

Requested by Representative SOSA

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2800**

1 On page 1 of the printed bill, delete lines 7 through 19 and insert:

2 **“SECTION 2. (1) For purposes of ORS 659A.030, the phrase ‘because**  
3 **of age’ includes, but is not limited to, factors that are closely associ-**  
4 **ated with, correlated with or used as a proxy for age.**

5 **“(2) Factors that are closely associated with, correlated with or**  
6 **used as a proxy for age include, but are not limited to:**

7 **“(a) Salary;**

8 **“(b) Length of service with an employer;**

9 **“(c) Higher cost factors relating to pension benefits, other retire-**  
10 **ment benefits or any insurance benefits; or**

11 **“(d) Retirement or pension eligibility and status.**

12 **“(3) The provisions of this section do not prohibit an employer,**  
13 **employment agency or labor organization from:**

14 **“(a) Taking an employment action that is based on a factor listed**  
15 **in subsection (2) of this section provided that age is not a factor in**  
16 **determining whether to take the employment action.**

17 **“(b) Taking an employment action pursuant to a bona fide seniority**  
18 **system provided that the seniority system does not, except as provided**  
19 **in ORS 659A.030 (3), require or permit the involuntary retirement of**  
20 **any employee because of the employee’s age.”.**

21 On page 2, delete lines 12 through 45.

1 On page 3, delete lines 1 through 32 and insert:

2 **“SECTION 4.** ORS 659A.030 is amended to read:

3 “659A.030. (1) It is an unlawful employment practice:

4 “(a) For an employer, because of an individual’s race, color, religion, sex,  
5 sexual orientation, gender identity, national origin, marital status or age if  
6 the individual is 18 years of age or older, or because of the race, color, re-  
7 ligious, sex, sexual orientation, gender identity, national origin, marital sta-  
8 tus or age of any other person with whom the individual associates, or  
9 because of an individual’s juvenile record that has been expunged pursuant  
10 to ORS 419A.260 to 419A.271, to refuse to hire or employ the individual or  
11 to bar or discharge the individual from employment. However, discrimination  
12 is not an unlawful employment practice if the discrimination results from a  
13 bona fide occupational qualification reasonably necessary to the normal op-  
14 eration of the employer’s business.

15 “(b) For an employer, because of an individual’s race, color, religion, sex,  
16 sexual orientation, gender identity, national origin, marital status or age if  
17 the individual is 18 years of age or older, or because of the race, color, re-  
18 ligious, sex, sexual orientation, gender identity, national origin, marital sta-  
19 tus or age of any other person with whom the individual associates, or  
20 because of an individual’s juvenile record that has been expunged pursuant  
21 to ORS 419A.260 to 419A.271, to discriminate against the individual in com-  
22 pensation or in terms, conditions or privileges of employment.

23 “(c) For a labor organization, because of an individual’s race, color, reli-  
24 gion, sex, sexual orientation, gender identity, national origin, marital status  
25 or age if the individual is 18 years of age or older, or because of an  
26 individual’s juvenile record that has been expunged pursuant to ORS  
27 419A.260 to 419A.271, to exclude or to expel from its membership the indi-  
28 vidual or to discriminate in any way against the individual or any other  
29 person.

30 “(d) For any employer or employment agency to print or circulate or

1 cause to be printed or circulated any statement, advertisement or publica-  
2 tion, or to use any form of application for employment or to make any in-  
3 quiry in connection with prospective employment that expresses directly or  
4 indirectly any limitation, specification or discrimination as to an individual's  
5 race, color, religion, sex, sexual orientation, gender identity, national origin,  
6 marital status or age if the individual is 18 years of age or older, or on the  
7 basis of an expunged juvenile record, or any intent to make any such limi-  
8 tation, specification or discrimination, unless based upon a bona fide occu-  
9 pational qualification. Identification of prospective employees according to  
10 race, color, religion, sex, sexual orientation, gender identity, national origin,  
11 marital status or age does not violate this section unless the Commissioner  
12 of the Bureau of Labor and Industries, after a hearing conducted pursuant  
13 to ORS 659A.805, determines that the designation expresses an intent to  
14 limit, specify or discriminate on the basis of race, color, religion, sex, sexual  
15 orientation, gender identity, national origin, marital status or age.

16 “(e) For an employment agency, because of an individual's race, color,  
17 religion, sex, sexual orientation, gender identity, national origin, marital  
18 status or age if the individual is 18 years of age or older, or because of the  
19 race, color, religion, sex, sexual orientation, gender identity, national origin,  
20 marital status or age of any other person with whom the individual associ-  
21 ates, or because of an individual's juvenile record that has been expunged  
22 pursuant to ORS 419A.260 to 419A.271, to classify or refer for employment,  
23 or to fail or refuse to refer for employment, or otherwise to discriminate  
24 against the individual. However, it is not an unlawful employment practice  
25 for an employment agency to classify or refer for employment an individual  
26 when the classification or referral results from a bona fide occupational  
27 qualification reasonably necessary to the normal operation of the employer's  
28 business.

29 “(f) For any person to discharge, expel or otherwise discriminate against  
30 any other person because that other person has opposed any unlawful prac-

1 tice, or because that other person has filed a complaint, testified or assisted  
2 in any proceeding under this chapter or has attempted to do so.

3 “(g) For any person, whether an employer or an employee, to aid, abet,  
4 incite, compel or coerce the doing of any of the acts forbidden under this  
5 chapter or to attempt to do so.

6 “(2) The provisions of this section apply to an apprentice under ORS  
7 660.002 to 660.210[, *but the selection of an apprentice on the basis of the ability*  
8 *to complete the required apprenticeship training before attaining the age of 70*  
9 *years is not an unlawful employment practice*]. The commissioner shall ad-  
10 minister this section with respect to apprentices under ORS 660.002 to  
11 660.210 equally with regard to all employees and labor organizations.

12 “(3) The compulsory retirement of employees required by law at any age  
13 is not an unlawful employment practice if lawful under federal law.

14 “(4)(a) It is not an unlawful employment practice for an employer or labor  
15 organization to provide or make financial provision for child care services  
16 of a custodial or other nature to its employees or members who are respon-  
17 sible for a minor child.

18 “(b) As used in this subsection, ‘responsible for a minor child’ means  
19 having custody or legal guardianship of a minor child or acting in loco  
20 parentis to the child.

21 “(5) This section does not prohibit an employer from enforcing an other-  
22 wise valid dress code or policy, as long as the employer provides, on a  
23 case-by-case basis, for reasonable accommodation of an individual based on  
24 the health and safety needs of the individual and the dress code or policy  
25 does not have a disproportionate adverse impact on members of a protected  
26 class to a greater extent than the policy impacts persons generally.”.

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