

Testimony of Cathy Ventrell-Monsees
Age Equity LLC
On behalf of AARP Oregon
In Support of HB 2800 Before the House Business and Labor Committee
February 6, 2023

Thank you for this opportunity to testify about the importance of House Bill 2800. I'm Cathy Ventrell-Monsees and my entire career has focused on the pervasive problem of age discrimination and solutions to ensure fairness and equity in the workplace for older workers. I'm the author of a treatise called Age Discrimination Litigation, which examines and explains cases, studies, and trends in age discrimination. I was involved in every amendment to the federal Age Discrimination in Employment Act (ADEA) since 1985 and have also advised advocacy groups in several states on provisions to strengthen their state employment discrimination laws.

I'd like to highlight a few points to give context to the need for this bill. First, age discrimination remains pervasive in today's workplace as AARP's surveys have shown.

Second, clear and strong protections against age discrimination in Oregon's law are critical because Oregon courts frequently rely on federal court interpretations of the federal age law. The federal ADEA has been severely weakened by courts narrowly interpreting what constitutes age discrimination, specifically allowing employers to discriminate based on age-related factors such as length of service, retirement eligibility and salary. That means less protection against age discrimination than race or sex discrimination. That's wrong and fundamentally unfair.

By clarifying the meaning and scope of "because of age," the Oregon legislature instructs courts to examine more closely whether a characteristic associated with age essentially serves as a proxy for age discrimination. Just as the Oregon legislature clarified the meaning of "because of race" to include traits historically associated or perceived to be associated with race, this bill would add characteristics associated with age within the meaning of "because of age." That would give real meaning to the protections against age discrimination in Oregon law.

Another key fix in HB 2800 is the ban on age-related inquiries in the hiring process. It is well documented that employers routinely seek age-related information from applicants, particularly in online systems. Inquiries into an applicant's date of birth or date of college graduation allow ageist stereotypes to taint the hiring process and unfairly screen out and deter older applicants. Banning age-related inquiries from applications and the interview process will make the hiring process fair and equitable – just as banning inquiries into an applicant's criminal history have worked to do the same.

Finally, HB 2800 repeals a provision that permitted an age limit in apprenticeship programs. Federal law prohibits such age limits so this repeal removes an outdated provision and makes clear that age should not limit one's opportunities.

The bottom line is that this narrow bill will give the protections against age discrimination in Oregon law, the same import as the protections against race or sex discrimination. That is a matter of fundamental fairness that I hope you all can support.

I appreciate the opportunity to testify and urge this committee to pass HB 2800.