

Federal Laws Affecting Employment

Below is information on the various regulations affecting your ability to hire, manage, and terminate employees.

Some federal regulations apply only to employers with at least a certain number of employees; so, the impact on micro businesses is minimal.

However, many state laws conflict with federal laws. Some states demand adherence to the state law for employers with as few as 1 employee.

It is important to check your state law before ignoring any regulation that looks like it does not apply to you.

Age Discrimination in Employment Act of 1967, amended 1986 and 1991

US labor law - Prohibits employment discrimination in hiring, promotions, wages, and termination of employment, including layoffs, against anyone at least 40 years of age and older.

Applies to employers who employ **at least 20 employees** on a regular basis within the current or prior calendar year.

Americans with Disabilities Act of 1990

US civil rights law – Prohibits discrimination based on disability. Provides protections against discrimination similar to the Civil Rights Act of 1964. It requires employers to make reasonable accommodations to employees with disabilities as long as the accommodation does not impose an undue hardship on the company.

Applies to employers who **employ 15 or more employees**, as well as employment agencies, labor organizations and joint labor-management committees.

Civil Rights Act of 1964 - Title VII

US civil rights law – Prohibits discrimination against applicants and employees on the basis of sex, race, color, national origin, and religion.

Generally applies to employers with **15 or more employees**, including employment agencies, labor organizations, and colleges – public and private.

Civil Rights Act of 1991

US civil rights law – passed in response to Supreme Court decisions that limited the rights of employees who had sued their employers for discrimination. It attempted to strengthen the Civil Rights Act of 1964, but was actually ambiguous and difficult to enforce. It does provide the right to trial by jury on discrimination claims, and allows courts to award compensatory and punitive damages.

Consolidated Omnibus Budget Reconciliation Act (COBRA)

US labor law – Requires employers to continue group health benefits for employees and their families up to 18 months under certain circumstances such as voluntary or involuntary job loss, reduction of hours worked, transition between jobs, death, divorce and other life events. Coverage may be extended up to 29 months for disabled workers.

Applies to employers with **group health plans and 20 or more employees** in the prior year.

Drug-Free Workplace Act of 1988

Requires federal contractors and federal grantees to certify they will provide drug-free workplaces.

The Department of Labor ended the program in 2010.

Employee Polygraph Protection Act of 1988

US law – Prohibits private employers from using polygraph tests either for pre-employment screening or during employment, with some exceptions; for example, for prospective employees of security service firms, pharmaceutical manufacturers, distributors and dispensers.

Employee Retirement Income Security Act of 1974 (ERISA)

US tax and labor law – Establishes minimum standards for voluntarily established pension and health plans in private industry to provide protection for individuals in these plans. It does not require a plan to be established.

Equal Pay Act of 1963

US labor law – Amends the Fair Labor Standards Act to abolish wage disparity based on sex. The employer must pay men and women the same rate for work requiring equal skill, effort and responsibility, and where this work is performed under similar working conditions. Exceptions are permissible when payment is made pursuant to a seniority system, merit system, a system that measures earnings by quantity or quality of production, or differentiation based on any factor other than sex.

Fair Labor Standards Act

US labor law – Establishes minimum wage, overtime pay eligibility, recordkeeping and child labor standards affecting full-time and part-time workers.

Family and Medical Leave Act

US law – guarantees certain employees up to 12 weeks of unpaid leave each year when they have a new child in the family, have a serious health condition, or must care for a spouse, children or parent with a serious health condition. Employees who serve in the military or have a spouse, child, parent or next of kin in the military may also take leave if they are injured or seriously ill or they are the caregiver of a qualifying person who serves.

Genetic Information Nondiscrimination Act of 2008

US law – Prohibits the use of genetic information to discriminate in health insurance and employment.

Immigration Reform and Control Act

US Law – Is an amendment to the Immigration and Nationality Act of 1952. It requires all employers to verify employment eligibility for all new hires; but prohibits asking applications about their immigration status before a conditional offer is made.

National Labor Relations Act

US labor law – Guarantees the rights of private sector employees to organize into trade unions, become members of trade unions, engage in collective bargaining, and take collective action including striking.

Occupational Safety and Health Act

US labor law – Assures safety of the workplace and enforces whistleblower statutes.

Partial exemption for record keeping for businesses with 10 or fewer employees during the calendar year.

Older Workers Benefit Protection Act

US law – Is an amendment to the Age Discrimination in Employment Act. Prohibits discrimination in benefits and protects employees who waive their right to sue. Stipulates guidelines for early retirement incentive plans.

Check with the EEOC to see if you need to comply.

Pregnancy Discrimination Act of 1978

US law – It amended Title VII of the Civil Rights Act of 1964 to prohibit discrimination against employees and applicants on the basis of pregnancy, childbirth or related medical conditions.

Applies to employers with **15 or more employees**.

Uniformed Services Employment and Reemployment Rights Act

US law – Protects civilian job rights and benefits for veterans, members of reserve components, and individuals activated by the President of the United States to provide Federal Response for national emergencies. Provides protection against discrimination and protection of pre-deployment jobs.

All employers must comply.

Worker Adjustment and Retraining Notification Act (WARN)

US labor law – Requires 60 calendar-day advance notification for plant closings and mass layoffs of employees.

Applies to employers with 100 or more employees.

CAUTION

As a new entrepreneur you may want to comply with some laws even when you are not required to do so. For example, you may wish to comply with anti-discrimination laws.

However, compliance with some laws can be costly – for example, FMLA rules can be prohibitively expensive for a small business – and once you start, you must continue. You can't comply for one employee and not another.

The lesson here is to determine the cost of compliance up front, understanding that you can't go back once you start. Then decide what you can afford to do.