

Senate Bill 239

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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 **as introduced**.

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 is amended to read:

7 654.062. (1) Every employee should notify the employer of any violation of law, regulation or
8 standard pertaining to safety and health in the place of employment when the violation comes to the
9 knowledge of the employee.

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

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

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

25 (5)(a) It is an unlawful employment practice for any person to bar or discharge from employment
26 or otherwise discriminate against any employee or prospective employee because *[such]* **the** em-
27 ployee has opposed any practice forbidden by ORS 654.001 to 654.295 and 654.750 to 654.780, made
28 any complaint or instituted or caused to be instituted any proceeding under or related to ORS
29 654.001 to 654.295 and 654.750 to 654.780, or has testified or is about to testify in *[any such]* **the**
30 proceeding, or because of the exercise *[of such]* **by the** employee on behalf of the employee or others

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 of any right afforded by ORS 654.001 to 654.295 and 654.750 to 654.780.

2 (b) Any employee or prospective employee who believes that the employee has been barred or
3 discharged from employment or otherwise discriminated against in compensation, or in terms, con-
4 ditions or privileges of employment, by any person in violation of this subsection may, within 30
5 days after the employee has reasonable cause to believe that *[such]* a violation has occurred, file a
6 complaint with the Commissioner of the Bureau of Labor and Industries alleging *[such]* **the** dis-
7 crimination under the provisions of ORS 659A.820. Upon receipt of *[such]* **the** complaint, the com-
8 missioner shall process the complaint and case under the procedures, policies and remedies
9 established by ORS chapter 659A and the policies established by ORS 654.001 to 654.295 and 654.750
10 to 654.780 in the same way and to the same extent that the complaint would be processed by the
11 commissioner if the complaint involved allegations of unlawful employment practices *[based upon*
12 *race, religion, color, national origin, sex or age]* under ORS 659A.030 (1)(f). The *[affected employee*
13 *shall also have the right to]* **employee may also** bring a suit in any circuit court of the State of
14 Oregon against any person alleged to have violated this subsection. The commissioner or the circuit
15 court may order all appropriate relief including rehiring or reinstatement of the employee to the
16 employee's former position with back pay.

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

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

21 659A.003. The purpose of this chapter is to encourage the fullest utilization of **the** available
22 *[manpower]* **workforce** by removing arbitrary standards of race, **color**, religion, *[color,]* sex, *[marital*
23 *status,]* national origin *[or]*, **marital status**, age **or disability** as a barrier to employment of the
24 inhabitants of this state, and to ensure the human dignity of all people within this state and protect
25 their health, safety and morals from the consequences of intergroup hostility, tensions and practices
26 of discrimination of any kind based on race, **color**, religion, *[color,]* sex, **national origin**, marital
27 status, *[or national origin]* **age or disability**. To accomplish this purpose, the Legislative Assembly
28 intends by this chapter to provide:

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

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

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

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

41 659A.006. (1) It is declared to be the public policy of Oregon that practices of discrimination
42 against any of its inhabitants because of race, **color**, religion, *[color,]* sex, **national origin**, marital
43 status, *[national origin,]* age or disability are a matter of state concern and that *[such]* **this** dis-
44 crimination **not only** threatens *[not only]* the rights and privileges of its inhabitants but menaces the
45 institutions and foundation of a free democratic state.

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

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

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

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

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

15 659A.012. (1) To achieve the public policy of the State of Oregon for persons in the state to at-
 16 tain employment and advancement without discrimination because of race, **color**, religion, [*color*,]
 17 sex, **national origin**, marital status, [*national origin, disability or*] age **or disability**, every state
 18 agency [*shall be*] **is** required to include in the evaluation of all management personnel the manager's
 19 or supervisor's effectiveness in achieving affirmative action objectives as a key consideration of the
 20 manager's or supervisor's performance.

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

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

28 659A.030. (1) It is an unlawful employment practice:

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

37 (b) For an employer, because of an individual's race, **color**, religion, [*color*,] sex, national origin,
 38 marital status or age if the individual is 18 years of age or older, or because of the race, **color**,
 39 religion, [*color*,] sex, national origin, marital status or age of any other person with whom the indi-
 40 vidual associates, or because of [*a*] **an individual's** juvenile record[,], that has been expunged pur-
 41 suant to ORS 419A.260 and 419A.262, [*of any individual*,] to discriminate against [*such*] **the**
 42 individual in compensation or in terms, conditions or privileges of employment.

43 (c) For a labor organization, because of an individual's race, **color**, religion, [*color*,] sex, national
 44 origin, marital status or age if the individual is 18 years of age or older, or because of [*a*] **an indi-**
 45 **vidual's** juvenile record[,], that has been expunged pursuant to ORS 419A.260 and 419A.262, [*of any*

1 *individual*] to exclude or to expel from its membership [*such*] **the** individual or to discriminate in
2 any way against [*any such*] **the** individual or any other person.

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

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

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

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

25 [(C) *Because of a juvenile record, that has been expunged pursuant to ORS 419A.260 and*
26 *419A.262.*]

27
28 However, it is not an unlawful employment practice for an employment agency to classify or refer
29 for employment [*any*] **an** individual [*where such*] **when the** classification or referral results from a
30 bona fide occupational [*requirement*] **qualification** reasonably necessary to the normal operation of
31 the employer's business.

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

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

37 (2) The provisions of this section apply to an apprentice under ORS chapter 660, but the se-
38 lection of an apprentice on the basis of the ability to complete the required apprenticeship training
39 before attaining the age of 70 years is not an unlawful employment practice. The commissioner shall
40 administer this section with respect to apprentices under ORS chapter 660 equally with regard to
41 all employees and labor organizations.

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

44 (4)(a) It is not an unlawful employment practice for an employer or labor organization to provide
45 or make financial provision for child care services of a custodial or other nature to its employees

1 or members who are responsible for a minor child.

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

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

5 659A.403. (1) Except as provided in subsection (2) of this section, all persons within the juris-
6 diction of this state are entitled to the full and equal accommodations, advantages, facilities and
7 privileges of any place of public accommodation, without any distinction, discrimination or re-
8 striction on account of race, **color**, religion, sex, **national origin**, marital status[, *color, national*
9 *origin*] or age if the individual is 18 years of age or older.

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

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

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

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

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

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

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

24 659A.409. Except as provided by laws governing the consumption of alcoholic beverages by mi-
25 nors and the frequenting by minors of places of public accommodation where alcoholic beverages
26 are served, and except for special rates or services offered to persons 55 years of age or older, it
27 is an unlawful practice for any person acting on behalf of any place of public accommodation as
28 defined in ORS 659A.400 to publish, circulate, issue or display, or cause to be published, circulated,
29 issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that
30 any of the accommodations, advantages, facilities, services or privileges of [*such*] **the place of public**
31 **accommodation** will be refused, withheld from or denied to, or that any discrimination will be made
32 against, any person on account of race, **color**, religion, sex, **national origin**, marital status[, *color,*
33 *national origin*] or age if the individual is 18 years of age or older.

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

35 659A.421. (1) [*No person shall*] **A person may not**, because of race, color, **religion**, sex, **na-**
36 **tional origin**, marital status, [*source of income, familial status, religion or national origin*] **familial**
37 **status or source of income** of any person:

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

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

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

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

44 (e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed,
45 any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing

1 of real property [*which*] **that** indicates any preference, limitation, specification or discrimination
 2 based on race, color, **religion**, sex, **national origin**, [*marital status, source of income, religion or*
 3 *national origin*] **marital status, familial status or source of income.**

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

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

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

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

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

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

18 (ii) For securing residential real estate; or

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

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

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

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

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

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

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

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

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

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

45 (i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or

1 older per unit; and

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

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

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

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

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

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

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

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

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

21 659A.424. (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

43 659A.805. (1) In accordance with any applicable provision of ORS chapter 183, the Commissioner
 44 of the Bureau of Labor and Industries may adopt reasonable rules:

45 (a) Establishing what acts and communications constitute a notice, sign or advertisement that

1 public accommodation or real property will be refused, withheld from, or denied to any person or
 2 that discrimination will be made against the person because of race, **color**, religion, sex, **national**
 3 **origin**, marital status, [*color, national origin or*] **disability or**:

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

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

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

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

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

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

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

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

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

22 (c) Whether a statement or inquiry soliciting information as to race, **color**, religion, [*color*,] sex,
 23 **national origin**, marital status, [*national origin or*] age, **disability, familial status or source of**
 24 **income** communicates an idea independent of an intention to limit, specify or discriminate as to
 25 race, **color**, religion, [*color*,] sex, **national origin**, marital status, [*national origin or*] age, **disability,**
 26 **familial status or source of income**.

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

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

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

34 659A.815. (1) The Commissioner of the Bureau of Labor and Industries shall create [*such*] advi-
 35 sory agencies and intergroup-relations councils[, *local, regional or statewide, as in the judgment of*]
 36 **as** the commissioner [*will*] **believes necessary to** aid in effectuating the purposes of this chapter.
 37 The commissioner may empower [*them*] **advisory agencies and councils**:

38 (a) To study the problems of discrimination in all or specific fields of human relationships or in
 39 specific instances of discrimination because of race, **color**, religion, [*color*,] sex, [*or*] national
 40 origin, **marital status, age or disability**.

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

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

45 (2) [*Such*] **The** advisory agencies and councils shall be composed of representative citizens,

1 serving without pay, but with reimbursement for actual and necessary expenses in accordance with
2 laws and regulations governing state officers.

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

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

6 659A.885. (1) Any individual claiming to be aggrieved by an unlawful practice specified in sub-
7 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
8 the court may order injunctive relief and [*such*] **any** other equitable relief [*as*] **that** may be appro-
9 priate, including but not limited to reinstatement or the hiring of employees with or without back
10 pay. A court may order back pay in an action under this subsection only for the two-year period
11 immediately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the
12 Bureau of Labor and Industries, or if a complaint was not filed before the action was commenced,
13 the two-year period immediately preceding the filing of the action. In any action under this sub-
14 section, the court may allow the prevailing party costs and reasonable attorney fees at trial and on
15 appeal. Except as provided in subsection (3) of this section:

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

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

19 (2) An action may be brought under subsection (1) of this section for the following unlawful
20 practices: ORS 25.337, 25.424, 399.235, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069,
21 659A.100 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.203, 659A.218, 659A.230, 659A.233,
22 659A.236, 659A.250 to 659A.262, 659A.300, 659A.306, 659A.309, 659A.318 and 659A.421 (1) or (3).

23 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
24 659A.040, 659A.043, 659A.046, 659A.069, 659A.100 to 659A.145, 659A.230, 659A.250 to 659A.262,
25 659A.318 or 659A.421 (1) or (3):

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

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

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

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

32 (4) In any action under subsection (1) of this section alleging a violation of ORS 659A.203 or
33 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this sec-
34 tion, compensatory damages or \$250, whichever is greater.

35 (5) Any individual against whom any distinction, discrimination or restriction on account of
36 race, **color**, religion, sex, [*marital status, color,*] national origin, **marital status** or age, if the indi-
37 vidual is 18 years of age or older, has been made by any place of public accommodation, as defined
38 in ORS 659A.400, by any person acting on behalf of [*such*] **the** place or by any person aiding or
39 abetting [*such*] **the** place or person in violation of ORS 659A.406, may bring an action against the
40 operator or manager of [*such*] **the** place, the employee or person acting on behalf of [*such*] **the** place
41 or the aider or abettor of [*such*] **the** place or person. Notwithstanding subsection (1) of this section,
42 in an action under this subsection:

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

45 (b) The operator or manager of the place of public accommodation, the employee or person

1 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
2 damages awarded in the action;

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

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

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

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

11
