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# Do State Laws Protecting Older Workers from Discrimination Laws Reduce Age Discrimination in Hiring? Experimental (and Nonexperimental) Evidence

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## Introduction

Age discrimination may make it difficult for policymakers to increase employment of older workers. Policymakers may want to consider whether supply-side reforms that increase incentives to work longer should be complemented by stronger laws protecting older workers from discrimination in the labor market. This study significantly builds upon a large-scale field experiment to measure age discrimination in hiring. It then studies whether stronger laws protecting older workers from discrimination in some U.S. states reduce hiring discrimination against older workers.

We focus on both age discrimination laws and disability discrimination laws. The latter can also protect older workers from discrimination, because disabilities that can limit work and hence trigger protection by disability discrimination laws rise steeply with age, especially past age 50 or so. Many ailments associated with aging have become classified as disabilities, which can give some older workers an option of pursuing discrimination claims under either the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act (ADA), or the corresponding state laws.

To study whether stronger age and disability discrimination laws increase hiring of older workers, we substantially extend a recent large-scale resume correspondence study, from 11 states to all 50 states, although focusing only on jobs in retail sales. (We impose this limitation because of the extensive resources required to extend to all 50 states. A clear implication of this limitation is that the evidence must be regarded as a case study, which may not generalize to other low-skill jobs.) The evidence from the resume correspondence study provides direct measures of discrimination in hiring. We then utilize information on state age discrimination and disability discrimination laws that extend beyond the federal ADEA and ADA to study the relationships

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between these state laws and the direct measures of age discrimination in hiring from the field experiment. Our focus is on discrimination against job applicants ages 64 to 66, who are at or near the age of retirement.

## **Correspondence Study Evidence on Age Discrimination**

Experimental audit or correspondence studies of hiring are generally viewed as the most reliable means of inferring labor-market discrimination. These studies create artificial job applicants in which there are intended to be no average differences by group, so that differences in outcomes reflect discrimination. Audit studies use actual applicants coached to act alike, and capture job offers, whereas correspondence studies create fake applicants and capture “callbacks” for job interviews. Correspondence studies can collect far larger samples of job applications and outcomes. We use a correspondence study in this paper.

## **Experimental Design**

The core analysis estimates differences in callback rates for older (ages 64-66) versus younger (ages 29-31) job applicants, and how these differences vary across states with stronger age discrimination or disability discrimination laws. We send quadruplets of applications for jobs in one city in each of the 50 states. Each quadruplet consisted of an older and younger male applicant, and an older and younger female applicant. In total, we sent 14,428 applications in response to 3,607 job ads.

We focus on the two aspects of antidiscrimination laws that past research suggested were important. The first is the minimum firm-size cutoff for the law to apply, and the second is whether larger damages are allowed. State disability discrimination laws can differ along these dimensions as well. In addition, they vary by broadening the definition of disability beyond the ADA.

## **Nonexperimental Evidence**

Although our paper emphasizes experimental evidence from the correspondence study, we also present some parallel evidence on hiring behavior using data from the Quarterly Workforce.\* The data we use are grouped by age: We use 25 to 34 year olds as our young group, and two alternative older groups, 55-64 and 65-99. We restrict attention to data on the retail sales industry (NAICS codes 44-45).

## **Findings**

The experimental evidence points consistently to evidence of hiring discrimination against older men and more so against older women. For males, the callback rate is statistically significantly lower, by 7.6 percentage points, or 30.4 percent. For females, the absolute difference is a bit larger (8.5 percent), although it is more similar in relative terms because the callback rate is higher for women.

The relationship between hiring discrimination against older workers and state variation in age and disability discrimination laws is not so clear. Some protections appear to exacerbate the callback difference between older and younger workers — in particular, a lower firm-size cutoff for age discrimination laws and a broader definition of disability for men, and a lower firm-size cutoff for disability discrimination laws for women. In contrast, there is some evidence that stronger protections are associated with less discrimination against older workers — for a lower firm-size cutoff for age discrimination laws and larger damages for disability

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\* *These were downloaded from Cornell University's Virtual Research Data Center (R2015Q2 release). By downloading these data, we acknowledge support from NSF grant #SES-0922005 that made these data available. See U.S. Bureau of the Census. 2016. "Quarterly Workforce Indicators [Release R2015Q2] [computer file]." Ithaca: Cornell University, Labor Dynamics Institute.*

discrimination laws for women. Clearly the experimental evidence does not support a general conclusion that stronger antidiscrimination protections reduce measured hiring discrimination against older workers.

The evidence from the nonexperimental data on hiring is quite different. In particular, the relative hiring of older workers is higher in states with stronger protections against disability discrimination. The results may differ because stronger state laws protecting older workers from discrimination do not have a clear causal effect on measured discrimination, but are more likely to be adopted where more older workers are looking for work, generating spurious evidence of positive effects on hiring rates. Alternatively, stronger state discrimination laws may have a positive causal effect on hiring through changing which older workers seek employment or more generally encouraging older workers to work, even though the laws do not reduce the discrimination between otherwise identical older and younger job applicants that the correspondence study measures. A positive causal effect on hiring rates may be important to policymakers trying to increase the employment of older workers.

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