

House Bill 2237

Sponsored by Representative BOSHART DAVIS (Presession filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act would repeal the statutes about predictive work schedules. (Flesch Readability Score: 61.3).

Repeals statutes relating to predictive work scheduling.

A BILL FOR AN ACT

1
2 Relating to the repeal of provisions of law governing predictive work scheduling; amending ORS
3 659A.885; and repealing ORS 653.412, 653.422, 653.428, 653.432, 653.436, 653.442, 653.450, 653.455,
4 653.460, 653.465, 653.470, 653.480, 653.485 and 653.490.

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

6 **SECTION 1. ORS 653.412, 653.422, 653.428, 653.432, 653.436, 653.442, 653.450, 653.455, 653.460,**
7 **653.465, 653.470, 653.480, 653.485 and 653.490 are repealed.**

8 **SECTION 2.** ORS 659A.885, as amended by section 58, chapter 700, Oregon Laws 2019, section
9 46, chapter 367, Oregon Laws 2021, section 9, chapter 99, Oregon Laws 2022, and section 49, chapter
10 9, Oregon Laws 2023, is amended to read:

11 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
12 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
13 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
14 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
15 court may order back pay in an action under this subsection only for the two-year period imme-
16 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
17 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
18 year period immediately preceding the filing of the action. In any action under this subsection, the
19 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
20 cept as provided in subsection (3) of this section:

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

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

24 (2) An action may be brought under subsection (1) of this section alleging a violation of[:]

25 [*a*] ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 468B.519, 475C.285,
26 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661,
27 657B.060, 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082,
28 659A.088, 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203,
29 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290,
30 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370

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 659A.421[; or]

2 *[(b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450].*

3 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
 4 243.323, 652.220, 652.355, 653.547, 653.549, 657B.060, 657B.070, 659.852, 659A.030, 659A.040, 659A.043,
 5 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230,
 6 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

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

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

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

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

13 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
 14 olation of ORS 652.220, the court may award punitive damages if:

15 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
 16 with malice or acted with willful and wanton misconduct; or

17 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
 18 659A.850 for a violation of ORS 652.220.

19 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
 20 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
 21 tion, compensatory damages or \$200, whichever is greater.

22 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574
 23 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this
 24 section, compensatory damages or \$250, whichever is greater.

25 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
 26 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
 27 penalty in the amount of \$720.

28 (8) Any individual against whom any distinction, discrimination or restriction on account of
 29 race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age,
 30 if the individual is 18 years of age or older, has been made by any place of public accommodation,
 31 as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any
 32 person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action
 33 against the operator or manager of the place, the employee or person acting on behalf of the place
 34 or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an
 35 action under this subsection:

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

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

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

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

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

1 and

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

4 (9) When the commissioner or the Attorney General has reasonable cause to believe that a
5 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
6 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
7 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
8 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same
9 manner as a person or group of persons may file a civil action under this section. In a civil action
10 filed under this subsection, the court may assess against the respondent, in addition to the relief
11 authorized under subsections (1) and (3) of this section, a civil penalty:

12 (a) In an amount not exceeding \$50,000 for a first violation; and

13 (b) In an amount not exceeding \$100,000 for any subsequent violation.

14 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
15 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
16 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
17 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
18 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
19 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
20 appealing an adverse decision of the trial court.

21 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
22 or 659A.421 or discrimination under federal housing law:

23 (a) "Aggrieved person" includes a person who believes that the person:

24 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

25 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
26 occur.

27 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
28 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
29 tifies that the case is of general public importance. The court may allow an intervenor prevailing
30 party costs and reasonable attorney fees at trial and on appeal.

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