

Age Discrimination Act of 1975¹

[Title III, Public Law 94–135]

[As Amended Through P.L. 114–95, Enacted December 10, 2015]

【Currency: This publication is a compilation of the text of Public Law 94-135. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

TITLE III—PROHIBITION OF DISCRIMINATION BASED ON AGE

SHORT TITLE

SEC. 301. The provisions of this title may be cited as the “Age Discrimination Act of 1975”.

【42 U.S.C. 6101 note】

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance.

【42 U.S.C. 6101】 Enacted Nov. 28, 1975, P.L. 94–135, sec. 302, 89 Stat. 728; amended Oct. 18, 1978, P.L. 95–478, sec. 401(a), 92 Stat. 1555 (effective at the close of Sept. 30, 1978); amended April 7, 1986, P.L. 99–272, sec. 14001(b)(4), 100 Stat. 329.

PROHIBITION OF DISCRIMINATION

SEC. 303. Pursuant to regulations prescribed under section 304, and except as provided by section 304(b) and section 304(c), no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

【42 U.S.C. 6102】

¹(42 U.S.C. 6101–6107.) Enacted Nov. 28, 1975 as Title III of P.L. 94–135, secs. 301–308, 89 Stat. 728–732.

REGULATIONS

SEC. 304. (a)(1) Not later than one year after the transmission of the report required by section 307(b), or two and one-half years after the date of the enactment of this Act, whichever occurs first, the Secretary of Health, Education, and Welfare shall publish in the Federal Register proposed general regulations to carry out the provisions of section 303.

(2)(A) The Secretary shall not publish such proposed general regulations until the expiration of a period comprised of—

- (i) the forty-five day period specified in section 307(e); and
- (ii) an additional forty-five day period, immediately following the period described in clause (i), during which any committee of the Congress having jurisdiction over the subject matter involved may conduct hearings with respect to the report which the Commission is required to transmit under section 307(d), and with respect to the comments and recommendations submitted by Federal departments and agencies under section 307(e).

(B) The forty-five day period specified in subparagraph (A)(ii) shall include only days during which both Houses of the Congress are in session.

(3) Not later than ninety days after the Secretary publishes proposed regulations under paragraph (1), the Secretary shall publish in the Federal Register final general regulations to carry out the provisions of section 303, after taking into consideration any comments received by the Secretary with respect to the regulations proposed under paragraph (1).

(4) Not later than ninety days after the Secretary publishes final general regulations under paragraph (a)(3), the head of each Federal department or agency which extends Federal financial assistance to any program or activity by way of grant, entitlement, loan, or contract other than a contract of insurance or guaranty, shall transmit to the Secretary and publish in the Federal Register proposed regulations to carry out the provisions of section 303 and to provide appropriate investigative, conciliation, and enforcement procedures. Such regulations shall be consistent with the final general regulations issued by the Secretary, and shall not become effective until approved by the Secretary.

(5) Notwithstanding any other provision of this section, no regulations issued pursuant to this section shall be effective before July 1, 1979.

(b)(1) It shall not be a violation of any provision of this title, or of any regulation issued under this title, for any person to take any action otherwise prohibited by the provisions of section 303 if, in the program or activity involved—

(A) such action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of such program or activity; or

(B) the differentiation made by such action is based upon reasonable factors other than age.

(2) The provisions of this title shall not apply to any program or activity established under authority of any law which (A) provides any benefits or assistance to persons based upon the age of

such persons; or (B) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms.

(c)(1) Nothing in this title shall be construed to authorize action under this title by any Federal department or agency with respect to any employment practice of any employer, employment agency, or labor organization, or with respect to any labor-management joint apprenticeship training program.

(2) Nothing in this title shall be construed to amend or modify the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621–634), as amended, or to affect the rights or responsibilities of any person or party pursuant to such Act.

[42 U.S.C. 6103] Enacted Nov. 28, 1975, P.L. 94–135, sec. 304, 89 Stat. 729; amended Oct. 18, 1978, P.L. 95–478, sec. 401(b), 92 Stat. 1555 (effective at the close of Sept. 30, 1978).

ENFORCEMENT

SEC. 305. (a) The head of any Federal department or agency who prescribes regulations under section 304 may seek to achieve compliance with any such regulation—

(1) by terminating, or refusing to grant or to continue, assistance under the program or activity involved to any recipient with respect to whom there has been an express finding on the record, after reasonable notice and opportunity for hearing, of a failure to comply with any such regulation; or

(2) by any other means authorized by law.

(b) Any termination of, or refusal to grant or to continue, assistance under subsection (a)(1) shall be limited to the particular political entity or other recipient with respect to which a finding has been made under subsection (a)(1). Any such termination or refusal shall be limited in its effect to the particular program or activity, or part of such program or activity, with respect to which such finding has been made. No such termination or refusal shall be based in whole or in part on any finding with respect to any program or activity which does not receive Federal financial assistance. Whenever the head of any Federal department or agency who prescribes regulations under section 304 withholds funds pursuant to subsection (a), he may, in accordance with regulations he shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency, or State or political subdivision thereof, which demonstrates the ability to achieve the goals of the Federal statute authorizing the program or activity while complying with regulations issued under section 304.

(c) No action may be taken under subsection (a) until the head of the Federal department or agency involved has advised the appropriate person of the failure to comply with the regulation involved and has determined that compliance cannot be secured by voluntary means.

(d) In the case of any action taken under subsection (a), the head of the Federal department or agency involved shall transmit a written report of the circumstances and grounds of such action to the committees of the House of Representatives and the Senate having legislative jurisdiction over the program or activity in-

volved. No such action shall take effect until thirty days after the transmission of any such report.

(e)(1) When any interested person brings an action in any United States district court for the district in which the defendant is found or transacts business to enjoin a violation of this Act by any program or activity receiving Federal financial assistance, such interested person shall give notice by registered mail not less than 30 days prior to the commencement of that action to the Secretary of Health, Education, and Welfare, the Attorney General of the United States, and the person against whom the action is directed. Such interested person may elect, by a demand for such relief in his complaint, to recover reasonable attorney's fees, in which case the court shall award the costs of suit, including a reasonable attorney's fee, to the prevailing plaintiff.

(2) The notice referred to in paragraph (1) shall state the nature of the alleged violation, the relief to be requested, the court in which the action will be brought, and whether or not attorney's fees are being demanded in the event that the plaintiff prevails. No action described in paragraph (1) shall be brought (A) if at the time the action is brought the same alleged violation by the same defendant is the subject of a pending action in any court of the United States; or (B) if administrative remedies have not been exhausted.

(f) With respect to actions brought for relief based on an alleged violation of the provisions of this title, administrative remedies shall be deemed exhausted upon the expiration of 180 days from the filing of an administrative complaint during which time the Federal department or agency makes no finding with regard to the complaint, or upon the day that the Federal department or agency issues a finding in favor of the recipient of financial assistance, whichever occurs first.

[42 U.S.C. 6104] Enacted Nov. 28, 1975, P.L. 94-135, sec. 305, 89 Stat. 730; amended Oct. 18, 1978, P.L. 95-478, sec. 401(c) and (d), 92 Stat. 1555, 1556 (effective at the close of Sept. 30, 1978).

JUDICIAL REVIEW

SEC. 306. (a) Any action by any Federal department or agency under section 305 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by any such department or agency on other grounds.

(b) In the case of any action by any Federal department or agency under section 305 which is not otherwise subject to judicial review, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with the provisions of chapter 7 of title 5, United States Code. For purposes of this subsection, any such action shall not be considered committed to unreviewable agency discretion within the meaning of section 701(a)(2) of such title.

[42 U.S.C. 6105]

STUDY OF DISCRIMINATION BASED ON AGE

SEC. 307. (a) The Commission on Civil Rights shall (1) undertake a study of unreasonable discrimination based on age in programs and activities receiving Federal financial assistance; and (2) identify with particularity any such federally assisted program or activity in which there is found evidence of persons who are otherwise qualified being, on the basis of age, excluded from participation in, denied the benefits of, or subjected to discrimination under such program or activity.

(b) As part of the study required by this section, the Commission shall conduct public hearings to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance, and particularly with respect to the reasonableness of distinguishing, on the basis of age, among potential participants in, or beneficiaries of, specific federally assisted programs.

(c) The Commission is authorized to obtain, through grant or contract, analyses, research and studies by independent experts of issues relating to age discrimination and to publish the results thereof. For purposes of the study required by this section, the Commission may accept and utilize the services of voluntary or uncompensated personnel, without regard to the provisions of section 105(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975d(b)).

(d) Not later than two years after the date of the enactment of this Act, the Commission shall transmit a report of its findings and its recommendations for statutory changes (if any) and administrative action, including suggested general regulations, to the Congress and to the President and shall provide a copy of its report to the head of each Federal department and agency with respect to which the Commission makes findings or recommendations. The Commission is authorized to provide, upon request, information and technical assistance regarding its findings and recommendations to Congress, to the President, and to the heads of Federal departments and agencies for a ninety-day period following the transmittal of its report.

(e) Not later than forty-five working days after receiving a copy of the report required by subsection (d), each Federal department or agency with respect to which the Commission makes findings or recommendations shall submit its comments and recommendations regarding such report to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives.

(f) The head of each Federal department or agency shall cooperate in all respects with the Commission with respect to the study required by subsection (a), and shall provide to the Commission such data, reports, and documents in connection with the subject matter of such study as the Commission may request.

(g) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

[42 U.S.C. 6106] Enacted Nov. 28, 1975, P.L. 94-135, sec. 307, 89 Stat. 731; amended July 11, 1977, P.L. 95-65, sec. 1, 91 Stat. 269.

REPORTS

SEC. 308. (a) Not later than December 31 of each year (beginning in 1979), the head of each Federal department or agency shall submit to the Secretary of Health, Education, and Welfare a report (1) describing in detail the steps taken during the preceding fiscal year by such department or agency to carry out the provisions of section 303; and (2) containing specific data about program participants or beneficiaries, by age, sufficient to permit analysis of how well the department or agency is carrying out the provisions of section 303.

(b) Not later than March 31 of each year (beginning in 1980), the Secretary of Health, Education, and Welfare shall compile the reports made pursuant to subsection (a) and shall submit them to the Congress, together with an evaluation of the performance of each department or agency with respect to carrying out the provisions of section 303.

[42 U.S.C. 6106a] Enacted Oct. 18, 1978, P.L. 95-478, sec. 401(e), 92 Stat. 1556 (effective at the close of Sept. 30, 1978).

DEFINITIONS

SEC. 309. For purposes of this title—

(1) the term “Commission” means the Commission on Civil Rights;

(2) the term “Secretary” means the Secretary of Health, Education, and Welfare;

(3) the term “Federal department or agency” means any agency as defined in section 551 of title 5, United States Code, and includes the United States Postal Service and the Postal Rate Commission; and

(4) the term “program or activity” means all of the operations of—

(A)(i) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(B)(i) a college, university, or other postsecondary institution, or a public system of higher education; or

(ii) a local educational agency (as defined in section 8101 of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

(C)(i) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(I) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(II) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(D) any other entity which is established by two or more of the entities described in subparagraph (A), (B), or (C);

any part of which is extended Federal financial assistance.

[42 U.S.C. 6107] Enacted Nov. 28, 1975, P.L. 94-135, sec. 308, 89 Stat. 731, 732; redesignated Oct. 18, 1978, P.L. 95-478, sec. 401(e) 92 Stat. 1556 (effective at the close of Sept. 30, 1978); amended March 22, 1988, P.L. 100-259, sec. 5, 102 Stat. 30; amended Oct. 20, 1994, P.L. 103-382, sec. 391(u), 108 Stat. 4025; Jan. 8, 2002, P.L. 107-110, sec. 1076(z), 115 Stat. 2093.