

Selected Key Federal Employment Laws

POPULAR NAME and CITATION	PURPOSE	APPLICABLE	ENFORCEMENT AND REMEDIES
<p>TITLE VII Civil Rights Act of 1964, 42 U.S.C.A. §§ 2000e to 2000e-17</p>	<p>Protection from discrimination by reason of race, color, religion, sex or national origin; protection from retaliation for opposing unlawful discrimination or participating in a claim of discrimination</p>	<p>Employers of 15 or more employees for each working day in each of 20 or more calendar weeks in current or preceding year; applies to all employer actions</p>	<p><u>Enforcement:</u> EEOC investigates and can enforce; employee may file suit six months after filing complaint <u>Remedies:</u> Emotional distress, front and back pay and benefits, attorneys fees, costs and punitive damages (capped by size of employer)</p>
<p>AMERICANS WITH DISABILITIES ACT (“ADA”), 42 U.S.C.A. §12101 <i>et seq.</i></p>	<p>Protection from discrimination on the basis of physical or mental disability or perceived disability, or history of disability or association with someone with disability</p>	<p>Employers of 15 or more employees for each working day in each of 20 or more calendar weeks in current or preceding year; applies to all employer actions</p>	<p><u>Enforcement:</u> Same as TITLE VII above <u>Remedies:</u> Same as TITLE VII above, although capped compensatory and punitive damages available only where “intentional discrimination” rather than “disparate impact” is alleged; punitive damages may also be awarded for discrimination with “malice or with reckless</p>

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			indifference” to the rights protected by the ADA
<p>AGE DISCRIMINATION IN EMPLOYMENT ACT (“ADEA”), 29 U.S.C.A. §§ 621-634</p>	<p>Protection from discrimination on the basis of age (age 40 and above)</p>	<p>Employers of 20 or more workers for at least 20 weeks a year; applies to all employer actions</p>	<p><u>Enforcement:</u> Same as TITLE VII above, except that suit may be filed 60 days after filing charge with the EEOC</p> <p><u>Remedies:</u> Back and front pay and benefits; attorneys fees and costs; liquidated damages in the sum equal to the amount of damages otherwise due for willful violations; legal and equitable relief as may be appropriate to effectuate the purposes of the Act; attorneys’ fees</p>
<p>EMPLOYEE RETIREMENT INCOME SECURITY PROGRAM (“ERISA”), 29 U.S.C.A. §§ 1001 <i>et seq.</i></p>	<p>Protection of employee benefit rights, including continuation coverage of group health benefits (“COBRA”) and limitations on exclusions for preexisting conditions (“HIPPA”); employee entitlement to information regarding plans; protection from action to defeat entitlement to benefits</p>	<p>Applies to most private “welfare benefit plans”, including health and disability, pension and retirement funds, some severance and tuition plans</p>	<p><u>Enforcement:</u> Sec’y of Labor; plan participants and beneficiaries may file suit to enforce</p> <p><u>Remedies:</u> Up to \$100/day for violation of notice requirements including failure to</p>

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			provide certain documents on written request; lost pay and benefits; front pay or reinstatement
EQUAL PAY ACT, 29 U.S.C.A. §§ 206(d)	Protection from pay discrimination on basis of gender for work of equal skill, effort and responsibility, and which are performed under similar working conditions	Employers subject to federal Fair Labor Standards Act	<u>Enforcement:</u> EEOC can initiate or investigate; employee may file suit w/o administrative proceedings <u>Remedies:</u> Fines, unpaid wages and benefits, attorneys fees and costs; liquidated damages equal to wages for willful violation; potential criminal liability for willful violations
EXECUTIVE ORDER 11246	Obligation to develop and utilize affirmative action plans for increased utilization of minorities and women	Employers having contracts with the federal government in excess of \$10,000 in a 12 month period; all employers performing federally assisted construction contracts; applies to employment decisions generally	<u>Enforcement:</u> DOL Office of Federal Contract Compliance Programs <u>Remedies:</u> No private remedy; violation can lead to cancellation of federal contracts and debarment from future contracts

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FAMILY AND MEDICAL LEAVE ACT, 29 U.S.C.A. §§ 2601 <i>et seq.</i>	Subject to certain limitations, employees entitled to a total of 12 work weeks of leave during any 12 month period due to birth, adoption, or serious health condition of employee, spouse, child or parent	Employers of 50 or more employees w/in 75 miles of work site for each working day during each of 20 or more calendar workweeks in current or preceding calendar year	<u>Enforcement:</u> DOL or civil action by employee <u>Remedies:</u> Reinstatement, injunctive relief; back pay and benefits, plus interest and same amount as liquidated damages if not inadvertent; attorneys fees and costs
Federal Employee Polygraph Protection Act of 1988, 29 U.S.C. §§ 2001-2009	Prohibits most private employers in most situations from requiring, requesting, suggesting, or causing an employee to take or submit to a polygraph	All private employers, exempting security services and, employers authorized to manufacture, distribute or dispense controlled substances; a limited exemption for certain ongoing investigations	<u>Enforcement:</u> Sec’y of Labor, private civil actions <u>Remedies:</u> Civil penalties of not more than \$10K; legal and equitable relief including employment, reinstatement, promotion, lost wages and benefits
Federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681 <i>et seq.</i>	Requires employers using “investigative consumer reports” from “consumer reporting agencies” to disclose to the applicant that they intend to obtain such a report; applicant must be advised if a decision not to hire is based on information in the report	All employers	<u>Enforcement:</u> Federal Trade Commission, civil action in applicable federal district court or other court of competent jurisdiction <u>Remedies:</u> Actual damages or not less than \$100.00 nor

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			more than \$1K, punitive damages, reasonable attorneys' fees, costs
Federal Protection of Juror's Employment Act, 28 U.S.C. § 1875	Prohibits employers from discharging employers from discharging employees for taking time off from work to serve on a jury	All employers	<u>Enforcement:</u> Civil action in federal district court <u>Remedies:</u> Lost wages or other benefits, equitable relief, civil penalty of not more than \$1K for each violation
Immigration Reform and Control Act of 1986, 29 U.S.C.A. §§ 1802, 1813, 1851	Requires employer at time of hire to verify authorization to be employed in the U.S.; prohibits discrimination based on national origin	All employers must have new hires complete Form I-9	<u>Enforcement:</u> Department of Justice, civil action <u>Remedies:</u> Civil fines and criminal penalties of varying amounts depending upon nature of violation and number of violations; damages of back pay, attorneys fees and costs
National Labor Relations Act, 29 U.S.C. §§ 151 <i>et</i> <i>seq.</i>	Prevention of unfair labor practices; employees cannot be discriminated against because they have exercised	All employers, excluding the United States or any wholly owned government	<u>Enforcement:</u> National Labor Relations Board (NLRB)

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	their rights to organize and/or bargain collectively	corporation, any Federal Reserve Bank, any State or political subdivision thereof, any person subject to the Railway Labor Act or any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization	<u>Remedies:</u> Cease and desist orders, affirmative action including reinstatement with or without back pay; NLRB may petition any courts of appeal for the enforcement of any order and for appropriate temporary relief or restraining order; fines of not more than \$5K or imprisonment for not more than 1 year for any person who willfully resists, prevents, impedes or interferes with performance of Board's duties
OCCUPATIONAL SAFETY AND HEALTH ACT ("OSHA") 29 U.S.C.A. §§ 553 <i>et seq.</i>	Establishes duty of employer to furnish place of employment free from recognized hazards likely to cause death or serious physical harm; requires compliance with applicable standards promulgated by Secretary of Labor; prohibits retaliation for exercising rights under OSHA	All employers engaged in interstate commerce	<u>Enforcement:</u> Sec'y of Labor; Occupational Safety and Health Review Commission; employee may file complaint with Sec'y of Health and Human Services w/in 30 days of alleged violation <u>Remedies:</u>

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			Reinstatement with back pay, injunctive relief, civil fines of not more than \$70K nor less than \$5K and criminal penalties
OLDER WORKERS BENEFIT PROTECTION ACT OF 1990 , 29 U.S.C.A. §§ 623, 626 & 630, § 4(f) of the ADEA	To ensure that age-based reductions in employee benefit plans are justified by significant cost considerations; also sets stringent standards for all releases and settlements of ADEA claims	Employers of 20 or more workers for at least 20 weeks a year; applies to all employer actions	<u>Enforcement:</u> Same as ADEA <u>Remedies:</u> See ADEA
PREGNANCY DISCRIMINATION ACT , 42 U.S.C.A. § 2000e(k)	Women affected by pregnancy, childbirth, or related medical conditions must be treated the same for all employment-related purposes, including receipt of fringe benefits, as other persons not so effected but similar in ability or inability to work	Employers of 15 or more employees for each working day in each of 20 or more calendar weeks in current or preceding year; applies to all employer actions	<u>Enforcement:</u> EEOC investigates and can enforce; private civil action <u>Remedies:</u> Emotional distress, front and back pay and benefits, attorneys fees, costs and punitive damages (capped by size of employer)
VOCATIONAL REHABILITATION ACT OF 1973 , 29 U.S.C. §§ 701-96i	Prohibits discrimination on the basis of disability and imposes affirmative action in federal employment and on federal contractors	Federal government employers (§ 501); federal contractors (§ 503) recipients of federal funds for § 504	<u>Enforcement:</u> Agency varies depending upon applicable Section, private civil actions for § 501 and § 504; no private action under § 503

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			<u>Remedies:</u> Varies depending upon applicable Section

Selected Key Pennsylvania State and Local Employment Laws

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Criminal History Record Information Act, 18 Pa.C.S. § 9125	An applicant's criminal history record can be considered only to the extent that an individual's felony and misdemeanor convictions relate to suitability for specific position in question; applicant must be notified if a decision not to hire is based in whole or in part on applicant's criminal history	All employers	Enforcement: Attorney General, action for civil damages in any court of competent jurisdiction Remedies: Civil penalties, actual and real damages of not less than \$100.00 for each violation, reasonable costs of litigation and attorneys fees, punitive and exemplary damages of not less than \$1K nor more than \$10K if willful violation
Equal Pay Law, 43 P.S. §§336.1 - 336.10	Prohibits discrimination between employees on the basis of sex by paying less wages for equal work on jobs, the performance of which requires equal skill, effort and responsibility and which are performed under similar working conditions	All employers	Enforcement: Sec'y of Labor, civil action in any court of competent jurisdiction Remedies: Unpaid wages and an equal amount as liquidated damages, reasonable attorneys' fees and costs, fines of not less than \$50.00 nor more than \$200.00 for each day violation continues, imprisonment upon default in fines and costs
Inspection of Personnel Files, 43 P.S. §§ 1321-1324	Employers must permit employees, upon request, to inspect their personnel files	All employers	Enforcement: DOL's Bureau of Labor Standards, civil remedies Remedies: Civil remedies
Minimum Wage Act of 1968, §§ 333.101 et seq.	Regulate wages and overtime	All employers	Enforcement: Sec'y of Labor, Minimum Wage Advisory Board, civil action, summary criminal action Remedies: Full amount of minimum wages less any amount actually paid, costs and reasonable attorneys' fees; fines

Selected Key Pennsylvania State and Local Employment Laws

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			of not less than \$75.00 nor more than \$300.00, imprisonment of not less than 10 nor more than 60 days
New Hire Reporting , 23 Pa.C.S. §§ 4391-4396	Requires reporting of new hires to the DOL's Commonwealth Directory of New Hires no later than 20 days from the date of hire of a newly hired employee	All employers as employer is defined in § 3401(d) of the Internal Revenue Code of 1986	Enforcement: Dept. of Labor and Industry Penalties: Written warning for first violation and subject to a civil penalty of up to \$25.00 for each subsequent violation; if failure to report or a false report is the result of a conspiracy between employer and employee, employer subject to civil penalty of up to \$500.00
Pennsylvania Human Relations Act ("PHRA"), 43 P.S. §§ 951-963.	Prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin or non-job-related handicap or disability ; also prohibits retaliation	Employers of 4 or more persons within the Commonwealth; applies to all employer actions	Enforcement: Pennsylvania Human Relations Commission ("PHRC"), Attorney General, civil action Remedies: Compensation for lost work, hiring, reinstatement or upgrading of employees, with or without back pay, reasonable accommodations, actual damages, including damages caused by humiliation and embarrassment, reasonable out-of-pocket expenses, reasonable attorneys' fees, civil penalties; no punitive damages
Protection of Employment of Jurors , 42 Pa.C.S. § 4563	Prohibits employers from discharging employees for serving as a juror; 18 P.S. § 4957(a) prohibits employers from discharging or	All employers, excluding employers in any retail or service industry employing fewer than 15 persons	Enforcement: Criminal summary offense, civil action Remedies: Criminal penalties, recovery of lost wages and benefits, reinstatement and

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	disciplining employees because of attendance at court as a witness or victim of a crime	or employers in any manufacturing industry employing fewer than 40 persons ; any individual not entitled to re-employment under the statute shall be excused from jury service	reasonable attorneys' fees
Pennsylvania Polygraph Law, 18 Pa. C.S.A. § 7321	Submission to a polygraph or other form of lie detector test cannot be made a term or condition of employment or continued employment	All employers, excluding those in field of public enforcement or who dispense or have access to narcotics or dangerous drugs	Enforcement: Criminal prosecution (misdemeanor of the second degree)
Wage Payment and Collection Law, 43 P.S. §§ 260.1-260.11	Regulates payment of wages and requires that whenever an employee is separated from employment, the wages or compensation earned shall become due and payable not later than the next regular payday on which wages or compensation would otherwise be due and payable	All employers	Enforcement: Sec'y of Labor and Industry, civil action in any court of competent jurisdiction Remedies: Unpaid wages, liquidated damages in an amount equal to 25% of the total amount of wages due or \$500.00, whichever is greater, costs for reasonable attorneys' fees
Philadelphia Fair Practices Ordinance, Chapter 9-1100 et seq.	Prohibits discrimination on the basis of race, color, sex, religion, national origin, ancestry, age, sexual orientation or handicap and retaliation	All employers of 1 or more persons , excluding parents, children and spouse	Enforcement: Philadelphia Commission on Human Relations; civil action Remedies: Equitable and injunctive relief, including but not limited to hiring, reinstating or upgrading with or without back pay, fines of not more than \$300.00, back pay and other

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			actual damages, exemplary damages of \$300.00 for each violation, reasonable attorneys' fees and court costs
Pittsburgh Human Relations Ordinance , Pittsburgh City Code, Chapters 651-659	Bars discrimination by employers on the basis of race, color, religion, ancestry, national origin, place of birth, sex, age, non-job related handicap or disability, or sexual orientation or preference and retaliation	All employers of 5 or more employees , excluding parents, children and spouse	<u>Enforcement:</u> Pittsburgh Commission on Human Relations; court action is limited to action by City Solicitor to secure enforcement of Commission orders <u>Remedies:</u> Public hearings, injunctive relief
Harrisburg Human Relations Ordinance , Chapter 114, §§ 114-1-114.26 of the Code of the City of Harrisburg	Prohibits discrimination on the basis of race, color, religion, ancestry, national origin, place of birth, sex, age, non-job related handicap or disability, marital status, familial status, General Education Development certificate or sexual preference/orientation, pregnancy	All employers of 4 or more persons , excluding parents, children and spouse	<u>Enforcement:</u> Harrisburg Human Relations Commission; court action <u>Remedies:</u> Injunctive relief, reasonable attorneys' fees and costs; fines of not more than \$1K plus costs of prosecution and, in default of payment, imprisonment for a period not exceeding 90 days for willful violations

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<p>New Jersey Family Leave Act, N.J. S.A. §§ 34:11B-1 <i>et seq.</i></p>	<p>Subject to certain limitations, paid, unpaid or a combination of paid and unpaid family leave of up to 12 weeks in any 24-month period upon advance notice to employer due to birth, adoption or serious health condition of a child, parent or spouse; leave for the later may be taken intermittently under certain circumstances</p>	<p>Employers of 50 or more employees for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year</p>	<p><u>Enforcement:</u> NJ Division on Civil Rights (“DCR”), summary civil action in the name of the Attorney General or civil action by employee in Superior Court or complaint with DCR <u>Remedies:</u> In addition to other relief or affirmative action provided by law, not more than \$2K for first offense and not more than \$5K for second and each subsequent offense in summary civil action; in civil action by employee(s), all of the remedies provided under the NJLAD and punitive damages not greater than \$10K (greater limits in the event of class actions), and attorneys’ fees</p>

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<p>New Jersey Law Against Discrimination, N.J.S.A. §§10:5-1 <i>et seq.</i></p>	<p>Protection from discrimination by reason of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, genetic information, familial status, sex or atypical hereditary cellular or blood trait or handicap; protection from retaliation for opposing unlawful discrimination or participating in a claim of discrimination</p>	<p>All employers unless otherwise specifically exempt under the statute</p>	<p><u>Enforcement:</u> DCR or private right of action in New Jersey Superior Court <u>Remedies:</u> Penalties of not more than \$10,000, \$25,000 or \$50,000 (depending upon whether previous adjudications of violations), attorneys' fees and any other relief or affirmative action provided by law, including hiring, reinstatement, upgrading, with or without back pay; award of three-fold damages by director of DCR to person aggrieved if unlawful economic discrimination under the Act</p>
<p>New Jersey Smoker Discrimination Law, N.J.S.A. §§ 34:6B-1</p>	<p>Protection from discrimination because an individual does or does not smoke or use other tobacco products unless a rational basis for doing so is reasonably related to the employment</p>	<p>All employers</p>	<p><u>Enforcement:</u> Commissioner of Labor and/or civil suit <u>Remedies:</u> Injunctive relief; compensatory and consequential damages, reasonable attorneys' fees; civil penalties not to exceed \$2K for first violation and \$5K for each subsequent violation</p>
<p>New Jersey State Wage and Hour Law, N.J.S.A. §§ 34:11-56a-56a-29</p>	<p>Establishes minimum wage levels and record keeping requirements</p>	<p>All employers</p>	<p><u>Enforcement:</u> Commissioner of Labor and civil action by employees <u>Remedies:</u> Payment of minimum wage less wages paid and reasonable attorneys' fees; Commissioner may assess fines and administrative penalties</p>
<p>New Jersey's Wage and Hour Law,</p>	<p>Upon termination of suspension of employment,</p>	<p>All employers</p>	<p><u>Enforcement:</u> Commissioner of Labor; private cause of action</p>

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N.J.S.A. 34:11-4-3 <i>et seq.</i>	requires that employer pay all wages due not later than the regular payday for the pay period during which termination or suspension took place		<u>Remedies:</u> Wages, fines and administrative penalties
New Jersey Worker Health and Safety Act, N.J. S.A. §§ 34:6A-1	Provision of reasonably safe and healthful place of employment	All employers	<u>Enforcement:</u> Commissioner of Dept. of Labor and Industry <u>Remedies:</u> Penalties of not less than \$25.00 nor more than \$500.00

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Delaware Clear Indoor Air Act , 16 Del. C. §§ 2901-2908	Employers required to adopt and implement a written smoking policy to protect non-smokers from exposure to environmental tobacco smoke	All employers of 1 or more employees	Enforcement: DOL Remedies: Administrative penalties of \$25.00 for first violation and \$50.00 for each subsequent violation; civil penalties of not less than \$1K or more than \$5K for employers who discriminate against employees for reporting non-compliance
Delaware Discrimination in Employment Act , 19 Del. C. §§710-718	Protection from discrimination on the basis of race, marital status, genetic information, color, age (between 40 and 70), religion, sex or national origin and retaliation	Applicable to all employers with four or more employees within the state	Enforcement: Office of Labor Law Enforcement (“OLLE”) Remedies: Statutory liability for damages, attorneys’ fees and penalties of not less than \$1K nor more than \$5K for each violation
Delaware Handicapped Persons Employment Protections Act , 19 Del. C. §§720-728	Protection from discrimination on the basis of handicap and retaliation	Applicable to all employers with fifteen or more employees within the state	Enforcement: OLLE Remedies: Liability for damages, attorneys’ fees and penalties of not less than \$1K nor more than \$5K for each violation
Right to Inspect Personnel Files Act , 19 Del. Code §§ 720-735	Provides employees with right to inspect their personnel files	All employers and employees	Enforcement: Civil action in any court of competent jurisdiction Remedies: Civil penalty of not less than \$1K nor more than \$5K

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Wage Payment and Collection Act of the State , 19 Del. C. §§ 1101-1115	Regulates wage payments and prohibits differential rate of pay based on sex for equal work, performance of which requires equal skill, effort and responsibility	All employers	Enforcement: DOL or civil action to recover unpaid wages and liquidated damages in any court of competent jurisdiction Remedies: Unpaid wages and liquidated damages, attorneys' fees and costs, and civil penalties of not less than \$1K nor more than \$5K for each violation
Workers' Compensation Act , 19 Del. C. §§ 2301-2397	Compensation for employees injured on the job	All employers of 1 or more employees	Enforcement: DOL and Industrial Accident Board
Polygraph Prohibition , 19 Del.C. § 704	Prohibits polygraph, lie detector or similar test or examination as condition of employment or continued employment	All employers	Enforcement: Civil penalty claim in any court of competent jurisdiction Remedies: Civil penalties of not less than \$1K nor more than \$5K for each violation
Notice of Monitoring , 19 Del.C. § 705	Prohibits monitoring or intercepting of telephone conversations, electronic mail or Internet access and usage absent a one time notice of such monitoring or intercepting activity	All employers	Enforcement: Civil penalty claim in any court of competent jurisdiction Remedies: Civil penalty of \$100.00 for each violation in addition to any other remedies available under federal or state law
Employment Information , 19 Del.C. §709(a)	Qualified immunity for providing information to potential employers	All employers	N/A

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Rights to Inventions, 19 Del.C. § 805	Protects employees' rights to certain inventions	All employees	Renders incompatible provisions in employment agreements unenforceable