

House Bill 2260

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Dan Gardner)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows compensatory and punitive damages and other relief for unlawful employment practices based on race, religion, color, sex, national origin, marital status or age.

A BILL FOR AN ACT

1
2 Relating to unlawful employment practices; creating new provisions; and amending ORS 659A.885.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 659A.885 is amended to read:

5 659A.885. (1) Any individual claiming to be aggrieved by an unlawful practice specified in sub-
6 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
7 the court may order injunctive relief and such other equitable relief as may be appropriate, includ-
8 ing but not limited to reinstatement or the hiring of employees with or without back pay. A court
9 may order back pay in an action under this subsection only for the two-year period immediately
10 preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau of
11 Labor and Industries, or if a complaint was not filed before the action was commenced, the two-year
12 period immediately preceding the filing of the action. In any action under this subsection, the court
13 may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Except as
14 provided in subsection (3) of this section:

15 (a) The judge shall determine the facts in an action under this subsection; and

16 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
17 review the judgment pursuant to the standard established by ORS 19.415 (3).

18 (2) An action may be brought under subsection (1) of this section alleging a violation of ORS
19 25.337, 25.424, 171.120, 399.235, 476.574, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069,
20 659A.100 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.203, 659A.218, 659A.230, 659A.233,
21 659A.236, 659A.250 to 659A.262, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318 or 659A.421 (1) or
22 (3).

23 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
24 **659A.030**, 659A.040, 659A.043, 659A.046, 659A.069, 659A.100 to 659A.145, 659A.230, 659A.250 to
25 659A.262, 659A.318 or 659A.421 (1) or (3):

26 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
27 compensatory damages or \$200, whichever is greater, and punitive damages;

28 (b) At the request of any party, the action shall be tried to a jury;

29 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
30 ment pursuant to the standard established by ORS 19.415 (1); and

31 (d) Any attorney fee agreement shall be subject to approval by the court.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (4) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574,
2 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1)
3 of this section, compensatory damages or \$250, whichever is greater.

4 (5) Any individual against whom any distinction, discrimination or restriction on account of
5 race, color, religion, sex, national origin, marital status or age, if the individual is 18 years of age
6 or older, has been made by any place of public accommodation, as defined in ORS 659A.400, by any
7 person acting on behalf of [*such*] **the** place or by any person aiding or abetting [*such*] **the** place or
8 person in violation of ORS 659A.406 may bring an action against the operator or manager of [*such*]
9 **the** place, the employee or person acting on behalf of [*such*] **the** place or the aider or abettor of
10 [*such*] **the** place or person. Notwithstanding subsection (1) of this section, in an action under this
11 subsection:

12 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
13 compensatory and punitive damages;

14 (b) The operator or manager of the place of public accommodation, the employee or person
15 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
16 damages awarded in the action;

17 (c) At the request of any party, the action shall be tried to a jury;

18 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

19 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
20 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
21 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
22 and

23 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
24 judgment pursuant to the standard established by ORS 19.415 (1).

25 **SECTION 2. The amendments to ORS 659A.885 by section 1 of this 2007 Act apply to**
26 **actions commenced on or after the effective date of this 2007 Act.**

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