

## HOUSE AMENDMENTS TO HOUSE BILL 3025

By COMMITTEE ON BUSINESS AND LABOR

April 24

1 On page 1 of the printed bill, line 2, after “provisions;” insert “and”.

2 In line 3, after “659A.885” insert a period and delete the rest of the line.

3 Delete lines 5 through 30 and delete pages 2 through 5 and insert:

4 **“SECTION 1. It is an unlawful employment practice for an employer to:**

5 **“(1) Use job application forms that inquire into the conviction history of an applicant for**  
6 **employment;**

7 **“(2) Inquire into or consider the conviction history of an applicant for employment prior**  
8 **to conducting an interview with the applicant; or**

9 **“(3) Inquire into or consider the conviction history of an applicant for employment prior**  
10 **to making a conditional offer of employment to the applicant when no interview is conducted.**

11 **“SECTION 2.** ORS 659A.885 is amended to read:

12 **“659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-**  
13 **section (2) of this section may file a civil action in circuit court. In any action under this subsection,**  
14 **the court may order injunctive relief and any other equitable relief that may be appropriate, in-**  
15 **cluding but not limited to reinstatement or the hiring of employees with or without back pay. A**  
16 **court may order back pay in an action under this subsection only for the two-year period imme-**  
17 **diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau**  
18 **of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-**  
19 **year period immediately preceding the filing of the action. In any action under this subsection, the**  
20 **court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-**  
21 **cept as provided in subsection (3) of this section:**

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

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

25 **“(2) An action may be brought under subsection (1) of this section alleging a violation of ORS**  
26 **10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 476.574, 652.355, 653.060, 659A.030,**  
27 **659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145,**  
28 **659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233,**  
29 **659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315,**  
30 **659A.318, 659A.320 or 659A.421 or section 1 of this 2015 Act.**

31 **“(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,**  
32 **659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199,**  
33 **659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318 or 659A.421:**

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

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

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

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

4           “(4) In any action under subsection (1) of this section alleging a violation of ORS 652.355 or

5           653.060, the court may award, in addition to the relief authorized under subsection (1) of this section,

6           compensatory damages or \$200, whichever is greater.

7           “(5) In any action under subsection (1) of this section alleging a violation of ORS 171.120,

8           476.574, 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$250, whichever is greater.

9           “(6) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or

10           10.092, the court may award, in addition to the relief authorized under subsection (1) of this section,

11           a civil penalty in the amount of \$720.

12           “(7) Any individual against whom any distinction, discrimination or restriction on account of

13           race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual

14           is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS

15           659A.400, by any employee or person acting on behalf of the place or by any person aiding or

16           abetting the place or person in violation of ORS 659A.406 may bring an action against the operator

17           or manager of the place, the employee or person acting on behalf of the place or the aider or abettor

18           of the place or person. Notwithstanding subsection (1) of this section, in an action under this subsection:

19           “(a) The court may award, in addition to the relief authorized under subsection (1) of this section,

20           compensatory and punitive damages;

21           “(b) The operator or manager of the place of public accommodation, the employee or person

22           acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all

23           damages awarded in the action;

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

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

26           “(e) The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails only if the court determines that the plaintiff had no objectively reasonable

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

28           and

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing  
2 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to  
3 the commissioner if the commissioner prevails in the action. The court may award reasonable at-  
4 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court  
5 determines that the commissioner had no objectively reasonable basis for asserting the claim or for  
6 appealing an adverse decision of the trial court.

7 “(10) In an action under subsection (1) or (8) of this section alleging a violation of ORS 659A.145  
8 or 659A.421 or discrimination under federal housing law:

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

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

11 “(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to  
12 occur.

13 “(b) An aggrieved person in regard to issues to be determined in an action may intervene as of  
14 right in the action. The Attorney General may intervene in the action if the Attorney General  
15 certifies that the case is of general public importance. The court may allow an intervenor prevailing  
16 party costs and reasonable attorney fees at trial and on appeal.”.

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