

**A-Engrossed**  
**House Bill 3187**

Ordered by the House April 11  
Including House Amendments dated April 11

Sponsored by Representative SOSA, Senator PATTERSON, Representatives GOMBERG, NERON, RUIZ, SMITH G, WALTERS, Senators PROZANSKI, SOLLMAN, WOODS; Representatives ANDERSEN, CHAICHI, CHOTZEN, FRAGALA, GAMBA, GRAYBER, HARTMAN, HELM, HUDSON, ISADORE, MARSH, MCDONALD, MCLAIN, MUNOZ, NATHANSON, NELSON, NGUYEN D, NGUYEN H, NOSSE, SANCHEZ, TRAN, WATANABE, Senators CAMPOS, FREDERICK, GELSER BLOUIN, GORSEK, MANNING JR, PHAM K, REYNOLDS (at the request of AARP) (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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes laws with respect to discrimination based on age. The Act takes effect 91 days after adjournment. (Flesch Readability Score: 61.2).

*[Clarifies the meaning of "because of age" for purposes of employment discrimination law. Permits observing the terms of a bona fide seniority system or bona fide employee benefit plan when taking an employment action.]*

Makes it an unlawful employment practice for an employer to require or request disclosure of certain information regarding age and attendance or graduation dates. Provides exceptions.

Removes the provision allowing age limits for the purpose of selecting apprentices to bring such conduct within the scope of the unlawful discrimination statute.

Takes effect on the 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to age-based employment discrimination; amending ORS 654.062 and 659A.030; and pre-  
3 scribing an effective date.

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

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

15 (b) For an employer, because of an individual's race, color, religion, sex, sexual orientation,  
16 gender identity, national origin, marital status or age if the individual is 18 years of age or older,  
17 or because of the race, color, religion, sex, sexual orientation, gender identity, national origin,  
18 marital status or age of any other person with whom the individual associates, or because of an  
19 individual's juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.271, to dis-  
20 criminate against the individual in compensation or in terms, conditions or privileges of employment.

**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 (c) For a labor organization, because of an individual's race, color, religion, sex, sexual orien-  
 2 tation, gender identity, national origin, marital status or age if the individual is 18 years of age or  
 3 older, or because of an individual's juvenile record that has been expunged pursuant to ORS  
 4 419A.260 to 419A.271, to exclude or to expel from its membership the individual or to discriminate  
 5 in any way against the individual or any other person.

6 (d) For any employer or employment agency to print or circulate or cause to be printed or cir-  
 7 culated any statement, advertisement or publication, or to use any form of application for employ-  
 8 ment or to make any inquiry in connection with prospective employment that expresses directly or  
 9 indirectly any limitation, specification or discrimination as to an individual's race, color, religion,  
 10 sex, sexual orientation, gender identity, national origin, marital status or age if the individual is 18  
 11 years of age or older, or on the basis of an expunged juvenile record, or any intent to make any such  
 12 limitation, specification or discrimination, unless based upon a bona fide occupational qualification.  
 13 Identification of prospective employees according to race, color, religion, sex, sexual orientation,  
 14 gender identity, national origin, marital status or age does not violate this section unless the Com-  
 15 missioner of the Bureau of Labor and Industries, after a hearing conducted pursuant to ORS  
 16 659A.805, determines that the designation expresses an intent to limit, specify or discriminate on the  
 17 basis of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status  
 18 or age.

19 (e) For an employment agency, because of an individual's race, color, religion, sex, sexual ori-  
 20 entation, gender identity, national origin, marital status or age if the individual is 18 years of age  
 21 or older, or because of the race, color, religion, sex, sexual orientation, gender identity, national  
 22 origin, marital status or age of any other person with whom the individual associates, or because  
 23 of an individual's juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.271, to  
 24 classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to dis-  
 25 criminate against the individual. However, it is not an unlawful employment practice for an em-  
 26 ployment agency to classify or refer for employment an individual when the classification or referral  
 27 results from a bona fide occupational qualification reasonably necessary to the normal operation of  
 28 the employer's business.

29 **(f) For an employer, prospective employer or employment agency, prior to completing an**  
 30 **initial interview, or if there is no initial interview, prior to making a conditional offer of**  
 31 **employment, to request or require disclosure of the applicant's age or date of birth or when**  
 32 **the applicant attended or graduated from any educational institution, except when such in-**  
 33 **formation is required to:**

34 **(A) Affirm that the applicant meets bona fide occupational qualifications; or**

35 **(B) Comply with any provision of federal, state or local law, rule or regulation.**

36 [(f)] (g) For any person to discharge, expel or otherwise discriminate against any other person  
 37 because that other person has opposed any unlawful practice, or because that other person has filed  
 38 a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so.

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

41 (2) The provisions of this section apply to an apprentice under ORS 660.002 to 660.210[ *but the*  
 42 *selection of an apprentice on the basis of the ability to complete the required apprenticeship training*  
 43 *before attaining the age of 70 years is not an unlawful employment practice]. The commissioner shall*  
 44 *administer this section with respect to apprentices under ORS 660.002 to 660.210 equally with regard*  
 45 *to all employees and labor organizations.*

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

3 (4)(a) It is not an unlawful employment practice for an employer or labor organization to provide  
4 or make financial provision for child care services of a custodial or other nature to its employees  
5 or members who are responsible for a minor child.

6 (b) As used in this subsection, "responsible for a minor child" means having custody or legal  
7 guardianship of a minor child or acting in loco parentis to the child.

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

13 **SECTION 2.** ORS 654.062 is amended to read:

14 654.062. (1) Every employee should notify the employer of any violation of law, regulation or  
15 standard pertaining to safety and health in the place of employment when the violation comes to the  
16 knowledge of the employee.

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

21 (3) Upon receiving any employee complaint, the director shall make inquiries, inspections and  
22 investigations that the director considers reasonable and appropriate. When an employee or repre-  
23 sentative of the employee has complained in writing of an alleged violation and no resulting citation  
24 is issued to the employer, the director shall furnish to the employee or representative of the em-  
25 ployee, upon written request, a statement of reasons for the decision.

26 (4) The director shall establish procedures for keeping confidential the identity of any employee  
27 who requests protection in writing. When a request has been made, neither a written complaint from  
28 an employee, or representative of the employee, nor a memorandum containing the identity of a  
29 complainant may be disclosed under ORS 192.311 to 192.478.

30 (5) It is an unlawful employment practice for any person to bar or discharge from employment  
31 or otherwise discriminate against any employee or prospective employee because the employee or  
32 prospective employee has:

33 (a) Opposed any practice forbidden by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to  
34 654.780;

35 (b) Made any complaint or instituted or caused to be instituted any proceeding under or related  
36 to ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, or has testified or is about to  
37 testify in any such proceeding;

38 (c) Exercised on behalf of the employee, prospective employee or others any right afforded by  
39 ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780;

40 (d) In good faith reported an assault that occurred on the premises of a health care employer  
41 as defined in ORS 654.412 or in the home of a patient receiving home health care services; or

42 (e) With no reasonable alternative and in good faith, refused to expose the employee or pro-  
43 spective employee to serious injury or death arising from a hazardous condition at a place of em-  
44 ployment.

45 (6)(a) Any employee or prospective employee alleging to have been barred or discharged from

1 employment or otherwise discriminated against in compensation, or in terms, conditions or privileges  
2 of employment, in violation of subsection (5) of this section may, within one year after the employee  
3 or prospective employee has reasonable cause to believe that the violation has occurred, file a  
4 complaint with the Commissioner of the Bureau of Labor and Industries alleging discrimination un-  
5 der the provisions of ORS 659A.820. Upon receipt of the complaint the commissioner shall process  
6 the complaint under the procedures, policies and remedies established by ORS chapter 659A and the  
7 policies established by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 in the same  
8 way and to the same extent that the complaint would be processed if the complaint involved  
9 allegations of unlawful employment practices under ORS 659A.030 [(1)(f)] (1)(g).

10 (b) Within 90 days after receipt of a complaint filed under this subsection, the commissioner  
11 shall notify the complainant of the commissioner's determination.

12 (c) The affected employee or prospective employee may bring a civil action in any circuit court  
13 of the State of Oregon against any person alleged to have violated subsection (5) of this section. The  
14 civil action must be commenced within one year after the employee or prospective employee has  
15 reasonable cause to believe a violation has occurred, unless a complaint has been timely filed under  
16 ORS 659A.820.

17 (d) The commissioner or the circuit court may order all appropriate relief including rehiring or  
18 reinstatement to the employee's former position with back pay.

19 (7)(a) In any action brought under subsection (6) of this section, there is a rebuttable  
20 presumption that a violation of subsection (5) of this section has occurred if a person bars or dis-  
21 charges an employee or prospective employee from employment or otherwise discriminates against  
22 an employee or prospective employee within 60 days after the employee or prospective employee has  
23 engaged in any of the protected activities described in subsection (5)(a) to (e) of this section. The  
24 person may rebut the presumption that a violation of subsection (5) of this section has occurred by  
25 a demonstration of a preponderance of the evidence.

26 (b) If a person bars or discharges an employee or prospective employee from employment or  
27 otherwise discriminates against the employee or prospective employee more than 60 days after the  
28 employee or prospective employee has engaged in any of the protected activities described under  
29 subsection (5)(a) to (e) of this section, such action does not create a presumption in favor of or  
30 against finding that a violation of subsection (5) of this section has occurred. Where such action has  
31 occurred more than 60 days after the protected activity, this subsection does not modify any existing  
32 rule of case law relating to the proximity of time between a protected activity and an adverse em-  
33 ployment action. The burden of proof shall be on the employee or prospective employee to demon-  
34 strate by a preponderance of the evidence that a violation occurred.

35 (8) The director shall adopt rules necessary for the administration of subsection (5)(e) of this  
36 section that are in accordance with the federal Occupational Safety and Health Act of 1970 (29  
37 U.S.C. 651 et seq.).

38 **SECTION 3. This 2025 Act takes effect on the 91st day after the date on which the 2025**  
39 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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