363A.20 EXEMPTION BASED ON EMPLOYMENT.

Subdivision 1. **Employment.** The provisions of section 363A.08 shall not apply to the employment of any individual:

(1) by the individual's parent, grandparent, spouse, child, or grandchild; or

(2) in the domestic service of any person.

Subd. 2. **Fraternal organization.** The provisions of section 363A.08 shall not apply to a fraternal corporation, association, or society, with respect to qualifications based on religion, when religion is a bona fide occupational qualification for employment.

Subd. 3. MS 2022 [Repealed, 2023 c 52 art 19 s 72]

Subd. 4. **Employment selection.** The provisions of section 363A.08 do not apply to the employment of one person in place of another, standing by itself, shall not be evidence of an unfair discriminatory practice.

Subd. 5. **Seniority system.** The provisions of section 363A.08 do not apply to the operation of a bona fide seniority system which mandates differences in such things as wages, hiring priorities, layoff priorities, vacation credit, and job assignments based on seniority, so long as the operation of the system is not a subterfuge to evade the provisions of this chapter.

Subd. 6. **Insurance, fringe benefits, and age requirements.** (a) With respect to age discrimination, the provisions of section 363A.08 do not apply to a practice by which a labor organization or employer offers or supplies varying insurance benefits or other fringe benefits to members or employees of differing ages, so long as the cost to the labor organization or employer for the benefits is reasonably equivalent for all members or employees.

(b) Nothing in this chapter concerning age discrimination shall be construed to validate or permit age requirements which have a disproportionate impact on persons of any class otherwise protected by section 363A.08 or 363A.13.

Subd. 7. **Peace officer or firefighter.** The provisions of section 363A.08 do not apply to a restriction imposed by state statute, home rule charter, ordinance, or civil service rule, and applied uniformly and without exception to all individuals, which establishes a maximum age for entry into employment as a peace officer or firefighter.

Subd. 8. **Physical exam.** (a) It is not an unfair employment practice for an employer, employment agency, or labor organization:

(1) to require or request a person to undergo physical examination, which may include a medical history, for the purpose of determining the person's capability to perform available employment, provided:

(i) that an offer of employment has been made on condition that the person meets the physical or mental requirements of the job, except that a law enforcement agency filling a peace officer position or part-time peace officer position may require or request an applicant to undergo psychological evaluation before a job offer is made provided that the psychological evaluation is for those job-related abilities set forth by the Board of Peace Officer Standards and Training for psychological evaluations and is otherwise lawful;

(ii) that the examination tests only for essential job-related abilities;

(iii) that the examination except for examinations authorized under chapter 176 is required of all persons conditionally offered employment for the same position regardless of disability; and

(iv) that the information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations; first aid safety personnel may be informed, when appropriate, if the disability might require emergency treatment; government officials investigating compliance with this chapter must be provided relevant information on request; and information may be released for purposes mandated by local, state, or federal law; provided that the results of the examination are used only in accordance with this chapter;

(2) with the consent of the employee, after employment has commenced, to obtain additional medical information for the purposes of assessing continuing ability to perform the job or employee health insurance eligibility; for purposes mandated by local, state, or federal law; for purposes of assessing the need to reasonably accommodate an employee or obtaining information to determine eligibility for the second injury fund under chapter 176; or pursuant to sections 181.950 to 181.957; or other legitimate business reason not otherwise prohibited by law;

(3) to administer preemployment tests, provided that the tests: (i) measure only essential job-related abilities; (ii) are required of all applicants for the same position regardless of disability, except for tests authorized under chapter 176; and (iii) accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the applicant's impaired sensory, manual, or speaking skills except when those skills are the factors that the tests purport to measure;

(4) to limit receipt of benefits payable under a fringe benefit plan for disabilities to that period of time which a licensed physician reasonably determines a person is unable to work; or

(5) to provide special safety considerations for pregnant women involved in tasks which are potentially hazardous to the health of the unborn child, as determined by medical criteria.

(b) Information obtained under paragraph (a), clauses (1) to (5), subdivisions 1 to 7, sections 363A.21 to 363A.26, and 363A.38, regarding the medical condition or history of any employee, is subject to the requirements of paragraph (a), clause (1)(iv).

(c) If any health care records or medical information adversely affects any hiring, firing, or promotional decision concerning an applicant or employee, the employer must notify the affected party of that information within ten days of the final decision.

Subd. 9. **Mandatory retirement age.** By law or published retirement policy, a mandatory retirement age may be established without being a violation of this chapter if it is established consistent with section 181.81. Nothing in this chapter nor in section 181.81 shall prohibit employee pension and retirement plans from granting pension credit to employees over the age of 65 at a lesser rate than is granted to other employees, provided that in no event may an employee's accumulated pension credits be reduced by continued employment, and further provided that no other state or federal law is violated by the reduced rate of pension credit accrual. Nothing in this chapter shall be construed to prohibit the establishment of differential privileges, benefits, services, or facilities for persons of designated ages if (1) such differential treatment is provided pursuant to statute, or (2) the designated age is greater than 59 years or less than 21 years. Clause (1) does not apply to hiring, tenure, compensation, upgrading, or conditions of employment.

Subd. 10. **Summer youth employment program.** The provisions of section 363A.08 with regard to age shall not apply to the state summer youth employment program administered by the commissioner of employment and economic development.

History: *1955 c 516 s 4; 1961 c 428 s 4; 1965 c 584 s 1; 1967 c 897 s 10,11; 1973 c 729 s 2; 1975 c 206 s 1; 1977 c 351 s 2-4; 1977 c 408 s 2; 1977 c 430 s 25 subd 1; 1978 c 649 s 4; 1980 c 355 s 3; 1980 c 509 s 143; 1980 c 531 s 3; 1982 c 492 s 2; 1982 c 526 art 2 s 16; 1983 c 276 s 5,6; 1983 c 301 s 198; 1984 c 608 s 3; 1Sp1985 c 14 art 9 s 75; 1986 c 444; 1987 c 23 s 2; 1987 c 129 s 1,2; 1988 c 660 s 2,3; 1989 c 280 s 4-8; 1990 c 567 s 2; 1992 c 527 s 11; 1993 c 22 s 3-6; 1994 c 483 s 1; 1996 c 431 s 1; 1997 c 239 art 12 s 2; 1998 c 291 s 1; 1998 c 397 art 11 s 3; 2004 c 206 s 52; 2024 c 105 s 11*