

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Vermont Statutes Annotated
Title Twenty-One. Labor
Chapter 5. Employment Practices
Subchapter 6. Fair Employment Practices

21 V.S.A. § 495

§ 495. Unlawful employment practice

Effective: July 1, 2018

[Currentness](#)

(a) It shall be unlawful employment practice, except where a bona fide occupational qualification requires persons of a particular race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition:

(1) For any employer, employment agency, or labor organization to discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability;

(2) For any person seeking employees or for any employment agency or labor organization to cause to be printed, published, or circulated any notice or advertisement relating to employment or membership indicating any preference, limitation, specification, or discrimination based upon race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, age, or disability;

(3) For any employment agency to fail or refuse to classify properly or refer for employment or to otherwise discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability;

(4) For any labor organization, because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age to discriminate against any individual or against a qualified individual with a disability or to limit, segregate, or qualify its membership;

(5) For any employer, employment agency, labor organization, or person seeking employees to discriminate against, indicate a preference or limitation, refuse properly to classify or refer, or to limit or segregate membership on the basis of a person's having a positive test result from an HIV-related blood test;

(6) For any employer, employment agency, labor organization, or person seeking employees to request or require an applicant, prospective employee, employee, prospective member, or member to have an HIV-related blood test as a condition of employment or membership, classification, placement, or referral;

(7) For any employer, employment agency, labor organization, or person seeking employees to discriminate between employees on the basis of sex by paying wages to employees of one sex at a rate less than the rate paid to employees of the other sex for equal work that requires equal skill, effort, and responsibility and is performed under similar working conditions. An employer who is paying wages in violation of this section shall not reduce the wage rate of any other employee in order to comply with this subsection.

(A) An employer may pay different wage rates under this subsection when the differential wages are made pursuant to:

(i) A seniority system.

(ii) A merit system.

(iii) A system in which earnings are based on quantity or quality of production.

(iv) A bona fide factor other than sex. An employer asserting that differential wages are paid pursuant to this subdivision shall demonstrate that the factor does not perpetuate a sex-based differential in compensation, is job-related with respect to the position in question, and is based upon a legitimate business consideration.

(B)(i) No employer may do any of the following:

(I) Require, as a condition of employment, that an employee refrain from disclosing the amount of his or her wages or from inquiring about or discussing the wages of other employees.

(II) Require an employee to sign a waiver or other document that purports to deny the employee the right to disclose the amount of his or her wages or to inquire about or discuss the wages of other employees.

(ii) Unless otherwise required by law, an employer may prohibit a human resources manager from disclosing the wages of other employees.

(8) Retaliation prohibited. An employer, employment agency, or labor organization shall not discharge or in any other manner discriminate against any employee because the employee:

(A) has opposed any act or practice that is prohibited under this chapter;

(B) has lodged a complaint or has testified, assisted, or participated in any manner with the Attorney General, a State's Attorney, the Department of Labor, or the Human Rights Commission in an investigation of prohibited acts or practices;

(C) is known by the employer to be about to lodge a complaint, testify, assist, or participate in any manner in an investigation of prohibited acts or practices;

(D) has disclosed his or her wages or has inquired about or discussed the wages of other employees; or

(E) is believed by the employer to have acted as described in subdivisions (A) through (D) of this subdivision.

(b) The provisions of this section shall not be construed to limit the rights of employers to discharge employees for good cause shown.

(c) The provisions of this section prohibiting discrimination on the basis of age shall apply for the benefit of persons 18 years of age or older.

(d)(1) An employee shall not have a cause of action in negligence for any injury occurring to the employee on the account of an employer complying with subdivisions (a)(5) and (6) of this section.

(2) A person shall not have a cause of action in negligence for any injury occurring to the person on account of an employer complying with subdivisions (a)(5) and (6) of this section.

(e) The provisions of this section prohibiting discrimination on the basis of sexual orientation and gender identity shall not be construed to prohibit or prevent any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised, or controlled by or in connection with a religious organization, from giving preference to persons of the same religion or denomination or from taking any action with respect to matters of employment which is calculated by the organization to promote the religious principles for which it is established or maintained.

(f) Repealed by [2013, No. 35, § 2](#), eff. July 1, 2013.

(g) Notwithstanding any provision of this subchapter, an employer shall not be prohibited from establishing and enforcing reasonable workplace policies to address matters related to employees' gender identity, including permitting an employer to establish a reasonable dress code for the workplace.

(h) Nothing in this section shall require an employer to disclose the wages of an employee in response to an inquiry by another employee, unless the failure to do so would otherwise constitute unlawful employment discrimination. Unless otherwise required by law, nothing in this section shall require an employee to disclose his or her wages in response to an inquiry by another employee.

Credits

1963, No. 196, § 1; 1971, No. 9; 1975, Adj. Sess., No. 198, § 1; 1981, No. 65, § 1; 1987, Adj. Sess., No. 176, §§ 1, 2; 1987, Adj. Sess., No. 176, §§ 1, 2; [1991, Adj. Sess., No. 135, § 15](#); [1999, No. 19, § 4](#); [1999, Adj. Sess., No. 103, § 1](#); [2001, Adj. Sess., No. 81, § 1](#); [2005, No. 10, § 1](#); [2007, No. 41, § 18](#), eff. July 1, 2007; [2013, No. 31, § 2](#), eff. July 1, 2013; [2013, No. 35, § 2](#), eff. July 1, 2013; [2013, Adj. Sess., No. 96, § 129](#), eff. July 1, 2014; [2017, Adj. Sess., No. 113, § 145](#), eff. July 1, 2018; [2017, Adj. Sess., No. 184, § 1](#), eff. July 1, 2018.

[Notes of Decisions \(292\)](#)

21 V.S.A. § 495, VT ST T. 21 § 495

The statutes are current through Acts of the Regular Session of the 2019-2020 Vermont General Assembly (2019). Statutes are subject to change as determined by the Vermont Legislative Council.

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