

[Acts 1978, ch. 748, § 8; modified; T.C.A., § 4-2106; Acts 1980, ch. 732, § 6; T.C.A., § 4-21-106.]

4-21-403. Employment Agency Practices. –

It is a discriminatory practice for an employment agency to classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to discriminate against any person because of race, creed, color, religion, sex, age or national origin.

[Acts 1978, ch. 748, § 9; T.C.A., § 4-2107; Acts 1980, ch. 732, § 6; T.C.A., § 4-21-107.]

4-21-404. Training program practices. –

It is a discriminatory practice for:

(1) An employer, labor organization, or joint labor-management committee controlling apprenticeship, or on-the-job, or other training or retraining programs, to discriminate against an individual because of race, creed, color, religion, sex, or national origin, in admission to, or employment in, a program established to provide apprenticeship or other training;

(2) An employer, labor organization, employment agency or joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, to print, publish or circulate or cause to be printed, published or circulated any statement, advertisement or publication relating to employment by such an employer, or membership in such organization or any classification or referral for employment by such labor organization, or relating to any classification or referral for employment by such an employment agency or relating to admission to, or employment in, any program established to provide apprenticeship or other training by such a joint labor-management committee indicating any preference, limitation, specification or discrimination based on race, creed, color, religion, sex or national origin; except that such advertisement or publication may indicate preference, limitation or specification based on religion or sex or when religion or sex is a bona fide occupational qualification for employment.

[Acts 1978, ch. 748, § 10; T.C.A., § 4-2108; Acts 1980, ch. 732, §§ 7, 8; 1983, ch. 44, § 1; T.C.A., § 4-21-108.]

4-21-405. Religious Groups Exempted. –

This chapter shall not apply to religious corporations, associations, educational institutions, or societies, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the corporation, association, educational institution, or society, of its religious activities.

[Acts 1978, ch. 748, § 11; T.C.A., §§ 4-2109, 4-21-109.]

4-21-406. Religion or Sex as Bona Fide Occupational Qualifications – Affirmative Action Plans. –

(a) It is not a discriminatory practice for:

(1) An employer to employ employees;

(2) An employment agency to classify, or refer for employment any individual;

(3) A labor organization to classify its members or to classify or refer for employment any individual; or

(4) An employer, labor organization, or joint training or retraining programs to admit or employ any individual in any such program; on the basis of religion or sex in those certain instances where religion or sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

(b) It is not a discriminatory practice for a person subject to this chapter to adopt and carry out a plan to fill vacancies or hire new employees so as to eliminate or reduce imbalance with respect to race, creed, color, religion, sex, age or national origin, if the plan has been filed with the commission and the commission has not disapproved the plan.

[Acts 1978, ch. 748, § 12; T.C.A., § 4-2110; Acts 1980, ch. 732, § 9; T.C.A., § 4-21-110.]

4-21-407. Age discrimination. –

(a) It is not unlawful for an employer, employment agency or labor organization to:

(1) Discriminate in employment on the basis of age where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age; or

(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 this chapter, 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 specified by § 4-21-101(b) because of the age of such individual, unless otherwise provided by law.

(b) The prohibitions imposed by this chapter relating to age discrimination in employment shall be limited to individuals who are at least forty (40) years of age.

(c) Notwithstanding any other provisions of this chapter relating to age discrimination in employment, it is not unlawful for an employer, employment agency or labor organization subject to the other provisions of this chapter to 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 this chapter, 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 covered by this chapter because of the age of such individual.

(d) Nothing in this chapter relating to age discrimination shall be construed to prohibit compulsory retirement of any employee who has attained sixty-five (65) years of age and who, for the two-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least forty-four thousand dollars (\$44,000).

(e) (1) It is not unlawful for an employer subject to the provisions of this chapter 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 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 purposes of this chapter.

(2) For the purposes of this part the following definitions shall apply:

(A) "Firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position; and;