

(Including Amendments to Resolve Conflicts)

A-Engrossed Senate Bill 239

Ordered by the House June 27
Including House Amendments dated June 27

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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.

Modifies lists of protected classes in civil rights law. Standardizes order of protected classes listed in civil rights law.

A BILL FOR AN ACT

1
2 Relating to lists of protected classes in civil rights law; amending ORS 654.062, 659A.003, 659A.006,
3 659A.012, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 659A.424, 659A.805, 659A.815 and
4 659A.885.

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

6 **SECTION 1.** ORS 654.062, as amended by section 1, chapter 198, Oregon Laws 2005 (Enrolled
7 Senate Bill 237), is amended to read:

8 654.062. (1) Every employee should notify the employer of any violation of law, regulation or
9 standard pertaining to safety and health in the place of employment when the violation comes to the
10 knowledge of the employee.

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

15 (3) Upon receiving any employee complaint, the director shall make inquiries, inspections and
16 investigations that the director considers reasonable and appropriate. [*When*] **If** an employee or
17 representative of the employee [*has complained*] **complains to the director** in writing of an alleged
18 violation and [*no resulting*] **the director does not issue a** citation [*is issued*] to the employer **for**
19 **the alleged violation**, the director shall furnish to the employee or representative of the employee,
20 upon written request, a statement of reasons for the decision.

21 (4) The director shall establish procedures for keeping confidential the identity of any employee
22 who requests [*protection*] **confidentiality** in writing. When a request **for confidentiality** has been
23 made, neither a written complaint from an employee, or representative of the employee, nor a
24 memorandum containing the identity of a complainant [*is a public record*] **may be disclosed** under
25 ORS 192.210 to 192.505 [*and 192.610 to 192.990*].

26 (5) It is an unlawful employment practice for any person to bar or discharge from employment

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 or otherwise discriminate against any employee or prospective employee because the employee or
2 prospective employee has:

3 (a) Opposed any practice forbidden by ORS 654.001 to 654.295 and 654.750 to 654.780;

4 (b) Made any complaint or instituted or caused to be instituted any proceeding under or related
5 to ORS 654.001 to 654.295 and 654.750 to 654.780, or has testified or is about to testify in any such
6 proceeding; or

7 (c) Exercised on behalf of the employee, prospective employee or others any right afforded by
8 ORS 654.001 to 654.295 and 654.750 to 654.780.

9 (6)(a) Any employee or prospective employee alleging to have been barred or discharged from
10 employment or otherwise discriminated against in compensation, or in terms, conditions or privileges
11 of employment, in violation of subsection (5) of this section may, within 30 days after the employee
12 or prospective employee has reasonable cause to believe that the violation has occurred, file a
13 complaint with the Commissioner of the Bureau of Labor and Industries alleging discrimination un-
14 der the provisions of ORS 659A.820. Upon receipt of the complaint, the commissioner shall process
15 the complaint under the procedures, policies and remedies established by ORS chapter 659A and the
16 policies established by ORS 654.001 to 654.295 and 654.750 to 654.780 in the same way and to the
17 same extent that the complaint would be processed if the complaint involved allegations of unlawful
18 employment practices under ORS 659A.030 (1)(f).

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

21 (c) The [*affected*] employee or prospective employee may **also** bring a civil action in any circuit
22 court of the State of Oregon against any person alleged to have violated subsection (5) of this sec-
23 tion. The civil action must be commenced within one year after the employee or prospective em-
24 ployee has reasonable cause to believe a violation has occurred, unless a complaint has been timely
25 filed under ORS 659A.820. The commissioner or the circuit court may order all appropriate relief
26 including rehiring or reinstatement to the employee's former position with back pay.

27 **SECTION 2.** ORS 659A.003 is amended to read:

28 659A.003. The purpose of this chapter is to encourage the fullest utilization of **the** available
29 [*manpower*] **workforce** by removing arbitrary standards of race, **color**, religion, [*color,*] sex, [*marital*
30 *status,*] national origin [*or*], **marital status**, age **or disability** as a barrier to employment of the
31 inhabitants of this state, and to ensure the human dignity of all people within this state and protect
32 their health, safety and morals from the consequences of intergroup hostility, tensions and practices
33 of discrimination of any kind based on race, **color**, religion, [*color,*] sex, **national origin**, marital
34 status, [*or national origin*] **age or disability**. To accomplish this purpose, the Legislative Assembly
35 intends by this chapter to provide:

36 (1) A program of public education calculated to eliminate attitudes upon which practices of
37 discrimination because of race, **color**, religion, [*color,*] sex, **national origin**, marital status, [*or na-*
38 *tional origin*] **age or disability** are based.

39 (2) An adequate remedy for persons aggrieved by certain acts of discrimination because of race,
40 **color**, religion, [*color,*] sex, **national origin**, marital status or [*national origin*] **disability** or unrea-
41 sonable acts of discrimination in employment based upon age.

42 (3) An adequate administrative machinery for the orderly resolution of complaints of discrimi-
43 nation through a procedure involving investigation, conference, conciliation and persuasion; to en-
44 courage the use in good faith of [*such*] **the** machinery by all parties to a complaint of discrimination;
45 and to discourage unilateral action which makes moot the outcome of final administrative or judicial

1 determination on the merits of *[such a]* **the** complaint.

2 **SECTION 3.** ORS 659A.006 is amended to read:

3 659A.006. (1) It is declared to be the public policy of Oregon that practices of discrimination
4 against any of its inhabitants because of race, **color**, religion, *[color,]* sex, **national origin**, marital
5 status, *[national origin,]* age or disability are a matter of state concern and that *[such]* **this** dis-
6 crimination **not only** threatens *[not only]* the rights and privileges of its inhabitants but menaces the
7 institutions and foundation of a free democratic state.

8 (2) The opportunity to obtain employment without discrimination because of race, **color**, reli-
9 gion, *[color,]* sex, **national origin**, marital status, *[national origin,]* age or disability hereby is re-
10 cognized as and declared to be a civil right. However, this section *[shall]* **may** not be construed to
11 prevent a bona fide church or sectarian religious institution, including but not limited to a school,
12 hospital or church camp, from preferring an employee or applicant for employment of one religious
13 sect or persuasion over another when:

14 (a) That religious sect or persuasion to which the employee or applicant belongs is the same as
15 that of *[such]* **the** church or institution;

16 (b) In the opinion of *[such bona fide]* **the** church or *[sectarian religious]* institution, *[such a]* **the**
17 preference will best serve the purposes of *[such]* **the** church or institution; and

18 (c) The employment involved is closely connected with or related to the primary purposes of the
19 church or institution and is not connected with a commercial or business activity *[which]* **that** has
20 no necessary relationship to the church or institution, or to its primary purposes.

21 **SECTION 4.** ORS 659A.012 is amended to read:

22 659A.012. (1) To achieve the public policy of the State of Oregon for persons in the state to at-
23 tain employment and advancement without discrimination because of race, **color**, religion, *[color,]*
24 sex, **national origin**, marital status, *[national origin, disability or]* age **or disability**, every state
25 agency *[shall be]* **is** required to include in the evaluation of all management personnel the manager's
26 or supervisor's effectiveness in achieving affirmative action objectives as a key consideration of the
27 manager's or supervisor's performance.

28 (2) To achieve the public policy of the State of Oregon for persons in the state to attain em-
29 ployment and advancement without discrimination because of race, **color**, religion, *[color,]* sex, **na-**
30 **tional origin**, marital status, *[national origin,]* age or disability, every state agency *[shall be]* **is**
31 required to present the affirmative action objectives and performance of that agency of the current
32 biennium and those for the following biennium to the Governor of the State of Oregon and to the
33 Legislative Assembly. These plans shall be reviewed as part of the budget review process.

34 **SECTION 5.** ORS 659A.030 is amended to read:

35 659A.030. (1) It is an unlawful employment practice:

36 (a) For an employer, because of an individual's race, **color**, religion, *[color,]* sex, national origin,
37 marital status or age if the individual is 18 years of age or older, or because of the race, **color**,
38 religion, *[color,]* sex, national origin, marital status or age of any other person with whom the indi-
39 vidual associates, or because of *[a]* **an individual's** juvenile record*[,]* that has been expunged pur-
40 suant to ORS 419A.260 and 419A.262, *[of any individual,]* to refuse to hire or employ or to bar or
41 discharge **the individual** from employment *[such individual]*. However, discrimination is not an
42 unlawful employment practice if *[such]* **the** discrimination results from a bona fide occupational
43 *[requirement]* **qualification** reasonably necessary to the normal operation of the employer's business.

44 (b) For an employer, because of an individual's race, **color**, religion, *[color,]* sex, national origin,
45 marital status or age if the individual is 18 years of age or older, or because of the race, **color**,

1 religion, [*color*,] sex, national origin, marital status or age of any other person with whom the indi-
 2 vidual associates, or because of [*a*] **an individual's** juvenile record[,] that has been expunged pur-
 3 suant to ORS 419A.260 and 419A.262, [*of any individual*,] to discriminate against [*such*] **the**
 4 individual in compensation or in terms, conditions or privileges of employment.

5 (c) For a labor organization, because of an individual's race, **color**, religion, [*color*,] sex, national
 6 origin, marital status or age if the individual is 18 years of age or older, or because of [*a*] **an indi-**
 7 **vidual's** juvenile record[,] that has been expunged pursuant to ORS 419A.260 and 419A.262, [*of any*
 8 *individual*] to exclude or to expel from its membership [*such*] **the** individual or to discriminate in
 9 any way against [*any such*] **the** individual or any other person.

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

22 (e) For an employment agency, **because of an individual's race, color, religion, sex, national**
 23 **origin, marital status or age if the individual is 18 years of age or older, or because of the**
 24 **race, color, religion, sex, national origin, marital status or age of any other person with**
 25 **whom the individual associates, or because of an individual's juvenile record that has been**
 26 **expunged pursuant to ORS 419A.260 and 419A.262**, to classify or refer for employment, or to fail
 27 or refuse to refer for employment, or otherwise to discriminate against [*any*] **the** individual.[:]

28 [(A) *On the basis of the individual's race, color, national origin, sex, religion, marital status or age,*
 29 *if the individual is 18 years of age or older;*]

30 [(B) *Because of the race, color, national origin, sex, religion, marital status or age of any other*
 31 *person with whom the individual associates; or*]

32 [(C) *Because of a juvenile record, that has been expunged pursuant to ORS 419A.260 and*
 33 *419A.262.*]

34
 35 However, it is not an unlawful employment practice for an employment agency to classify or refer
 36 for employment [*any*] **an** individual [*where such*] **when the** classification or referral results from a
 37 bona fide occupational [*requirement*] **qualification** reasonably necessary to the normal operation of
 38 the employer's business.

39 (f) For any person to discharge, expel or otherwise discriminate against any other person be-
 40 cause that other person has opposed any unlawful practice, or because that other person has filed
 41 a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so.

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

44 (2) The provisions of this section apply to an apprentice under ORS chapter 660, but the se-
 45 lection of an apprentice on the basis of the ability to complete the required apprenticeship training

1 before attaining the age of 70 years is not an unlawful employment practice. The commissioner shall
2 administer this section with respect to apprentices under ORS chapter 660 equally with regard to
3 all employees and labor organizations.

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

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

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

11 **SECTION 6.** ORS 659A.403 is amended to read:

12 659A.403. (1) Except as provided in subsection (2) of this section, all persons within the juris-
13 diction of this state are entitled to the full and equal accommodations, advantages, facilities and
14 privileges of any place of public accommodation, without any distinction, discrimination or re-
15 striction on account of race, **color**, religion, sex, **national origin**, marital status[, *color*, *national*
16 *origin*] or age if the individual is 18 years of age or older.

17 (2) Subsection (1) of this section does not prohibit:

18 (a) The enforcement of laws governing the consumption of alcoholic beverages by minors and
19 the frequenting by minors of places of public accommodation where alcoholic beverages are served;
20 or

21 (b) The offering of special rates or services to persons 55 years of age or older.

22 (3) It is an unlawful practice for any person to deny full and equal accommodations, advantages,
23 facilities and privileges of any place of public accommodation in violation of this section.

24 **SECTION 7.** ORS 659A.406 is amended to read:

25 659A.406. Except as otherwise authorized by ORS 659A.403, it is an unlawful practice for any
26 person to aid or abet any place of public accommodation, as defined in ORS 659A.400, or any person
27 acting on behalf of [*such*] **the place of public accommodation** to make any distinction, discrimi-
28 nation or restriction on account of race, **color**, religion, [*color*,] sex, **national origin**, marital
29 status[, *national origin*] or age if the individual is 18 years of age or older.

30 **SECTION 8.** ORS 659A.409 is amended to read:

31 659A.409. Except as provided by laws governing the consumption of alcoholic beverages by mi-
32 nors and the frequenting by minors of places of public accommodation where alcoholic beverages
33 are served, and except for special rates or services offered to persons 55 years of age or older, it
34 is an unlawful practice for any person acting on behalf of any place of public accommodation as
35 defined in ORS 659A.400 to publish, circulate, issue or display, or cause to be published, circulated,
36 issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that
37 any of the accommodations, advantages, facilities, services or privileges of [*such*] **the place of public**
38 accommodation will be refused, withheld from or denied to, or that any discrimination will be made
39 against, any person on account of race, **color**, religion, sex, **national origin**, marital status[, *color*,
40 *national origin*] or age if the individual is 18 years of age or older.

41 **SECTION 9.** ORS 659A.421 is amended to read:

42 659A.421. (1) [*No person shall*] **A person may not**, because of race, color, **religion**, sex, **na-**
43 **tional origin**, marital status, [*source of income, familial status, religion or national origin*] **familial**
44 **status or source of income** of any person:

45 (a) Refuse to sell, lease or rent any real property to a purchaser.

1 (b) Expel a purchaser from any real property.

2 (c) Make any distinction, discrimination or restriction against a purchaser in the price, terms,
3 conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the
4 furnishing of any facilities or services in connection therewith.

5 (d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.

6 (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed,
7 any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing
8 of real property *[which]* **that** indicates any preference, limitation, specification or discrimination
9 based on race, color, **religion**, sex, **national origin**, *[marital status, source of income, religion or*
10 *national origin]* **marital status, familial status or source of income.**

11 (f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that
12 violates this subsection and subsection (3) of this section.

13 (g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of,
14 or on account of having aided or encouraged any other person in the exercise of, any right granted
15 or protected by this section.

16 (2)(a) *[No]* **A** person whose business includes engaging in residential real estate related trans-
17 actions *[shall]* **may not** discriminate against any person in making **a transaction** available *[such a*
18 *transaction]*, or in the terms or conditions of *[such a]* **the** transaction, because of race, color, **reli-**
19 **gion**, sex, *[marital status, source of income, familial status, religion or national origin]* **national ori-**
20 **gin, marital status, familial status or source of income.**

21 (b) As used in this subsection, “residential real estate related transaction” means any of the
22 following:

23 (A) The making or purchasing of loans or providing other financial assistance:

24 (i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

25 (ii) For securing residential real estate; or

26 (B) The selling, brokering or appraising of residential real property.

27 (3) *[No]* **A** real estate licensee *[shall]* **may not** accept or retain a listing of real property for
28 sale, lease or rental with an understanding that a purchaser may be discriminated against with re-
29 spect to the sale, rental or lease thereof because of race, color, **religion**, sex, *[marital status, source*
30 *of income, familial status, religion or national origin]* **national origin, marital status, familial**
31 **status or source of income.**

32 (4) *[No person shall]* **A person may not**, for profit, induce or attempt to induce any other person
33 to sell or rent any dwelling by representations regarding the entry or prospective entry into the
34 neighborhood of a person or persons of a particular race, color, **religion**, sex, *[marital status, source*
35 *of income, familial status, religion or national origin]* **national origin, marital status, familial**
36 **status or source of income.**

37 (5) For purposes of subsections (1) to (4) of this section, “source of income” does not include
38 federal rent subsidy payments under 42 U.S.C. 1437f, income from specific occupations or income
39 derived in an illegal manner.

40 (6) Subsections (1) and (3) of this section do not apply with respect to sex distinction, discrimi-
41 nation or restriction if the real property involved is such that the application of subsections (1) and
42 (3) of this section would necessarily result in common use of bath or bedroom facilities by unrelated
43 persons of opposite sex.

44 (7)(a) This section does not apply to familial status distinction, discrimination or restriction with
45 respect to housing for older persons.

1 (b) As used in this subsection, “housing for older persons” means housing:

2 (A) Provided under any state or federal program that is specifically designed and operated to
3 assist elderly persons, as defined by the state or federal program;

4 (B) Intended for, and solely occupied by, persons 62 years of age or older; or

5 (C) Intended and operated for occupancy by at least one person 55 years of age or older per
6 unit. Housing qualifies as housing for older persons under this subparagraph if:

7 (i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or
8 older per unit; and

9 (ii) Policies and procedures [*which*] **that** demonstrate an intent by the owner or manager to
10 provide housing for persons 55 years of age or older are published and adhered to.

11 (c) Housing [*shall*] **does** not fail to meet the requirements for housing for older persons if:

12 (A) Persons residing in [*such*] **the** housing as of September 13, 1988, do not meet the require-
13 ments of paragraph (b)(B) or (C) of this subsection. However, new occupants of [*such*] **the** housing
14 shall meet the age requirements of paragraph (b)(B) or (C) of this subsection; or

15 (B) The housing includes unoccupied units[. *However, such*], **if the** units are reserved for occu-
16 pancy by persons who meet the age requirements of paragraph (b)(B) or (C) of this subsection.

17 (d) Nothing in this section limits the applicability of any reasonable local, state or federal re-
18 strictions regarding the maximum number of occupants permitted to occupy a dwelling.

19 (8) In the sale, lease or rental of real estate, [*no person shall*] **a person may not** disclose to any
20 person that an occupant or owner of real property has or died from human immunodeficiency virus
21 or acquired immune deficiency syndrome.

22 (9) The provisions of subsection (1)(a) to (d) and (f) of this section that prohibit actions based
23 upon familial status or sex do not apply to the renting of space within a single-family residence if
24 the owner actually maintains and occupies the residence as the owner’s primary residence and all
25 occupants share some common space within the residence.

26 (10) Any violation of this section is an unlawful practice.

27 **SECTION 10.** ORS 659A.424 is amended to read:

28 659A.424. (1) As used in this section:

29 (a) “Facially neutral housing policy” means a guideline, practice, rule, or screening or admission
30 criterion regarding a real property transaction that applies equally to all persons.

31 (b) “Protected class” means a group of persons distinguished by race, color, **religion**, sex, **na-**
32 **tional origin**, marital status, [*source of income, familial status, religion, national origin*] **familial**
33 **status, source of income** or disability.

34 (c) “Real property transaction” means an act described in ORS 659A.145 or 659A.421 involving
35 the renting or leasing of residential real property subject to ORS chapter 90.

36 (2) A court or the Commissioner of the Bureau of Labor and Industries may find that a person
37 has violated ORS 659A.145 or 659A.421 if:

38 (a) The person applies a facially neutral housing policy to a member of a protected class in a
39 real property transaction involving a residential tenancy subject to ORS chapter 90; and

40 (b) Application of the policy adversely impacts members of the protected class to a greater ex-
41 tent than the policy adversely impacts persons generally.

42 (3) In determining under subsection (2) of this section whether a violation has occurred and, if
43 so, what relief should be granted, a court or the commissioner shall consider:

44 (a) The significance of the adverse impact on the protected class;

45 (b) The importance and necessity of any business purpose for the facially neutral housing policy;

1 and

2 (c) The availability of less discriminatory alternatives for achieving the business purpose for the
3 facially neutral housing policy.

4 **SECTION 11.** ORS 659A.805 is amended to read:

5 659A.805. (1) In accordance with any applicable provision of ORS chapter 183, the Commissioner
6 of the Bureau of Labor and Industries may adopt reasonable rules:

7 (a) Establishing what acts and communications constitute a notice, sign or advertisement that
8 public accommodation or real property will be refused, withheld from, or denied to any person or
9 that discrimination will be made against the person because of race, **color**, religion, sex, **national**
10 **origin**, marital status, [*color, national origin or,*] **disability or:**

11 (A) With respect to public accommodation, age.

12 (B) **With respect to real property, familial status or source of income.**

13 (b) Establishing what inquiries in connection with employment and prospective employment ex-
14 press a limitation, specification or discrimination as to race, **color**, religion, [*color,*] sex, national
15 origin [*or,*] **marital status, age or disability.**

16 (c) Establishing what inquiries in connection with employment and prospective employment so-
17 liciting information as to race, **color**, religion, [*color,*] sex, national origin [*or,*] **marital status, age**
18 **or disability** are based on bona fide [*job*] **occupational** qualifications.

19 (d) For internal operation and practice and procedure before the commissioner under this
20 chapter.

21 (e) Covering any other matter required to carry out the purposes of this chapter.

22 (2) In adopting rules under this section the commissioner shall consider the following factors,
23 among others:

24 (a) The relevance of information requested to job performance in connection with which it is
25 requested.

26 (b) Available reasonable alternative ways of obtaining requested information without soliciting
27 responses as to race, **color**, religion, [*color,*] sex, **national origin**, marital status, [*national origin*
28 *or*] age, **disability, familial status or source of income.**

29 (c) Whether a statement or inquiry soliciting information as to race, **color**, religion, [*color,*] sex,
30 **national origin**, marital status, [*national origin or*] age, **disability, familial status or source of**
31 **income** communicates an idea independent of an intention to limit, specify or discriminate as to
32 race, **color**, religion, [*color,*] sex, **national origin**, marital status, [*national origin or*] age, **disability,**
33 **familial status or source of income.**

34 (d) Whether the independent idea communicated is relevant to a legitimate objective of the kind
35 of transaction [*which*] **that** it contemplates.

36 (e) The ease with which the independent idea relating to a legitimate objective of the kind of
37 transaction contemplated could be communicated without connoting an intention to discriminate as
38 to race, **color**, religion, [*color,*] sex, **national origin**, marital status, [*national origin or*] age, **disa-**
39 **bility, familial status or source of income.**

40 **SECTION 12.** ORS 659A.815 is amended to read:

41 659A.815. (1) The Commissioner of the Bureau of Labor and Industries shall create [*such*] advi-
42 sory agencies and intergroup-relations councils[, *local, regional or statewide, as in the judgment of*]
43 **as** the commissioner [*will*] **believes necessary to** aid in effectuating the purposes of this chapter.
44 The commissioner may empower [*them*] **advisory agencies and councils:**

45 (a) To study the problems of discrimination in all or specific fields of human relationships or in

1 specific instances of discrimination because of race, **color**, religion, [*color,*] sex, [*or*] national
2 origin, **marital status, age or disability**.

3 (b) To foster, through community effort or otherwise, goodwill, cooperation and conciliation
4 among the groups and elements of the population of the state.

5 (c) To make recommendations to the commissioner for the development of policies and proce-
6 dures in general and in specific instances, and for programs of formal and informal education.

7 (2) [*Such*] **The** advisory agencies and councils shall be composed of representative citizens,
8 serving without pay, but with reimbursement for actual and necessary expenses in accordance with
9 laws and regulations governing state officers.

10 (3) The commissioner may make provision for technical and clerical assistance to [*such*] **the**
11 **advisory** agencies and councils and for the expenses of [*such*] **the** assistance.

12 **SECTION 13.** ORS 659A.885 is amended to read:

13 659A.885. (1) Any individual claiming to be aggrieved by an unlawful practice specified in sub-
14 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
15 the court may order injunctive relief and [*such*] **any** other equitable relief [*as*] **that** may be appro-
16 priate, including but not limited to reinstatement or the hiring of employees with or without back
17 pay. A court may order back pay in an action under this subsection only for the two-year period
18 immediately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the
19 Bureau of Labor and Industries, or if a complaint was not filed before the action was commenced,
20 the two-year period immediately preceding the filing of the action. In any action under this sub-
21 section, the court may allow the prevailing party costs and reasonable attorney fees at trial and on
22 appeal. Except as provided in subsection (3) of this section:

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

24 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
25 review the judgment pursuant to the standard established by ORS 19.415 (3).

26 (2) An action may be brought under subsection (1) of this section for the following unlawful
27 practices: ORS 25.337, 25.424, 399.235, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069,
28 659A.100 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.203, 659A.218, 659A.230, 659A.233,
29 659A.236, 659A.250 to 659A.262, 659A.300, 659A.306, 659A.309, 659A.318 and 659A.421 (1) or (3).

30 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
31 659A.040, 659A.043, 659A.046, 659A.069, 659A.100 to 659A.145, 659A.230, 659A.250 to 659A.262,
32 659A.318 or 659A.421 (1) or (3):

33 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
34 compensatory damages or \$200, whichever is greater, and punitive damages;

35 (b) At the request of any party, the action shall be tried to a jury;

36 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
37 ment pursuant to the standard established by ORS 19.415 (1); and

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

39 (4) In any action under subsection (1) of this section alleging a violation of ORS 659A.203 or
40 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this sec-
41 tion, compensatory damages or \$250, whichever is greater.

42 (5) Any individual against whom any distinction, discrimination or restriction on account of
43 race, **color**, religion, sex, [*marital status, color,*] national origin, **marital status** or age, if the indi-
44 vidual is 18 years of age or older, has been made by any place of public accommodation, as defined
45 in ORS 659A.400, by any person acting on behalf of [*such*] **the** place or by any person aiding or

1 abetting [*such*] **the** place or person in violation of ORS 659A.406, may bring an action against the
2 operator or manager of [*such*] **the** place, the employee or person acting on behalf of [*such*] **the** place
3 or the aider or abettor of [*such*] **the** place or person. Notwithstanding subsection (1) of this section,
4 in an action under this subsection:

5 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
6 compensatory and punitive damages;

7 (b) The operator or manager of the place of public accommodation, the employee or person
8 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
9 damages awarded in the action;

10 (c) At the request of any party, the action shall be tried to a jury;

11 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

12 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
13 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
14 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
15 and

16 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
17 judgment pursuant to the standard established by ORS 19.415 (1).

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