

# **Do Stronger Age Discrimination Laws Make Social Security Reforms More Effective?**

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# Can We Make Social Security Reforms More Effective?

- Population aging necessitates trying to lengthen work lives and delay retirement
- Policies to achieve these goals may be undermined by age discrimination
  - Or given age discrimination, changes in incentives/rules may have to be harsher to achieve desired effect
- Many states have stronger age discrimination protections, letting us ask whether effects of Social Security changes do more to delay retirement/increase employment where protections stronger—are there policy “complementarities”?
- Potential implications for strengthening ADEA to enhance effects of Social Security reforms, or to allow “gentler” reforms

# Answers to Two Prior Questions Underlie this Analysis

- Is there age discrimination?
- Is there any evidence that state discrimination laws affect outcomes for older individuals?

# Age Discrimination Is a Problem to Worry About

- Older workers have longer unemployment durations
- Workers “self-report” age discrimination, followed by more separations, lower employment, slower wage growth, and reduced expectation of working past 62 or 65 (Johnson and Neumark, 1997; Adams, 2002)
- Newly-hired older workers concentrated in fewer industries than newly-hired younger workers or workers overall (Hutchens, 1988)
- Audit/correspondence studies (Bendick et al., 1996, 1999; Lahey, 2008)
- Reneging on long-term commitments to older workers (Gokhale et al., 1995)

# And Age Discrimination Laws *Do* Help

- Earlier state laws, and later ADEA, boosted employment of those 60 and over (Neumark and Stock, 1999; Adams, 2004)
- Likely effect is mainly via increased retention/reduced termination
- No evidence, though, that age discrimination laws increase hiring of older workers (Adams, 2004; Lahey, 2008)

# Increases in the Normal Retirement Age (NRA)

<i>Year of birth</i>	<i>NRA</i>
1937 or earlier	65
1938	65 + 2 months
1939	65 + 4 months
1940	65 + 6 months
1941	65 + 8 months
1942	65 + 10 months
1943 -1954	66
1955	66 + 2 months
1956	66 + 4 months
1957	66 + 6 months
1958	66 + 8 months
1959	66 + 10 months
1960 and later	67

The birth cohorts above the dark line arrive at the NRA in our HRS sample period.

# Increases in NRA Create Incentives for Changes in Retirement and Employment

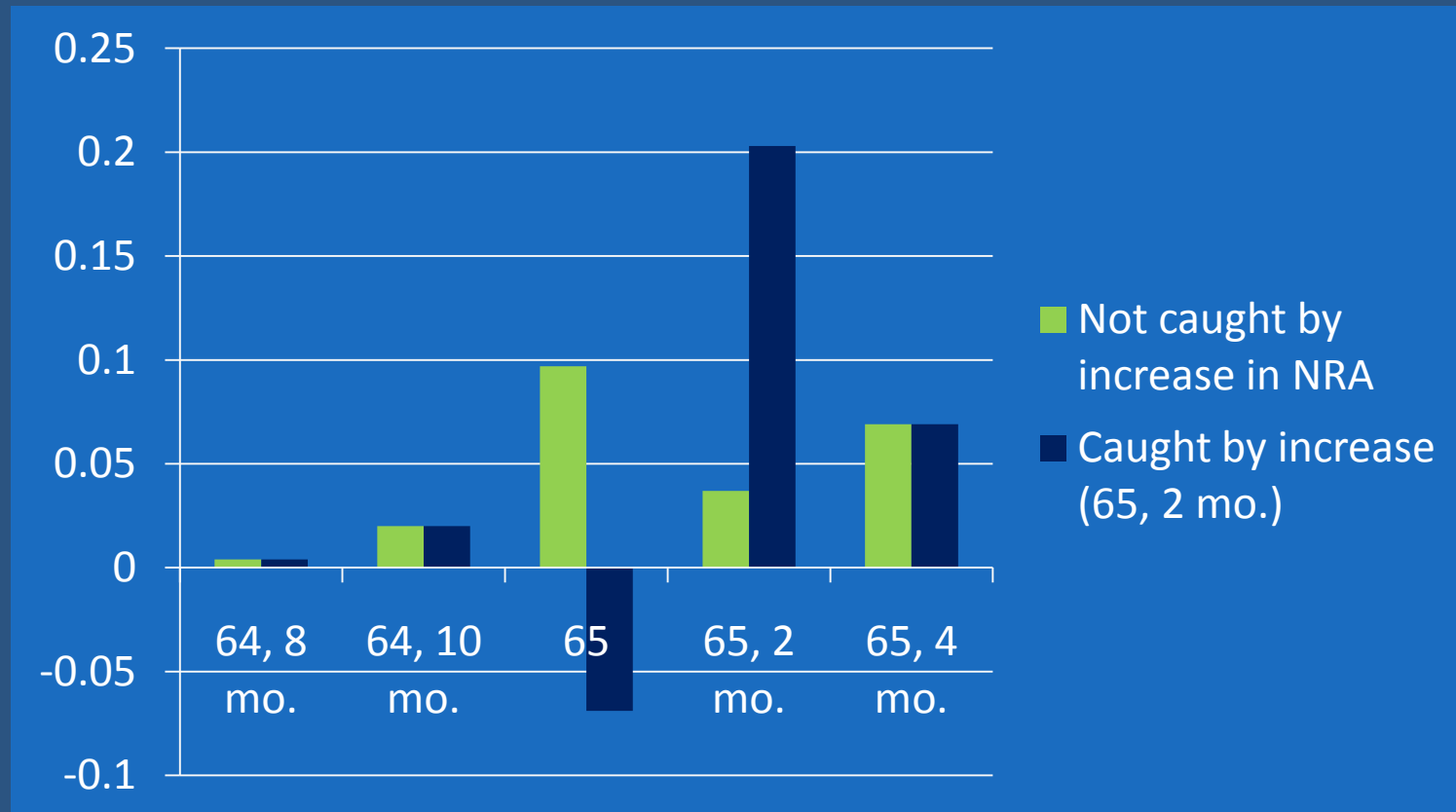
- Increased age of eligibility for full benefits accompanied by larger downward actuarial adjustment of early benefits
- People move to new NRA
  - People may want to attain full benefits
  - Increases in benefits beyond NRA (Delayed Retirement Credit) are less steep, so “kink” in budget constraint
  - Earnings test applies before NRA

# Did Increases in the NRA Change Behavior?

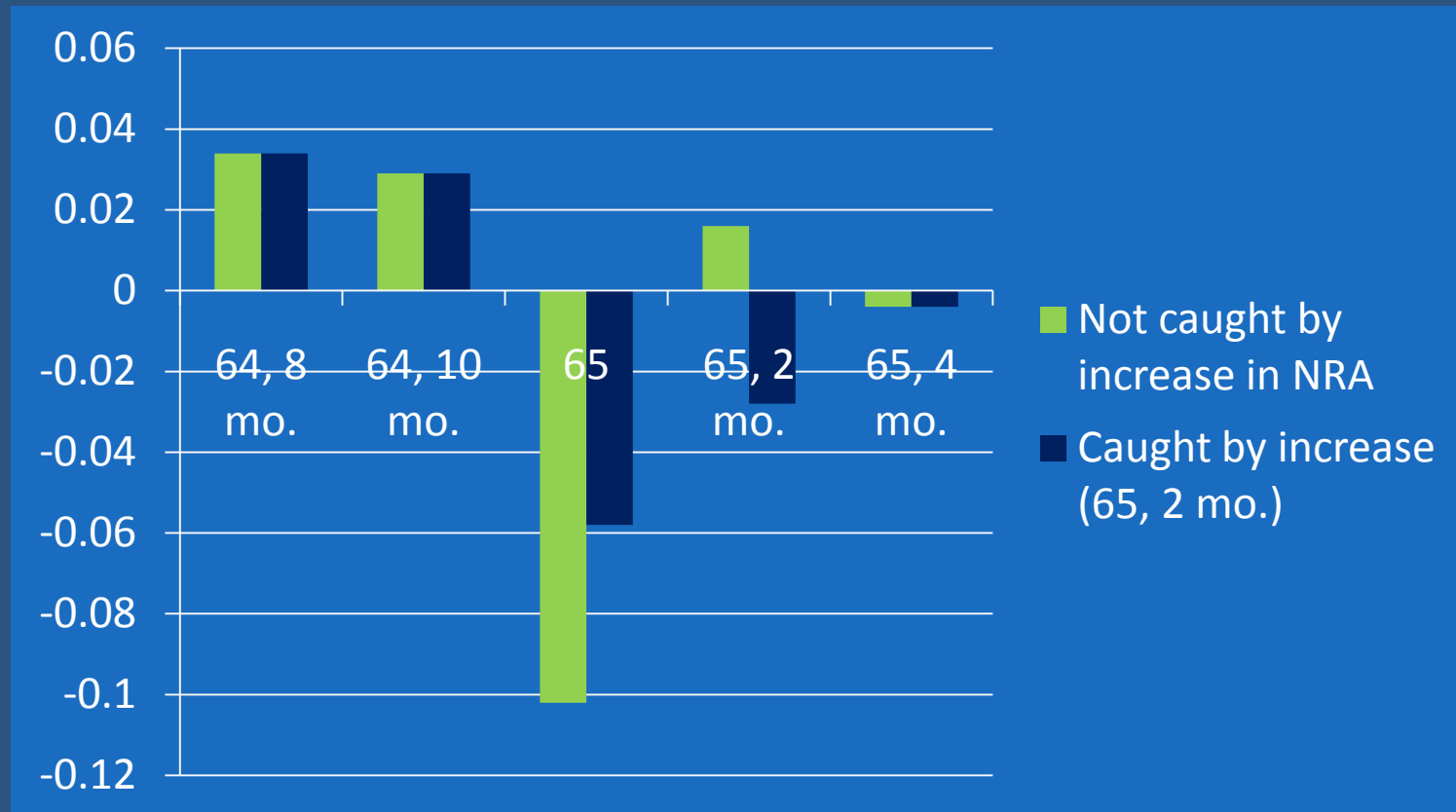
- Capture shift in behavior for those “caught” by increase in NRA
  - Flexibly capture age profiles of retirement and employment
  - Allow deviations from these profiles (with same long-run behavior) for those “caught” by increase in NRA
    - Those past age 65 but younger than NRA (because their NRA exceeds 65)
    - Those aged 62-65 but facing  $\text{NRA} > \text{age } 65$
- HRS data on men, 1992-2008, with state identifiers (for later analysis)



# Increase in NRA Delayed Retirement (Benefit Claiming)



# Increase in NRA Lengthened Period of Full-Time Employment



Similar, but weaker, for "any" employment

# Increases in NRA *Did* Change Behavior

- Those age 65 and over but younger than NRA retired (claimed benefits) later, and worked full-time longer
- Similarly (not shown), those aged 62-65 who faced later NRA were less likely to retire before age 65

# Did Stronger Age Discrimination Laws Enhance Impact of Increases in NRA?

- Estimate how effect of getting “caught” by increase in NRA varies in states with stronger age discrimination laws
- Empirical strategy is to compare responses to increases in NRA in states with and without stronger age discrimination laws
- Is the response bigger in states with stronger age discrimination laws?

# Simplified Example of Empirical Strategy

- NRA goes from 65 to 66, some states have stronger law
- States *without* stronger laws: compute change in  $P(\text{retirement})$  for 65 year-olds (relative to 64 and under, 66 and over) =  $\Delta R$
- States *with* stronger laws: compute change in  $P(\text{retirement})$  for 65 year-olds (relative to 64 and under, 66 and over) =  $\Delta R'$
- Is  $\Delta R' > \Delta R$ ? (both negative)

# Age Discrimination Laws 1992 and 2008 (I)

	<i>Firm size cutoff (employees)</i>		<i>Compensatory/punitive damages</i>	
Federal	20	20	Does not allow compensatory or punitive damages (only liquidated damages are allowed)	
	1992	2008	1992	2008
Alabama	No Law	20	No Law	No
Alaska	1	1	Yes	No
Arizona	15	15	Yes	Yes
Arkansas	No Law	No Law	No Law	No Law
California	5	5	Yes	Yes
Colorado	1	1	No	No
Connecticut	3	3	No	No

# Age Discrimination Laws 1992 and 2008 (II)

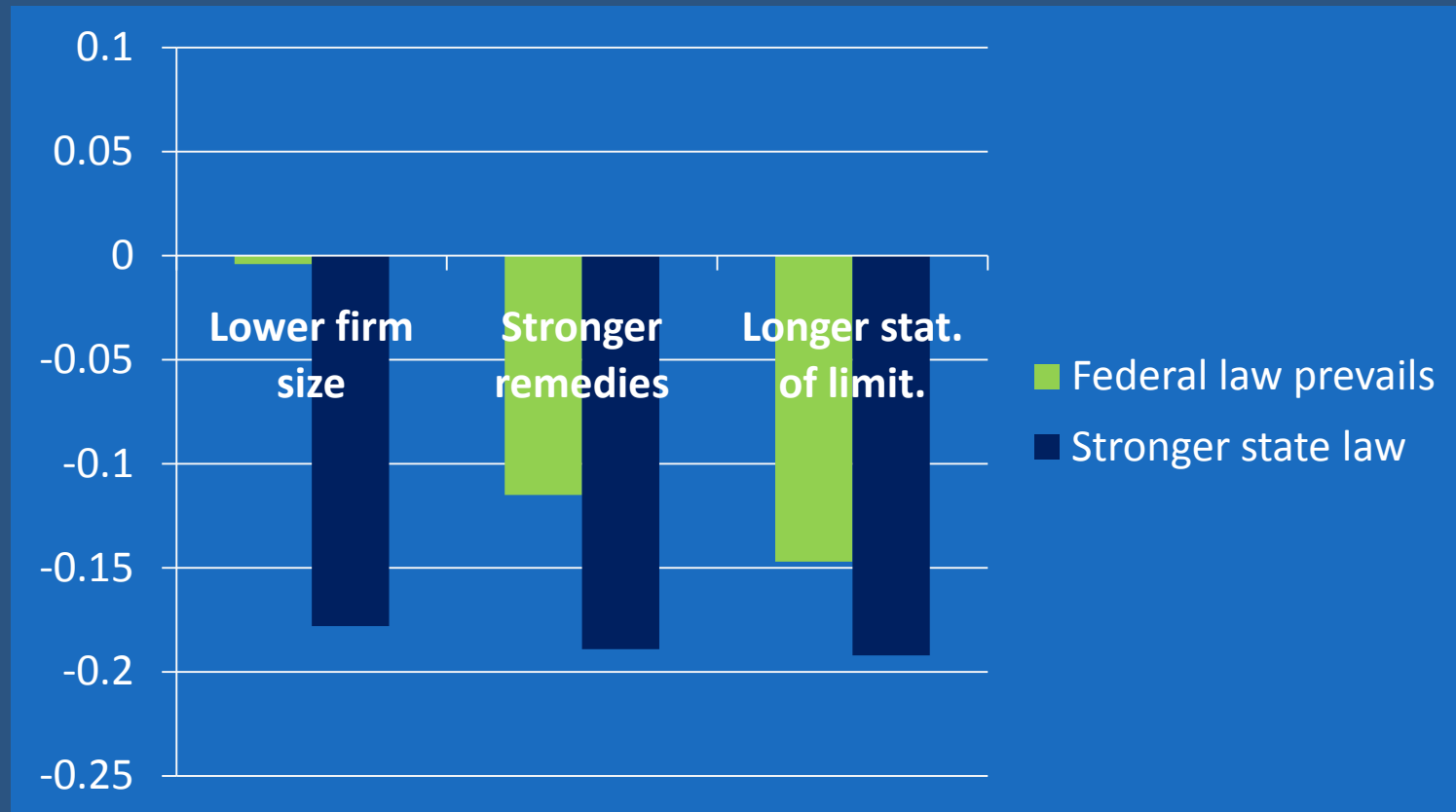
	<i>Statute of limitations (days)</i>		<i>Attorneys' fees</i>	
Federal	180 days; 300 days if there is a state age discrimination law and enforcing agency		Allows attorneys' fees to be recovered	
	1992	2008	1992	2008
Alabama	No law	180	No law	Yes
Alaska	Unknown	Not specified	Yes	Yes
Arizona	180	180	Yes	Yes
Arkansas	No law	No law	No law	No law
California	365	365	Yes	Yes
Colorado	180	180	No	No
Connecticut	180	180	No	No

# Coding of State Age Discrimination Laws

<i>State law feature</i>	<i>Is state law stronger?</i>	<i>ADEA</i>
Lower firm size	Covers firms with fewer than 20 employees	Covers firms with 20 or more employees
Stronger remedies	Allows compensatory and/or punitive damages either with or without proof of intent	Back pay and benefits; doubled ("liquidated damages") for willful violation
Longer statute of limitations	Filing period longer than 300 days in states with law and enforcement agency	180 days in states without law, 300 days for states with a state law and enforcement agency
Attorneys' fees	State law allows recovery of attorney's fees	Reasonable attorneys' fees and costs of the action can be recovered

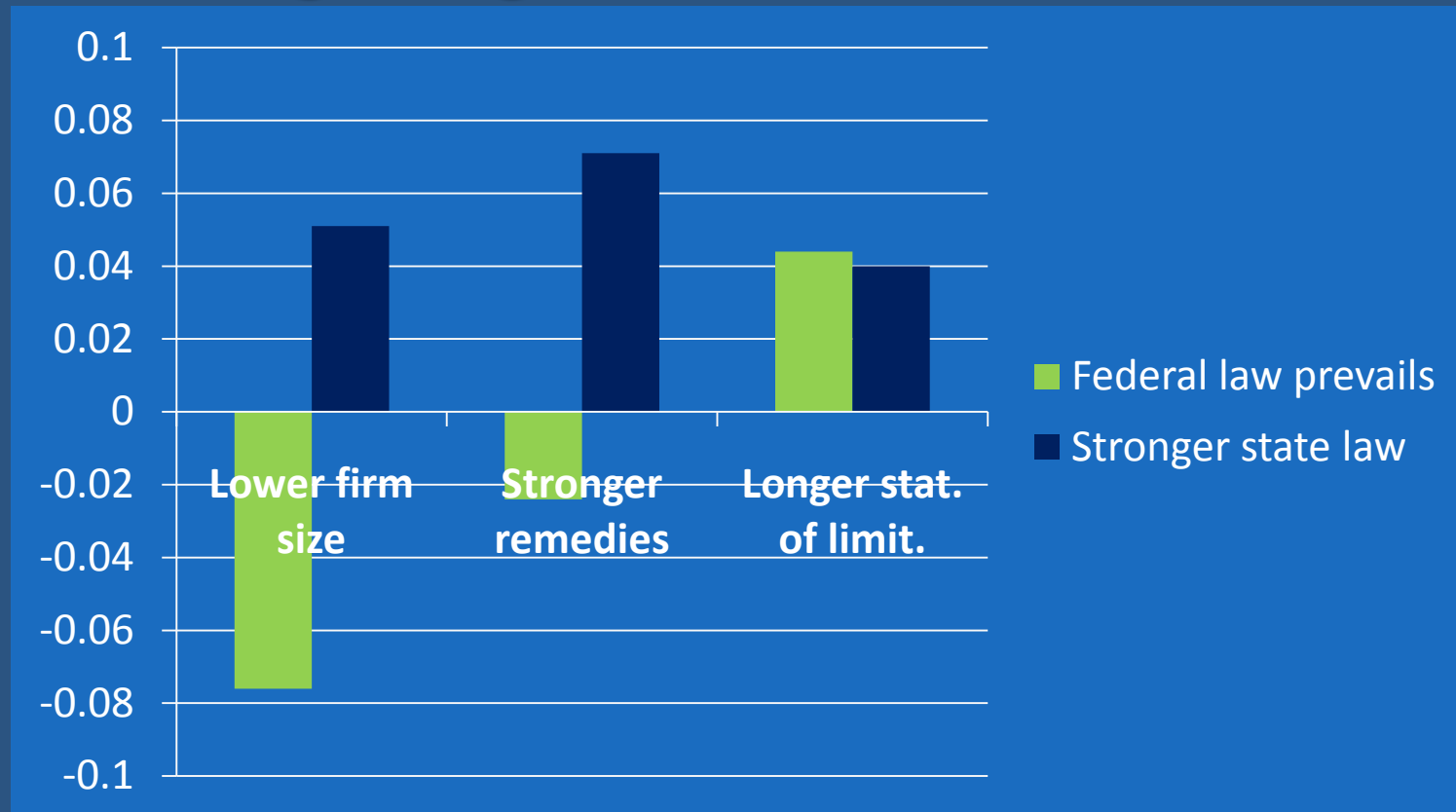


# NRA Reduced Retirement between 65 and NRA in States with Stronger Age Discrimination Laws



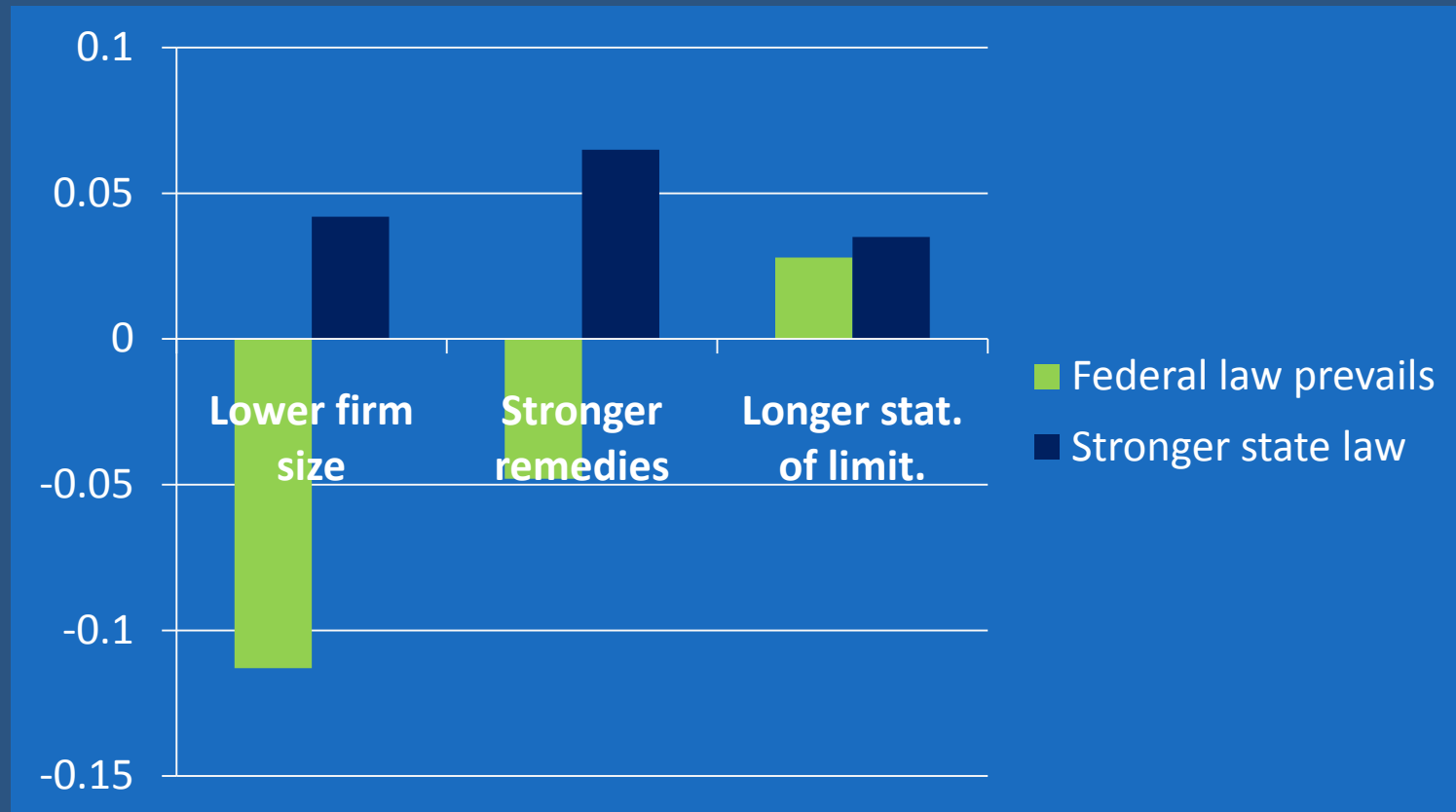
Statistical evidence strong for firm  
size, moderate for stronger remedies

# NRA Increased Full-Time Employment between 65 and NRA in States with Stronger Age Discrimination Laws



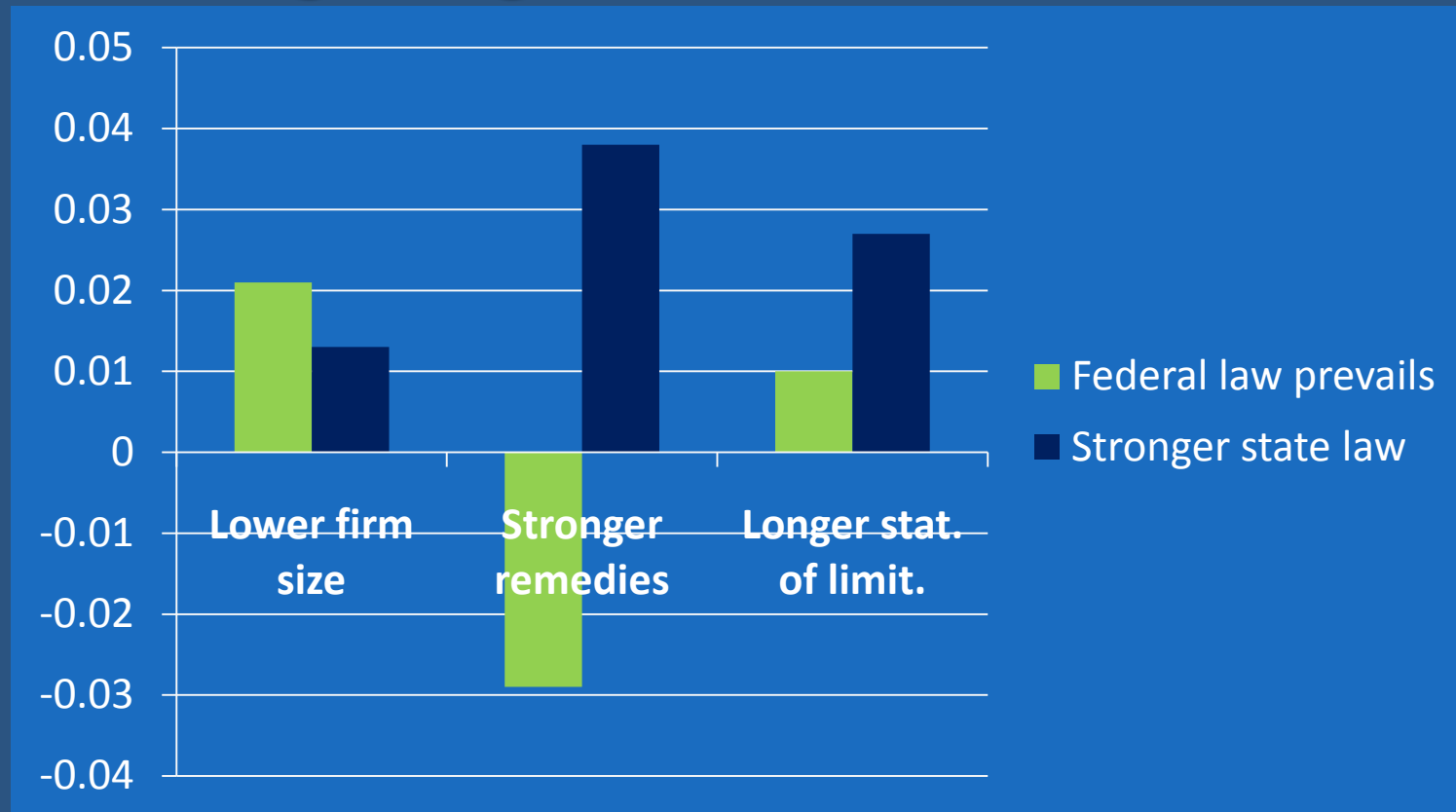
Statistical evidence moderate for firm size, strong for stronger remedies

# NRA Increased Any Employment between 65 and NRA in States with Stronger Age Discrimination Laws



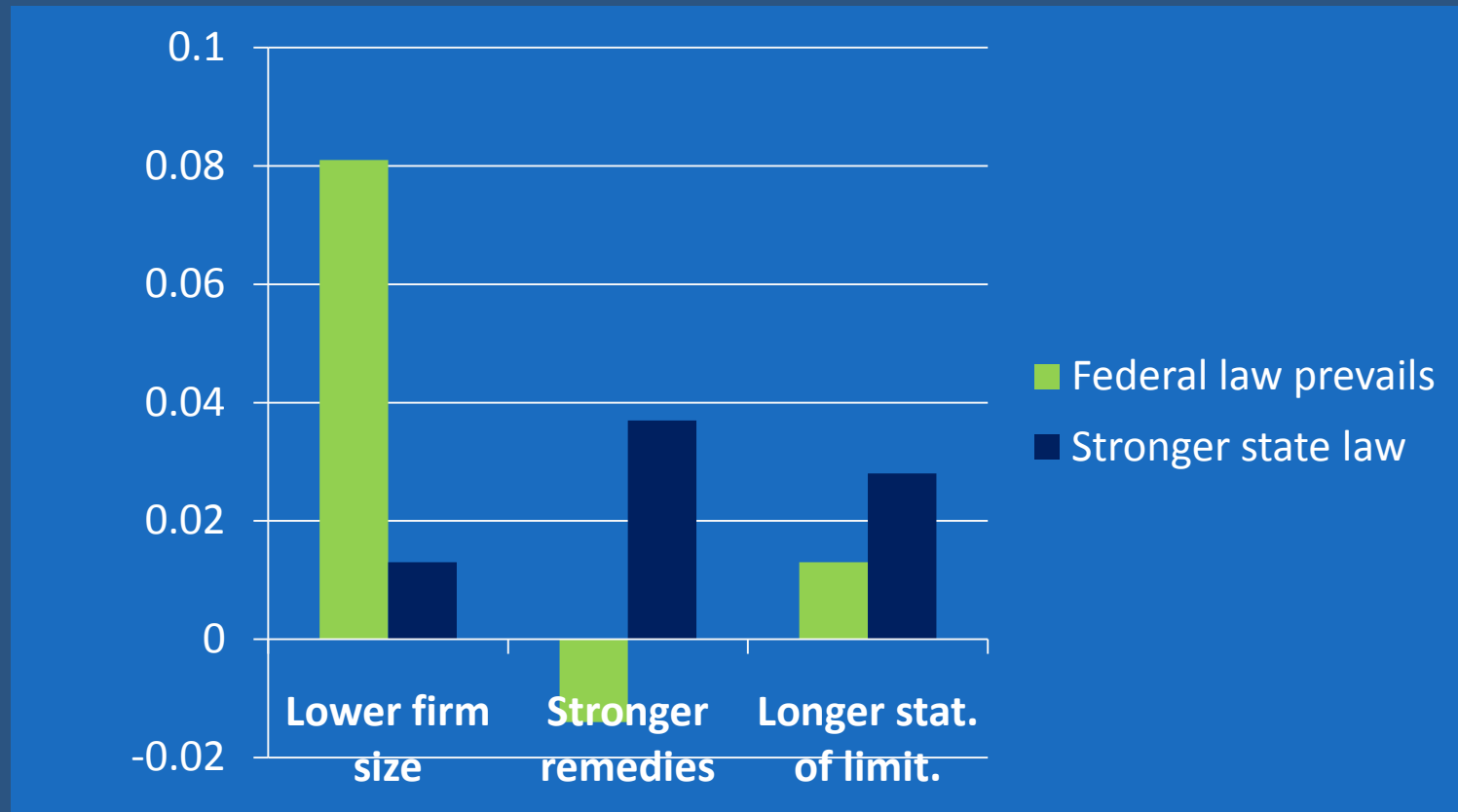
Statistical evidence strong for firm size and for stronger remedies

# NRA Increased Full-Time Employment between 62 and 65 in States with Stronger Age Discrimination Laws



Statistical evidence strong for  
stronger remedies

# NRA Increased Any Employment between 65 and NRA in States with Stronger Age Discrimination Laws



Statistical evidence moderate for stronger remedies, anomalous (?) for firm size

# Some Dimensions of State Age Discrimination Protections Enhance Effects of Higher NRA

- In states with stronger protections against age discrimination in the labor market, older individuals were more responsive to increases in the Social Security NRA
  - “Slower” retirement, and increased employment
  - Both ages 62-65 and over age 65 (below NRA)
  - Strongest, most robust findings for state age discrimination laws that entail stronger remedies—compensatory/punitive damages
  - In results not shown, *no* evidence that ability to recover attorneys’ fees under state age discrimination law strengthens effect

# Conclusions and Implications for Social Security

- To large extent, *only* in states with stronger age discrimination protections was the employment effect positive
  - Significant for Social Security solvency
  - Benefits taken before the NRA are actuarially adjusted, so taking benefits before the NRA does not directly affect financial solvency
  - But people working longer and paying more taxes improves solvency
- Whether or not true age discrimination underlies effects of age discrimination laws, stronger age discrimination protections get us more bang for our buck in trying to induce longer work lives

# Key Question for Future Research

- Is there more potential to reduce demand-side barriers than just mimicking state laws (esp. stronger remedies)?
- Lengthened employment for seniors entails bridge jobs, not just continuation in “career jobs” (Cahill et al., 2005; Johnson et al., 2009)—i.e., new hiring
- Current age discrimination laws probably ineffective, and may even deter hiring of older workers
- How do stronger age discrimination protections influence *dynamics* of employment—in particular hiring vs. retention?
- Hiring question key because enabling older workers to move to less demanding jobs may make increased work lives more tolerable