

Chapter 659

1959 REPLACEMENT PART

Enforcement of Civil Rights; Fraudulent Employment Practices

ENFORCEMENT OF CIVIL RIGHTS

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ENFORCEMENT OF CIVIL RIGHTS

659.010 Definitions for ORS 659.010 to 659.110. As used in ORS 659.010 to 659.110, unless the context requires otherwise:

(1) "Bureau" means the Bureau of Labor

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

(3) "Employe" 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 and subsection (1) of ORS 659.026.

(10) "Unlawful practice" means any unlawful employment practice or any distinction, discrimination or restriction on account of race, religion, color or national origin made by any place of public accommodation, resort or amusement as defined in ORS 30 675 or by any person acting on behalf of any such place, or any violation of ORS 345 240, 659.033 or 659.037. [Amended by 1957 c.724 §3; 1959 c.547 §5; 1959 c.689 §13]

Note: As indicated in the source note to ORS 659 010, that section was amended by two 1959 Acts, i.e., chapters 547 and 689 Section 5 of chapter 547, Oregon Laws 1959, which was signed by the Governor on May 25, 1959, added "and subsection (1) of ORS 659 024" to subsection (9) of ORS 659 010 (1957 Replacement Part). ORS 659 010 has been compiled as it appeared in section 13 of chapter 689, Oregon Laws 1959, signed by the Governor on May 28, 1959 This section added "and subsection (1) of ORS 659 026" to subsection (9) of ORS 659 010 (1957 Replacement Part)

659.015 Declaration of policy against discrimination in employment because of age. It is declared to be the public policy of Oregon that available manpower should be utilized to the fullest extent possible. To this end the abilities of an individual, and not any arbitrary standards which discriminate against an individual solely because of his age, should be the measure of the individual's fitness and qualification for employment. [1959 c.547 §2 and 1959 c.689 §2]

659.020 Declaration of policy against discrimination; opportunity to obtain employment without discrimination recognized as a 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.

659.024 Unlawful employment practice for private employer to discriminate because of age. (1) It is an unlawful employment practice for an employer to refuse to hire or employ or to bar, discharge, dismiss, reduce, suspend or demote any individual because of his age if the individual is 25 years of age or older and under 65 years of age; but the selection of employes on the basis of relevant educational or experience requirements or relevant physical requirements, including but not limited to strength, dexterity, agility

and endurance, is not an unlawful employment practice.

(2) "Employer," as used in this section, means any person who has six or more persons in his employ, but does not include the state, counties, cities, districts, authorities, public corporations and entities and their instrumentalities. [1959 c 547 §3]

659.026 Unlawful employment practice for public employer to discriminate because of age. (1) It is an unlawful employment practice for a public employer or any person acting for a public employer to disqualify or discriminate against any individual in any civil service entrance, appointment or promotion examination or rating, or to refuse to hire, employ or reemploy or to bar, discharge, dismiss, reduce, suspend or demote any individual because of his age if the individual is 25 years of age or older and under 65 years of age; but the compulsory retirement of employes required by law at an age under 65 years and the selection of employes on the basis of relevant educational or experience requirements or relevant physical requirements, including but not limited to, strength, dexterity, agility and endurance, are not unlawful employment practices.

(2) The complaint and appeal procedure provided under this chapter shall not apply to an employe, against whom an unlawful employment practice described in subsection (1) of this section has allegedly been practiced, to whom there applies a procedure for administrative review of the practice as provided under any other statute governing employment by a public employer.

(3) "Public employer," as used in this section, includes the state, counties, cities, districts, authorities, public corporations and entities and any of their instrumentalities organized and existing under charter or law, which employ one or more persons, except the Oregon National Guard, the Oregon unorganized militia and the Oregon Naval Militia.

(4) The provisions of this Act do not apply to:

(a) Employes of institutions under the Oregon State Board of Control, including but not limited to, the Oregon State Penitentiary and of the Oregon State Correctional Institution, whose duties, as assigned by the warden or superintendent, include the custody of persons committed to the custody of or transferred to the institution.

(b) Employes of the Department of State

Police who are classified as police officers by the Superintendent of State Police.

(c) Employes of the Oregon Liquor Control Commission who are classified as enforcement officers by the administrator of the commission

(d) Employes of the State Department of Agriculture who are classified as enforcement officers by the director of the department.

(e) Sheriffs and those deputy sheriffs whose duties, as classified by the sheriff, are the regular duties of police officers.

(f) Police chiefs and policemen of a city who are classified as police officers by the council or other governing body of the city.

(g) Fire chiefs and firemen of a political subdivision of this state who are classified as fire fighters by the governing body of the political subdivision.

(h) Weighmasters employed by the State Highway Department [1959 c.689 §3]

Note: The Legislative Counsel has not, pursuant to ORS 173 160, undertaken to substitute specific ORS references for the words "this Act" in subsection (4) of ORS 659 026 Chapter 689, Oregon Laws 1959, enacted into law ORS 659 015, 659 026 and subsection (2) of 659 102, and amended ORS 240 340, 240 560, 241 225, 241 440, 241 450, 241 460, 242 620, 242 630, 659 010 and 659 100

659.030 What are unlawful employment practices. For the purposes of ORS 659.010 to 659.110, 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 659.110.

(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 659.110 or to attempt to do so.

659.031 Definitions for ORS 659.033. As used in ORS 659.033, unless the context requires otherwise:

(1) "Person engaged in the business of selling real property" includes:

(a) A person who, as a business enterprise, sells, leases or rents real property.

(b) A person who sells, leases or rents real property in connection with or as an incident to his business enterprise.

(2) "Purchaser" includes an occupant, prospective occupant, lessee, prospective lessee, buyer or prospective buyer. [1959 c 584 §2]

659.032 [1957 c 725 §2; repealed by 1959 c.584 §4]

659.033 Discrimination in selling, renting or leasing real property prohibited. (1) No person engaged in the business of selling real property shall, solely because of race, color, religion or national origin of any person:

(a) Refuse to sell, lease or rent any real property to a purchaser.

(b) Expel a purchaser from any real property.

(c) Make any distinction, discrimination or restriction against a purchaser in the price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the furnishing of any facilities or services in connection therewith.

(d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.

(2) No person shall publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing of

real property which indicates any preference, limitation, specification or discrimination based on race, color, religion or national origin.

(3) No real estate broker or salesman shall accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease thereof solely because of race, color, religion or national origin.

(4) No person shall assist, induce, incite or coerce another person to commit an act or engage in a practice that violates this section. [1957 c 725 §3; 1959 c.584 §3]

659.034 [1957 c.725 §4; repealed by 1959 c 584 §4]

659.037 Notice that discrimination will be made in place of public accommodation, resort or amusement prohibited. No person acting on behalf of any place of public accommodation, resort or amusement as defined in ORS 30.675 shall publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that any of the accommodations, advantages, facilities, services or privileges of such place of public accommodation, resort or amusement will be refused, withheld from or denied to, or that any discrimination will be made against, any person on account of race, religion, color or national origin. [1957 c.724 §10]

659.040 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) Whenever he has reason to believe that any person, employer, labor organization or employment agency has committed an unlawful employment practice, the Attorney General may make, sign and file a

complaint in the same manner as a complaint is filed under subsection (1) of this section.

(3) Any employer whose employes, or any of them, refuse or threaten to refuse to abide by ORS 659.010 to 659.110 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. [Amended by 1957 c.724 §13]

659.045 Complaints of discrimination in housing or in place of public accommodation, resort or amusement or in private vocational, professional or trade school. (1) Any person claiming to be aggrieved by an alleged distinction, discrimination or restriction on account of race, religion, color or national origin made by any place of public accommodation, resort or amusement as defined in ORS 30.675 or by any person acting on behalf of such place or any person claiming to be aggrieved by a violation of ORS 345.240 or any person claiming to be aggrieved by a violation of ORS 659.033 may, by himself or his attorney, make, sign and file with the Commissioner of the Bureau of Labor a verified complaint in writing which shall state the name and address of the person, the place of accommodation, resort or amusement or the vocational, professional or trade school alleged to have committed the act 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 of the Bureau of Labor may deem pertinent.

(2) The Attorney General may make, sign and file a complaint in a like manner as a complaint filed under subsection (1) of this section whenever he has reason to believe that any place of public accommodation, resort or amusement or any person acting on behalf of such place has denied any person his rights under ORS 30.670 or has violated ORS 659.037 or that a violation of ORS 345.240 has occurred or that any person has violated the provisions of ORS 659.033. [1957 c.724 §5]

659.050 Elimination of unlawful practice by conciliation. After the filing of any complaint under ORS 659.040 or 659.045, 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. [Amended by 1957 c.724 §6]

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, employment agency, place of public accommodation, resort or amusement as defined in ORS 30.675 or vocational, professional or trade school 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 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 practice. If, on the other hand, the commissioner finds that the respondent has not engaged in an unlawful 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 [Amended by 1957 c.724 §7]

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 commissioner issued after hearing under ORS 659.060, may appeal from such order to the circuit court for the county in which the unlawful 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 [Amended by 1957 c 724 §8]

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 Elimination and prevention of discrimination by Bureau of Labor; employment of personnel. (1) The Bureau of Labor may eliminate and prevent discrimination in employment because of race, religion, color or national origin or by employers, employes, 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 659.110. The Bureau of Labor hereby is given general jurisdiction and power for such purposes.

(2) Except for discrimination against employes who are described in subsection (2) of ORS 659.026, the Bureau of Labor is given jurisdiction and power over instances of discrimination in employment because of age, as prohibited by ORS 659.026.

(3) The Bureau of Labor may eliminate and prevent violations of ORS 659.033 and may eliminate and prevent discrimination or restrictions because of race, religion, color or national origin by vocational, professional and trade schools licensed under any law of the State of Oregon, or by any place

of public accommodation, resort or amusement as defined in ORS 30.675 or by any person acting on behalf of such place. The Bureau of Labor hereby is given general jurisdiction and power for such purposes.

(4) The commissioner shall employ a deputy commissioner and such other personnel as may be necessary to carry into effect the powers and duties conferred upon the Bureau of Labor and the commissioner under ORS 659.010 to 659.110 and may prescribe the duties and responsibilities of such employes. The Commissioner of the Bureau of Labor may delegate any of his powers under ORS 659.010 to 659.110 to the deputy commissioner employed under this subsection. [Amended by 1957 c.724 §9; 1959 c.547 §6; 1959 c.689 §14]

Note: As indicated in the source note to ORS 659.100, that section was amended by two 1959 Acts, i.e., chapters 547 and 689 Section 6 of chapter 547, Oregon Laws 1959, which was signed by the Governor on May 25, 1959, inserted the following as subsection (2) of ORS 659.100 (1957 Replacement Part) "(2) The Bureau of Labor is given jurisdiction and power over instances of discrimination in employment because of age, as provided by ORS 659.024." ORS 659.100 has been compiled as it appeared in section 14 of chapter 689, Oregon Laws 1959, signed by the Governor on May 28, 1959. This section inserted into ORS 659.100 (1957 Replacement Part) subsection (2) as compiled

659.102 Enforcement divisions in Bureau of Labor. (1) The Labor Commissioner may establish a separate division in the bureau to enforce the prohibition of the unfair employment practice described in subsection (1) of ORS 659.024.

(2) The commissioner may establish a separate division in the bureau to enforce the prohibition of the unfair employment practice described in subsection (1) of ORS 659.026 [Subsection (1) enacted as 1959 c.547 §4; subsection (2) enacted as 1959 c.689 §4]

659.110 Wilful interference with administration of law and violation of orders of commissioner prohibited. (1) No person 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 659.110 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. [Amended by 1957 c.724 §14]

659.115 Advisory agencies and intergroup-relations councils. (1) The Commissioner of the Bureau of Labor shall create

such advisory agencies and intergroup-relations councils, local, regional or state-wide, as in his judgment will aid in effectuating the purposes of ORS 659.010 to 659.110. The commissioner may empower them:

(a) To study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religion, color or national origin.

(b) To foster, through community effort or otherwise, good will, cooperation and conciliation among the groups and elements of the population of the state.

(c) To make recommendations to the commissioner for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education.

(2) Such advisory agencies and councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary expenses in accordance with laws and regulations governing state officers.

(3) The commissioner may make provision for technical and clerical assistance to such agencies and councils and for the expenses of such assistance. [1955 c.534 §1]

659.120 [Repealed by 1955 c.534 §2]

659.130 [Repealed by 1955 c.534 §2]

659.140 [Repealed by 1955 c.534 §2]

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 advertise-

ment, 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 employe, mechanic or laborer discharged by such corporation, company or individual, with intent and for the purpose of preventing such employe, 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 employe 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 deliv-

ered, is prima facie evidence of intent to deceive.

659.270 to 659.310 [Reserved for expansion]

659.320 Employer failing to make agreed payments to health and welfare fund.

Whenever an employer has agreed in writing with any employe to make payments to a health and welfare fund or other such plan for the benefit of the employes, or has entered into a collective bargaining agreement providing for such payments, it shall be unlawful for such an employer wilfully or with intent to defraud to fail to make the payments required by the terms of any such agreement. [1957 c.548 §1]

659.330 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 imprisonment 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.

(6) Any person who violates ORS 659.320, upon conviction, shall be punished by a fine of not less than \$50 nor more than \$250. [Subsection (6) enacted as last sentence of 1957 c.548 §1]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on November 1, 1959

Sam R. Haley
Legislative Counsel