

House Bill 3436

Sponsored by Representative GOMBERG; Senator PATTERSON (at the request of Stop Age and Disability Discrimination in Employment Coalition)

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**.

Makes unlawful employment practice for employer to fail to engage in good faith, interactive process to determine possible reasonable accommodations that employer may provide to qualified individual with disability.

A BILL FOR AN ACT

1
2 Relating to employment discrimination on the basis of disability; amending ORS 659A.112.

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

4 **SECTION 1.** ORS 659A.112 is amended to read:

5 659A.112. (1) It is an unlawful employment practice for any employer to refuse to hire, employ
6 or promote, to bar or discharge from employment or to discriminate in compensation or in terms,
7 conditions or privileges of employment on the basis of disability.

8 (2) An employer violates subsection (1) of this section if the employer does any of the following:

9 (a) The employer limits, segregates or classifies a job applicant or employee in a way that ad-
10 versely affects the opportunities or status of the applicant or employee because the applicant or
11 employee has a disability.

12 (b) The employer participates in a contractual or other arrangement or relationship that has the
13 effect of subjecting a qualified job applicant or employee with a disability to the discrimination
14 prohibited by ORS 659A.112 to 659A.139, including but not limited to participating in a relationship
15 with an employment or referral agency, a labor union, an organization providing fringe benefits to
16 an employee of the employer, or an organization providing training and apprenticeship programs.

17 (c) The employer utilizes standards, criteria or methods of administration that have the effect
18 of discrimination on the basis of disability, or that perpetuate the discrimination of others who are
19 subject to common administrative control.

20 (d) The employer excludes or otherwise denies equal jobs or benefits to a qualified individual
21 because the individual is known to have a relationship or association with an individual with a
22 disability.

23 (e) The employer does not make reasonable accommodation to the known physical or mental
24 limitations of a qualified individual with a disability who is a job applicant or employee, unless the
25 employer can demonstrate that the accommodation would impose an undue hardship on the opera-
26 tion of the business of the employer.

27 (f) The employer denies employment opportunities to a job applicant or employee who is a
28 qualified individual with a disability, if the denial is based on the need of the employer to make
29 reasonable accommodation to the physical or mental impairments of the employee or applicant.

30 (g) The employer uses qualification standards, employment tests or other selection criteria, in-

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 cluding those based on an individual’s uncorrected vision or unaided hearing, that screen out or
 2 tend to screen out an individual with a disability or a class of individuals with disabilities unless
 3 the standard, test or other selection criterion, as used by the employer, is shown to be job-related
 4 for the position in question and is consistent with business necessity.

5 (h) The employer fails to select and administer tests relating to employment in the most effective
 6 manner to ensure that when the test is administered to a job applicant or employee who has a dis-
 7 ability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills,
 8 aptitude or other characteristics of the applicant or employee that the test purports to measure,
 9 rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant.
 10 The provisions of this paragraph do not limit the ability of an employer to select or administer tests
 11 designed to measure sensory, manual or speaking skills of an employee or job applicant.

12 (i) **The employer fails to engage in a good faith, interactive process with a qualified in-**
 13 **dividual with a disability who is a job applicant or employee to discuss the possible reasonable**
 14 **accommodations that the employer may provide to the individual in order for the individual**
 15 **to perform the essential functions of a position.**
