

HB 3187 -1 STAFF MEASURE SUMMARY

House Committee On Labor and Workplace Standards

Prepared By: Erin Seiler, LPRO Analyst

Meeting Dates: 2/19, 4/7

WHAT THE MEASURE DOES:

Clarifies meaning of “because of age” for purposes of employment discrimination law. Makes it unlawful employment practice for employer to require or request disclosure of certain information regarding age and attendance or graduation dates. Takes effect on the 91st day following adjournment sine die.

Detailed Summary:

The measure, for purpose of examining allegations of age discrimination, “because of age,” may include but is not limited to following factors when used in association with, in correlation with or as proxy for age: salary; length of employment service; or retirement or pension eligibility or status.

The measure makes it unlawful employment practice for employer, prospective employer, or employment agency, prior to completing initial interview or making conditional offer of employment, to request or require disclosure of applicant’s age or date of birth or when applicant attended or graduated from any educational institution. Information may be requested if it is necessary to affirm that applicant meets bona fide occupational qualifications or to comply with any provision of federal, state or local law, rule or regulation.

Repeals provision permitting apprenticeship program to not select apprentice who is unable to complete required apprenticeship training before age of 70.

Fiscal impact: (info)

Revenue impact: (info)

ISSUES DISCUSSED:

- Proxies for age
- Challenges to proving age discrimination when complaint or civil action is filed
- Ability of employer manage personal and business costs
- Federal court interpretation regarding age discrimination
- Impact to pay equity
- Comparison between proxies for "because of race" and "because of sex" and "because of age"
- Impact on hiring and interview process

EFFECT OF AMENDMENT:

-1 Removes proxies from the definition of "because of age."

Fiscal impact: Minimal fiscal impact

Revenue impact: No revenue impact

BACKGROUND:

Age discrimination is prohibited under both federal and state laws, ensuring that individuals are not treated unfairly due to their age in employment settings.

The federal Age Discrimination in Employment Act of 1967 (ADEA) protects individuals who are 40 years of age or older from age-based discrimination in workplaces with 20 or more employees. Under ADEA, it is unlawful to discriminate against any individual age 40 or older because of their age with respect to any term, condition, or

privilege of employment, including but not limited to, recruitment, hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training. Oregon law prohibits age discrimination in employment under the Oregon Employment Discrimination Law (ORS 659A). It protects individuals who are 18 years of age or older from age-based discrimination in workplaces with at least one employee.

There are some exceptions to age discrimination laws, particularly for businesses that can demonstrate a valid reason for age-based decisions. For example, certain jobs may require age-based restrictions due to safety or other specific requirements.

Currently, a person claiming employment discrimination because of age may file a complaint with the Bureau of Labor and Industries or the Equal Employment Opportunity Commission. A person may also file an action in court.