genetic information with respect to an applicant who has been given a conditional offer of employment or to an employee if:

(a) The information obtained is to be used exclusively to assess whether further medical evaluation is needed to diagnose a current disease, or medical condition or disorder;

(b) Such current disease, or medical condition or disorder could prevent the applicant or employee from performing the essential functions of the position held or desired; and

(c) The information will not be disclosed to persons other than medical personnel involved in or responsible for assessing whether further medical evaluation is needed to diagnose a current disease, or medical condition or disorder.

(2) For therapeutic purposes only, an employer, labor organization, or employment agency may request, collect, or purchase protected genetic information with respect to an employee, or any information about a request for or receipt of genetic services by such employee if:

(a) The employee uses genetic or health care services provided by the employer.

(b) The employee who uses the genetic or health care services has provided prior knowing, voluntary, and written authorization to the employer to collect protected genetic information.

(c) The person who performs the genetic or health care services does not disclose protected genetic information to anyone except to the employee who uses the services for treatment of the individual; for program evaluation or assessment; for compiling and analyzing information in anticipation of or for use in a civil or criminal legal proceeding; or for payment or accounting purposes, to verify that the service was performed, but in such cases the genetic information itself cannot be disclosed.

(d) Such information is not used in violation of Subsection B, C, or D of this Section.

(3) Genetic monitoring of biological effects of toxic substances in the workplace shall be permitted if all of the following conditions are met:

(a) The employee has provided prior knowing, voluntary, and written authorization.

(b) The employee is notified when the results of the monitoring are available and, at that time, the employer makes any protected genetic information that may have been acquired during the monitoring available to the employee and informs the employee how to obtain such information.

(c) The monitoring conforms to any genetic monitoring regulations that may be promulgated by the executive director of the Louisiana Workforce Commission.

(d) The employer, excluding any licensed health care professionals that are involved in the genetic monitoring program, receives results of the monitoring only in aggregate terms that do not disclose the identity of specific employees.

§ 369. Notices to be posted

Every employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises a notice, to be prepared by the Louisiana Workforce Commission, setting forth information the commission deems appropriate to effectuate the purposes of this Part.

§ 370. [Blank]

§§ 371, 372. Repealed by Acts 1992, No. 446, § 1

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