

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 3207

By COMMITTEE ON VETERANS' AND MILITARY AFFAIRS

June 6

1 In line 2 of the printed A-engrossed bill, after “positions” insert “; creating new provisions; and
2 amending ORS 659A.885”.

3 Delete lines 6 through 13 and insert:

4 **“SECTION 2. (1) As used in this section:**

5 **“(a) ‘Eligibility list’ means a list of ranked eligible candidates for a civil service position
6 who have become eligible for the position through a test or series of tests and who will be
7 considered for the civil service position in ranked order.**

8 **“(b) ‘Transferable skill’ means a skill that a veteran has obtained through military edu-
9 cation or experience that substantially relates, directly or indirectly, to the civil service po-
10 sition for which the veteran is applying.**

11 **“(2) When an interview is a component of the selection process for a civil service position
12 or for an eligibility list for a civil service position, a public employer shall interview each
13 veteran:**

14 **“(a) Whom the public employer determines meets the minimum qualifications and special
15 qualifications for the civil service position or eligibility list; and**

16 **“(b) Who submits application materials that the public employer determines show suffi-
17 cient evidence that the veteran has the transferable skills required and requested by the
18 public employer for the civil service position or eligibility list.**

19 **“(3) A public employer is not required to comply with subsection (2) of this section if the
20 employer conducts interviews only as part of the process of selecting a candidate for a civil
21 service position from an eligibility list.**

22 **“(4) A public employer may consult with the Oregon Military Department and the De-
23 partment of Veterans’ Affairs to determine whether certain military education or experience
24 produces a transferable skill.**

25 **“(5) The Department of Veterans’ Affairs shall provide training to veterans on how to
26 show evidence of transferable skills in an application for a civil service position or eligibility
27 list.**

28 **“(6) Violation of subsection (2) of this section is an unlawful employment practice under
29 ORS chapter 659A.**

30 **“(7) A veteran claiming to be aggrieved by a violation of subsection (2) of this section
31 may file a complaint under ORS 659A.820.**

32 **“SECTION 3. ORS 659A.885, as amended by section 3, chapter 102, Oregon Laws 2010, is
33 amended to read:**

34 **“659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
35 section (2) of this section may file a civil action in circuit court. In any action under this subsection,**

1 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
2 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
3 court may order back pay in an action under this subsection only for the two-year period imme-
4 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
5 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
6 year period immediately preceding the filing of the action. In any action under this subsection, the
7 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
8 cept as provided in subsection (3) of this section:

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

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

12 “(2) An action may be brought under subsection (1) of this section alleging a violation of ORS
13 25.337, 25.424, 171.120, 408.230, 476.574, 652.355, 653.060, 659A.030, 659A.040, 659A.043, 659A.046,
14 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186, 659A.194,
15 659A.199, 659A.203, 659A.218, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277,
16 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318 or 659A.421, [or] section 2, chapter 102,
17 Oregon Laws 2010, or **section 2 (2) of this 2011 Act**.

18 “(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
19 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199,
20 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318 or 659A.421:

21 “(a) The court may award, in addition to the relief authorized under subsection (1) of this sec-
22 tion, compensatory damages or \$200, whichever is greater, and punitive damages;

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

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

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

27 “(4) In any action under subsection (1) of this section alleging a violation of ORS 652.355 or
28 653.060, the court may award, in addition to the relief authorized under subsection (1) of this section,
29 compensatory damages or \$200, whichever is greater.

30 “(5) In any action under subsection (1) of this section alleging a violation of ORS 171.120,
31 476.574, 659A.203 or 659A.218, the court may award, in addition to the relief authorized under sub-
32 section (1) of this section, compensatory damages or \$250, whichever is greater.

33 “(6) Any individual against whom any distinction, discrimination or restriction on account of
34 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
35 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
36 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
37 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
38 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
39 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
40 section:

41 “(a) The court may award, in addition to the relief authorized under subsection (1) of this sec-
42 tion, compensatory and punitive damages;

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

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

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

3 “(e) The court may award reasonable attorney fees and expert witness fees incurred by a de-

4 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable

5 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;

6 and

7 “(f) Upon any appeal of a judgment under this subsection, the appellate court shall review the

8 judgment pursuant to the standard established by ORS 19.415 (1).

9 “(7) When the commissioner or the Attorney General has reasonable cause to believe that a

10 person or group of persons is engaged in a pattern or practice of resistance to the rights protected

11 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied

12 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner

13 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same

14 manner as a person or group of persons may file a civil action under this section. In a civil action

15 filed under this subsection, the court may assess against the respondent, in addition to the relief

16 authorized under subsections (1) and (3) of this section, a civil penalty:

17 “(a) In an amount not exceeding \$50,000 for a first violation; and

18 “(b) In an amount not exceeding \$100,000 for any subsequent violation.

19 “(8) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or

20 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing

21 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to

22 the commissioner if the commissioner prevails in the action. The court may award reasonable at-

23 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court

24 determines that the commissioner had no objectively reasonable basis for asserting the claim or for

25 appealing an adverse decision of the trial court.

26 “(9) In an action under subsection (1) or (7) of this section alleging a violation of ORS 659A.145

27 or 659A.421 or discrimination under federal housing law:

28 “(a) ‘Aggrieved person’ includes a person who believes that the person:

29 “(A) Has been injured by an unlawful practice or discriminatory housing practice; or

30 “(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to

31 occur.

32 “(b) An aggrieved person in regard to issues to be determined in an action may intervene as of

33 right in the action. The Attorney General may intervene in the action if the Attorney General

34 certifies that the case is of general public importance. The court may allow an intervenor prevailing

35 party costs and reasonable attorney fees at trial and on appeal.”.

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