

## Mississippi

### Employment Law Workbook Addendum

(Update on legislation enacted from Jan. 1, 2015- Dec. 31, 2016)

#### Topics

##### **I. Discrimination**

Mississippi has enacted a law that prohibits the state government from taking any discriminatory action against a religious organization or a person that takes or refuses to take certain actions due to the organization's or person's sincerely held religious beliefs or moral convictions, defined under the new law as a belief or conviction that:

- marriage is or should be recognized as the union of one man and one woman;
- sexual relations are properly reserved to such a marriage; and
- male or female refers to an individual's immutable biological sex as objectively determined by anatomy and genetics at time of birth.

Under the new law, the discriminatory actions by the state government include tax consequences, imposition of fines or penalties, unfavorable treatment with respect to state contracts, and adverse employment or licensing decisions.

The new law defines a person to include a sole proprietorship, or closely held company, partnership, association, organization, firm, corporation, cooperative, trust, society or other closely held entity. The law prohibits government discrimination against person on the basis that the person establishes sex-specific standards or policies concerning employee dress or grooming, or concerning access to restrooms and other intimate facilities or settings. In addition, the sex-specific standard or policy must be based upon or in a manner consistent with a sincerely held religious belief or moral conviction.

Although the new law permits private companies to require certain dress or grooming standards and designate use of restrooms and changing facilities based on "biological sex," doing so could put an employer at risk for a claim of discrimination under Title VII and other federal statutes and regulations.

The new law also prohibits government discrimination against a religious organization for, among other things, making any employment-related decision including, but not limited to, the decision whether or not to hire, terminate or discipline an individual whose conduct or religious beliefs are inconsistent with those of the religious organization, based upon or in a manner consistent with a sincerely held religious belief or moral conviction.

Miss. Code Ann. § 11-62-1, Miss. Code Ann. § 11-62-3, Miss. Code Ann. § 11-62-5, Miss. Code Ann. § 11-62-7, Miss. Code Ann. § 11-62-9, Miss. Code Ann. § 11-62-11, Miss. Code Ann. § 11-62-13, Miss. Code Ann. § 11-62-15, Miss. Code Ann. § 11-62-17, Miss. Code Ann. § 11-62-19 (07/01/2016).

##### **II. Pre-Employment Inquiry Guidelines**

No new laws or regulations enacted in 2015 or 2016.

**III. Family and Medical Leave**

No new laws or regulations enacted in 2015 or 2016.

**IV. Wage and Hour Laws**

No new laws or regulations enacted in 2015 or 2016.

**V. Drug Testing**

No new laws or regulations enacted in 2015 or 2016.

**VI. Noncompete and Other Employment Agreements**

No new laws or regulations enacted in 2015 or 2016.

**VII. Workplace Safety**

Mississippi law prohibits holders of certain classes of drivers' licenses from using a cell phone while driving. The new law repeals those provisions and enacts a generally applicable texting-while-driving statute. The new law prohibits texting while driving, but does not address whether a driver may make a telephone call while driving.

Under the new law, the driver of a moving motor vehicle is prohibited from writing, sending, or reading a text message and from accessing, reading or posting to a social networking site using a hand-held mobile telephone while driving. A "hand-held mobile telephone" is a mobile telephone or other portable electronic communication device with which a user engages in a call or writes, sends or reads a text message using at least one hand. "Social networking site" means any web-based service that allows individuals to construct a profile within a founded system, articulate a list of other users with whom they share a connection, and communicate with other users of the site. "Text message" includes a text-based message, instant message, electronic message, and email, but does not include an emergency, traffic or weather alert or a message related to the operation or navigation of the motor vehicle. "Writing," "sending" and "reading," with respect to a text message, means the manual entry, sending, or retrieval of a text message, respectively, to communicate with any person or device.

The prohibition against use of a hand-held mobile telephone while driving does not apply to a voice-operated or hands-free device. "Voice operated or hands-free device" means a device that allows the user to write, send, or read a text message without the use of either hand except to activate, deactivate, or initiate a feature or function.

Violations of the new law are punishable by a civil penalty of \$25.00 for violations committed before July 1, 2016, and \$100.00 for violations committed on and after July 1, 2016.

The new law repeals Mississippi Code section 63-1-73.

Miss. Code Ann. § 63-33-1 (Effective Date 07/01/2015).

**VIII. Workers' Compensation**

No new laws or regulations enacted in 2015 or 2016.

**IX. Miscellaneous**