

History

Prior to 1950, there were only three States, Colorado, Louisiana, and Massachusetts, with laws having some provisions relating to discrimination in the employment of older workers. The Colorado act, passed in 1903, specifies that no employer may discharge anyone between the ages of 18 and 60 because of age, but it does not apply to the hiring of individuals. The Louisiana act, passed in 1934, makes it unlawful for an employer having 25 or more employees to adopt any rule for the discharge of any employee or the rejection of an applicant under 50 because of age. A 1937 Massachusetts law prohibits discrimination in hiring or dismissal, makes unlawful any contract which prevents employment of any person between 45 and 65 because of age, sets criminal penalties, and authorizes the Commissioner to publish the names of employers found in violation.

In 1950 Massachusetts amended its fair employment practice act to include a prohibition against discrimination because of age. The 1937 law was not repealed; aggrieved persons must choose to file charges under one or the other of these laws. In 1955 Pennsylvania also added age discrimination provisions to its fair employment practice act; New York did the same in 1958; Connecticut, Oregon, and Wisconsin in 1959; Delaware in 1960; Washington in 1961; New Jersey in 1962; and Michigan in 1965. Provisions relating to older workers were included in the antidiscrimination law when it was originally passed: in Puerto Rico in 1959; in Hawaii in 1963; and in Maine in 1965. Separate laws prohibiting discrimination based on age were passed in Rhode Island in 1956; Alaska in 1960; California and Ohio in 1961; Nebraska in 1963; Idaho, Indiana, and North Dakota in 1965. The Alaska law was incorporated in the Human Rights Law in 1965.

Administration and Enforcement

Administrative agencies.—Eleven of these laws are enforced by the State labor department:

Delaware	Oregon
Hawaii	Pennsylvania
Idaho	Puerto Rico
Indiana	Rhode Island
Maine	Wisconsin
Massachusetts (the 1937 law)	

The California law is enforced by the Department of Employment, and the New Jersey law by the Department of Law and Public Safety. The second Massachusetts law, and the laws of Alaska, Connecticut, Michigan, New York, and Washington are enforced by the State commissions against discrimination. The remaining five laws do not specify an administrative agency.

Enforcement.—Under 15 laws,⁴ the administration agencies are required to investigate complaints and to try to eliminate unlawful practices by conference, conciliation, and persuasion. In all of these States except Delaware and Indiana, if the conciliation attempt fails, the agency is empowered to hold a hearing and then, if necessary, to issue a court enforceable order requiring the guilty party to cease and desist from the discriminatory practice, and to take affirmative action, such as hiring, reinstating, or upgrading of the employee, with or without back pay, or restoring to union membership. If the guilty party fails to obey the order, he is subject to a criminal penalty, usually a fine of up to \$500 and/or imprisonment for up to 1 year. In addition, some of these laws provide for issuance of injunctions or restraining orders, or for civil suits for damages.

Of the other eight laws, that of Puerto Rico makes the guilty party liable for damages and also makes him guilty of a misdemeanor. In civil actions for damages, the court may issue cease-and-desist and affirmative orders. The Secretary of Labor may also issue affirmative orders and may bring suit on behalf of the employees. The Ohio law has no enforcement provisions. In the remaining six—those of California, Colorado, Louisiana, Maine, Nebraska, and North Dakota—the only sanctions are in the form of penalties—fines or imprisonment or both.

Educational programs.—To aid in administering the laws, educational programs to reduce or eliminate discrimination in employment on account of age are

⁴ All but California, Colorado, Louisiana, Maine, Nebraska, North Dakota, Ohio, and Puerto Rico.