Us employment laws research paper sample

Business, Employee

Abstract

The United States also has its fair share of employment conflicts and issues that have shook its sheer foundation throughout the years. Some Americans and overseas employees found themselves discriminated for various reasons: from their race up to their health; others would be paid in extremely meager wages despite their overtime work or their capacity to work despite their disabilities. With these issues and complications in mind, the US federal government and the US legislative assemblies had created several laws, which not only gives power to the employment sector, but also outlines the rights, benefits and services that should be given to the labor force who makes the country progress. This paper will discuss seven federal laws that cover five leading employment issues: job discrimination, age discrimination, disability discrimination, family leaves and overtime/minimum wages.

US Employment Laws

Similar to its partners and fellow nations, the United States also had its fair share of conflicts in its employment sector as various events had affected its labor force for the past years. Several Americans found themselves discriminated due to their color, gender and disability especially around the 1970s. Others were not given their due compensation for their work, only receiving minimum or somewhat meager wages. A few would find themselves not properly tended to despite their overtime work schedules, given them little time for the family and to develop their skills as productive members of the US labor force. As a result of this crisis in the employment sector, the US Federal Government and the US Legislative bodies had

created 5 significant employment laws to cover job discrimination, age discrimination, disability discrimination, family leaves and overtime/minimum wages. The five main employment laws had cemented stronger legislative protection for the labor force, only requiring minor amendments throughout the years.

Fair Labor Standards Act of 1938

One of the most notable problems in US labor force is the capacity of establishing a minimum wage, overtime pay and additional provisions that would ensure that workers are given the just compensation they are entitled to with the work hours they managed to finish. According to Horn and Schaffner (2003), the FLSA was enacted in the time of the Great Depression in the 1930s as fear that corporate powers paved the way to high unemployment levels that created the depression. The Act was intended to combat the increasing numbers of unemployment, as well as create better conditions for workers and be given just compensation for their long work hours. It is also considered the foundation of creating standards of protections for employees to ensure they are paid properly and given options to ensure that their rights are protected. The FLSA also notes that all employees covered by the Act must be paid the mandated hourly minimum wage, given their position and skillset. If the employee is not paid on an hourly basis, like those working for commissions, the employee must be paid under the hours he has worked for that would be equated to the minimum wage. For those employees not exempted from the FLSA, they are entitled to an overtime premium that amounts to 1 and ½ times their regular pay rate per hour. Professionals, executives, and administrative employees are

exempted from the overtime clauses of the FLSA. It is also noted that there are other fields and jobs that would be exempted from the overtime clause of the Act depending on the classification set by the government. Several clarifying regulations have already been created to identify exempted employees from the overtime clause. Individuals who have the capacity to hire or fire or recommend workers for their offices were noted by the Act. Salespersons and other similar occupations are also exempt. It is noted by lawmakers that most exempted employees are salaried .

According to Grace (2010) the FLSA notes that employers must pay their workers at least the federal minimum wage of $7. 25 as of July 24, 2009. For overtime and qualified workers, employers are tasked to pay them especially if they work more than 40 hours than the regular given working time. Employers are also given the power under the FLSA to pay their young employees, aged 20, a minimum wage of $4. 25 per hour 90 days after their starting week. Tipped workers must be paid wages of $2. 13 per hour. The Department of Labor also notes that employers of tipped employees can be paid of up to $5. 12 per hour. Should there be any complications that would prohibit workers from achieving the standard to meet the federal minimum wage; the employer must make amends settle the issue .

With regards to discrimination entirely, Title VII of the Civil Rights Act of 1964 details prohibitions and regulations that must be followed in preventing employment discrimination. According to Hayes and Ninemeier (2008) the Civil Rights Act of 1964’s Title VII is considerably the most influential piece of legislation create that would influence and change the workplace of the country. After the assassination of JFK on November 1963, Lyndon Johnson

called for the creation of a civil rights bill that would honor JFK’s ideals and his goals for the country. Under Title VII, it outlaws discrimination in the workplace in any business in the basis of their race, color, religion, ethnic group, sex or citizenship. Retaliation is also forbidden under this particular title of the Act, noting that other employees against their fellow employees with mix heritage or questionable standing must not use unlawful discrimination to make their opinions known. Title VII also makes employers liable to any harassment done to their employees, especially tolerating harassment and discrimination in their workplace .

According to Lindgren, Taub, Wolfson and Palumo (2010) gender became part of Title VII was due to the amendment done to the original bill, adding sex to the four prohibited employment criterions that was noted in the bill. Adding sex discrimination to Title VII was proposed by Representative Howard Smith of Virginia, who also held the position as the Chairman of the House Rules Committee, as a means to actually block the entire act. Unfortunately, this ruse only provided the strengthening of prohibiting sex discrimination given that many had opposed Smith’s proposal regarding sex discrimination. Since its creation in 1964, Title VII had already been amended four times. In 1972, it provided powers to the Equal Employment Opportunity Commission, covering public employers and schools. In 1978, the Pregnancy Discrimination Act amended Title VII to include in its sex discrimination clause pregnant women and pregnancy-related disabilities. In 1991, the Civil Rights Act amended the title to reverse several Supreme Court rulings that would cripple enforcement of civil rights under the

statutes. In 2009, the Lilly Ledbetter Fair Pay Act edited Title VII, ADEA and ADA to include a discriminatory compensation policy .

Age Discrimination in Employment Act of 1967

In the 1960s, the notion of employment complications due to older workers slowly showed its impact in the employment sector in the country. According to Macnicol (2006) several failed attempts to introduce age discrimination policies continued to increase despite the state laws that would have supported any federal proposal. Since 1951, Senator Jacob Javits had submitted an Age Discrimination in Employment Bill in the Congress; however, he failed in this attempt until the end of his term. By the time, he became a Senator in 1957; Javits tried to pass the act again and kept on trying throughout his tenure. There were other several attempts to prohibit age discrimination, such as the 1962 Equal Employment Opportunity Bill. However, this bill was blocked by the House Rules Committee. Another blocked attempt happened when the 1938 Fair Labor Standards Act was proposed to be amended. Historians noted that reason as to why age discrimination in employment policies had a hard time being passed due to the severe rivalry of the Republicans and Southern Democrats in the time of both Eisenhower and Kennedy Administrations. Historians also noted that age discrimination would have been included in the earlier bills such as the 1964 Civil Rights Bill. Sadly, the conservative Southern senators from both parties tried to sabotage the bill by adding several provisions that would tarnish its original content. With the additional provisions placed in the 1964 Civil Rights Bill, the age discrimination proposal had remained outvoted in the Senate.

Nonetheless, age discrimination became an prominent aspect in 1967 as the Age Discrimination in Employment Act was passed to law on December 15. The law became effective on June 12, 1968, aiming for three particular goals: promoting employment of older persons based on their skill set and reeducate employers on understanding these skills, prohibit ‘ arbitrary’ age discrimination, and finally, help employers and workers to resolve issues pertaining to age differences in employment. Under the Act, the Secretary of Labor is tasked to initiate the re-education program for employers and workers, enabling expansion of employment possibilities. It is noted by the Act that re-education and improvement of employment is vital to the Act’s success. Nonetheless, it was not implemented properly. The ADEA also covered technicalities such as a statement of job specifications which should not include age preferences, immediate refusal to older employees and removal of mandatory retirement. Mandatory retirement, under the ADEA, would only cover executives who have reached the age of 65 and can receive a pension that would cover their retirement expenditure. The ADEA was amended in 1986 and in 1991 with the establishment of the Older Workers Benefit Protection Act and the Civil Rights Act of 1991 .

Americans with Disabilities Act of 1990

Perritt (2003) notes that the Americans with Disability Act of 1990 had moved through both Congress and Senate without much controversy and speculation, unlike its fellow labor laws. Both US legislative bodies have their own version of the law, with House Resolution 2273 for the Congress and the Senate Resolution 933. The Senate’s S. 933 was the result of various negotiations between the federal government and the proponents of the bill,

rewriting the original version of the resolution introduced in 1989. The Senate Committee on Labor and Human Resources and its subcommittees held meetings from September 27, 1988 up to August 2, 1989. The committee placed three amendments for the resolution, two eventually being adopted: the Harkin Amendment and Amendment 541, which added technical assistant for disabled workers. By August 2, 1989, the committee voted for S. 933 by a vote of 16. The bill was then passed by the Senate on September 7 that same year, with 76 votes. For Congress, HR. 2273 had more than 230 sponsors in 1989. Four committees also supported the resolution: Committee on Education and Labor, Committee on Energy and Commerce, Committee on Public Works and Transportation, and the Committee on the Judiciary. Hearings were held by these committees to add provisions to cover several areas to support the bills. The resolution was then blended with the Senate version to include prohibitions such as prohibition on discrimination, removal of drug and alcohol users to be protected by the ADA, and the limitations on discrimination set by the employer and agency. The ADA is noted to have similar wording as that of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973. In its entirety, the ADA prohibits discrimination to disabled people in all sectors, may it be in employment up to government services. In terms of employment, accommodations must be given to employees with disabilities to ensure they would be able to work on their duties, as well as ensure that they are protected from their fellow employees and their working environments. Employers are also forbidden to discriminate disabled employees, outright removing them from their posts or disqualifying them from the job opening despite their skillset. Complaints by

discriminated employees can also be filed with the Equal Employment Commission, allowing back pay and courts to stop discrimination entirely .

Family and Medical Leave Act of 1993

According to Guerin, Elias, and Delpo (2007), the Family and Medical Leave Act of 1993 was the Congress' solution to the increasing number of women and workers supporting children and elders in the workforce that create increasing stresses for the labor force. The FMLA requires employers who have 50 or more employees to allow eligible or qualified employees to take 12 weeks of unpaid leave per year for three circumstances: for the arrival of a new child whether by birth, adoption or foster care, for caring family members brought to the hospital or suffering from a serious ailment, and finally, when the employee experiences health complications that forbid them to going to work. Similar state laws have molded their laws after the FMLA, some requiring their employers to provide leave for more circumstances such as caring for their husbands or wives, medical appointments or to donate organs on emergencies. Companies covered by the FMLA are also required to follow laws that would enable employees to gain more rights and protections, depending on the situation at hand. Since state law and federal law tend to overlap with each other, employers could develop their own family and medical leave policy that would cater to any given circumstance . In addition to ensuring leaves are given to employees in emergency and noteworthy circumstances, Notestine (2000) noted that the FMLA's main purpose is " to balance the demands of the workplaces with the needs of families, to promote the stability and economic security of families and to promote national interest in preserving family integrity". It is

in this notion that the FMLA enables employees to take care of their families without worrying about their own rights as employees. Even while, they are on leave, they are still entitled to their health insurance coverage, guarantees and their positions once their emergencies are settled. Several regulations have been added to the FMLA after two years of its passage .

Recent US Employment Laws

Throughout the years, several laws have been signed to add to the increasing roster of employment laws to protect American and overseas workers in the country. Two laws signed in 2008 have been put into action in 2010, namely the Genetic Information Nondiscrimination Act of 2008 and the Mental Health Parity and Addiction Equity Act of 2008. Under the Genetic Information Nondiscrimination Act of 2008, Condrey (2010) noted that this law protects the public from any form of discrimination from employers and health institutions on the basis of " genetic information", which may open employees to the risks of their genetic information used against them. Genetic information, under the act, pertains to results of genetic tests of individuals or their family members regarding their genetic structure and health history or defect. Aside from its anti-discriminatory clause, GINA also prohibits employers from using and acquiring genetic information unless it is required for health and emergency purposes. Should employers attempt to keep these information and claim them, employers must not reveal the contents of these results under the Act's confidentiality requirement. GINA's coverage applies to both public and private sector companies with fifteen or more employees, which also includes the federal, state and local governments. Employment agencies and labor organizations are also

covered with GINA under its Title VII provisions. The Act notes that it is unlawful for employers, agencies, organizations or training facilities to discriminate individuals based on their genetic information in any form that may affect one’s employment relationship. In this end, these groups should be prohibited from collecting such information about their employees even if the information would be crucial for the job. It is also unlawful for the employer to ask the employee for these details, especially purchasing this information. The act became effective on January 1, 2010, sustaining health plans for employees and confidentiality clauses . On the other hand, the Medical Health Parity and Addiction Equity Act of 2008 also became active on January 1, 2010 as the amendment to the ERISA or the Employee Retirement Income Security Act. According to Niles (2010) the MHPAEA was an effort to ensure the end of health insurance benefits inequity for employees with mental health/substance use disorders and medical/surgical benefits for health plans for companies with 50 or more employees. The proponents of the act, Paul Wellstone and Pete Domenici noted that health plans for companies with more than 50 employees which covers mental health or substance use disorders to cover financial requirements, in the form of co-insurance or out-of-pocket expenses, which would not be restrictive to the already existing requirements or limitations applied to all medical and surgical benefits of the employee. The MHPAEA does not require health plans to cover mental health or substance disorders, but it does recommend requiring parity between the benefits health plans already cover. The Act also requires parity to the plans providing coverage from out-of-network providers and additional disclosure requirements to understand

the requirements that would cover employees for health plans or why they are denied of services. Exemptions are also required by the act for small employers as it may affect their minimum employee requirements and the cost percentages allotted to their companies.

The law had also been passed for the very reason that 90% of employer surveys noted that their healthcare coverage are limited in terms of the benefits they could attain as compared to traditional healthcare coverage. The Act also includes employees with self-insurance health plans that were originally exempted under the Employee Retirement Income Security Act. What is sad about this particular act is that it does not require mental health benefits to be included in all types of healthcare plans. Nonetheless, should mental health be included in the healthcare plan, it should reflect the benefits and services offered by the traditional healthcare plans .

Conclusion

The seven laws that have been indicated showcases that the US, despite the complications on getting these laws passed through the legislative houses, caters to the needs of the US labor group to improve the quality of their work. The prohibition on discrimination is sustained by three notable acts, namely Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, and the American with Disabilities Act of 1990. Families are also protected under the Family, and Medical Leave Act of 1993, enabling employees to spend time with their families especially in times of emergencies and importance. Employees are also protected in terms of what they earn under the Fair Labour Standards Act of 1938, noting the minimum and overtime wages they are entitled to for the services they do for their

companies. Recent laws such as the Genetic Information Nondiscrimination Act of 2008 and the Mental Health Parity and Addiction Equity Act of 2008 protects employees from being discriminated just because of their genetic histories and mental incapacities. Overall, the US Employment Laws provides not just protection to its labor force, but also supports their rights and needs as the country may not be able to become this influential without these hardworking employees.

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