



A BRIEF RESUME OF STATE
LEGISLATION TO PROHIBIT
DISCRIMINATION IN EMPLOYMENT
ON THE GROUNDS OF AGE

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A BRIEF RESUME OF STATE LEGISLATION TO PROHIBIT DISCRIMINATION
IN EMPLOYMENT ON THE GROUNDS OF AGE

With the growing proportion of older people in our society, various states have become increasingly aware of and interested in their special problems. This is a very brief summary of one particular approach, one which seems to have attracted considerable attention--that of prohibiting discrimination against older workers in employment practices. The advantages of providing employment opportunity for competent older workers is obvious both for the worker in terms of economic security and society whose well-being is closely allied with full employment and full productivity. Nevertheless, opinion seems to be divided on the practicality of such measures. Some writers believe that a compulsory approach would not accomplish as much as an educative program with a strong job counseling and placement service geared for older workers.

GENERAL PROVISIONS OF STATE LAWS

Six states at the present time have enacted some type of law banning certain age-discriminatory employment practices: Colorado, Louisiana, Massachusetts, New York, Pennsylvania and Rhode Island. Massachusetts has 2 laws in effect, one which was passed in 1937 and one which was passed in 1950. The latter incorporates "age" into the Massachusetts Fair Employment Practices Act. The 1950 law provides that an individual has the option of resorting to one of the 2 laws. (Sec. 9, c 697, Acts and Resolves of Massachusetts, 1950)

Although the specific provisions of 6 state laws vary greatly, they may be considered in 2 general categories: those that are and are not integrated into fair employment practice laws which include "age" as a part of the defined unlawful employment practices along with discrimination on the basis of race, religion and national origin. The Colorado, Louisiana, Rhode Island statutes and the 1937 Massachusetts' statute represent the first type of law while those in Massachusetts, New York and Pennsylvania represent the FEP type.

The Colorado statute which has been in effect since 1903 simply prohibits discharge of an employe solely on the basis of age. The penalty for violation is a fine between \$100 and \$250.

Louisiana's law, dating back to 1934, prohibits age discrimination in hiring or discharging an employe and it features a stiff penalty of \$500 or less and imprisonment for 90 days or less or both. As with the Colorado law there is no designated enforcement agency except that an aggrieved person may appeal to the courts.

The Massachusetts statute of 1937 applies to both hiring and discharging activities. While there is no penal provision, it does provide that the offending employer's name be published in a newspaper. The Massachusetts Department of Labor and Industries is the enforcement agency and its findings are subject to judicial review.

In 1956 Rhode Island enacted its law which prohibits age discrimination in hiring and discharging of employes. The Department of Labor, the enforcement agency, may issue orders on the basis of its findings--orders which may include such affirmative actions as reinstatement with or without back pay. The department's orders are subject to judicial review. There is no penal provision attached.

The FEP laws relating to age discrimination in Massachusetts (1950), New York (1958) and Pennsylvania (1955) include discrimination in hiring, discharging, compensation, terms, conditions and privileges of employment. The full list of prohibited practices above is written into the New York and Pennsylvania law while in Massachusetts administrative rulings have interpreted hiring or rather "employment" to include such matters as compensation, terms and conditions of employment. The following state agencies are assigned to enforce the law: Massachusetts Commission Against Discrimination, New York Fair Employment Practices Commission and the Pennsylvania Fair Employment Practices Commission. Each law provides for judicial review of the findings of the commission. The penalty for willful violation of an order by the commission in Massachusetts and New York is a fine of \$500 or less or imprisonment of a year or less, or both. Pennsylvania has established the fine between \$100 and \$500 and imprisonment of 30 days or less. Excerpts from the text of the Colorado, Louisiana and Pennsylvania statutes appear at the end of this report along with a table which compares the provisions of all the laws.

DEFINITION OF AGE

Presumably the purpose of this type of legislation is to extend protection to those who have not reached a retirement age but who have arrived at an age when it is difficult to move into new employment. Various studies have attempted to determine at what age job procurement becomes critical but it is not within the scope of this brief study to review these findings. As far as state law is concerned this "critical age" varies. Three states, Massachusetts, New York and Rhode Island, define "age" in their anti-discrimination laws as 45 to 65 years old, and Pennsylvania as 40 to 62 years old. "Age" defined in the earlier laws is more general: Colorado "18 to 60 years" and Louisiana "under 50 years".

According to administrative rulings in Pennsylvania, the protection afforded under the "age" provision is supposed to assure equal opportunity rather than to give special privileges to the older worker. "...the purpose of the law is to afford all persons equal opportunities in employment regardless of age, and the qualifications of the applicants being the sole test in selecting employes."¹

To illustrate how the age provision is interpreted, one might look at some of the FEPC rulings with respect to advertising. In Pennsylvania advertisements by employers which ask for "boy", "girl",

¹Commerce Clearing House, Labor Reporter, "Questions and Answers on the 'Age' Provisions", Pennsylvania--Fair Employment, dated 10-4-56.

"young" or a person "between 25 and 35" are improper. On the other hand these phrases are considered proper: "recent college graduate", "waitress, over 21", "beginner", "office boy" or "telephone girl". According to the guide which sets forth "working presumptions" for the law in New York, an employer may not specify that he wants a bookkeeper under 35 years of age since this specification bars all applicants between 45 and 65 years. It is proper, however, for an employer to specify that he wants a bookkeeper over 35 years of age.² It would seem that an employer would have difficulty deciding what is and what is not proper, and that an employer with some ingenuity could easily evade the law without using "improper" language.

DEFINITION OF EMPLOYER

Another problem which must be considered in age discrimination laws is to define which employers are subject to it. Private employers are included in state laws as follows: Rhode Island--all private employers with over one employe, Massachusetts and New York with over 6 employes, Pennsylvania with over 12 employes and Louisiana with over 25 employes. Most of the recent laws extend the ban of age discrimination to employment agencies and to state government and its political subdivisions. Four states prohibit labor unions from practicing age discrimination with respect to membership. The New York law extends the prohibition to licensing agencies. Usually these laws exempt social, religious, charitable and nonprofit organizations, as well as employers whose employes will receive retirement benefits upon termination of employment.

DEFINITION OF OCCUPATIONAL QUALIFICATION

Six of the states recognize that there are some jobs for which the age factor is a legitimate concern: for example, jobs requiring great physical skill or endurance. Such jobs are exempted on the grounds that age is a "bona fide occupational qualification". The problem here is to establish reasonable standards for exempting specific jobs from age qualification, and the question is--how can an agency without being arbitrary develop standards to determine physical and mental capacity of an older person in connection with ability to perform a particular job.

ADMINISTRATIVE EXPERIENCE

A summary of the administrative experience under the age-discrimination laws was recently compiled by the "Northwestern University Law Review".³ The method was to write to each of the 5 states which had had some experience in administering the law (New York's law just became effective in 1958). According to this report little was known of the existence of such laws in Colorado and Louisiana where there is no designated enforcement agency. In Pennsylvania, where the law went into effect in 1956, only 15 cases of alleged age discrimination were brought during the first year of operation and factors other than

²Commerce Clearing House, Labor Reporter, "Rulings Interpreting 'Age' Provisions", New York--Fair Employment Practice Act, dated 7-17-58.

³Northwestern University Law Review, "Age Discrimination in Employment: Legislative and Collective Bargaining Solutions", Comments, Mar.-Apr., 1958, p. 96-108.

age were dominant in all of them. (Letter from William L. Batt, Jr., Secretary of Labor and Industry, Pennsylvania, Nov. 19, 1957) In Rhode Island where the law also went into effect in 1956, there had not been a single complaint filed through the end of 1957. (Letter from Mrs. Gordon F. Mulvey, Chairman of Rhode Island Committee on Aging, Dec. 9, 1957) The Massachusetts Commission Against Discrimination handled over 300 cases of alleged age discrimination in the last 5 years but none of them has gone to court and only an average of 10 cases per year were brought by employes themselves. (Letter from James Hugh Power, Research Assistant, Legislative Research Bureau for Massachusetts, Nov. 26, 1957.)

According to an interim report by the Massachusetts Legislative Research Council, the age-discrimination law has not worked out too well.⁴ The following quotation contains this explanation:

"With the enactment of 1950 amendments to the Fair Employment Practice Law, the 'policeman's approach' to discrimination against older workers came to a close. After several years of practical experience with the negative type of legislation, administrative officers, legislators and the organizations representing the aged began to urge positive action to improve the employment opportunities for workers over 40 years of age through such measures as: (1) educational programs designed to reduce prejudice and to sell the abilities of older workers; (2) vocational training of older workers, with especial emphasis on the latter in the case of workers unemployed because of technological changes, plant closures or plant emigrations; (3) improvements in state job placement programs; (4) economic and social research; (5) liberalization of the compulsory retirement provisions of the State Retirement Law."⁵

Nevertheless, it is only fair to point out that an age-discrimination law at least spells out the state's social policy on the subject and in this way has an influence in educating the public.

EXAMPLES OF THE PROVISIONS OF LAWS PROHIBITING DISCRIMINATION BECAUSE OF AGE

From Colorado Revised Statutes, 1953

"80-4-16. Age of employee not ground for discharge.--No person, firm, association or corporation, carrying on or conducting, within this state, any business requiring the employment of labor, shall discharge any individual between the ages of eighteen and sixty years, solely and only upon the ground of age; provided that such individual is well versed in the line of business carried on by such person, persons, firm, association or corporation, and is qualified physically, mentally and by training and experience to satisfactorily perform and does satisfactorily perform the labor assigned to him, or for which he applies.

⁴Report Relative to Means of Absorbing the Labor Surplus in Older Age Groups, submitted by the Mass. Legislative Research Council, Feb. 12, 1957.

⁵Ibid, p. 50

From Colorado Revised Statutes, 1953 (contd)

"80-4-17. Penalty for violation. Any person, firm, association or corporation, or officer, agent or representative of such corporation, who violates, or permits to be violated, any provision of section 80-4-16, upon conviction thereof, shall be fined not less than one hundred dollars, nor more than two-hundred and fifty dollars, for each and every violation."

From Louisiana Revised Statutes, 1950

"R.S. 23, Sec.892. Fitness for employment; elements to consider; age. The elements for employment shall not be determined by age, but shall be governed by the mental and physical fitness, and by the experience and trustworthiness of the employee or applicant; except in hazardous occupations or occupations requiring unusual skill and endurance.

"R.S. 23, Sec. 893. Age limits for employment; fixing of by employers prohibited; penalty. It is unlawful for any person employing labor in Louisiana, and having twenty-five or more employees, to adopt any rule for the discharge of said employees and for the rejection of applications for employment of new employees upon any age limit under fifty years, except where the employer has adopted a system of old age pension for the pensioning of employees with periods of service no greater than thirty-five years and with pension allowances of no less than forty-five dollars per quarter.

"Whoever violates the provisions of this Section shall be fined no more than five hundred dollars or imprisoned for not more than ninety days, or both."

(Passed by Act No. 226, 1934)

NOTE: Bus drivers have been ruled as hazardous occupations. Relates to practice of the Public Service in New Orleans of requiring bus drivers to be between ages of 21 and 45 years. Opinion of Attorney General 1944-46, p. 319.

Pennsylvania Fair Employment Practice Act, 1955

From Pennsylvania Statutes 47,501-5, 47,507, 47,509-11.

"Section 1. Short Title.--This act may be cited as the "Pennsylvania Fair Employment Practice Act."

"Sec.2. Findings and Declaration of Policy.--(a) The practice of policy of discrimination against individuals or groups by reason of their race, color, religious creed, ancestry, age or national origin is a matter of concern of the Commonwealth. Such discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the Commonwealth, and undermines the foundations of a free democratic state. The denial of equal employment opportunities because of such discrimination and the consequent failure to utilize the productive capacities of individuals to their fullest extent deprive large segments of the population of the Commonwealth of earnings necessary to maintain decent standards of living, necessitates their resort to public relief and intensifies group conflicts, thereby resulting in grave injury to the public health and welfare.

Pennsylvania Fair Employment Practice Act, 1955 (contd)

"(b) It is hereby declared to be the public policy of this Commonwealth to foster the employment of all individuals in accordance with their fullest capacities, regardless of their race, color, religious creed, ancestry, age or national origin and to safeguard their right to obtain and hold employment without such discrimination.

"(c) This act shall be deemed an exercise of the police power of the Commonwealth for the protection of the public welfare, prosperity, health and peace of the people of the Commonwealth of Pennsylvania.

"Sec.3 Right to Freedom from Discrimination in Employment.--The opportunity for an individual to employment, for which he is qualified, without discrimination because of race, color, religious creed, ancestry, age or national origin is hereby recognized as and declared to be a civil right which shall be enforceable only as set forth in this act.

"Sec.4 Definitions.--As used in this act unless a different meaning clearly appears from the context:

"(g) The term "discriminate" includes segregate.

"(h) The term "age" includes any person between the ages of forty and sixty-two, inclusive.

"Sec.5. Unlawful Employment Practices.--It shall be an unlawful employment practice, unless based upon a bona fide occupational qualification or except where based upon applicable security regulations established by the United States or the Commonwealth of Pennsylvania:

"(a) For any employer, because of the race, color, religious creed, ancestry, age or national origin of any individual to refuse to hire or employ or to bar or to discharge from employment such individual or to otherwise discriminate against such individual with respect to compensation, hire, tenure, terms, conditions or privileges of employment if the individual is the best able and most competent to perform the services required. The provisions of this paragraph shall not apply to: (1) termination of employment because of the terms or conditions of any bona fide retirement or pension plan; (2) operation of the terms or conditions of any bona fide retirement or pension plan which have the effect of a minimum service requirement; (3) operation of the terms or conditions of any bona fide group or employee insurance plan.

"(b) For any employer, employment agency or labor organization, prior to the employment or admission to membership to:

"(1) Elicit any information or make or keep a record of or use any form of application, or application blank, containing questions or entries concerning the race, color, religious creed, ancestry, or national origin of any applicant for employment or membership.

any
"(2) Print or publish, or cause to be printed or published/notice or advertisement relating to employment, or membership, indicating any preference, limitation, specification, or discrimination, based upon race, color, religious creed, ancestry, age or national origin.

Pennsylvania Fair Employment Practice Act, 1955 (contd)

"(3) Deny or limit, through a quota system, employment or membership because of race, color, religious creed, ancestry, age, national origin or place of birth.

"(4) Substantially confine, or limit recruitment or hiring of individuals, with intent to circumvent the spirit and purpose of this act to any employment agency, employment service, labor organization, training school or training school or training center, or any other employe-referring source which services individuals who are predominately of the same race, color, religious creed, ancestry, age or national origin.

"(c) For any labor organization because of the race, color, religious creed, ancestry, age or national origin of any individual to deny full and equal membership rights to any individual or otherwise to discriminate against such individuals with respect to hire, tenure, terms, conditions or privileges of employment or any other matter directly or indirectly related to employment.

"(d) For any employer, employment agency or labor organization to discriminate in any manner against any individual because such individual has opposed any practice forbidden by this act or because such individual has made a charge, testified or assisted in any manner in any investigation, proceeding, or hearing under this act.

"(e) For any person, whether or not an employer, employment agency, labor organization or employe to aid, abet, incite, compel or coerce the doing of any act declared by this section to be an unlawful employment practice, or to obstruct or prevent any person from complying with the provisions of this act, or any order issued thereunder, or to attempt directly or indirectly to commit any act declared by this section to be unlawful employment practice.

"(f) For any employment agency to fail or refuse to classify, properly refer for employment, or otherwise to discriminate against any individual because of his race, color, religious creed, ancestry, age or national origin.

"(g) For any individual seeking employment to publish, or cause to be published, any advertisement which specifies or in any manner expresses his race, color, religious creed, ancestry, age or national origin, or in any manner expresses a limitation or preference as to the race, color, religious creed, ancestry, age or national origin of any prospective employer.

Subsections (a) and (b) read as amended by S. B. 813, L. 1956, approved and effective March 28, 1956.;

"Sec.7. Powers and Duties of the Commission.--The Commission shall have the following powers and duties:

"(a) To establish and maintain a central office in the City of Harrisburg.

"(b) To meet and function at any place within the Commonwealth.

Pennsylvania Fair Employment Practice Act, 1955 (contd)

"(c) To appoint such attorneys with the approval of the Attorney General and other employees and agents as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

"(d) To adopt, promulgate, amend and rescind rules and regulations to effectuate the policies and provisions of this act.

"(e) To formulate policies to effectuate the purposes of this act, and make recommendations to agencies and officers of the Commonwealth or political subdivisions of government or board, department, commission or school district thereof, to effectuate such policies.

"(f) To initiate, receive, investigate and pass upon complaints charging unlawful employment practices.

"(g) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take testimony of any person under oath or affirmation, and in connection therewith to require the production for examination of any books and papers relating to any matter under investigation where a complaint has been properly filed before the Commission. The Commission may make rules as to the issuance of subpoenas by individual Commissioners. In case of contumacy or refusal to obey a subpoena issued to any person, the Court of Common Pleas of Dauphin County, or any court of common pleas within the jurisdiction of which the hearing is to be held or the said person charged with contumacy or refusal to obey is found, resides or transacts business, upon application by the Commission, may issue to such person an order requiring such person to appear before the Commission, there to produce documentary evidence if so ordered, or there to give evidence touching the matter in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

"No person shall be excused from attending and testifying or from producing records, correspondence, documents or other evidence in obedience to the subpoena of the Commission or of any individual Commissioner, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons so compelled to testify.

"(h) To inspect upon request such records of the Commonwealth or any political subdivision, board, department, commission or school district thereof, as it may deem necessary or advisable to carry into effect the provisions of this act.

"(i) To create such advisory agencies and conciliation councils, local, or state-wide, as will aid in effectuating the purposes of

Pennsylvania Fair Employment Practice Act, 1955 (contd)

this act. The Commission may itself or it may empower these agencies and councils to: (1) study the problems of discrimination in all or specific fields of human relationships when based on race, color, religious creed, ancestry, age or national origin; and, (2) foster, through community effort or otherwise, good will among the groups and elements of the population of the State. Such agencies and councils may make recommendations to the Commission for the development of policies and procedure in general Advisory agencies, and conciliation councils created by the Commission shall be composed of representative citizens serving without pay, but the Commission may make provision for technical and clerical assistance to such agencies, and councils, and for the payment of the expenses of such assistance.

"(j) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, color, religious creed, ancestry, age or national origin.

"(k) From time to time but not less than once a year to report to the Legislature and the Governor describing in detail the investigations, proceedings and hearings it has conducted and their outcome, the decisions it has rendered, and the other work performed by it, and make recommendations for such further legislation concerning abuses and discrimination because of race, color, religious creed, ancestry, age or national origin as may be desirable.

Subsection (c) reads as amended by S.B. 813, L.1956, approved and effective March 28, 1956.,

"Sec.9. Procedure.--Any individual claiming to be aggrieved by an alleged unlawful employment practice may make, sign and file with the Commission a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful employment practice complained of and which shall set forth the particulars thereof and contain such other information as may be required by the Commission. The Commission upon its own initiative or the Attorney General may, in like manner, make, sign and file such complaint. Any employer whose employees, or some of them, hinder or threaten to hinder compliance with the provisions of this act, may file with the Commission a verified complaint asking for assistance by conciliation or other remedial action, and during such period of conciliation or other remedial action no hearings, orders or other actions shall be taken by the Commission against such employer.

"After the filing of any complaint, or whenever there is reason to believe that an unlawful employment practice has been committed, the Commission shall make a prompt investigation in connection therewith.

"If it shall be determined after such investigation that no probable cause exists for crediting the allegations of the complaint, the Commission shall, within ten days from such determination, cause to be issued and served upon the complainant written notice of such determination, and the said complainant or his attorney may, within ten days after such service, file with the Commission a written request

Pennsylvania Fair Employment Practice Act, 1955 (contd)

for a preliminary hearing before the Commission to determine probable cause for crediting the allegations of the complaint. If it shall be determined after such investigation that probable cause exists for crediting the allegations of the complaint, the Commission shall immediately endeavor to eliminate the unlawful employment practice complained of by conference, conciliation and persuasion. The members of the Commission and its staff shall not disclose what has transpired in the course of such endeavors, provided that the Commission may publish the facts in the case of any complaint which has been dismissed, and the terms of conciliation when the complaint has been adjusted, without disclosing the identity of the parties involved.

"In case of failure so to eliminate such practice, or in advance thereof, if in the judgment of the Commission circumstances so warrant, the Commission shall cause to be issued and served a written notice, together with a copy of such complaint, as the same may have been amended, requiring the person, employer, labor organization or employment agency named in such complaint, hereinafter referred to as respondent, to answer the charges of such complaint at a hearing before the Commission, at a time and place to be specified in such notice. The place of any such hearing shall be in the county in which the alleged offense was committed.

"The case in support of the complaint shall be presented before the Commission by one of its attorneys or agents. The respondent may file a written verified answer to the complaint and appear at such hearing person or otherwise, with or without counsel, and submit testimony. The complainant may likewise appear at such hearing in person or otherwise, with or without counsel, and submit testimony. The Commission or the complainant shall have the power reasonably and fairly to amend any complaint and the respondent shall have like power to amend his answer. The Commission shall not be bound by the strict rules of evidence prevailing in courts of law or equity. The testimony taken at the hearing shall be under oath and be transcribed.

"If, upon all the evidence at the hearing, the Commission shall find that a respondent has engaged in or is engaging in any unlawful employment practice as defined in this act, the Commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful employment practice and to take such affirmative action, including, but not limited to, hiring, reinstatement or upgrading of employees, with or without back pay, admission or restoration to membership in any respondent labor organization, as, in the judgment of the Commission will effectuate the purposes of this act, and including a requirement for report of the manner of compliance. If, upon all the evidence, the Commission shall find that a respondent has not engaged in any such unlawful employment practice, the Commission shall state its findings of fact and shall issue and cause to be served on the complainant an order dismissing the said complaint as to such respondent.

"The Commission shall establish rules or practices to govern, expedite and effectuate the foregoing procedure and its own actions thereunder.

Pennsylvania Fair Employment Practice Act, 1955 (contd)

"Any complaint filed pursuant to this section must be so filed within ninety days after the alleged act of discrimination. Any complaint may be withdrawn at any time by the party filing the complaint.

"Sec.10. Enforcement and Judicial Review.--The complainant, the Attorney General or the Commission, may secure enforcement of the order of the Commission, or other appropriate relief, by the Court of Common Pleas of Dauphin County. Such proceeding shall be initiated by the filing of a petition in such court, together with a transcript of the record of the hearing before the Commission and issuance and service of a copy of said petition as in proceedings in equity. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony and proceedings set forth in such transcript, an order or decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Commission, and the jurisdiction of the court shall not be limited by acts pertaining to equity jurisdiction of the courts. An appeal may be taken as in other civil actions.

"The Commission's copy of the testimony shall be available at all reasonable times to all parties for examination, without cost, and for the purpose of enforcement or judicial review of the order. The case shall be heard without requirement of printing.

"Any order of the Commission may be reviewed under the provisions of the act of June 4, 1945 (P.L. 1388) known as the "Administrative Agency Law" and its amendments.

"Sec.11. Penalties.--Any person who shall wilfully resist, prevent, impede or interfere with the Commission, its members, agents or agencies, in the performance of duties pursuant to this act, or shall wilfully violate an order of the Commission, shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or to undergo imprisonment not exceeding thirty (30) days, or both, in the discretion of the court, but procedure for the review of an order shall not be deemed to be such wilful conduct."

A BRIEF SUMMARY OF THE PROVISIONS OF THE LAWS OF SIX STATES PROHIBITING
DISCRIMINATION AGAINST OLDER WORKERS IN EMPLOYMENT, AUG. 1958.

State	Chapter No. and Year Enacted	Included in FEP Act	Application to Employers and Groups	Application to Hiring, Discharging or Other Practices	Ages Protected	Penalty Provisions	Enforcement Agency
Colo.	Ch.137 1903	No	Private employers	Discharge	18-60 yrs.	Fine-\$100 to \$250	--
Ia.	Ch.226 1934	No.	Private employers with over 25 employes	Hire and discharge ⁽¹⁾ (Except for hazardous occupations or those requiring unusual skill and endurance)	Under 50 yrs.	Fine-\$500 or less and/or imprisonment of 90 days or less	--
Mass. ⁽²⁾	Ch.367 1937	No	Private employers (Exempts domestic service or farm laborer)	Hire and discharge	45-65 yrs.	Publication of name of employer in newspaper	Dept. of Labor and Industries (Provides for judicial review)
	Ch.697 1950	Yes	Private employers with over 6 employes ⁽³⁾ Empl.agencies, Labor organizations, State and local govt.	Hire and discharge ⁽⁴⁾ (Unless based upon a bona fide occupational qualification)	45-65 yrs.	Willful violation of order of the comm; Fine-\$500 or less and/or imprisonment 1 yr.or less	Commission Against Discrimination (Provides for judicial review)
N.Y. ⁽⁵⁾	Ch.738 1958	Yes	Private employers with over 6 employes ⁽³⁾ Employment agencies, Labor Organizations, Licensing Agencies	Hire, discharge (1) discriminate in compensation, terms, conditions or privileges (Unless based upon a bona fide occupational qualification or unless physically unfit)	45-65 yrs.	Willful violation of order of the comm; Fine-\$500 or less and/or imprisonment 1 yr or less	N.Y. Fair Employment Practices Commission (Provides for judicial review)

A BRIEF SUMMARY OF THE PROVISIONS OF THE LAWS OF SIX STATES PROHIBITING
DISCRIMINATION AGAINST OLDER WORKERS IN EMPLOYMENT, AUG. 1958 (contd)

State	Chapter No. and Year Enacted	Included in FEP Act	Application to Employers and Groups	Application to Hiring, Discharging or Other Practices	Ages Protected	Penalty Provisions	Enforcement Agency
Pa.	Ch.222 1955	Yes	Private employers with over 12 employees (3) Empl.agencies Labor organizations, State and local govt.	Hire, discharge(1) discriminate in compensation, tenure, terms, conditions or privileges of employment (Unless based upon a bona fide occupational qualification)	40-62 yrs.	Willful violation of order of the comm. Fine between \$100-\$500 and/or imprisonment for 30 days or less	Pa. Fair Employment Practices Commission (Provides for judicial review)
R.I.	Ch.3795 1956	No.	Private employers with over 1 employe(3) Labor organizations, State and local government	Hire and discharge(1) (Unless based upon a bona fide occupational qualification)	45-65 yrs.	No penalty for willful violation except that dept. may appeal to the court for enforcement order	Dept.of Labor (Provides for judicial review)

- (1) Employment may be terminated in cases of a bona fide retirement pension or plan. La. specifically requires that the pension plan requires no more than 35 years of experience and with pension allowances not less than \$45 per quarter.
- (2) Mass. has 2 laws and the individual has option of resorting to one or the other.
- (3) General exemption of social, fraternal, religious, nonprofit corporations. Mass., Pa., R.I., exempt farm labor and domestic service; N.Y. exempts domestic service.
- (4) According to the rules and regulations "hiring" or rather "employment" is broadly construed to include discrimination in compensation, terms, conditions and privileges of employment.
- (5) State and local government is not included as an "employer" under this law. Ch.485, N.Y. Laws of 1938 prohibits the practice of age discrimination for civil service positions of the state or municipality.

SOURCE: Commerce Clearing House, "Labor Law Reporter", Aug. 1958.