

Requested by Representative ELMER

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2800**

1 On page 1 of the printed bill, line 2, after “discrimination,” delete the rest  
2 of the line and delete line 3 and insert “amending ORS 659A.030.”.

3 Delete lines 5 through 26.

4 Delete pages 2 through 10 and insert:

5 **“SECTION 1.** ORS 659A.030 is amended to read:

6 “659A.030. (1) It is an unlawful employment practice:

7 “(a) For an employer, because of an individual’s race, color, religion, sex,  
8 sexual orientation, gender identity, national origin, marital status or age if  
9 the individual is [18] **40** years of age or older, or because of the race, color,  
10 religion, sex, sexual orientation, gender identity, national origin, marital  
11 status or age of any other person with whom the individual associates, or  
12 because of an individual’s juvenile record that has been expunged pursuant  
13 to ORS 419A.260 to 419A.271, to refuse to hire or employ the individual or  
14 to bar or discharge the individual from employment. However, discrimination  
15 is not an unlawful employment practice if the discrimination results from a  
16 bona fide occupational qualification reasonably necessary to the normal op-  
17 eration of the employer’s business.

18 “(b) For an employer, because of an individual’s race, color, religion, sex,  
19 sexual orientation, gender identity, national origin, marital status or age if  
20 the individual is [18] **40** years of age or older, or because of the race, color,  
21 religion, sex, sexual orientation, gender identity, national origin, marital

1 status or age of any other person with whom the individual associates, or  
2 because of an individual's juvenile record that has been expunged pursuant  
3 to ORS 419A.260 to 419A.271, to discriminate against the individual in com-  
4 pensation or in terms, conditions or privileges of employment.

5 “(c) For a labor organization, because of an individual's race, color, reli-  
6 gion, sex, sexual orientation, gender identity, national origin, marital status  
7 or age if the individual is [18] **40** years of age or older, or because of an  
8 individual's juvenile record that has been expunged pursuant to ORS  
9 419A.260 to 419A.271, to exclude or to expel from its membership the indi-  
10 vidual or to discriminate in any way against the individual or any other  
11 person.

12 “(d) For any employer or employment agency to print or circulate or  
13 cause to be printed or circulated any statement, advertisement or publica-  
14 tion, or to use any form of application for employment or to make any in-  
15 quiry in connection with prospective employment that expresses directly or  
16 indirectly any limitation, specification or discrimination as to an individual's  
17 race, color, religion, sex, sexual orientation, gender identity, national origin,  
18 marital status or age if the individual is [18] **40** years of age or older, or on  
19 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  
21 occupational qualification. Identification of prospective employees according  
22 to race, color, religion, sex, sexual orientation, gender identity, national or-  
23 igin, marital status or age does not violate this section unless the Commis-  
24 sioner of the Bureau of Labor and Industries, after a hearing conducted  
25 pursuant to ORS 659A.805, determines that the designation expresses an in-  
26 tent to limit, specify or discriminate on the basis of race, color, religion, sex,  
27 sexual orientation, gender identity, national origin, marital status or age.

28 “(e) For an employment agency, because of an individual's race, color,  
29 religion, sex, sexual orientation, gender identity, national origin, marital  
30 status or age if the individual is [18] **40** years of age or older, or because of

1 the race, color, religion, sex, sexual orientation, gender identity, national  
2 origin, marital status or age of any other person with whom the individual  
3 associates, or because of an individual's juvenile record that has been  
4 expunged pursuant to ORS 419A.260 to 419A.271, to classify or refer for em-  
5 ployment, or to fail or refuse to refer for employment, or otherwise to dis-  
6 criminate against the individual. However, it is not an unlawful employment  
7 practice for an employment agency to classify or refer for employment an  
8 individual when the classification or referral results from a bona fide occu-  
9 pational qualification reasonably necessary to the normal operation of the  
10 employer's business.

11 “(f) For any person to discharge, expel or otherwise discriminate against  
12 any other person because that other person has opposed any unlawful prac-  
13 tice, or because that other person has filed a complaint, testified or assisted  
14 in any proceeding under this chapter or has attempted to do so.

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

18 “(2) The provisions of this section apply to an apprentice under ORS  
19 660.002 to 660.210, but the selection of an apprentice on the basis of the  
20 ability to complete the required apprenticeship training before attaining the  
21 age of 70 years is not an unlawful employment practice. The commissioner  
22 shall administer this section with respect to apprentices under ORS 660.002  
23 to 660.210 equally with regard to all employees and labor organizations.

24 “(3) The compulsory retirement of employees required by law at any age  
25 is not an unlawful employment practice if lawful under federal law.

26 “(4)(a) It is not an unlawful employment practice for an employer or labor  
27 organization to provide or make financial provision for child care services  
28 of a custodial or other nature to its employees or members who are respon-  
29 sible for a minor child.

30 “(b) As used in this subsection, ‘responsible for a minor child’ means

1 having custody or legal guardianship of a minor child or acting in loco  
2 parentis to the child.

3 “(5) This section does not prohibit an employer from enforcing an other-  
4 wise valid dress code or policy, as long as the employer provides, on a  
5 case-by-case basis, for reasonable accommodation of an individual based on  
6 the health and safety needs of the individual and the dress code or policy  
7 does not have a disproportionate adverse impact on members of a protected  
8 class to a greater extent than the policy impacts persons generally.

9 “(6) **The provisions of this section may not be construed to require**  
10 **an employer to create any preference or priority to an individual who**  
11 **is 40 years or older.”.**

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