

House Bill 3187

Sponsored by Representatives SOSA, SMITH G, Senator PATTERSON, Representatives GOMBERG, NERON, RUIZ, WALTERS, Senators PROZANSKI, SOLLMAN, WEBER, WOODS; Representatives ANDERSEN, CHAICHI, CHOTZEN, GAMBA, GRAYBER, HARTMAN, HELM, HUDSON, ISADORE, LIVELY, MCDONALD, MCLAIN, NATHANSON, NELSON, NGUYEN D, NGUYEN H, NOSSE, SANCHEZ, TRAN, WRIGHT, Senators ANDERSON, CAMPOS, FREDERICK, GELSER BLOUIN, GORSEK, MANNING JR, PHAM K, REYNOLDS (at the request of AARP) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes laws with respect to discrimination based on age. The Act takes effect 91 days after adjournment. (Flesch Readability Score: 61.2).

Clarifies the meaning of "because of age" for purposes of employment discrimination law. Permits observing the terms of a bona fide seniority system or bona fide employee benefit plan when taking an employment action.

Makes it an unlawful employment practice for an employer to require or request disclosure of certain information regarding age and attendance or graduation dates. Provides exceptions.

Removes the provision allowing age limits for the purpose of selecting apprentices to bring such conduct within the scope of the unlawful discrimination statute.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to age-based employment discrimination; creating new provisions; amending ORS 654.062
3 and 659A.030; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS chapter 659A.**

6 **SECTION 2. (1) For purposes of ORS 659A.030, the phrase "because of age" may include**
7 **but is not limited to the following factors when used in association with, in correlation with**
8 **or as a proxy for age:**

9 (a) **Salary;**

10 (b) **Length of employment service; or**

11 (c) **Retirement or pension eligibility or status.**

12 **(2) ORS 659A.030 does not prohibit an employer, employment agency or labor organiza-**
13 **tion, when taking an employment action, from observing the terms of a bona fide seniority**
14 **system or any bona fide employee benefit plan in accordance with ORS 659A.321 and com-**
15 **plying with ORS 652.220.**

16 **SECTION 3. ORS 659A.030 is amended to read:**

17 659A.030. (1) It is an unlawful employment practice:

18 (a) For an employer, because of an individual's race, color, religion, sex, sexual orientation,
19 gender identity, national origin, marital status or age if the individual is 18 years of age or older,
20 or because of the race, color, religion, sex, sexual orientation, gender identity, national origin,
21 marital status or age of any other person with whom the individual associates, or because of an
22 individual's juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.271, to refuse
23 to hire or employ the individual or to bar or discharge the individual from employment. However,

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 discrimination is not an unlawful employment practice if the discrimination results from a bona fide
 2 occupational qualification reasonably necessary to the normal operation of the employer's business.

3 (b) For an employer, because of an individual's race, color, religion, sex, sexual orientation,
 4 gender identity, national origin, marital status or age if the individual is 18 years of age or older,
 5 or because of the race, color, religion, sex, sexual orientation, gender identity, national origin,
 6 marital status or age of any other person with whom the individual associates, or because of an
 7 individual's juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.271, to dis-
 8 criminate against the individual in compensation or in terms, conditions or privileges of employment.

9 (c) For a labor organization, because of an individual's race, color, religion, sex, sexual orien-
 10 tation, gender identity, national origin, marital status or age if the individual is 18 years of age or
 11 older, or because of an individual's juvenile record that has been expunged pursuant to ORS
 12 419A.260 to 419A.271, to exclude or to expel from its membership the individual or to discriminate
 13 in any way against the individual or any other person.

14 (d) For any employer or employment agency to print or circulate or cause to be printed or cir-
 15 culated any statement, advertisement or publication, or to use any form of application for employ-
 16 ment or to make any inquiry in connection with prospective employment that expresses directly or
 17 indirectly any limitation, specification or discrimination as to an individual's race, color, religion,
 18 sex, sexual orientation, gender identity, national origin, marital status or age if the individual is 18
 19 years of age or older, or on the basis of an expunged juvenile record, or any intent to make any such
 20 limitation, specification or discrimination, unless based upon a bona fide occupational qualification.
 21 Identification of prospective employees according to race, color, religion, sex, sexual orientation,
 22 gender identity, national origin, marital status or age does not violate this section unless the Com-
 23 missioner of the Bureau of Labor and Industries, after a hearing conducted pursuant to ORS
 24 659A.805, determines that the designation expresses an intent to limit, specify or discriminate on the
 25 basis of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status
 26 or age.

27 (e) For an employment agency, because of an individual's race, color, religion, sex, sexual ori-
 28 entation, gender identity, national origin, marital status or age if the individual is 18 years of age
 29 or older, or because of the race, color, religion, sex, sexual orientation, gender identity, national
 30 origin, marital status or age of any other person with whom the individual associates, or because
 31 of an individual's juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.271, to
 32 classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to dis-
 33 criminate against the individual. However, it is not an unlawful employment practice for an em-
 34 ployment agency to classify or refer for employment an individual when the classification or referral
 35 results from a bona fide occupational qualification reasonably necessary to the normal operation of
 36 the employer's business.

37 **(f) For an employer, prospective employer or employment agency, prior to completing an**
 38 **initial interview, or if there is no initial interview, prior to making a conditional offer of**
 39 **employment, to request or require disclosure of the applicant's age or date of birth or when**
 40 **the applicant attended or graduated from any educational institution, except when such in-**
 41 **formation is required to:**

42 **(A) Affirm that the applicant meets bona fide occupational qualifications; or**

43 **(B) Comply with any provision of federal, state or local law, rule or regulation.**

44 [(f)] (g) For any person to discharge, expel or otherwise discriminate against any other person
 45 because that other person has opposed any unlawful practice, or because that other person has filed

1 a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so.

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

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

9 (3) The compulsory retirement of employees required by law at any age is not an unlawful em-
 10 ployment practice if lawful under federal law.

11 (4)(a) It is not an unlawful employment practice for an employer or labor organization to provide
 12 or make financial provision for child care services of a custodial or other nature to its employees
 13 or members who are responsible for a minor child.

14 (b) As used in this subsection, “responsible for a minor child” means having custody or legal
 15 guardianship of a minor child or acting in loco parentis to the child.

16 (5) This section does not prohibit an employer from enforcing an otherwise valid dress code or
 17 policy, as long as the employer provides, on a case-by-case basis, for reasonable accommodation of
 18 an individual based on the health and safety needs of the individual and the dress code or policy
 19 does not have a disproportionate adverse impact on members of a protected class to a greater extent
 20 than the policy impacts persons generally.

21 **SECTION 4.** ORS 654.062 is amended to read:

22 654.062. (1) Every employee should notify the employer of any violation of law, regulation or
 23 standard pertaining to safety and health in the place of employment when the violation comes to the
 24 knowledge of the employee.

25 (2) However, any employee or representative of the employee may complain to the Director of
 26 the Department of Consumer and Business Services or any authorized representatives of the director
 27 of any violation of law, regulation or standard pertaining to safety and health in the place of em-
 28 ployment, whether or not the employee also notifies the employer.

29 (3) Upon receiving any employee complaint, the director shall make inquiries, inspections and
 30 investigations that the director considers reasonable and appropriate. When an employee or repre-
 31 sentative of the employee has complained in writing of an alleged violation and no resulting citation
 32 is issued to the employer, the director shall furnish to the employee or representative of the em-
 33 ployee, upon written request, a statement of reasons for the decision.

34 (4) The director shall establish procedures for keeping confidential the identity of any employee
 35 who requests protection in writing. When a request has been made, neither a written complaint from
 36 an employee, or representative of the employee, nor a memorandum containing the identity of a
 37 complainant may be disclosed under ORS 192.311 to 192.478.

38 (5) It is an unlawful employment practice for any person to bar or discharge from employment
 39 or otherwise discriminate against any employee or prospective employee because the employee or
 40 prospective employee has:

41 (a) Opposed any practice forbidden by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to
 42 654.780;

43 (b) Made any complaint or instituted or caused to be instituted any proceeding under or related
 44 to ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, or has testified or is about to
 45 testify in any such proceeding;

1 (c) Exercised on behalf of the employee, prospective employee or others any right afforded by
2 ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780;

3 (d) In good faith reported an assault that occurred on the premises of a health care employer
4 as defined in ORS 654.412 or in the home of a patient receiving home health care services; or

5 (e) With no reasonable alternative and in good faith, refused to expose the employee or pro-
6 spective employee to serious injury or death arising from a hazardous condition at a place of em-
7 ployment.

8 (6)(a) Any employee or prospective employee alleging to have been barred or discharged from
9 employment or otherwise discriminated against in compensation, or in terms, conditions or privileges
10 of employment, in violation of subsection (5) of this section may, within one year after the employee
11 or prospective employee has reasonable cause to believe that the violation has occurred, file a
12 complaint with the Commissioner of the Bureau of Labor and Industries alleging discrimination un-
13 der the provisions of ORS 659A.820. Upon receipt of the complaint the commissioner shall process
14 the complaint under the procedures, policies and remedies established by ORS chapter 659A and the
15 policies established by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 in the same
16 way and to the same extent that the complaint would be processed if the complaint involved
17 allegations of unlawful employment practices under ORS 659A.030 [(1)(f)] **(1)(g)**.

18 (b) Within 90 days after receipt of a complaint filed under this subsection, the commissioner
19 shall notify the complainant of the commissioner's determination.

20 (c) The affected employee or prospective employee may bring a civil action in any circuit court
21 of the State of Oregon against any person alleged to have violated subsection (5) of this section. The
22 civil action must be commenced within one year after the employee or prospective employee has
23 reasonable cause to believe a violation has occurred, unless a complaint has been timely filed under
24 ORS 659A.820.

25 (d) The commissioner or the circuit court may order all appropriate relief including rehiring or
26 reinstatement to the employee's former position with back pay.

27 (7)(a) In any action brought under subsection (6) of this section, there is a rebuttable
28 presumption that a violation of subsection (5) of this section has occurred if a person bars or dis-
29 charges an employee or prospective employee from employment or otherwise discriminates against
30 an employee or prospective employee within 60 days after the employee or prospective employee has
31 engaged in any of the protected activities described in subsection (5)(a) to (e) of this section. The
32 person may rebut the presumption that a violation of subsection (5) of this section has occurred by
33 a demonstration of a preponderance of the evidence.

34 (b) If a person bars or discharges an employee or prospective employee from employment or
35 otherwise discriminates against the employee or prospective employee more than 60 days after the
36 employee or prospective employee has engaged in any of the protected activities described under
37 subsection (5)(a) to (e) of this section, such action does not create a presumption in favor of or
38 against finding that a violation of subsection (5) of this section has occurred. Where such action has
39 occurred more than 60 days after the protected activity, this subsection does not modify any existing
40 rule of case law relating to the proximity of time between a protected activity and an adverse em-
41 ployment action. The burden of proof shall be on the employee or prospective employee to demon-
42 strate by a preponderance of the evidence that a violation occurred.

43 (8) The director shall adopt rules necessary for the administration of subsection (5)(e) of this
44 section that are in accordance with the federal Occupational Safety and Health Act of 1970 (29
45 U.S.C. 651 et seq.).

1 **SECTION 5.** This 2025 Act takes effect on the 91st day after the date on which the 2025
2 regular session of the Eighty-third Legislative Assembly adjourns sine die.
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