



Date: February 6th, 2023
To: House Committee on Business and Labor
From: Crystalyn Black, Policy Analyst for the Urban League of Portland
Re: Support for Protect Older Workers, HB 2800

Chair Holvey, Vice-Chairs Elmer and Sosa, and Members of the Committee:

My name is Crystalyn Black, and I am a Policy Analyst with the Urban League of Portland and I respectfully submit this testimony in support of House Bill 2800. The Urban League of Portland is one of Oregon's oldest civil rights and social service organizations, empowering African Americans and others to achieve equality in education, employment, health, economic security, and quality of life to thrive across Oregon and SW Washington.

Oregonians need stronger workplace antidiscrimination protections surrounding age. According to AARP's "Age Discrimination in Oregon: A survey of Adults Ages 40+" report, "more than three in five Oregonians ages 40+ (62%) have seen or experienced age discrimination in the workplace".¹ Outcomes are exacerbated for Black households when 48% of Black Oregonians have an income below the Self-Sufficiency Standard which is determined by major financial considerations such as housing, childcare, food, health care, transportation, and taxes.²

The pandemic hit young women of color especially hard when it came to employment and facing increased levels of harassment and discrimination in the workplace, especially for those workers deemed as "essential." In a survey conducted by the advocacy nonprofit One Fair Wage in partnership with the University of California, Berkeley's Food Labor Research Center, "Nearly half of women working in restaurant positions where they receive tips said they have experienced increased harassment from customers or supervisors during the two years of the pandemic"³ and "seventy-three percent of all women and 78 percent of women of color in these jobs said they regularly endure or witness 'sexual behaviors from customers that make them uncomfortable,' the report said."⁴ In Oregon, workers who earn tips, are, "by and large, poorly paid adults. For example, the typical waiter or waitress in Oregon is about 26 years old..."⁵ Age discrimination cuts both ways and this coupled with poor wages is forcing many to leave their jobs; quit rates "among workers in 'accommodation and food services' have remained among the highest across industries, according to the Bureau of Labor Statistics. The quit rate among this sector as of February 2022 was 6 percent, compared to 5.2 percent in February of last year and 4.1 percent in February 2020.

¹ AARP, [Age Discrimination in Oregon: A Survey of Adults Ages 40+](#), 2019.

² Work Systems, [Overlooked and Undercounted 2021](#), 2021.

³ Candice Norwood, ["Tipped restaurant workers reported more harassment during the pandemic, especially women of color"](#), 2022

⁴ Candice Norwood, ["Tipped restaurant workers reported more harassment during the pandemic, especially women of color"](#), 2022

⁵ OCPP, ["Tipped Workers Are Adults Who Earn Little: Debunking the Restaurant Lobby's Claims"](#), 2015



Fifty-seven percent of women respondents to One Fair Wage's March survey said they have considered leaving due to instances of sexual harassment they witnessed or were subjected to; on top of the low wages they receive. Sixty-three percent of women of color said the same."⁶ If we continue to do nothing to ensure workers are protected, we will continue to see this exodus and the continued worker shortages industries across all sectors are feeling.

Although Oregon has antidiscrimination laws in place, age discrimination claims are often dismissed. Federally, there are protections through the Title VII of the Civil Rights Act and the Age Discrimination in Employment Act (ADEA) however, Federal Courts have interpreted a narrow view of what is considered age discrimination. The Drake Law Review, published an article "Sorry, You Are Too Close to Retirement for This Promotion: Analyzing Proximity to Retirement as a Basis for Age Discrimination Claims" where Joel Aschbrenner describes how the Sixth Circuit Court in *Scott v. Porter* tried a case where a supervisor stated to an older employee "Why don't you retire and make everybody happy?" and determined this was not evidence of age discrimination because "retire" and 'age' are not synonyms".⁷ This is a clear example of language used as a proxy for age. Employers should not be allowed to practice age discrimination on a technicality.

House Bill 2800 restricts the use of language as a proxy for age such as retirement eligibility, pension eligibility, salary or health care costs, prohibits employers from requiring applicants to disclose their age or graduation date prior to completing the initial interview, prohibits the use of age preference language in job advertisements (e.g. "digital native"), protects bona fide seniority systems and voluntary early retirement plans, and removes age restriction on apprenticeship training to comply with federal law. Oregonians have already decided where they stand on age discrimination and are looking for those protections to be enforced. Passing this bill is a step in that direction and we urge you to pass House Bill 2800.

Respectfully,

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⁶ Candice Norwood, "[Tipped restaurant workers reported more harassment during the pandemic, especially women of color](#)", 2022

⁷ Joel Aschbrenner, Drake Law Review, "[Sorry, You Are Too Close to Retirement For This Promotion: Analyzing Proximity to Retirement as a Basis for Age Discrimination Claims](#)", 2010