

**Enrolled**  
**House Bill 3686**

Sponsored by COMMITTEE ON EDUCATION (at the request of Ecumenical Ministries of Oregon, Oregon Family Council, Northwest Religious Liberty Association and Portland State University Muslim Student Association)

CHAPTER .....

AN ACT

Relating to unlawful discrimination in employment practices; creating new provisions; amending ORS 659A.033; repealing ORS 342.650 and 342.655; and prescribing an effective date.

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

**SECTION 1.** ORS 659A.033 is amended to read:

659A.033. (1) An employer violates ORS 659A.030 if:

(a) The employer does not allow an employee to use vacation leave, or other leave available to the employee, for the purpose of allowing the employee to engage in the religious observance or practices of the employee; and

(b) Reasonably accommodating use of the leave by the employee will not impose an undue hardship on the operation of the business of the employer as described in [subsection (4)] **subsections (4) and (5)** of this section.

(2) Subsection (1) of this section applies only to leave that is not restricted as to the manner in which the leave may be used and that the employer allows the employee to take by adjusting or altering the work schedule or assignment of the employee.

(3) An employer violates ORS 659A.030 if:

(a) The employer imposes an occupational requirement that restricts the ability of an employee to wear religious clothing **in accordance with the employee's sincerely held religious beliefs**, to take time off for a holy day or to take time off to participate in a religious observance or practice;

(b) Reasonably accommodating those activities does not impose an undue hardship on the operation of the business of the employer as described in [subsection (4)] **subsections (4) and (5)** of this section; and

(c) The activities have only a temporary or tangential impact on the employee's ability to perform the essential functions of the employee's job.

(4) A reasonable accommodation imposes an undue hardship on the operation of the business of the employer for the purposes of this section if the accommodation requires significant difficulty or expense. For the purpose of determining whether an accommodation requires significant difficulty or expense, the following factors shall be considered:

(a) The nature and the cost of the accommodation needed.

(b) The overall financial resources of the facility or facilities involved in the provision of the accommodation, the number of persons employed at the facility and the effect on expenses and resources or other impacts on the operation of the facility caused by the accommodation.

(c) The overall financial resources of the employer, the overall size of the business of the employer with respect to the number of persons employed by the employer and the number, type and location of the employer's facilities.

(d) The type of business operations conducted by the employer, including the composition, structure and functions of the workforce of the employer and the geographic separateness and administrative or fiscal relationship of the facility or facilities of the employer.

(e) The safety and health requirements in a facility, including requirements for the safety of other employees and any other person whose safety may be adversely impacted by the requested accommodation.

**(f) The degree to which an accommodation may constrain the obligation of a school district, education service district or public charter school to maintain a religiously neutral work environment.**

**(5) A reasonable accommodation imposes an undue hardship on the operation of the business of the employer for the purposes of this section if the accommodation would constrain the legal obligation of a school district, education service district or public charter school to:**

**(a) Maintain religious neutrality in the school environment; or**

**(b) Refrain from endorsing religion.**

**SECTION 2. The amendments to ORS 659A.033 by section 1 of this 2010 Act apply only to conduct that occurs on or after the effective date of this 2010 Act.**

**SECTION 3. ORS 342.650 and 342.655 are repealed.**

**SECTION 4. This 2010 Act takes effect on July 1, 2011.**

Passed by House February 10, 2010

Received by Governor:

Repassed by House February 23, 2010

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Approved:

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Chief Clerk of House

.....M.,....., 2010

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Speaker of House

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Governor

Passed by Senate February 23, 2010

Filed in Office of Secretary of State:

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President of Senate

.....M.,....., 2010

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Secretary of State