



## Oppose HB 3187 – Creates Legal Uncertainty for Employers and Employees

Unlike a majority of other states Oregon protects all workers 18 and older from discrimination, while federal law designates those 40 and older as a protected class. HB 3187 expands the definition of discrimination using vague and ambiguous language, making it difficult for employers to determine whether neutral employment factors—such as salary, experience, and tenure—can be lawfully considered in hiring, promotions, and layoffs without risking discrimination lawsuits.

### Undermines Fair and Predictable Workforce Practices

The bill introduces neutral employment considerations as “proxies” for age, including **but not limited to: salary, length of employment service, or retirement or pension eligibility or status.** This overly broad language increases the likelihood that rational, business-driven decisions will be challenged as discriminatory. Employers rely on these factors for valid reasons, such as:

- Awarding raises and promotions
- Equal Pay compliance
- Determining layoffs during financial hardship
- Establishing predictable compensation structures

The legislature specifically included seniority as a bona fide factor that businesses could use in determining pay equity compliance. While HB 3187 includes language around protection for an employer with a “bona fide seniority system” it seems extremely confusing for both employers and employees to determine when seniority is a proxy for age and when it is not.

### Creates an Imbalance Among Protected Classes

HB 3187 establishes a broad and ambiguous standard for age discrimination that is not applied to other protected classes, such as race, gender, disability, or veteran status. For example:

- Establishing salary and length of employment as proxies for age means **any decision an employer makes based on salary or seniority is deemed to be because of age unless an employer can prove it is not.**
- This inconsistency creates an unequal legal framework, where age discrimination claims face a lower burden of proof than claims involving other protected classes. By allowing vague proxies for age, the bill shifts the burden onto employers to prove that employment decisions involving neutral factors are legitimate.

HB 3187 introduces legal confusion through vague standards for age discrimination, increases the risk of litigation, and creates uncertainty by framing legitimate employment factors as potential proxies or stand-ins for age.

**For these reasons, we strongly oppose HB 3187 and urge legislators to vote NO.**