

Amendment by Pub. L. 98-459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98-459, set out as a note under section 3001 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title I, §116(c), Sept. 3, 1982, 96 Stat. 354, provided that: "The amendment made by subsection (a) [amending this section] shall become effective on January 1, 1983, and the amendment made by subsection (b) [enacting section 1395y(b)(3) of Title 42, The Public Health and Welfare] shall apply with respect to items and services furnished on or after such date."

#### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-256, §2(b), Apr. 6, 1978, 92 Stat. 189, provided that: "The amendment made by subsection (a) of this section [amending this section] shall take effect on the date of enactment of this Act [Apr. 6, 1978], except that, in the case of employees covered by a collective bargaining agreement which is in effect on September 1, 1977, which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 [section 206(d)(4) of this title]), and which would otherwise be prohibited by the amendment made by section 3(a) of this Act [amending section 631 of this title], the amendment made by subsection (a) of this section [amending this section] shall take effect upon the termination of such agreement or on January 1, 1980, whichever occurs first."

#### REGULATIONS

Pub. L. 101-433, title I, §104, Oct. 16, 1990, 104 Stat. 981, provided that: "Notwithstanding section 9 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 628), the Equal Employment Opportunity Commission may issue such rules and regulations as the Commission may consider necessary or appropriate for carrying out this title [amending this section and section 630 of this title and enacting provisions set out as notes under this section and section 621 of this title], and the amendments made by this title, only after consultation with the Secretary of the Treasury and the Secretary of Labor."

#### CONSTRUCTION OF 1998 AMENDMENT

Pub. L. 105-244, title IX, §941(c), Oct. 7, 1998, 112 Stat. 1835, provided that: "Nothing in the amendment made by subsection (a) [amending this section] shall affect the application of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) with respect to—

"(1) any plan described in subsection (m) of section 4 of such Act (as added by subsection (a)), for any period prior to enactment of such Act [Dec. 15, 1967];

"(2) any plan not described in subsection (m) of section 4 of such Act (as added by subsection (a)); or

"(3) any employer other than an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 [20 U.S.C. 1001])."

#### CONSTRUCTION OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title I, §119[1(c)]], Sept. 30, 1996, 110 Stat. 3009-24, provided that: "Nothing in the repeal, reenactment, and amendment made by subsections (a) and (b) [section 101(a) [title I, §119[1(a), (b)]] of Pub. L. 104-208, amending this section and repealing provisions set out as a note under this section] shall be construed to make lawful the failure or refusal to hire, or the discharge of, an individual pursuant to a law that—

"(1) was enacted after March 3, 1983 and before the date of enactment of the Age Discrimination in Employment Amendments of 1996 [Sept. 30, 1996]; and

"(2) lowered the age of hiring or retirement, respectively, for firefighters or law enforcement officers that was in effect under applicable State or local law on March 3, 1983."

#### TRANSFER OF FUNCTIONS

Functions vested by this section in Secretary of Labor or Civil Service Commission transferred to Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, §2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

#### STUDY AND GUIDELINES FOR PERFORMANCE TESTS

Pub. L. 104-208, div. A, title I, §101(a) [title I, §119[2]], Sept. 30, 1996, 110 Stat. 3009, 3009-24, required the Secretary of Health and Human Services to conduct a study on tests assessing the abilities important for the completion of public safety tasks performed by law enforcement officers and firefighters no later than 3 years after Sept. 30, 1996, and to develop and issue advisory guidelines based on the results of the study no later than 4 years after Sept. 30, 1996, and authorized appropriations.

#### § 624. Study by Secretary of Labor; reports to President and Congress; scope of study; implementation of study; transmittal date of reports

(a)(1) The Secretary of Labor is directed to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to the Congress. Such study shall include—

(A) an examination of the effect of the amendment made by section 3(a) of the Age Discrimination in Employment Act Amendments of 1978 in raising the upper age limitation established by section 631(a) of this title to 70 years of age;

(B) a determination of the feasibility of eliminating such limitation;

(C) a determination of the feasibility of raising such limitation above 70 years of age; and

(D) an examination of the effect of the exemption contained in section 631(c) of this title, relating to certain executive employees, and the exemption contained in section 631(d) of this title, relating to tenured teaching personnel.

(2) The Secretary may undertake the study required by paragraph (1) of this subsection directly or by contract or other arrangement.

(b) The report required by subsection (a) of this section shall be transmitted to the President and to the Congress as an interim report not later than January 1, 1981, and in final form not later than January 1, 1982.

(Pub. L. 90-202, §5, Dec. 15, 1967, 81 Stat. 604; Pub. L. 95-256, §6, Apr. 6, 1978, 92 Stat. 192.)

#### REFERENCES IN TEXT

Section 3(a) of the Age Discrimination in Employment Act Amendments of 1978, referred to in subsec. (a)(1)(A), is section 3(a) of Pub. L. 95-256, Apr. 6, 1978, 92 Stat. 189, which amended section 631 of this title.

#### AMENDMENTS

1978—Pub. L. 95-256 designated existing provisions as par. (1), added cls. (A) to (D), added par. (2), and added subsec. (b).

STUDY TO ANALYZE POTENTIAL CONSEQUENCES OF ELIMINATION OF MANDATORY RETIREMENT ON INSTITUTIONS OF HIGHER EDUCATION

Pub. L. 99-592, §6(c), Oct. 31, 1986, 100 Stat. 3344, required the Equal Employment Opportunity Commis-

sion, not later than 12 months after Oct. 31, 1986, to 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 and to report the results of the study, with recommendations, to the President and to Congress not later than 5 years after Oct. 31, 1986.

### § 625. Administration

The Secretary shall have the power—

**(a) Delegation of functions; appointment of personnel; technical assistance**

to make delegations, to appoint such agents and employees, and to pay for technical assistance on a fee for service basis, as he deems necessary to assist him in the performance of his functions under this chapter;

**(b) Cooperation with other agencies, employers, labor organizations, and employment agencies**

to cooperate with regional, State, local, and other agencies, and to cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this chapter.

(Pub. L. 90-202, § 6, Dec. 15, 1967, 81 Stat. 604.)

#### TRANSFER OF FUNCTIONS

Functions relating to age discrimination administration and enforcement vested by this section in Secretary of Labor or Civil Service Commission transferred to Equal Employment Opportunity Commission by Reorg. Plan No. 1 of 1978, § 2, 43 F.R. 19807, 92 Stat. 3781, set out in the Appendix to Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-101 of Ex. Ord. No. 12106, Dec. 28, 1978, 44 F.R. 1053.

### § 626. Recordkeeping, investigation, and enforcement

**(a) Attendance of witnesses; investigations, inspections, records, and homework regulations**

The Equal Employment Opportunity Commission shall have the power to make investigations and require the keeping of records necessary or appropriate for the administration of this chapter in accordance with the powers and procedures provided in sections 209 and 211 of this title.

**(b) Enforcement; prohibition of age discrimination under fair labor standards; unpaid minimum wages and unpaid overtime compensation; liquidated damages; judicial relief; conciliation, conference, and persuasion**

The provisions of this chapter shall be enforced in accordance with the powers, remedies, and procedures provided in sections 211(b), 216 (except for subsection (a) thereof), and 217 of this title, and subsection (c) of this section. Any act prohibited under section 623 of this title shall be deemed to be a prohibited act under section 215 of this title. Amounts owing to a person as a result of a violation of this chapter shall be deemed to be unpaid minimum wages or unpaid overtime compensation for purposes of sections 216 and 217 of this title: *Provided*, That liq-

uidated damages shall be payable only in cases of willful violations of this chapter. In any action brought to enforce this chapter the court shall have jurisdiction to grant such legal or equitable relief as may be appropriate to effectuate the purposes of this chapter, including without limitation judgments compelling employment, reinstatement or promotion, or enforcing the liability for amounts deemed to be unpaid minimum wages or unpaid overtime compensation under this section. Before instituting any action under this section, the Equal Employment Opportunity Commission shall attempt to eliminate the discriminatory practice or practices alleged, and to effect voluntary compliance with the requirements of this chapter through informal methods of conciliation, conference, and persuasion.

**(c) Civil actions; persons aggrieved; jurisdiction; judicial relief; termination of individual action upon commencement of action by Commission; jury trial**

(1) Any person aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this chapter: *Provided*, That the right of any person to bring such action shall terminate upon the commencement of an action by the Equal Employment Opportunity Commission to enforce the right of such employee under this chapter.

(2) In an action brought under paragraph (1), a person shall be entitled to a trial by jury of any issue of fact in any such action for recovery of amounts owing as a result of a violation of this chapter, regardless of whether equitable relief is sought by any party in such action.

**(d) Filing of charge with Commission; timeliness; conciliation, conference, and persuasion; unlawful practice**

(1) No civil action may be commenced by an individual under this section until 60 days after a charge alleging unlawful discrimination has been filed with the Equal Employment Opportunity Commission. Such a charge shall be filed—

(A) within 180 days after the alleged unlawful practice occurred; or

(B) in a case to which section 633(b) of this title applies, within 300 days after the alleged unlawful practice occurred, or within 30 days after receipt by the individual of notice of termination of proceedings under State law, whichever is earlier.

(2) Upon receiving such a charge, the Commission shall promptly notify all persons named in such charge as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.

(3) For purposes of this section, an unlawful practice occurs, with respect to discrimination in compensation in violation of this chapter, when a discriminatory compensation decision or other practice is adopted, when a person becomes subject to a discriminatory compensation decision or other practice, or when a person is affected by application of a discriminatory compensation decision or other practice, including