References are to sections.

A

Adoption Assistance Plans, 8.7.52

Affirmative Action, 8.5.46–.48

Age Discrimination

See also Age Discrimination in Employment Act (ADEA) Madison Equal Opportunities Ordinance, 8.3.8

Wisconsin Fair Employment Act, 8.3.16

—Age Discrimination in the Workplace Fact Sheet, App. 3B

Age Discrimination in Employment Act (ADEA), 8.3.4

Disparate impact theory, applicability of, 8.3.16 Employer, defined, 8.1.10

Remedies under, 8.3.46

Agency, Employment

Definition, Wisconsin Fair Employment Act (WFEA), 8.3.11 Immigration-related practices, liability for discrimination in, 8.8.52

Agents

Definition, National Labor Relations Act (NLRA), 8.1.17

Immigration law

- —alien I-9 form verification, liability for, 8.8.10, 8.8.23
- —discrimination, liability for, 8.8.52

Alcoholism, as Disability, 8.3.18

Alternative Dispute Resolution

Employment contract, enforcement of, 8.2.37

Labor disputes, Wisconsin
Employment Relations Commission
arbitration or mediation of, 8.5.15

Americans with Disabilities Act (ADA), 8.3.4

Employer, defined, 8.1.10 Employers subject to, 8.1.10–.11 Remedies under, 8.3.4 Wisconsin Fair Employment Act compared, 8.3.18

Ancestry

See National Origin and Ancestry

Arbitration

Employment contract, enforcement of, 8.2.37

Labor disputes, Wisconsin
Employment Relations Commission
arbitration of, 8.5.15

Arrest Record

Employment discrimination based on, 8.3.17, App. 3C

At-Will Employment

See Employment at Will

Attorney Fees

Discrimination actions

- —Age Discrimination in Employment Act (ADEA), 8.3.46
- —Americans with Disabilities Act (ADA), 8.3.46
- —Civil Rights Act of 1964, Title VII, 8.3.46
- —Wisconsin Fair Employment Act, 8.3.47
- ERISA benefit plan participants, actions by, 8.7.26

Plant closings, actions in response to

- —Wisconsin Business Closing and Mass Layoff Law, 8.6.35, 8.6.37
- —Worker Adjustment and Retraining Notification Act, 8.6.70

В

Benefits, Employee, Ch. 7

Adoption assistance plans, 8.7.52 Dependent-care assistance plans, 8.7.51

Employment contract, inclusion in, 8.2.19

ERISA, subject to. *See* ERISA Fringe benefits (I.R.C. § 132), 8.7.53 Generally, 8.7.1, 8.7.60, App. 7A

- -aggregation rules, 8.7.7
- —changing nature of rules, 8.7.6
- —ERISA classification of benefit plans, 8.7.5
- —importance of ERISA, 8.7.4
- —pervasive influence of federal law, 8.7.3

Health plans. *See* Health Insurance Portability and Accountability Act of 1996 (HIPAA); Health Plans, ERISA; Health Plans, Wisconsin Statutes and Rules for

Insurance. See Insurance, Employee Leave. See Leave, Employee

Nonprofit organizations, provided by, 8.7.1

Not subject to ERISA

- —adoption assistance plans, 8.7.52
- —dependent-care assistance plans, 8.7.51
- —fringe benefits (I.R.C. § 132), 8.7.53
- —group insurance, 8.7.50
- —restricted stock plans, 8.7.49
- -stock option plans, 8.7.48

Plant closings

- —notice period for cessation of health care benefits, 8.6.80–.84
- —Wisconsin Business Closing and Mass Layoff Law enforcement, 8.6.31
- —Worker Adjustment and Retraining Notification Act (WARN) enforcement, 8.6.71

Retirement. *See* Deferred Compensation; Retirement Plans Stock ownership. *See* Stock Ownership Plans

Blacklisting, Employee, 8.5.42

Bonded Employees

Conviction record, discrimination based on, 8.3.17

Breach of Employment Contract

See Employment Contracts, Written

Business Visitor

B-1 visa, 8.8.77

 \mathbf{C}

Canadian Professionals, Employment under NAFTA of,

8.8.62, 8.8.70-.71

Checklists

Independent contractor, determining status as, App.1A

Noncompetition covenant, drafting of, 8.2.27

Child Labor

Fair Labor Standards Act (FLSA)

- —basic provisions, 8.4.3
- -violations, penalties for, 8.4.26

Choice-of-Laws

Employment contract, enforcement of, 8.2.34

Citizenship Status, Discrimination Based On

See Immigration Law, Discrimination based on immigration status

Civil Rights Act of 1964, Title VII, 8.3.4

Discrimination claim procedures,

8.3.42 Employer, defined, 8.1.10

Joint employers, charges against, 8.1.27

National origin, discrimination based on, 8.3.23, 8.5.49

Race and color, discrimination based on, 8.3.24

Remedies under, 8.3.46

Sexual harassment

- —employer liability for, 8.3.38
- -guidelines, 8.3.35
- -pregnancy, 8.3.29

Civil Rights Act of 1991, 8.3.4

Collective Bargaining

See National Labor Relations Act (NLRA)

Common Law

Employee, defined, 8.1.4

Employee and independent contractor differentiated, 8.1.19–.20

Compensation

See also Unemployment Compensation; Wage and Hours; Worker's Compensation

Discrimination in, 8.3.13. *See also* Discrimination

Employment contract, inclusion in, 8.2.19

—expanded duties, compensation for, 8.2.22

Equal pay statutes

- -Equal Pay Act, 8.3.4, 8.4.3
- —Wisconsin Fair Employment Act (WFEA), 8.3.28

Generally, App. 7A

Immigration law

- —specialty occupation (H-1B visa) workers, 8.8.55, 8.8.59
- —violations, back pay and front pay as remedy for, 8.5.49

Overtime. *See* Wage and Hours Remedy, back pay and front pay as

- —discrimination actions, 8.3.46–.47
- -immigration law violations, 8.5.49
- —plant closings, 8.6.31, 8.6.71

Termination of employee, payment upon, 8.5.40

- Wisconsin Business Closing and Mass Layoff Law enforcement, 8.6.31
- —Worker Adjustment and Retraining Notification Act enforcement, 8.6.71

Wisconsin Fair Employment Act, 8.3.13

Compensatory Damages

Discrimination actions, 8.3.46

Competition, Covenant Restricting, 8.2.14, 8.2.27

Confidentiality Agreements, 8.2.14,

8.2.28

Severability clause, importance of, 8.2.33

Consumer Credit Reporting Agencies

Employment purposes, reports for, 8.5.50

Contracts, Employment. See

Employment Contracts, Written

Conviction Record

Background checks, required, 8.5.51 Employment discrimination based on, 8.3.17, App. 3C

Creed. See Religion

Criminal Background Checks,

8.5.51

Criminal Prosecutions

Immigration laws, employer prosecutions under

- —document fraud, 8.8.50
- —hiring of illegal alien, 8.8.24

Wage and hour law violations, 8.4.26

D

Damages

Discrimination actions, 8.3.46–.47 Wage and hour law violations, 8.4.26

Daycare

Dependent-Care Assistance Plans, 8.7.51

Employees

- —background checks, required, 8.5.51
- —conviction record, discrimination based on, 8.3.17

Deferred Compensation

Nonqualified plans

- -ERISA rules applicable to, 8.7.46
- —generally, 8.7.45, App. 7A
- —top-hat plans, 8.7.46
- —top heavy plans, 8.7.21

Qualified plans. See Retirement

Plans, Tax-Qualified

SIMPLE Retirement Plans, 8.7.29 Simplified Employee Pensions

(SEPs), 8.7.28

Defined Benefit Retirement Plans,

8.7.11

Annual contribution limits, 8.7.20 Top heavy plans, rules for, 8.7.21

Defined Contribution Retirement

Plans, 8.7.12

Annual contribution limits, 8.7.20 Top heavy plans, rules for, 8.7.21

Department of Commerce, Wisconsin

Economic Adjustment Program, 8.6.37

Department of Health and Family Services, Wisconsin

Conviction record, review of, 8.5.51

Department of Homeland Security

(DHS), U.S., 8.8.3–.5. *See also* Immigration Law

Department of Labor (DOL), U.S.

Fair Labor Standards Act administered by. See Fair Labor Standards Act (FLSA)

Department of Workforce Development (DWD)

Wage laws, administration and enforcement of, 8.4.1

Wisconsin Business Closing and Mass Layoff Law notice requirements.

See Wisconsin Business Closing and Mass Layoff Law

Wisconsin Fair Employment Law

- —Age Discrimination in the Workplace Fact Sheet, App. 3B
- —Arrest and Conviction Records under the Law fact sheet, App. 3C
- Fair Employment Law and Complaint Process fact sheet, App. 3A
- —Harassment in the Work Place fact sheet, App. 3G
- —Harassment policy, sample, App. 3H
- —Persons with Disabilities on the Job fact sheet, App. 3D
- —Pregnancy, Employment and the Law fact sheet, App. 3E
- —Race, Color, National Origin and Ancestry fact sheet, App. 3F
- -Settlement fact sheet, App. 3J
- —Sexual harassment complaints investigation fact sheet, App. 3I
- Worker's Compensation Division, 8.5.27

Dependent-Care Assistance Plans, 8.7.51

DHS

See Department of Homeland Security (DHS), U.S.

Disability

- Absences for disability, overtime pay for, 8.4.17
- Employment discrimination based on, 8.3.18. *See also* Americans with Disabilities Act (ADA)
- —Disability, definition of, 8.3.18
- —Future hazard defense, burden of proof in asserting, 8.3.18
- —Persons with Disabilities on the Job fact sheet, App. 3D

Disability Insurance, 8.7.38

Discrimination, Chap. 3

Age-based. *See* Age Discrimination Arrest and conviction records, based on, 8.3.17

Citizenship status, based on. *See* Immigration Law

Claims processing procedures

- -cross-filing, 8.3.50
- -federal law, 8.3.42
- -local laws and ordinances, 8.3.44
- -state law, 8.3.43
- Disability, based on. *See* Disability, Employment Discrimination Based on
- Disparate impact theory, applicability of, 8.3.16, 8.3.24
- Fair employment statutes. See Fair Employment Acts, Generally; Wisconsin Fair Employment Act (WFEA)

Generally, 8.3.31

Genetic testing, based on, 8.3.19 Harassment

- —employer policy, 8.3.36, App. 3H
- -race-based, 8.3.24
- —sexual. See Sex Discrimination, Wisconsin Fair Employment Act (WFEA)
- Health Insurance Portability and Accountability Act of 1996 (HIPAA) nondiscrimination rules, 8.7.57

Honesty testing, prohibition on, 8.3.20 Immigration status, based on. *See* Immigration Law

Lawful products, use or nonuse of, 8.3.39

Marital status, based on, 8.3.21

National Guard, state defense force, or military reserve membership, based on. 8.3.22

National origin and ancestry, based on. *See* National Origin and Ancestry

Partners, laws not applicable to, 8.1.28 Pregnancy, based on, 8.3.29 Race and color, based on, 8.3.24 Relationship among laws, 8.3.50 Religion and creed, based on, 8.3.25 Remedies

- —back pay and front pay, receipt of, 8.3.46, 8.3.47
- -federal law, 8.3.46
- -local laws and ordinances, 8.3.48
- -settlement, 8.3.49, App. 3J
- -state law, 8.3.47

Retaliation for opposition to discrimination prohibited, 8.3.8, 8.3.9, 8.3.40

Settlement of claims, 8.3.49, App. 3J Sex discrimination. *See* Sex discrimination, Wisconsin Fair Employment Act (WFEA)

Wisconsin Business Closing and Mass Layoff Law, rights under, 8.6.37

DOL

See Fair Labor Standards Act (FLSA)

Domestic Partnerships

Marital status discrimination laws, applicability of, 8.3.21

Drug Use, as Disability, 8.3.18

DWD

See Department of Workforce Development (DWD)

E

Economics Reality Test, 8.1.19, 8.1.21

EEOC

See Equal Employment
Opportunity Commission (EEOC)

Election Officials, Leave for, 8.5.43

Employee

Authority to bind company, 8.2.12, 8.2.22

Benefits.

See Benefits, Employee Blacklisting of, 8.5.41–.52

Compensation. *See* Compensation; Wage and Hours

Definition

- —common law, 8.1.4
- —Fair Labor Standards Act (FLSA), 8.1.12, 8.4.6
- —Family and Medical Leave Act (FMLA), 8.1.15
- -generally, 8.1.3
- —in partnerships, 8.1.28
- —IRS regulations, 8.1.7
- —National Labor Relations Act (NLRA), 8.1.17
- —statutory definitions, 8.1.5–.17
- —Wisconsin Fair Employment Act (WFEA), 8.1.11, 8.3.11
- —Wisconsin family and medical leave law, 8.1.16

Designation as employee,

benefits/disadvantages to, 8.1.26

Discrimination issues. See

Discrimination

Grooming and clothing requirements, notification of, 8.5.39

Hours worked. *See* Wage and Hours Immigration laws, applicability of. *See* Immigration Law

Independent contractor differentiated

- —common law test, 8.1.19–.20
- —economics reality test, 8.1.19, 8.1.21
- —Fair Labor Standards Act (FLSA), 8.1.12, 8.4.6
- -generally, 8.1.19
- —hybrid test, 8.1.19, 8.1.22
- —importance of distinction,
- 8.1.23-.26
- —IRS regulations, 8.1.7

- —Unemployment Compensation Act,
- —Worker's Compensation Act, 8.1.8 Leave. See Leave, Employee Partners differentiated from, 8.1.28 Of partnership, 8.1.28 Records. See Records, Personnel Reference checks, 8.5.41 Safety. See Safety Laws, Employee Shareholders differentiated from, 8.1.28
- Temporary, discrimination against, 8.3.11
- Termination. See Termination of employee

Unemployment compensation. See **Unemployment Compensation** Wages. See Wage and Hours Worker's compensation. See Worker's Compensation

Employee Commuting Flexibility Act of 1966, 8.4.13

Employee Stock Ownership Plans (ESOPs), 8.7.15

Employer

Definition

- -Fair Labor Standards Act (FLSA), 8.1.12, 8.4.5, 8.4.27
- -Family and Medical Leave Act (FMLA), 8.1.15
- -federal discrimination statutes. 8 1 10
- -National Labor Relations Act (NLRA), 8.1.17
- -Wisconsin Business Closing and Mass Layoff Law, 8.6.5
- -Wisconsin Fair Employment Act (WFEA), 8.1.11

Discrimination issues. See Discrimination

Immigration law issues. See Immigration Law

Independent contractor, benefits to having worker classified as, 8.1.25 Joint, 8.1.27 Reference checks, good faith presumption for, 8.5.41

Employer-Employee Relationship

Discrimination. See Discrimination Discrimination statutes, applicability of

- —federal statutes, 8.1.10
- —Wisconsin Fair Employment Act (WFEA), 8.1.11 Employment at will, 8.1.29

Fair Labor Standards Act (FLSA), 8.1.12

Generally, 8.1.6

IRS regulations, 8.1.7

- Labor organizations and collective bargaining
- -National Labor Relations Act (NLRA), 8.1.17

Employment Agency

Definition, Wisconsin Fair Employment Act (WFEA), 8.3.11 Immigration-related practices, liability for discrimination in, 8.8.52

Employment at Will, 8.1.29, 8.2.3

Whistleblowing exception to, 8.5.52

Written contract, 8.2.16

- -confidentiality agreement, 8.2.14
- —fixed term vs. at-will, 8.2.10
- -noncompetition covenant, 8.2.14
- —termination, grounds for, 8.2.13, 8.2.30

Employment Contracts, Written,

Chap. 2

Alternative dispute resolution, allowance for, 8.2.37 Authority of employee, 8.2.12, 8.2.22 Belo agreements, irregular work hours regulated by, 8.4.30

Benefits, 8.2.19

Breach of contract, 8.2.10

- —allocation of costs, 8.2.13
- —defining breach, 8.2.31
- -remedy for, 8.2.32
- —termination for, 8.2.31-.32
- —termination in derogation of handbook as, 8.5.52

Business outside employment relationship, employer's interest in, 8.2.23

Compensation, 8.2.19

—expanded duties and, 8.2.22

Confidentiality agreements, 8.2.14, 8.2.28, 8.2.32

Costs, payment of

- —alternative dispute resolution, 8.2.37
- —litigation, allocation of costs of, 8.2.13
- —termination, allocation of costs at, 8.2.31, 8.2.32

Drafting of contract

- —compensation and benefits, 8.2.19
- —duties, 8.2.20—.24
- -enforcement, 8.2.33-.36
- —generally, 8.2.16
- —integration and severability clauses, 8.2.33
- —operating protocol example, App. 2A
- —renewal, 8.2.18
- —restrictive covenants, 8.2.25–.28, 8.2.32
- -term, 8.2.17
- —termination, grounds for, 8.2.29–.31

Duties

- —business outside employment relationship, 8.2.23
- —certainty of duties, 8.2.12
- -generally, 8.2.21
- —personal activities, 8.2.24
- —within employment relationship, 8.2.22

Employment at will

- —differentiated, 8.1.29, 8.2.3
- —written contract for. See Employment at will

Employment handbook as binding contract, 8.5.52

Enforcement

- —alternative dispute resolution, 8.2.37
- -choice-of-laws, 8.2.35
- -generally, 8.2.35
- —jurisdiction, 8.2.36
- —venue, 8.2.36

Generally, 8.2.3

Integration clause, 8.2.33

Liquidated damages clause, 8.2.31

Litigation, allocation of costs of,

8.2.13

Noncompetition covenant, 8.2.14,

8.2.27, 8.2.32

Operating protocol example, App. 2A

Personal activities, employer's interest

in, 8.2.24

Positions for which contract

recommended

- -executive, 8.2.6
- -generally, 8.2.5
- -key employee, 8.2.7

Post-employment activities, control of, 8.2.14, 8.2.25-.28

Renewal of contract, 8.2.11, 8.2.18

Restrictive covenants, 8.2.25

- -confidentiality agreements, 8.2.14, 8.2.28, 8.2.32
- -noncompetition covenant, 8.2.14, 8.2.27, 8.2.32
- -severability clause, importance of, 8.2.33
- trade secrets protection, 8.2.28, 8.2.32

Severability clause, 8.2.33

Severance pay, 8.2.13

Stability and foreseeability of service

—fixed-term or at-will relationship, 8.2.10

- -generally, 8.2.9
- —term and renewal, 8.2.11

Term, definite, 8.2.11, 8.2.17

Termination, 8.2.11

- —allocation of costs of, 8.2.13
- -breach of contract, 8.2.31-.32
- -employer remedies for, 8.2.31
- —grounds for termination, inclusion of, 8.2.30
- -manner of, 8.2.13
- —restrictive covenants, application of. *See* Restrictive covenants
- —severance pay, 8.2.13

Trade secrets protection, 8.2.29, 8.2.32

Employment Peace Act. See

Wisconsin Employment Peace Act

Equal Employment Opportunity Commission (EEOC)

Discrimination claim, procedures governing, 8.3.42, 8.3.50 Immigration status, claims for discrimination based on, 8.8.75 Sexual harassment guidelines, 8.3.35

Equal Pay Act, 8.3.4, 8.4.3

Equal Rights Division (ERD)

Discrimination claim

- —investigation of complaint, form, App. 3I
- —procedures governing, 8.3.43, 8.3.50

ERD

See Equal Rights Division (ERD)

ERISA

Classification of benefit plans, 8.7.5 Generally, 8.7.3–.4

Health and welfare plans

- —definition, of welfare plan, 8.7.5
- -disability insurance, 8.7.38

- —generally, 8.3.70, 8.7.5, 8.7.30, 8.7.60
- —health plans. *See* Health Plans, ERISA
- —I.R.S. Form 5500 annual report, 8.7.25, 8.7.42
- —life insurance, 8.7.39
- —reporting and disclosure rules, 8.7.40–42
- —summary plan description (SPD), 8.7.41

Pension plans

- —defined benefit plans termed as, 8.7.11
- —definition, 8.7.5
- —generally, 8.7.5
- —IRA-based. *See* Retirement Plans, IRA-Based
- —money-purchase plans, 8.7.12
- —non-qualified deferred compensation plans. *See* Deferred Compensation
- —tax-qualified. *See* Retirement Plans, Tax-Qualified

Ethnic Identity

See also Immigration Law Discrimination based on, 8.3.23

Exempt Employees, Overtime

See Overtime

F

Fair Credit Reporting Act (FCRA), 8.5.50

Fair Employment Acts, Generally,

8.3.3

Federal, 8.3.4

- —applicability of, 8.1.10
- —claims processing procedures, 8.3.42

- —other statutes, relationship to, 8.3.50
- -remedies, 8.3.46

Local

- -generally, 8.3.7
- —Madison Equal Opportunities Ordinance, 8.3.8
- —Milwaukee Housing and Employment Discrimination Ordinance, 8.3.9
- —other statutes, relationship to, 8.3.50
- State, 8.3.5. *See also* Wisconsin Fair Employment Act (WFEA)
- —other statutes, relationship to, 8.3.50

Fair Labor Standards Act (FLSA), 8.4.1

Basic substantive provisions, 8.4.3 Employees and independent contractor differentiated, 8.1.19, 8.1.21

Employees covered by, 8.1.12, 8.4.6 Employers covered by, 8.4.5

Enforcement, Department of Labor responsibility for, 8.4.25

Penalties and damages under, 8.4.26 Recordkeeping requirements, employer, 8.4.22

Removal of claims from state to federal court, 8.4.31 Statute of limitations, 8.4.25

Family and Medical Leave Statutes

Federal law—FMLA, 8.1.15 Generally, 8.1.14 Wisconsin, 8.1.16

FCRA. See Fair Credit Reporting Act (FCRA)

401(K) Plans, 8.7.12, 8.7.14, 8.7.60 Roth account, 8.7.12 Safe-harbor, 8.7.14

Fraternal Organizations

Employment discrimination statutes, exceptions to, 8.3.9, 8.3.25

Fringe Benefits

Exempt from taxation (I.R.C. § 132), 8.7.53, App. 7A

G

Genetic Testing

Wisconsin Fair Employment Act limitations, 8.3.19

Н

Health Care Facilities, Employment

Background checks, required, 8.5.51 Conviction record, discrimination based on, 8.3.17

Health Flexible Spending Arrangements (Health FSAs), 8.7.37

Health Insurance Portability and Accountability Act of 1996 (HIPAA), 8.7.54

Nondiscrimination rules, 8.7.57 Portability provisions

- —creditable coverage, 8.7.56
- —excepted benefits, 8.7.56
- -generally, 8.7.55
- —preexisting condition limitations, 8.7.56
- —waiting periods, 8.7.56
- —waiver of right to coverage, effect of, 8.7.56

Privacy rules

—electronic information, unauthorized access to, 8.7.59

- —employee consent to disclosure, 8 7 58
- —regulations, disclosure required by, 8.7.58

Security rules, 8.7.59

Health Plans, ERISA

COBRA continuation coverage rules, 8.7.43

Deferred compensation plans, nonqualified, 8.7.46 Generally, 8.7.30

Health savings accounts (HSAs), 8.7.36

Insurance, benefits provided through

- -generally, 8.7.32
- —stop-loss coverage, 8.7.32
- I.R.C. § 125 cafeteria plans, healthplan coverage in, 8.7.34

Medical expense reimbursements

- —health flexible spending arrangements (health FSAs), 8.7.37
- —health reimbursement arrangements (HRAs), 8.7.35
- —I.R.C. § 125 cafeteria plans, healthplan coverage in, 8.7.34

Partners, coverage provided to, 8.7.33 S corporation shareholder-employees, two-percent, 8.7.33

Self-funding, benefits provided through

- —generally, 8.7.32
- -stop-loss coverage, 8.7.32

Health Plans, Wisconsin Statutes and Rules for

Continuation coverage rules, nonqualified deferred compensation plans

- —ERISA rules applicable to, 8.7.46
- -generally, 8.7.45
- —top heavy plans, 8.7.21

Mandatory coverage requirements, 8.7.32

Marital status, discrimination based on, 8.3.21

Plant closings, notice period for cessation of health benefits after

- -exceptions, 8.6.84
- -generally, 8.6.81
- —procedures, 8.6.83
- —remedies for failure to give notice, 8.6.82

Health Reimbursement Arrangements (HRAs), 8.7.35

Health Savings Accounts (HSAs), 8.7.36

HIPAA. See Health Insurance Portability and Accountability Act of 1996 (HIPAA)

Hiring, Discrimination in, 8.3.13

See also Discrimination

Honesty Testing

Wisconsin Fair Employment Act, prohibited by, 8.3.20

Hours Worked

See Wage and Hours

Human Resources Laws

Blacklisting of employees, 8.5.41–.42 Election officials, leave for, 8.5.43 Employer reference checks, 8.5.41 Generally, 8.5.37 Grooming and clothing requirements, notification of, 8.5.39 Jury duty, leave for, 8.5.44 Personnel records, access to, 8.5.38 Political activities, leave for, 8.5.43 Termination, payment upon, 8.5.40 Voting leave, 8.5.43 Witnesses, leave for, 8.5.44

I

Immigration Law, Chap. 8

See also Temporary Employment Visa Requirements

Defenses, employer

- —filing deficiencies, defenses to, 8.8.42 - .45
- -good faith, 8.8.23, 8.8.39, 8.8.51
- —grandfathered employee, 8.8.36
- —independent contractor, 8.8.37–.40
- —substantial compliance, 8.8.40
- Discrimination based on immigration status
- —document abuse violation, 8.8.51, 8.8.74
- —double jeopardy, 8.8.52
- -employer, 8.8.56-.57, 8.8.74
- -generally, 8.5.49, 8.8.73
- -recruiter, 8.8.52
- -unfair immigration-related employment practices, 8.8.74
- Document abuse violation, employer, 8.8.74, 8.8.80

Document fraud

- —civil penalties for, 8.8.49
- —criminal penalties, 8.8.50
- -generally, 8.8.48
- Employment eligibility, USCIS view on frequently asked questions, App. 8C

Generally, 8.8.1, 8.8.80

Hiring an alien, steps to

- —common problems, 8.8.15
- -documents establishing identity and employment eligibility, 8.8.18-.21
- —employer's hiring obligations, 8.8.10
- -generally, 8.8.9
- I-9 filing requirements
- -consequences for failure to file or improper completion, 8.8.23
- -document abuse violation. employer, 8.8.51, 8.8.74
- -filing deficiencies, defenses to, 8.8.42 - .45

- —filing guidelines and web sites, App. 8B
- generally, 8.8.16–.23
- —length of time employer must maintain records, 8.8.22
- -timeline for replacement documents, 8.8.19
- —USCIS view on frequently asked questions, App. 8C
- -when verification begins, 8.8.17
- -when verification concludes, 8.8.18
- —where employer files forms, 8.8.20

Immigration and Customs

- Enforcement (ICE) investigation and in-house audit
- —fine and sanctions issued by ICE, 8.8.43
- —structure, App. 8D
- —when an employer may face audit, 8.8.42

Jurisdiction

- —Compliance Enforcement Unit (CEU), 8.8.7
- -Customs and Border Protection (CBP), 8.8.5
- —Immigration and Customs Enforcement (ICE), 8.8.7
- -Immigration and Naturalization Service (INS), 8.8.3-.4
- NAFTA requirements. See North American Free Trade Agreement (NAFTA)

Record maintenance

- -consequences for failing to file or improperly completing I-9, 8,8,23
- -criminal consequences for hiring unauthorized worker, 8.8.24
- —length of time employer must maintain records, 8.8.22
- Religious workers. See Temporary **Employment Visa Requirements**
- Sanctions and penalties, 8.5.49 -document abuse, 8.8.51, 8.8.74
- —document fraud, 8.8.52–.55
- —employer liability for discrimination, 8.8.56-.57

- —employment of undocumented worker, penalties for, 8.8.46
- -generally, 8.8.45
- —Immigration and Customs Enforcement Notice of Intent to Fine, 8.8.43
- —recruiter liability for discrimination, 8.8.52
- —unfair immigration-related employment practices, 8.8.74

Specialty occupation (H-1B) workers. See Temporary Employment Visa Requirements

Termination, specialty occupation (H-1B) workers, 8.8.60

Terminology

—USCIS employment-related terms, 8.8.12–.14, App. 8E

Immigration Reform and Control Act (IRCA) of 1986, 8.5.49

See also Immigration Law

Independent Contractor

Checklist for determining status as, App. 1A

Designation as contractor, benefits/disadvantages to, 8.1.26

Employee differentiated. See Employee

Employee of contractor, employer's liability for, 8.1.27

Independent contractor defense, I-9 (immigration) filing requirements

- —definition of independent contractor, 8.8.34
- —generally, 8.8.32
- —IRS determination of independent contractor status, 8.8.45

Wisconsin Business Closing and Mass Layoff Law, applicability of, 8.6.5–.6

Wisconsin Fair Employment Act, applicability of, 8.3.11

Injunctive Relief

Discrimination actions

- —Age Discrimination in Employment Act (ADEA), 8.3.46
- —Americans with Disabilities Act (ADA), 8.3.46
- —Wisconsin Fair Employment Act, 8.3.47

Intracompany Transferees

Visas, 8.8.79

Insurance, Employee

Age, varied coverage based on, 8.3.16 Disability insurance, 8.7.38 Group insurance not subject to ERISA, 8.7.50

Health plans. *See* Health Insurance Portability and Accountability Act of 1996 (HIPAA); Health Plans, ERISA

Life insurance, 8.7.39 Marital status, discrimination based on, 8.3.21

Internal Revenue Service (IRS)

Employee and independent contractor differentiated, 8.1.7 IRS determination of independent contractor status, for I-9 (immigration) filing requirements, 8.8.35

IRA-Based Retirement Plans

SIMPLE plans, 8.7.29 Simplified Employee Pensions (SEPs), 8.7.28

J

Joint Employers, 8.1.27

Jurisdiction

Employment contract, enforcement of, 8.2.34

Immigration law. *See* Immigration Law

Joint employers, charges against, 8.1.27

National Labor Relations Board, 8.1.17

Partnerships, discrimination actions involving, 8.1.28

Wage and hours claims, removal to federal court of, 8.4.31

Jury Duty, Leave for, 8.5.44

K

Key Employee

Employment contract for, 8.2.7 Top heavy benefit plans

- —Qualified retirement plans, 8.7.21
- —Wisconsin health plan continuation coverage rules, 8.7.21

L

Labor Laws

See also National Labor Relations Act (NLRA); Wisconsin Employment Peace Act Generally, 8.5.2–.3

Labor Organizations

See Unions (Labor Organizations)

Landrum-Griffin Act, 8.5.3

Layoffs, Mass, Notice of

See Plant Closings

Leave, Employee

Election officials and political activity, leave for, 8.5.43
Family and medical leave statutes, 8.1.13–.16

Overtime pay, allowable deductions for, 8.4.17 Voting leave, 8.5.43

Lie Detector Tests

Wisconsin Fair Employment Act, prohibited by, 8.3.20

Life Insurance, 8.7.39

M

Madison Equal Opportunities Commission (MEOC), 8.3.8,

8.3.44, 8.3.50

Madison Equal Opportunities Ordinance, 8.3.8, 8.3.48

Marital Status

Discrimination based on, 8.3.21

Mediation

Employment contract, enforcement of, 8.2.37

Labor disputes, Wisconsin
Employment Relations Commission
mediation of, 8.5.15

MEOC

See Madison Equal Opportunities Commission (MEOC)

MERC

See Milwaukee Equal Rights Commission (MERC)

Mexican Professionals, Employment under NAFTA of, 8.8.67–.69, 8.8.63

Military Reserve Membership

Discrimination based on, 8.3.22

Milwaukee Equal Rights Commission (MERC), 8.3.9, 8.3.44, 8.3.50

Milwaukee Housing and Employment Discrimination Ordinance, 8.3.9, 8.3.48

Minimum Wage

Enforcement of statutes

- -penalties, 8.4.26
- —responsibility for, 8.4.25

Fair Labor Standards Act

- —basic substantive provisions, 8.4.3
- -employees covered by, 8.4.6
- —employers covered by, 8.4.5

Wisconsin statutes and rules, 8.4.7

 \mathbf{N}

NAFTA

See North American Free Trade Agreement (NAFTA)

National Guard Membership

Discrimination based on, 8.3.22

National Labor Relations Act (NLRA), 8.1.17

Coverage, 8.5.9

Generally, 8.5.2-.3, 8.5.5

Prohibited conduct or unfair labor practices

- -employers, 8.5.7
- —National Labor Relations Board (NLRB) determinations, 8.5.11
- -unions, 8.5.8

Union representation issues, 8.5.10 Violations, relief from, 8.5.9

National Labor Relations Board (NLRB), 8.1.17, 8.5.9

Unfair labor practices, determination of, 8.5.11

Union representation issues, oversight of, 8.5.10

National Origin and Ancestry

Discrimination based on

- —Civil Rights Act of 1964, Title VII, 8.3.23, 8.5.49
- —Immigration Reform and Control Act, 8.5.49, 8.8.75
- —Wisconsin Fair Employment Act (WFEA), 8.3.23, App. 3F

NLRB

See National Labor Relations Board (NLRB)

$\textbf{Noncompetition Covenant,}\ 8.2.14,$

8.2.27

Severability clause, importance of, 8.2.33

Nondisclosure Agreements, 8.2.14

Nonprofit Organizations

Benefits provided by, 8.7.1

North American Free Trade Agreement (NAFTA)

Employment of Canadian and

- Mexican professionals under
 —Canadian citizens, requirements for,
- 8.8.70–.71 —generally, 8.8.62
- —Mexican citizens, requirements for, 8.8.64, 8.8.63

Notice of Intent to Fine, Immigration and Customs Enforcement, 8.8.43

Notice of Plant Closings

See Plant Closings

\mathbf{o}

Occupational Safety and Health Act (OSHA)

Coverage, 8.5.19

Employees, provision of information to, 8.5.23

Employer requirements, 8.5.21

Generally, 8.5.17-.18

Hazard communication standard,

8.5.25

Inspections, 8.5.24

Recordkeeping and reporting, 8.5.22

OSHA

See Occupational Safety and Health Act (OSHA)

Overtime

Enforcement of statutes

- —penalties, 8.4.26
- —responsibility for, 8.4.25

Exempt employees

- —administrative employees, 8.4.17–.18
- -allowable deductions, 8.4.17
- —computer employees, 8.4.17
- —executive employees, 8.4.17–.18
- —federal regulations, 8.4.16–.17
- -generally, 8.4.16
- —outside sale employees, 8.4.17
- —professional employees, 8.4.17–.18
- -salary test, 8.4.18
- —Wisconsin regulations, 8.4.16, 8.4.18

Fair Labor Standards Act

- —basic substantive provisions, 8.4.3
- -employees covered by, 8.4.6
- -employers covered by, 8.4.5
- —hours worked, determining, 8.4.10–.15
- —regular rate of pay, determining, 8.4.9
- —year-end or other incentive payments, consideration of, 8.4.9

Hours worked, determining

- —generally, 8.4.10
- —on-call time, 8.4.11
- —other compensable time, 8.4.15
- —split-shift periods, 8.4.12
- —training and meeting costs, 8.4.14

-travel time, 8.4.13

On-call time, 8.4.11

Regular rate of pay, determining, 8.4.9

Split-shift periods, 8.4.12

Travel time, 8.4.13

Wisconsin statutes and rules, 8.4.7

Year-end or other incentive payments,

consideration of, 8.4.9

Overtime Pay

See Wage and Hours

P

Partnerships

Employees of, 8.1.28

Health care coverage, partners, 8.7.33

Plant Closings, Chap. 6. See also

Wisconsin Business Closing and

Mass Layoff Law; Worker

Adjustments and Retraining

Notification Act (WARN)

Generally, 8.6.1

Health benefits, notice period for

cessation of

- -exceptions, 8.6.84
- —generally, 8.6.81
- —procedures, 8.6.83
- —remedies for failure to give notice, 8.6.82

Interplay between state and federal laws

- -generally, 8.6.78
- Worker Adjustment and Retraining Notification Act, additional rights provided by, 8.6.79

Sources of law, 8.6.2

Political Activities, Leave for, 8.5.43

Portal-to-Portal Act of 1947, 8.4.3, 8.4.13

Pregnancy, Discrimination on Basis of, 8.3.29, App. 3E

Pregnancy Discrimination Act of 1978, 8.3.29

Privacy

Employee Right to, 8.5.51 Health Insurance Portability and Accountability Act of 1996 (HIPAA) rules, 8.7.58

Promotion, Discrimination in, 8.3.13 *See also* Discrimination

Punitive Damages

Discrimination actions

- —Americans with Disabilities Act (ADA), 8.3.46
- —Civil Rights Act of 1964, Title VII, 8.3.46

Wage and hour law violations, Fair Labor Standards Act, 8.4.26

R

Race, Discrimination Based on

See also Immigration Law Disparate impact theory, 8.3.24 Wisconsin Fair Employment Act (WFEA), 8.3.24, App. 3F

Records, Personnel

Employee access to, 8.5.38 Fair Labor Standards Act (FLSA), 8.4.22 Generally, 8.4.21 Occupational Safety and Health Act (OSHA) recordkeeping requirements, 8.5.22 Wisconsin Law, 8.4.23

Referral Agency

See Employment Agency

Religion

Aliens, religious worker visa (R-1) for

- -eligibility under R-1, 8.8.69
- -employment authorization, 8.8.70
- -extension of stay, 8.8.71
- -generally, 8.8.67
- -period of admission, 8.8.77
- —terminology used under R-1 visa category, 8.8.68

Employment discrimination based on, 8.3.25

Remedies

For termination of employment, 8.2.31

Retail Enterprises

National Labor Relations Board jurisdiction over, 8.1.17

Retirement Plans

IRA-Based

- —SIMPLE plans, 8.7.29
- —Simplified Employee Pensions (SEPs), 8.7.28

Tax-Qualified. *See* Retirement Plans, Tax-Qualified

Wisconsin Business Closing and Mass Layoff Law, applicability of, 8.6.6

Wisconsin Fair Employment Act provisions, 8.3.16

Retirement Plans, Tax-Qualified

Benefit limits, 8.7.20 Contribution limits, 8.7.20 Coverage rules

- —average benefit percentage, 8.7.17
- —ratio percentage, 8.7.17

Defined benefit plans. See Defined Benefit Retirement Plans Defined contribution plans. See **Defined Contribution Retirement** Plans Distribution rules, 8.7.23 Employee stock ownership plans

(ESOPs), 8.7.15 Enforcement rules, 8.7.26

Fiduciary rules, 8.7.24

Generally, 8.7.10, App. 7A

Hybrid plans, 8.7.13

401(K) plans, 8.7.12, 8.7.14, 8.7.60

Loan rules, 8.7.22

Money-purchase pension plan, 8.7.12

Nondiscrimination rules, 8.7.16

Participation rules, 8.7.18

Reporting and disclosure rules, 8.7.25, 8.7.40 - .42

Top-heavy plans, rules for, 8.7.21 Vesting rules

- —cliff vesting, 8.7.19
- —graded vesting, 8.7.19

Right-to-Know Law, Employee's, 8.5.26

Roth 401(k) Retirement Plan, 8.7.12

 \mathbf{S}

S Corporation Shareholder-**Employees, Two-Percent**

Health care coverage, 8.7.33

Safe-Place Statute, 8.5.27

Safety Laws, Employee

Employee's right-to-know law, 8.5.26 Generally, 8.5.17 Occupational Safety and Health Act

-coverage, 8.5.19

(OSHA)

- -generally, 8.5.17-.18
- -requirements and standards, 8.5.20-.25

Safe-place statute, 8.5.27

See Compensation; Wage and Hours

Security-Related Businesses

Conviction record, discrimination based on, 8.3.17

Self-Funded Health Plans

Generally, 8.7.32

Stop-loss coverage, 8.7.32

Settlement

Discrimination, actions for, 8.3.49, App. 3J

Severance Pay, 8.2.13

Sex Discrimination, Wisconsin Fair **Employment Act (WFEA)**

Bona fide occupational qualification (BFOQ), exception for, 8.3.28

Definition, 8.3.27

Equal pay provision, 8.3.28

Gender, on basis of

- —bona fide occupational qualification (BFOO), exception for, 8.3.28
- -equal pay provision, 8.3.28
- -gender-based harassment, 8.3.28

-generally, 8.3.28 Generally, 8.3.27 Pregnancy, 8.3.29

Sexual harassment

- —actions of employer, 8.3.35
- —definition, 8.3.32
- -gender-based, 8.3.28
- —harassment policies, employer, 8.3.36, App. 3H
- —hostile environment, 8.3.34
- —liability, employer, 8.3.38, App. 3G

- —quid pro quo, 8.3.33
- —response to complaints, 8.3.37, App. 3I

Sexual orientation, 8.3.30

—marital status, discrimination based on, 8.3.21

Shareholders

Employees differentiated from, 8.1.28

SIMPLE Retirement Plans, 8.7.29

Simplified Employee Pensions (SEPs), 8.7.28

Sole Proprietors

Health care coverage, 8.7.33

State Defense Force Membership

Discrimination based on, 8.3.22

Statute of Limitations

Fair Labor Standards Act (FLSA), 8.4.25

Wisconsin Business Closing and Mass Layoff Law, 8.6.36–.37

Stock Ownership Plans

Employee Stock Ownership Plans (ESOPs), 8.7.15

Not subject to ERISA

- —incentive stock options, 8.7.48
- —nonqualified stock options, 8.7.49
- —restricted stock plans, 8.7.49

Substance Abuse, as Disability,

8.3.18

T

Tax-Oualified Retirement Plans

See Retirement Plans, Tax-Qualified

Taxation

See also Internal Revenue Service (IRS)

Business actions, person unemployed as result of, 8.6.37

Fringe benefits exempt from taxation (I.R.C. § 132), 8.7.53, App. 7A

Health plan coverage, I.R.C. § 125 cafeteria plans, 8.7.34

Restricted stock plans, 8.7.49

Stock option plans, 8.7.15

Tax-qualified retirement plans. *See* Retirement Plans, Tax-Qualified

Temporary Employee

Aliens, employment of. *See*Temporary Employment Visa
Requirements

Discrimination against, 8.3.11
Employment contracts, coverage in.
See Employment Contracts, Written

Wisconsin Business Closing and Mass Layoff Law notice requirements, applicability of, 8.6.21

Temporary Employment Visa Requirements

Maximum stay information, USCIS on, App. 8A

North American Free Trade Agreement, Canadian and Mexican professionals employed under

- —Canadian citizens, requirements for, 8.8.70–.71
- -generally, 8.8.62
- —Mexican citizens, requirements for, 8.8.63, 8.8.64

Religious worker visa (R-1)

- —eligibility for, 8.8.69
- —employment authorization for R-1 workers, 8.8.70
- -extension of stay, 8.8.71
- -generally, 8.8.67
- —period of admission, 8.8.71
- —terminology used under category, 8.8.68

Specialty occupation (H-1B) workers

- —adjudication of H-1B petition, 8.8.58
- -generally, 8.8.54
- —hiring H-1B workers, 8.8.55
- —part-time, downsizing workers to, 8.8.59
- —requirements for H-1B visa, 8.8.56
- -specialty occupation defined, 8.8.57
- —termination, 8.8.60
- —wage and salary issues, 8.8.55, 8.8.59

Termination of Employee

Discrimination in, 8.3.13. *See also* Discrimination

Health plan continuation, COBRA, 8.7.43

Payment of compensation, statutory requirements for, 8.5.40

Plant closings. *See* Plant Closings Specialty occupation (H-1B visa) worker, 8.8.60

Wrongful discharge and whistleblowers, 8.5.52

Trade Secrets Protection

Employment contract clause, 8.2.28 Severability clause, importance of, 8.2.32

Treaty Traders and Investors

Visas, 8.8.78

U

Unemployment Compensation

Discrimination awards, repayment from, 8.3.47
Partners not entitled to, 8.1.28
Wisconsin statute
—coverage, 8.5.34

- —employee and independent contractor differentiated, 8.1.9
- —generally, 8.5.33
- —scope, 8.5.35

Unfair Labor Practices

See also National Labor Relations Act (NLRA)

Employers, 8.5.7

Immigration-related practices, 8.8.74 Unions, 8.5.8

Uniform Trade Secrets Act, 8.2.28

Unions (Labor Organizations),

8.1.17

See also National Labor Relations Act (NLRA)

Definition, Wisconsin Fair Employment Act (WFEA), 8.3.11

Wisconsin Business Closing and Mass Layoff Law notice requirements, 8.6.27

U.S. Citizenship and Immigration Services (USCIS)

Generally, 8.8.3–.5 Terminology, App. 8E See also Immigration Law

U. S. Department of Homeland Security (DHS), U.S., 8.8.3-.5

See also Immigration Law

U. S. Department of Labor (DOL)

Fair Labor Standards Act administered by. *See* Fair Labor Standards Act (FLSA)

U. S. Equal Employment Opportunity Commission

See Equal Employment Opportunity Commission (EEOC)

V

Venue

Employment contract, enforcement of, 8.2.35

Verification of work authorization documents, employer's method of

Availability of Basic Pilot to employer, 8.8.28 Generally, 8.8.26 How Basic Pilot verification program works, 8.8.27

Voting leave, 8.5.43

W

Wage and Hours, Chap. 4

See also Fair Labor Standards Act (FLSA); Minimum Wage; Overtime

Belo agreements, irregular work hours regulated by, 8.4.30

Child labor restrictions, 8.4.3

penalties for violations, 8.4.26

Deductions from wages

- -generally, 8.4.19
- —overtime exempt employees, 8.4.17 Employees, applicability of laws/rules
- —Fair Labor Standards Act, 8.4.6
- —Wisconsin statutes and rules, 8.4.7 Employers, applicability of laws/rules
- -Fair Labor Standards Act, 8.4.5
- —personal liability of owner, 8.4.27—Wisconsin statutes and rules, 8.4.7 Enforcement
- —penalties, 8.4.26
- —personal liability of owners, 8.4.27
- —responsibility for, 8.4.25

Generally, 8.4.1

Immigration Law

-specialty occupation (H-1B) workers, prevailing wage required for, 8.8.55

Recordkeeping, employer

- —Fair Labor Standards Act (FLSA), 8.4.22
- -generally, 8.4.21
- —Wisconsin Law, 8.4.23

Removal of claims from state to federal court, 8.4.31

Tipped employees, wage rate of, 8.4.29

Wisconsin statutes and rules, 8.4.7

- —deductions from wages, 8.4.19
- —overtime exempt employees, 8.4.16, 8.4.18
- —recordkeeping, 8.4.23

Wagner Act

See National Labor Relations Act (NLRA)

WARN

See Worker Adjustments and Retraining Notification Act (WARN)

WERC

See Wisconsin Employment Relations Commission (WERC)

Whistleblowers, Wrongful Discharge of, 8.5.52

Wisconsin Administrative Code

Wage and hour provisions, 8.4.7

Wisconsin Business Closing and Mass Layoff Law

Buyer of business, notice responsibility of, 8.6.28 Employees, affected, 8.6.6 Employer activities triggering Section 109.07 notice requirement —business closing, 8.6.13

-generally, 8.6.12

-mass layoff, 8.6.14

Employers covered by

- -generally, 8.6.5
- —independent subsidiaries, 8.6.5
- —new or low-hour employees not counted, 8.6.7

Employment site, definition of, 8.6.9 Enforcement and remedies for employer violations

- —back pay and benefits up to 60 days, 8.6.31
- —costs and attorney fees, 8.6.35
- —Department of Justice action, 8.6.33
- -employee action, 8.6.34
- —filing of DWD complaint within 300 days, 8.6.32
- -statute of limitation, 8.6.36-.37

Exceptions to notice requirements

- —employer actively seeking capital or business, 8.6.22
- —generally, 8.6.16
- —natural and man-made disasters, 8.6.19
- —sales and relocations of business, 8.6.17, 8.6.28–.29
- —temporary cessation of employment, 8.6.20
- —temporary or seasonal employment, 8.6.21
- -unforeseen circumstances, 8.6.18

Federal Worker Adjustment and Retraining statute, interplay with

- —additional rights provided by federal statute. 8.6.79
- —generally, 8.6.78

Generally, 8.6.2

Notice procedures

- -form of notice, 8.6.24
- —notice rolled out in stages or in one notice, 8.6.26
- —parties to whom notice is sent, 8.6.25
- —union, notice to, 8.6.27 Operating unit, defined, 8.6.10 Other state statutes linked to, 8.6.37

Purposes of legislation, 8.6.4 Sale of business, notice requirements affected by, 8.6.17, 8.6.28–.29

Wisconsin Department of Commerce

Economic Adjustment Program, 8.6.37

Wisconsin Department of Health and Family Services

Conviction record, review of, 8.5.51

Wisconsin Department of

Workforce Development. See

Department of Workforce Development (DWD)

Wisconsin Employment Peace Act

Arbitration and mediation, 8.5.15 Coverage, 8.5.14 Generally, 8.5.2–.3, 8.5.13

Wisconsin Employment Relations Commission (WERC)

Labor disputes, arbitration and mediation of, 8.5.15

Wisconsin Fair Employment Act (WFEA), 8.1.11, 8.3.5

Actions, prohibited, 8.3.13

Bases of discrimination, prohibited

- —age, 8.3.16, App. 3B
- arrest and conviction record, 8.3.17,App. 3C
- —disability, 8.3.18, App. 3D
- —generally, 8.3.15, App. 3A
- —genetic testing, 8.3.19
- —honesty testing, 8.3.20
- —lawful products, use or nonuse of, 8.3.39
- —marital status, 8.3.21
- —National Guard, state defense force, military reserve membership, 8.3.22
- —national origin and ancestry, 8.3.23, App. 3F

- —pregnancy, employment and the law, App. 3E
- —race and color, 8.3.24, App. 3F
- --sex, 8.3.26-.38, App. 3G-3I
- Complaints, filing procedures, 8.3.43, App. 3A
- —Worker's Compensation Act exclusivity and, 8.3.12

Coverage, 8.3.11

Definitions, 8.3.11

Disparate impact theory, applicability of, 8.3.16

Equal pay provision, 8.3.28

Joint employers, charges against, 8.1.27

Remedies, 8.3.47

—Worker's Compensation Act exclusivity and, 8.3.12

Wisconsin Unemployment Compensation Act

See Unemployment Compensation

Wisconsin Worker's Compensation Act

See Worker's Compensation Act

Witnesses, Leave for, 8.5.44

Worker Adjustments and Retraining Notification Act (WARN)

Employee categories not protected, 8.6.41

Employees counted for purposes of triggering

- —hourly, 8.6.44
- —part-time, 8.6.43
- —salaried, 8.6.44

Employers covered, 8.6.40

Enforcement and remedies

- —attorney fees, 8.6.70
- —back pay and benefits, 8.6.71
- —civil actions by workers, their representatives, and local government units, 8.6.69

- —civil forfeiture not to exceed \$500 for each day of violation, 8.6.72
- —generally, 8.6.68

Events triggering notice requirement

- -employment loss, 8.6.48
- -generally, 8.6.46
- —mass layoff, 8.6.50
- -plant closing, 8.6.49
- —timing issues, 8.6.47

Exemptions to notice requirement

- —employer actively seeking capital or business, 8.6.55
- —faltering company, 8.6.55
- -generally, 8.6.52
- -good faith exemption, 8.6.58
- —limited-term activity, completion of, 8.6.54
- —natural disaster, 8.6.57
- —temporary facilities, closure of, 8.6.53
- —unforeseeable business circumstances, 8.6.56

Generally, 8.6.2

Notice procedures

- —form of giving notice, 8.6.65
- —less than 60 days' notice, 8.6.66

Persons and entities to whom notice must be sent

- -affected employees, 8.6.61
- -generally, 8.6.60
- —local government unit, chief elected official of, 8.6.63
- —representatives of affected employees, 8.6.62
- —state dislocated worker units, 8.6.63

Purpose of litigation, 8.6.39

Sale of business circumstances,

obligation to give notice under

- —buyer and seller obligations, 8.6.75
- —coordination between buyer and seller, 8.6.76
- -generally, 8.6.74

State plant closing statute, interplay with

—additional rights provided by WARN, 8.6.79—generally, 8.6.78

Worker's Compensation

Partners not entitled to, 8.1.28 Safe-place statute, award increase based on, 8.5.27

Worker's Compensation Act (WCA)

Contractor's employees, employer's liability for, 8.1.27

Coverage, 8.5.31
Employee and independent contractor differentiated, 8.1.8
Exclusive remedy provision
—Wisconsin Fair Employment Act complaints allowed, 8.3.12
Generally, 8.5.29–.30
Scope, 8.5.32

Wrongful Discharge and Whistleblowers, 8.5.52