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ANNOTATED LAWS OF MASSACHUSETTS  
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\*\*\* Current through Act 367 of the 2008 Legislative Session \*\*\*

PART I ADMINISTRATION OF THE GOVERNMENT  
TITLE XXI LABOR AND INDUSTRIES  
Chapter **151B** Unlawful Discrimination Because of Race, Color, Religious Creed, National Origin, Ancestry or Sex

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ALM GL ch. **151B**, § **3A** (2008)

**§ 3A. Sexual Harassment, Education and Training in the Workplace.**

- (a) All employers, employment agencies and labor organizations shall promote a workplace free of sexual harassment.
- (b) Every employer shall:
- (1) adopt a policy against sexual harassment which shall include:
    - (i) a statement that sexual harassment in the workplace is unlawful;
    - (ii) a statement that it is unlawful to retaliate against an employee for filing a complaint of sexual harassment or for cooperating in an investigation of a complaint for sexual harassment;
    - (iii) a description and examples of sexual harassment;
    - (iv) a statement of the range of consequences for employees who are found to have committed sexual harassment;
    - (v) a description of the process for filing internal complaints about sexual harassment and the work addresses and telephone numbers of the person or persons to whom complaints should be made; and
    - (vi) the identity of the appropriate state and federal employment discrimination enforcement agencies, and directions as to how to contact such agencies.
  - (2) provide annually to all employees an individual written copy of the employer's policy against sexual harassment; provided, however, that a new employee shall be provided such a copy at the time of his employment.
- (c) The commission shall prepare and provide to employers subject to this section a model policy and poster consistent with federal and state statutes and regulations, which may be used by employers for the purposes of this section.
- (d) An employer's failure to provide the information required to be provided by this section shall not, in and of itself, result in the liability of said employer to any current or former employee or applicant in any action alleging sexual harassment. An employer's compliance with the notice requirements of this section shall not, in and of itself,

protect the employer from liability for sexual harassment of any current or former employee or applicant.

(e) Employers and labor organizations are encouraged to conduct an education and training program for new employees and members, within one year of commencement of employment or membership, which includes at a minimum the information set forth in this section. Employers are encouraged to conduct additional training for new supervisory and managerial employees and members within one year of commencement of employment or membership, which shall include at a minimum the information set forth in subsection (b), the specific responsibilities of supervisory and managerial employees and the methods that such employees should take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints. Employers, labor organizations and appropriate state agencies are encouraged to cooperate in making such training available.

**HISTORY:** 1996, 278, § 1.

**NOTES:**

**Editorial Note**

**Section 4 of the inserting act** provides as follows:

Section 4. Notwithstanding any provisions of chapter one hundred and fifty-one B of the General Laws or any other law to the contrary, for the purpose of section three A of said chapter one hundred and fifty-one B, the term "employer" shall be as defined in section one of said chapter one hundred and fifty-one B, except, from the effective date of this act until January first, nineteen hundred and ninety-seven, it shall not include any employer with fourteen or fewer employees.

**Jurisprudence**

76 Am Jur Proof of Facts 3d 331, Liability of an Employer for Sexual Harassment of an Employee by Customers and Other Third Parties.

Cause of Action by "At Will" Employee for Wrongful Discharge. 1 COA 273.

Cause of Action for Violation of Provisions of Civil Rights Act of 1964 [42 USC §§ 2000e et seq.] Prohibiting Religious Discrimination in Employment. 2 COA 1.

Cause of Action for Wrongful Discharge from Employment in Breach of Contract. 18 COA 229.

Cause of Action for Termination of At-Will Employee in Violation of Public Policy. 24 COA 1.

**Treatise References**

Hirsch, *Labor and Employment in Massachusetts: A Guide to Employment Laws, Regulations & Practices*, 2d Ed §§ 7-1, 7-2. 9-1.

**Law Reviews**

Hodges, *Mediation and the Transformation of American Labor Unions*. 69 Mo L Rev 365 (Spring, 2004).

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Civil Rights