

## BOOK REVIEWS

*1998 State by State Guide to Human Resources Law*, by John F. Buckley and Ronald A. Green, New York: Aspen Publishers, 1998 (paper).

Business executives and their professional advisors today face an increasingly complex web of law and regulation with regard to the human resources function. Actions of federal and state governments have placed increasing burdens and responsibilities on business relating to the treatment of applicants and employees. The courts have also involved themselves in how employers deal with applicants and employees, applying legal concepts and doctrines into the employer-employee relationship.

The *1998 State by State Guide to Human Resources Law* is a comprehensive, authoritative guide to the employment laws of the United States and the District of Columbia. The guide's purpose is to serve human resources, compensation, and benefits professionals who work in multijurisdictional environments. It is also valuable for attorneys who practice in this area.

The information in this book is, for the most part, presented in a tabular format, which is meant to give the reader easy access to information on discrete topics. This guide is, first and foremost, a reference tool for the professional who needs to put his or her finger on the particulars of personnel law on a state-by-state basis quickly without wading through large amounts of data. Cross-referencing and two indexes help the user locate what s/he may need.

The 1998 edition covers the following:

### DEFINING THE EMPLOYMENT RELATIONSHIP

This section introduces and describes the major types of employment relationships (i.e., employer and employee, employer and independent contractor, and principal and agent) so that the application of statutory and common-law concepts to the employer-employee relationship can be distinguished. General information is provided on aspects of the offer and acceptance of employment, including written and oral contracts, the nature of the relationship in the absence of a contract, and the role played by employment handbooks.

## **FAIR EMPLOYMENT PRACTICES**

Forty-seven states and the District of Columbia have enacted state fair employment practice statutes, barring private sector discrimination on the basis of race, color, national origin, religion, and sex. A majority of these states have also used their general fair employment statutes to prohibit age and disability discrimination. States with separate nondiscrimination statutes addressing particular areas—for example, age or disability—are also identified. In addition, various states have determined that other reasons for making employment decisions should be prohibited; for example, political affiliation, sexual orientation, smoker non-smoker status, or veteran status. The tables in this part make it easy to identify what may be prohibited in a particular jurisdiction.

## **WAGE, HOURS, AND HOLIDAYS**

The federal government has established certain baseline standards governing employee wages and hours. Minimum wage and maximum hour standards and methods for determining overtime are the most evident and pervasive of the federal rules.

Employers must also know of and comply with many state laws governing these same issues. Most states have enacted wage and hour laws that are both consistent with and different from the federal rules, and knowing where the differences are is essential. Tables in this part identify which states have laws setting minimum wage and overtime standards. The tables also note state law recordkeeping requirements for wage and hour matters and the penalties for violating the state statutes.

## **EMPLOYMENT AT-WILL**

Although the guide generally is concerned with statutory provisions affecting the employment relationship, issues attendant to employee termination and employment at-will, and the standards and rules applicable in the various states, are also discussed. Matters affecting the severing of an employment relationship are among the most troublesome employers face.

## **EMPLOYEE BENEFITS**

A number of states have enacted statutes requiring that employers offer certain types of benefits to employees. This part identifies those states and describes the benefits.

## **UNEMPLOYMENT COMPENSATION**

An unemployment compensation program is also like insurance. Here, the employer is insuring its employees against the loss of income associated with termination of employment. A state-mandated social security program, unemployment compensation provides terminated employees with weekly cash benefits for a period of time, giving employees a cushion during the period they are seeking new positions. States require that employers pay into a state fund (not a private insurance carrier as in workers' compensation) a certain amount per employee. Terminated employees who meet qualification standards are entitled to draw out of the employer's fund for a statutorily defined period. The tables in this part set forth the state requirements.

## **WORKPLACE PRIVACY**

At common law, the right of privacy has involved four distinct concerns: the right to control and limit the commercial appropriation of one's identity by another; the right to be free from intrusion; the right to control the disclosure of private information about oneself; and the right to avoid being placed in a "false light" in the public eye. Each of these has a relationship to the workplace and the employer-employee relationship.

This part includes a number of tables concerning various types of applicant or employee testing, including tests for use of drugs, exposure to the AIDS virus, and polygraph tests. Additional tables address employer use of consumer credit-reporting agencies to conduct background checks, generally of applicants, and an employer's right to use arrest or conviction information about applicants in making employment decisions. Also listed are states with so-called antiblacklisting statutes, which prohibit employers from blacklisting "troublemaking" employees. These statutes may also contain requirements for employers relative to providing references for former employees. Finally, states that make provisions for employee access to personnel records are also listed.

## **SAFETY AND HEALTH**

This part includes a discussion of state occupational safety and health statutes. Some states require employees to provide certain health- and safety-related equipment and, in some instances, medical examinations. The various state requirements in this area are covered. The increasing amount of regulation in the area of workplace smoking is also covered.

## **SUMMARY OF FEDERAL LEGISLATION, GUIDELINES, AND POLICY ON HUMAN RESOURCES LAW**

Although the function of this guide is to provide a quick reference to state laws in a number of important areas, it would nonetheless be incomplete if it failed to address the federal statutes applicable to the employment relationship. Therefore, this part summarizes the major legislation on the federal level affecting personnel law.

### **FINDING AIDS**

A glossary of legal terms that have been used in the tables and text can be found at the back of the guide. This guide also maintains a traditional index, which should prove helpful in locating information.

This book is fresh and timely; however, inasmuch as state laws are constantly changing, yearly updates should be consulted for the most current information.

*Kurt H. Decker*