

AGE DISCRIMINATION IN EMPLOYMENT

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Ed P. Mayne

This act modifies the Utah Antidiscrimination Act to clarify that a person employing eight or more employees may not discriminate on the basis of age.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

34A-5-102, as last amended by Chapter 161, Laws of Utah 1999

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34A-5-102** is amended to read:

34A-5-102. Definitions.

As used in this chapter:

(1) "Apprenticeship" means a program for the training of apprentices including a program providing the training of those persons defined as apprentices by Section 35A-6-102.

(2) "Bona fide occupational qualification" means a characteristic applying to an employee:

(a) that is necessary to the operation; or

(b) is the essence of the employee's employer's business.

(3) "Court" means:

(a) the district court in the judicial district of the state in which the asserted unfair employment practice occurred; or

(b) if this court is not in session at that time, a judge of the court described in Subsection (3)(a).

(4) "Director" means the director of the division.

(5) "Disability" means a physical or mental impairment that substantially limits one or more of an individual's major life activities.

(6) "Division" means the Division of Antidiscrimination and Labor.

- 28 (7) "Employee" means any person applying with or employed by an employer.
- 29 (8) (a) "Employer" means:
- 30 (i) the state;
- 31 (ii) any political subdivision;
- 32 (iii) a board, commission, department, institution, school district, trust, or agent of the state
- 33 or ~~[its]~~ the state's political subdivisions; ~~[or]~~
- 34 (iv) a person employing 15 or more employees within the state for each working day in
- 35 each of 20 calendar weeks or more in the current or preceding calendar year~~[-]; or~~
- 36 (v) for purposes of a claim of a discriminatory or prohibited employment action under this
- 37 chapter based on age, a person employing eight or more employees within the state for each
- 38 working day in each of 20 calendar weeks or more in the current or preceding calendar year.
- 39 (b) "Employer" does not include:
- 40 (i) a religious organization or association;
- 41 (ii) a religious corporation sole; or
- 42 (iii) any corporation or association constituting a wholly owned subsidiary or agency of
- 43 ~~[any]~~;
- 44 (A) a religious organization or association; or
- 45 (B) a religious corporation sole.
- 46 (9) "Employment agency" means any person:
- 47 (a) undertaking to procure employees or opportunities to work for any other person; or
- 48 (b) holding itself out to be equipped to take an action described in Subsection (9)(a).
- 49 (10) "Joint apprenticeship committee" means any association of representatives of a labor
- 50 organization and an employer providing, coordinating, or controlling an apprentice training
- 51 program.
- 52 (11) "Labor organization" means any organization that exists for the purpose in whole or
- 53 in part of:
- 54 (a) collective bargaining;
- 55 (b) dealing with employers concerning grievances, terms or conditions of employment; or
- 56 (c) other mutual aid or protection in connection with employment.
- 57 (12) "National origin" means the place of birth, domicile, or residence of an individual or
- 58 of an individual's ancestors.

59 (13) "On-the-job-training" means any program designed to instruct a person who, while
60 learning the particular job for which the person is receiving instruction:

61 (a) is also employed at that job; or

62 (b) may be employed by the employer conducting the program during the course of the
63 program, or when the program is completed.

64 (14) "Person" means one or more:

65 (a) individuals[;];

66 (b) partnerships[;];

67 (c) associations[;];

68 (d) corporations[;];

69 (e) legal representatives[;];

70 (f) trusts or trustees[;];

71 (g) receivers[;];

72 (h) the state; and

73 (i) all political subdivisions and agencies of the state.

74 (15) "Presiding officer" means the same as that term is defined in Section 63-46b-2.

75 (16) "Prohibited employment practice" means a practice specified as discriminatory, and
76 therefore unlawful, in Section 34A-5-106.

77 (17) "Retaliate" means the taking of adverse action by an employer, employment agency,
78 labor organization, apprenticeship program, on-the-job training program, or vocational school
79 against one of its employees, applicants, or members because the employee, applicant, or member:

80 (a) has opposed any employment practice prohibited under this chapter; or

81 (b) filed charges, testified, assisted, or participated in any way in any proceeding,
82 investigation, or hearing under this chapter.

83 (18) "Vocational school" means any school or institution conducting a course of
84 instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to
85 pursue a manual, technical, industrial, business, commercial, office, personal services, or other
86 nonprofessional occupations.

Legislative Review Note
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A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel