

D R A F T

SUMMARY

Creates Community Outreach and Labor Education Program within Bureau of Labor and Industries to promote awareness of employee rights. Appropriates moneys from General Fund to bureau for program outreach, education and technical assistance.

Enhances remedies for violations of certain employee rights.

Declares emergency, effective July 1, 2017.

A BILL FOR AN ACT

1
2 Relating to employee rights in the workplace; creating new provisions;
3 amending ORS 659A.885; and declaring an emergency.

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

5 **SECTION 1. (1) There is created the Community Outreach and La-**
6 **bor Education Program within the Apprenticeship and Training Divi-**
7 **sion of the Bureau of Labor and Industries, as a grant program to fund**
8 **outreach, education and technical assistance to Oregon workers per-**
9 **taining to employee rights in the workplace.**

10 **(2) Grants provided through the Community Outreach and Labor**
11 **Education Program may be used for activities including:**

- 12 **(a) Door-to-door outreach;**
13 **(b) Community-based education events;**
14 **(c) Training materials;**
15 **(d) Technical assistance;**
16 **(e) Counseling; and**
17 **(f) Referral services.**

18 **(3) When considering applications for grants, the program admin-**

1 **istrators shall give priority to pilot projects that provide services to:**

2 **(a) Low-wage workers;**

3 **(b) Women;**

4 **(c) Immigrant and refugee workers;**

5 **(d) Lesbian, gay, bisexual or transgender individuals;**

6 **(e) Workers under 20 years of age;**

7 **(f) Disabled workers; and**

8 **(g) Workers of color.**

9 **(4) Grants will be distributed in a manner that ensures populations**
10 **around the state will be served and reached.**

11 **(5) Grant recipients must have experience serving the populations**
12 **they propose serving with grant funds.**

13 **SECTION 2. In addition to and not in lieu of any other appropri-**
14 **ation, there is appropriated to the Bureau of Labor and Industries, for**
15 **the biennium beginning July 1, 2017, out of the General Fund, the**
16 **amount of \$_____, for grants described in section 1 of this 2017 Act.**

17 **SECTION 3. ORS 659A.885, as amended by section 5, chapter 73, Oregon**
18 **Laws 2016, is amended to read:**

19 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice
20 specified in subsection (2) of this section may file a civil action in circuit
21 court. In any action under this subsection, the court may order injunctive
22 relief and any other equitable relief that may be appropriate, including but
23 not limited to reinstatement or the hiring of employees with or without back
24 pay. A court may order back pay in an action under this subsection only for
25 the two-year period immediately preceding the filing of a complaint under
26 ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries,
27 or if a complaint was not filed before the action was commenced, the two-
28 year period immediately preceding the filing of the action. In any action
29 under this subsection, the court may allow the prevailing party costs and
30 reasonable attorney fees at trial and on appeal. Except as provided in sub-
31 section (3) of this section:

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

3 (b) Upon any appeal of a judgment in an action under this subsection, the
4 appellate court shall review the judgment pursuant to the standard estab-
5 lished by ORS 19.415 (3).

6 (2) An action may be brought under subsection (1) of this section alleging
7 a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2),
8 475B.233, 476.574, 652.355, 653.060, 653.601 to 653.661, 659.852, 659A.030,
9 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103
10 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218,
11 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277,
12 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320,
13 659A.355, 659A.421, 653.547 or 653.549.

14 (3) In any action under subsection (1) of this section alleging a violation
15 of ORS 25.337, 25.424, **652.355, 653.060, 653.601 to 653.661**, 659.852, 659A.030,
16 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145,
17 **659A.150 to 659A.186, 659A.194**, 659A.199, 659A.203, 659A.228, 659A.230,
18 659A.250 to 659A.262, **659A.277**, 659A.290, 659A.318, 659A.421, 653.547 or
19 653.549:

20 (a) The court may award, in addition to the relief authorized under sub-
21 section (1) of this section, compensatory damages or \$200, whichever is
22 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
25 shall review the judgment pursuant to the standard established by ORS
26 19.415 (1); and

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

28 (4) In any action under subsection (1) of this section alleging a violation
29 of ORS [652.355 or 653.060] **659A.355**, the court may award, in addition to the
30 relief authorized under subsection (1) of this section, compensatory damages
31 or \$200, whichever is greater.

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

5 (6) In any action under subsection (1) of this section alleging a violation
6 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-
7 thorized under subsection (1) of this section, a civil penalty in the amount
8 of \$720.

9 (7) Any individual against whom any distinction, discrimination or re-
10 striction on account of race, color, religion, sex, sexual orientation, national
11 origin, marital status or age, if the individual is 18 years of age or older,
12 has been made by any place of public accommodation, as defined in ORS
13 659A.400, by any employee or person acting on behalf of the place or by any
14 person aiding or abetting the place or person in violation of ORS 659A.406
15 may bring an action against the operator or manager of the place, the em-
16 ployee or person acting on behalf of the place or the aider or abettor of the
17 place or person. Notwithstanding subsection (1) of this section, in an action
18 under this subsection:

19 (a) The court may award, in addition to the relief authorized under sub-
20 section (1) of this section, compensatory and punitive damages;

21 (b) The operator or manager of the place of public accommodation, the
22 employee or person acting on behalf of the place, and any aider or abettor
23 shall be jointly and severally liable for all 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
26 plaintiff;

27 (e) The court may award reasonable attorney fees and expert witness fees
28 incurred by a defendant who prevails only if the court determines that the
29 plaintiff had no objectively reasonable basis for asserting a claim or no
30 reasonable basis for appealing an adverse decision of a trial court; and

31 (f) Upon any appeal of a judgment under this subsection, the appellate

1 court shall review the judgment pursuant to the standard established by ORS
2 19.415 (1).

3 (8) When the commissioner or the Attorney General has reasonable cause
4 to believe that a person or group of persons is engaged in a pattern or
5 practice of resistance to the rights protected by ORS 659A.145 or 659A.421
6 or federal housing law, or that a group of persons has been denied any of the
7 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
8 commissioner or the Attorney General may file a civil action on behalf of
9 the aggrieved persons in the same manner as a person or group of persons
10 may file a civil action under this section. In a civil action filed under this
11 subsection, the court may assess against the respondent, in addition to the
12 relief authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

15 (9) In any action under subsection (1) of this section alleging a violation
16 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing
17 law, when the commissioner is pursuing the action on behalf of an aggrieved
18 complainant, the court shall award reasonable attorney fees to the commis-
19 sioner if the commissioner prevails in the action. The court may award rea-
20 sonable attorney fees and expert witness fees incurred by a defendant that
21 prevails in the action if the court determines that the commissioner had no
22 objectively reasonable basis for asserting the claim or for appealing an ad-
23 verse decision of the trial court.

24 (10) In an action under subsection (1) or (8) of this section alleging a vi-
25 olation of ORS 659A.145 or 659A.421 or discrimination under federal housing
26 law:

27 (a) "Aggrieved person" includes a person who believes that the person:

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

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

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

6 **SECTION 4. This 2017 Act being necessary for the immediate pres-**
7 **ervation of the public peace, health and safety, an emergency is de-**
8 **clared to exist, and this 2017 Act takes effect July 1, 2017.**

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