Washington Report

Elliott French, *Editor*

The Age Discrimination in Employment Act of 1967

It used to be that when you were 40, you were "over the hill." Over the employment hill, anyway.

Forty used to be the age when most employers stopped looking at you. And that, says Congress, is discrimination.

It is discrimination against a man willing and able to work in the productive labor forces for another quarter century beyond the 40-year mark.

To make its position unmistakably clear, Congress last December 15, 1967 passed the "Age Discrimination in Employment Act of 1967."

The Act, administered and enforced by the Secretary of Labor, has a threefold emphasis: it prohibits arbitrary age discrimination in employment; it promotes employment of the older worker on the basis of ability rather than age; and it helps employers and employees find ways to resolve problems arising from the impact of age on employment.

In administering the Act, the Secretary of Labor will provide a program of education and information, to include the publication of studies dealing with age-employment problems and encourage the expansion of employment opportunities and advancement.

As it stands, the law protecting 40- to 65-year-old employables now affects employers of 25 or more persons (50 or more prior to June 30, 1968) in an industry affecting interstate commerce, employment agencies serving such employers, and labor organizations with 25 or more members (50 or more prior to July 1, 1968) in an industry affecting interstate commerce.

Provisions of the Law

The Act carries many specific restrictions against one tolerable and legal arbitrary discriminatory practices but, reduced to essentials, they are as follows:

An employer will be violating the law if he fails or refuses to hire, or otherwise discriminates against any individual in the areas of compensation, terms, conditions or privileges of employment, because of age.

He may also no longer limit, segregate, or classify his employees, so as to deprive anyone of employment opportunities or adversely affect his status as an employee, because of age.

Further, he may not reduce the wage rate of any employee for the sake of complying with the Act.

An employment agency will be acting against the law if it fails or refuses to refer for employment, or otherwise discriminates against any individual, because of age.

Neither may an agency any longer classify or refer anyone for employment on the basis of age.

Labor organizations also are now subject to the same restrictive principles. They may not discriminate against anyone because of age by excluding or expelling any individual from membership.

They may not limit, segregate, or classify their memberships on the basis of age.

Like the employment agencies, they cannot, because of age, fail or refuse to refer anyone for employment, so as to deprive or limit employment opportunities or otherwise adversely affect the individual's employee status.

For all of the above it is against the law to discriminate against a person for opposing a practice made unlawful by the Act. Neither may they discriminate against a person for making a charge, assisting or participating in any investigation, proceeding, or litigation under the Act.

It is also now illegal for all of the above to use printed or published notices or advertisements indicating any preference, limitation, specification, or discrimination based on age.

Under the Act's enforcement terms, any aggrieved person or the Secretary of Labor may bring suit.

Before an individual brings suit, he must give the Secretary of Labor 60 days notice of intention.

Before the Secretary of Labor files a court action, he must attempt to secure voluntary compliance by informal conciliation, conference, and persuasion.

Exceptions

There are exceptions to the law, of course, but these are directed in large measure to cases where differentiation is based on reasonable factors others than age, though an older worker may be affected.

But, clearly, the prohibitions against discrimination because of age do not apply in those instances where age is a reasonably necessary occupational determinant.

So, for all practical purposes, no American worker can legally be considered "over the hill" until he is 65, all other things being equal.

It is not know at this time whether the stating of a maximum age limitation in apprenticeship programs will or will not be considered contrary to the Age Discrimination in Employment Act.

More specific information concerning the "Age Discrimination in Employment Act of 1967" (Public Law 90-202) may be obtained from the Wage and Hour and Public Contracts Divisions, Department of Labor, Washington, D. C. Zip Code 20210, or any of its field offices whose listings may be found in the telephone book under United States Government.

Business Files

The quantity of papers filed in the nation's offices is estimated at 1,500 trillion, according to the Leahy Business Archives. These papers are multiplying at the rate of 62 million file drawers a year, and unless businessmen apply more effective controls, this rate may double by 1985.