

344.110 Preference because of imbalance in employment not required.

- (1) Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability, of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability, employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship or other training program, in comparison with the total number or percentage of persons of race, color, religion, national origin, sex, or age forty (40) and over, or because the person is a qualified individual with a disability, in the state or a community, section, or other area, or in the available workforce in the state or a community, section, or other area.
- (2) Nothing contained in this chapter shall prohibit:
 - (a) Minimum hiring ages otherwise provided by law.
 - (b) State compliance with federal regulations.
 - (c) Termination of the employment of any person who is unable to perform the essential functions of the job, with or without reasonable accommodation.
 - (d) Any post-job-offer physical or medical examinations of applicants or employees which an employer requires to determine their ability to perform the essential functions of the job, with or without reasonable accommodation.
 - (e) An employer, labor organization, or employment agency from observing the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension, or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employee benefit plan shall excuse the failure to hire any individual.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 378, sec. 10, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 282, sec. 11, effective July 14, 1992. -- Amended 1980 Ky. Acts ch. 245, sec. 9, effective July 15, 1980. -- Amended 1972 Ky. Acts ch. 255, sec. 9. -- Created 1966 Ky. Acts ch. 2, Art. 3, sec. 310.