

Chapter 659

Fraudulent and Discriminatory Employment Practices

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FAIR EMPLOYMENT PRACTICES

659.010 Definitions. As used in ORS 659.010 to 659.140, unless the context requires otherwise:

(1) "Bureau" means the Bureau of Labor.

(2) "Commissioner" means the Commissioner of the Bureau of Labor.

(3) "Employee" does not include any individual employed by his parents, spouse or child or in the domestic service of any person.

(4) "Employer" does not include a club exclusively social, or a fraternal, charitable, educational or religious association or corporation, if such a club, association or corporation is not organized for private profit, nor does it include any employer with less than six persons in his employ.

(5) "Employment agency" includes any person undertaking to procure employes or opportunities to work.

(6) "Labor organization" includes any organization which is constituted for the purpose, in whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employes.

(7) "National origin" includes ancestry.

(8) "Person" includes one or more individuals, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.

(9) "Unlawful employment practice" includes only those unlawful employment practices specified in ORS 659.030.

659.020 Declaration of policy and individual civil right. (1) It is declared to be the public policy of Oregon that practices of discrimination against any of its inhabitants because of race, religion, color or national origin are a matter of state concern and that such discrimination threatens not only the rights and privileges of its inhabitants but menaces the institutions and foundation of a free democratic state.

(2) The opportunity to obtain employment without discrimination because of race, religion, color or national origin hereby is recognized as and declared to be a civil right.

659.030 What are unlawful employment practices. For the purposes of ORS 659.010 to 659.140, it is an unlawful employment practice:

(1) For an employer, because of the

race, religion, color or national origin of any individual, to refuse to hire or employ or to bar or discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

(2) For a labor organization, because of the race, religion, color or national origin of any individual to exclude or to expel from its membership such individual or to discriminate in any way against any of its members or against any employer or any individual employed by an employer.

(3) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination as to race, religion, color or national origin, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

(4) For any employer, labor organization or employment agency to discharge, expel or otherwise discriminate against any person because he has opposed any practices forbidden by this section or because he has filed a complaint, testified or assisted in any proceeding under ORS 659.010 to 659.140.

(5) For any person, whether an employer or an employe, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under ORS 659.010 to 659.140 or to attempt to do so.

659.040 Individual complaints of unlawful employment practices. (1) Any person claiming to be aggrieved by an alleged unlawful employment practice, may, by himself or his attorney, make, sign and file with the commissioner a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful employment practice complained of and which complaint shall set forth the particulars thereof. The complainant may be required to set forth in the complaint such other information as the commissioner may deem pertinent.

(2) Any employer whose employes, or any of them, refuse or threaten to refuse to abide by ORS 659.010 to 659.140 or to cooperate in carrying out the purposes of said

statutes may file with the commissioner a verified complaint requesting assistance by conciliation or other remedial action.

659.050 Elimination of unlawful practice by conciliation. After the filing of any complaint, the commissioner shall cause prompt investigation to be made in connection therewith. If the commissioner determines that the allegations of the complaint are supported by any substantial evidence he immediately shall endeavor to eliminate the unlawful practice complained of by conference, conciliation and persuasion.

659.060 Hearing on complaints; findings; orders. (1) In case of failure to eliminate unlawful practices under ORS 659.050, the commissioner shall cause to be issued and served a written notice, together with a copy of the complaint, requiring the person, employer, labor organization or employment agency named in the complaint, referred to in this section as respondent, to answer such charges at a hearing before the commissioner at a time and place which shall be specified in the notice.

(2) The hearing may be held at any public place within the state designated by the commissioner. The respondent may file a verified answer to the allegations of the complaint and may appear at such hearing in person and with or without counsel.

(3) Testimony or other evidence may be introduced by either party. All evidence shall be under oath and a record thereof shall be made and preserved.

(4) If, after considering all the evidence, the commissioner finds that the respondent has engaged in an unlawful employment practice as alleged in the complaint, he shall serve a certified copy of such finding on the respondent, together with an order requiring respondent to cease and desist from such unlawful employment practice. If, on the other hand, the commissioner finds that the respondent has not engaged in an unlawful employment practice as alleged in the complaint, he shall serve a certified copy of his finding on the complainant, together with an order dismissing such complaint.

659.070 Enforcement of orders. Any order issued by the commissioner under ORS 659.060 may be enforced by mandamus or injunction or by a suit in equity to compel specific performance of such order.

659.080 Appeal to circuit court. (1) Any party aggrieved by an order of the com-

missioner issued after hearing under ORS 659.060, may appeal from such order to the circuit court for the county in which the unlawful employment practice is alleged to have occurred, within 20 days after receipt of service of such order.

(2) Such appeal may be taken by serving upon the commissioner and filing with the clerk of said county a notice of appeal, together with a copy of the order appealed from, a copy of the notice of hearing and an undertaking of \$500, conditioned to pay all costs that may be awarded against appellant on such appeal.

(3) Upon the motion of either the commissioner or the appellant, the court shall determine whether or not the filing of the appeal shall operate as a stay of the order appealed from.

(4) Upon a notice of an appeal being filed in the office of the commissioner, a certified transcript of the entire record taken at the hearing shall promptly be filed with the clerk of said court.

(5) The appeal shall have precedence over other causes and shall be heard promptly. The appeal shall be determined and tried de novo in the manner provided by law for the trial of suits in equity.

659.090 Appeal to Supreme Court. Either party aggrieved by order or decree of the circuit court may appeal therefrom to the Supreme Court in the same manner that appeals may be taken from a decree in a suit in equity.

659.100 Administration by Bureau of Labor. (1) The Bureau of Labor may eliminate and prevent discrimination in employment because of race, religion, color or national origin or by employers, employees, labor organizations, employment agencies or other persons and take other actions against discrimination because of race, religion, color or national origin as provided in ORS 659.010 to 659.140. The Bureau of Labor hereby is given general jurisdiction and power for such purposes.

(2) The commissioner may employ such personnel as may be necessary to carry into effect ORS 659.010 to 659.140 and to prescribe the duties and responsibilities of such employees.

659.110 Wilful interference with administration of law and violation of orders of commissioner prohibited. (1) No person, employer, labor organization or employment

agency shall wilfully resist, prevent, impede or interfere with the commissioner or any of his authorized agents in the performance of duty under ORS 659.010 to 659.140 or wilfully violate an order of the commissioner.

(2) An appeal or other procedure for the review of any such order is not deemed to be such wilful conduct.

• **659.120 Advisory committee; membership; tenure; representation.** (1) The Governor shall appoint seven persons who shall constitute an advisory committee. This committee shall act in an advisory capacity to the commissioner concerning all matters referred to in ORS 659.010 to 659.140.

(2) On such committee, there shall be two representatives of labor organizations, one to be chosen from each of the two major labor organizations in this state. Two members shall be representatives of business and industrial management. The remaining three members shall be representative of the public at large.

(3) Upon the expiration of the term of any member, the Governor shall appoint a successor for a term of four years.

(4) The representation on the advisory committee shall be maintained by the Governor in making reappointments to fill vacancies caused by the expiration of tenure or otherwise.

659.130 Duties of advisory committee. The advisory committee shall:

(1) Investigate the existence, character, causes and extent of discrimination in this state and the extent to which the same is susceptible of elimination.

(2) Study the best and most practicable ways of eliminating any discrimination found to exist, and formulate plans for the elimination thereof by education or other practicable means.

(3) Publish and disseminate reports embodying its findings and the results of its investigations and studies relating to discrimination and ways or means of reducing or eliminating it.

(4) Confer, cooperate with and furnish technical assistance to the commissioner and to employers, labor unions, educational institutions and other public or private agencies in formulating plans for the elimination of discrimination.

(5) Transmit to the Governor and to the legislature recommendations as to procedure, plans and legislation which the committee may deem desirable as a result of its

findings as to the existence, character and causes of any discrimination.

659.140 Committee meetings; officers; quorum; expenses. (1) The advisory committee shall meet at least once each three months at such place within the state as the committee designates.

(2) At its initial meeting and annually thereafter the committee shall elect one of its own members to act as chairman and another to act as secretary.

(3) Four members of the committee shall constitute a quorum.

(4) The members of the committee shall receive no compensation but each shall be reimbursed for their actual expenses incurred in and incident to attendance at meetings of the committee.

659.150 to 659.200 [Reserved for expansion]

DECEPTIVE AND FRAUDULENT EMPLOYMENT PRACTICES

659.210 Deceptive representations or advertisements by persons employing labor prohibited. No person, firm, company, corporation, or association of any kind employing labor, shall, either in person or through any agent, manager or other legal representatives, induce, influence, persuade or engage workmen to change from one place to another in this state or bring workmen of any class or calling into this state to work in any of the departments of labor by:

(1) Any false or deceptive representation or false advertising, concerning the amount or character of the compensation to be paid for any work, or as to the existence or nonexistence of a strike, lockout or other labor troubles pending between employer or employees.

(2) Neglecting to state in the advertisement, proposal or inducement for the employment of workmen that there is a strike, lockout or unsettled condition of labor, when such strike, lockout or unsettled condition of labor actually exists.

• **659.220 Right of workmen to recover damages and attorney's fees.** Any workman of this state, or any workman of another state, who is influenced, induced or persuaded to engage with any persons mentioned in ORS 659.210, through or by means of any of the things prohibited in that statute, shall have a right of action for recovery of all damages sustained in consequence of the

false or deceptive representations, false advertising and false pretenses used to induce him to change his place of employment against any persons, corporations, companies, or associations, directly or indirectly causing such damages. In addition to all actual damages such workman may have sustained, he is entitled to recover such reasonable attorney's fees as the court fixes, to be taxed as costs in any judgment recovered.

659.230 Blacklisting and blackmailing prohibited. (1) No corporation, company or individual shall blacklist or publish, or cause to be blacklisted or published, any employee, mechanic or laborer discharged by such corporation, company or individual, with intent and for the purpose of preventing such employee, mechanic or laborer from engaging in or securing similar or other employment from any other corporation, company or individual.

(2) No officer or agent of any corporation or any other person shall, in any manner, conspire or contrive by correspondence or otherwise to prevent an employee discharged by such corporation or such person from securing employment.

659.240 Use of force or misrepresentation to prevent employment prohibited. (1) No person shall, by force, threats, or intimidation, prevent, or endeavor to prevent, any person employed by another from continuing or performing his work, or from accepting any new work or employment.

(2) No person shall circulate any false written or printed matter, or be concerned in the circulation of any such matter, to induce others not to buy from or sell to or have dealings with any person, for the purpose or with the intent to prevent such person from employing any person, or to force or compel him to employ or discharge from his employment anyone, or to alter his mode of carrying on his business, or to limit or increase the number of his employees or the rate of wages or time of service.

659.250 Fraudulently accepting advancement and refusing to work prohibited. (1) No person shall, with intent to defraud, sign for and accept or receive transportation to or in the direction of a place of employment provided by or at the instance or expense of the proposed employer, or knowingly or with intent to defraud accept or receive the benefit of any other pecuniary advancements made by or at the instance or expense

of his employer, as advances against wages for labor to be performed, and neglect to render service or perform labor or pay in money equal in value to such transportation or other benefits accepted or received.

(2) The failure of any person to render service, perform labor, or pay in money for such transportation or other benefits, shall be prima facie evidence of his intent to defraud if:

(a) At or prior to the time of advancing such transportation or other benefits, the employer has delivered directly to such laborer or has filed in duplicate with the employment agency through which any such laborer is secured, one copy of which shall be delivered to such laborer, a written or printed statement setting forth the wages to be paid, the character of the work to be performed, and the living and working conditions; and

(b) The wages to be paid, the character of the work to be performed and the living and working conditions are as represented in such written or printed statement.

659.260 Employer prohibited from filing false statement with employment agency to secure labor. (1) No employer of labor shall directly or through any agent, knowing and with intent to deceive, file with any employment agency as a preliminary to securing labor, a false written or printed statement of wages to be paid, work to be performed or living and working conditions.

(2) The failure or refusal of such employer to employ any laborer, to whom such written or printed statement has been delivered, is prima facie evidence of intent to deceive.

659.270 to 659.980 [Reserved for expansion]

PENALTIES

659.990 Penalties. (1) Violation of ORS 659.110 is punishable, upon conviction, by imprisonment in the county jail for not more than one year or by a fine of not more than \$500, or by both.

(2) Violation of ORS 659.210 is punishable, upon conviction, by a fine of not more than \$1,000 or imprisonment in the county jail for not more than one year, or both.

(3) Violation of ORS 659.230 by any officer or agent of a corporation or any other person is punishable, upon conviction, by a fine of not less than \$50 nor more than

\$250, or by imprisonment in the county jail not less than 30 nor more than 90 days, or both.

(4) Violation of ORS 659.240 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$200 or by imprison-

ment in the county jail for not less than one month nor more than six months.

(5) Violation of ORS 659.250 or ORS 659.260 is punishable, upon conviction, by a fine of not more than \$100 or imprisonment in the county jail for not more than 60 days, or both.

