

Public Law 99-592
99th Congress

An Act

Oct. 31, 1986
[H.R. 4154]

To amend the Age Discrimination in Employment Act of 1967 to remove the maximum age limitation applicable to employees who are protected under such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Age
Discrimination
in Employment
Amendments of
1986.
29 USC 621 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Amendments of 1986".

SEC. 2. AMENDMENTS RELATING TO MAXIMUM AGE.

(a) **COVERAGE UNDER GROUP HEALTH PLANS.**—Subsection (g)(1) of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)), as added by section 116(a) of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "through 69" each place it appears and inserting in lieu thereof "or older".

Ante, p. 171.

(b) **TECHNICAL AMENDMENT.**—Subsection (g) of section 4 of the Age Discrimination in Employment Act of 1967, as added by section 802(b)(2) of the Older Americans Act Amendments of 1984, is amended by striking out "(g)(1)" and inserting in lieu thereof "(h)(1)".

Ante, p. 171.

(c) **REMOVAL OF MAXIMUM AGE LIMITATION.**—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended—

(1) in subsection (a) by striking out "but less than seventy years of age", and

(2) in subsection (c)(1) by striking out "but not seventy years of age,".

SEC. 3. EMPLOYMENT AS FIREFIGHTER OR LAW ENFORCEMENT OFFICER.

State and local
governments.

(a) **GENERAL RULE.**—Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended by adding at the end thereof the following new subsection:

"(i) It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken—

"(1) with respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable State or local law on March 3, 1983, and

"(2) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this Act."

(b) **TERMINATION PROVISION.**—The amendment made by subsection (a) of this section is repealed December 31, 1993.

29 USC 623 and
note.

SEC. 4. DEFINITIONS.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end thereof the following new subsections:

“(j) The term ‘firefighter’ means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

“(k) The term ‘law enforcement officer’ means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, ‘detention’ includes the duties of employees assigned to guard individuals incarcerated in any penal institution.”

SEC. 5. STUDY AND PROPOSED GUIDELINES RELATING TO POLICE OFFICERS AND FIREFIGHTERS.

29 USC 622 note.

(a) STUDY.—Not later than 4 years after the date of enactment of this Act, the Secretary of Labor and the Equal Employment Opportunity Commission, jointly, shall—

(1) conduct a study—

(A) to determine whether physical and mental fitness tests are valid measurements of the ability and competency of police officers and firefighters to perform the requirements of their jobs,

(B) if such tests are found to be valid measurements of such ability and competency, to determine which particular types of tests most effectively measure such ability and competency, and

(C) to develop recommendations with respect to specific standards that such tests, and the administration of such tests should satisfy, and

(2) submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate that includes—

Reports.

(A) a description of the results of such study, and

(B) a statement of the recommendations developed under paragraph (1)(C).

(b) CONSULTATION REQUIREMENT.—The Secretary of Labor and the Equal Employment Opportunity Commission shall, during the conduct of the study required under subsection (a) and prior to the development of recommendations under paragraph (1)(C), consult with the United States Fire Administration, the Federal Emergency Management Agency, organizations representing law enforcement officers, firefighters, and their employers, and organizations representing older Americans.

(c) PROPOSED GUIDELINES.—Not later than 5 years after the date of the enactment of this Act, the Equal Employment Opportunity Commission shall propose, in accordance with subchapter II of chapter 5 of title 5 of the United States Code, guidelines for the administration and use of physical and mental fitness tests to measure the ability and competency of police officers and firefighters to perform the requirements of their jobs.

5 USC 551.

SEC. 6. SPECIAL RULE FOR TENURED FACULTY.

(a) **SPECIAL RULE.**—Section 12 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

“(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).”

(b) **TERMINATION PROVISION.**—The amendment made by subsection (a) of this section is repealed December 31, 1993.

(c) **STUDY REQUIRED.**—(1) The Equal Employment Opportunity Commission shall, not later than 12 months after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences for the conduct of a study to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education.

(2) The study required by paragraph (1) of this subsection shall be conducted under the general supervision of the National Academy of Sciences by a study panel composed of 9 members. The study panel shall consist of—

(A) 4 members who shall be administrators at institutions of higher education selected by the National Academy of Sciences after consultation with the American Council of Education, the Association of American Universities, and the National Association of State Universities and Land Grant Colleges;

(B) 4 members who shall be teachers or retired teachers at institutions of higher education (who do not serve in an administrative capacity at such institutions), selected by the National Academy of Sciences after consultation with the American Federation of Teachers, the National Education Association, the American Association of University Professors, and the American Association of Retired Persons; and

(C) one member selected by the National Academy of Sciences.

(3) The results of the study shall be reported, with recommendations, to the President and to the Congress not later than 5 years after the date of enactment of this Act.

(4) The expenses of the study required by this subsection shall be paid from funds available to the Equal Employment Opportunity Commission.

SEC. 7. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) **IN GENERAL.**—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on January 1, 1987, except that with respect to any employee who is subject to a collective-bargaining agreement—

(1) which is in effect on June 30, 1986,

(2) which terminates after January 1, 1987,

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

(4) which contains any provision that would be superseded by such amendments, but for the operation of this section,

20 USC 1141.

29 USC 631 and
note.

Contracts.
29 USC 624 note.

Reports.

29 USC 623 note.

such amendments shall not apply until the termination of such collective bargaining agreement or January 1, 1990, whichever occurs first.

(b) **EFFECT ON EXISTING CAUSES OF ACTION.**—The amendments made by sections 3 and 4 of this Act shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 as in effect before January 1, 1987.

29 USC 621 note.

Approved October 31, 1986.

LEGISLATIVE HISTORY—H.R. 4154:

HOUSE REPORTS: No. 99-756 (Comm. on Education and Labor).

CONGRESSIONAL RECORD, Vol. 132 (1986):

Sept. 23, considered and passed House.

Oct. 16, considered and passed Senate, amended.

Oct. 17, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):

Nov. 1, Presidential statement.