Chapter 659

1965 REPLACEMENT PART

Enforcement of Civil Rights; Fraudulent Employment Practices

ENFORCEMENT OF CIVIL RIGHTS

659.010 Definitions for ORS 659.010 to 659.110
659.015 Declaration of policy against discrimination in employment because of age
659.020 Declaration of policy against discrimination; opportunity to obtain employment without discrimination recognized as civil right
659.022 Purpose of ORS 659.010 to 659.110
659.024 Unlawful employment practice for private employer to discriminate because of age
659.026 Unlawful employment practice for public employer to discriminate because of age
659.030 What are unlawful employment practices
659.031 Definitions for ORS 659.033
659.033 Discrimination in selling, renting or leasing real property prohibited
659.037 Notice that discrimination will be made in place of public accommodation, resort or amusement prohibited
659.040 Complaints of unlawful employment practices
659.045 Complaints of discrimination in housing or in place of public accommodation, resort or amusement or in private vocational, professional or trade school
659.050 Elimination of unlawful practice by conciliation; written agreement
659.055 Complainant not to be deprived of services, real property or employment pending determination of complaint
659.060 Charges by Attorney General; hearing on complaints; findings; orders
659.070 Enforcement of conciliation agreements and orders
659.080 Appeal to circuit court
659.090 Appeal to Supreme Court
659.100 Elimination and prevention of discrimination by Bureau of Labor; employment of personnel
659.102 Enforcement divisions in Bureau of Labor
659.103 Rules for carrying out ORS 659.010 to 659.110
659.105 Cause of action for violation of ORS 659.050 or 659.055; defenses
659.110 Wilful interference with administration of law and violation of orders of commissioner prohibited
659.115 Advisory agencies and intergroup-relations councils

DECEPTIVE AND FRAUDULENT EMPLOYMENT PRACTICES

659.210 Deceptive representations or advertisements by persons employing labor prohibited
659.220 Right of workmen to recover damages and attorney fees
659.225 Requiring polygraph or lie detector test prohibited
659.230 Blacklisting and blackmailing prohibited
659.240 Use of force or misrepresentation to prevent employment prohibited
659.250 Fraudulently accepting advancement and refusing to work prohibited
659.260 Employer prohibited from filing false statement with employment agency to secure labor
659.320 Employer failing to make agreed payments to health and welfare fund

PENALTIES

659.990 Penalties

CROSS REFERENCES

Administrative procedures governing state agencies, 183.310 to 183.510
Work release program, 144.480

ENFORCEMENT OF CIVIL RIGHTS

Discrimination in admittance to vocational, professional and trade schools prohibited, 345.240, 345.250
Discrimination on account of race, religion, color or national origin in places of public accommodation, 30.670 to 30.690
Discriminatory wage rates based on sex prohibited, 652.210 to 652.230

659.020

Equality of treatment and opportunity in organized militia, 399.045

659.026

Appeals on account of unlawful employment practices:
By county employe, 241.440
By fireman, 242.800
By school district employe, 242.620
By state employe, 240.560

659.033

Real estate brokers, revocation of license for violation of section, 696.300(1)(v)

659.080

Deposits in lieu of undertaking, Ch. 22

659.115

Subsistence and mileage allowances for travel by state officers and employes, 292.210 to 292.260

DECEPTIVE AND FRAUDULENT EMPLOYMENT PRACTICES

Compelling another to join or refrain from joining an organization, 163.490
Compelling employe to board or buy at particular place, 163.500
Contracts prejudicial to freedom of employe's or employer's joining of certain organizations are not enforceable, 662.030
Discrimination in admittance to vocational, professional and trade schools prohibited, 345.240, 345.250
Discrimination on civil service application prohibited, 240.340
Misrepresentation by farm labor contractor, 658.440
Statements designed to prejudice former convicts' chances for employment prohibited, 163.470

659.250

Employment agencies, Ch. 658

659.320

Benefits for sick or injured employes, Ch. 655
Lien for contributions to employe benefit plan, 87.855
State development credit corporation, investing in, 63.290

659.990

Jurisdiction of prosecutions under subsections (2), (3) and (4), justice courts and circuit courts have, 51.060
Prosecution by person given duties under ORS 659.100 prohibited, 659.100(5)

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) "Cease and desist order" means an order signed by the commissioner, taking into account the subject matter of the complaint and the need to supervise compliance with the terms of any specific order issued to eliminate the effects of any unlawful practice found, addressed to a respondent requiring him to:

(a) Perform an act or series of acts designated therein and reasonably calculated to carry out the purposes of ORS 659.010 to 659.110, eliminate the effects of an unlawful practice found, and protect the rights of the complainant and other persons similarly situated;

(b) Take such action and submit such designated reports to the commissioner on the manner of compliance with other terms and conditions specified in his order as may be required to assure compliance therewith; or

(c) Refrain from any action designated in the order which would jeopardize the rights of the complainant or other person similarly situated or frustrate the purpose of ORS 659.010 to 659.110.

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

(4) "Conciliation agreement" means a written agreement settling and disposing of a complaint under ORS 659.010 to 659.110 signed by a respondent and an authorized official of the Bureau of Labor.

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

(6) "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.

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

(8) "Entity" includes employers, labor organizations, employment agencies, places of public accommodation, resort or amusement as defined in ORS 30.675 or vocational, professional or trade schools.

(9) "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.

(10) "National origin" includes ancestry.

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

(12) "Respondent" includes any person or entity against whom a complaint or charge of unlawful practices is filed with the commissioner or whose name has been added to such complaint or charge pursuant to subsection (1) of ORS 659.050.

(13) "Unlawful employment practice" includes only those unlawful employment practices specified in ORS 659.024, 659.030 and subsection (1) of ORS 659.026.

(14) "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, 659.037, or rules and regulations adopted pursuant to subsection (1) of ORS 659.103, but does not include a refusal to furnish goods or services when the refusal is based on just cause.

[Amended by 1957 c.724 §3; 1959 c.547 §5; 1959 c.689 §13; 1961 c.247 §2; 1963 c.622 §3]

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.

659.022 Purpose of ORS 659.010 to 659.110. The purpose of ORS 659.010 to 659.110 is to encourage the fullest utilization of available manpower by removing arbitrary standards of race, religion, color, national origin or age as a barrier to employment of the inhabitants of this state; to insure human dignity of all people within this state, and protect their health, safety and morals from the consequences of intergroup hostility, tensions and practices of discrimination of any kind based on race, religion, color or national origin. To accomplish this purpose the Legislative Assembly intends by ORS 659.010 to 659.110 to provide:

(1) A program of public education calculated to eliminate attitudes upon which practices of discrimination because of race, religion, color or national origin are based.

(2) An adequate remedy for persons aggrieved by certain acts of discrimination because of race, religion, color or national origin or unreasonable acts of discrimination in employment based upon age.

(3) An adequate administrative machinery for the orderly resolution of complaints of discrimination through a procedure involving investigation, conference, conciliation and persuasion; to encourage the use in good faith of such machinery by all parties to a complaint of discrimination; and to discourage unilateral action which makes moot the outcome of final administrative or judicial determination on the merits of such a complaint.

[1963 c.622 §2]

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) It is an unlawful employment practice 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 age of any person who is 25 years of age or older and under 65 years of age, or any intent to make such limitation, specification or discrimination, unless based upon a bona fide occupational qualification.

(3) "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.

(4) The provisions of this section apply to an apprentice under ORS chapter 660,

but the selection of an apprentice on the basis of the ability to complete the required apprenticeship training and the industry average period of employment thereafter before attaining the age of 65 years is not an unlawful employment practice.
[1959 c.547 §3; 1963 c.622 §5; 1965 c.575 §1]

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; written agreement. (1) 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 during the course of such investigation or upon the conclusion thereof it appears to the commissioner that additional persons should be named as respondents in the complaint the names of such persons may be added as respondents thereto. If the investigation discloses any substantial evidence supporting the allegations of the complaint the commissioner shall cause immediate steps to be taken through conference, conciliation and persuasion to effect a settlement of the complaint and eliminate the effects of the unlawful practice and to otherwise carry out the purpose of ORS 659.010 to 659.110.

(2) The terms of any settlement of a complaint under this section shall be contained in a written conciliation agreement filed with the commissioner. Such agreement may include any or all terms and conditions which may be included in a cease and desist order.

(3) The commissioner may relax any terms or conditions of a conciliation agreement or cease and desist order, the performance of which would cause an undue hardship on the respondent or another person and are not essential to protection of the complainant's rights. In the absence of such relaxation by the commissioner, no respondent shall violate any terms or conditions of a cease and desist order or conciliation agreement to which he was a party; nor shall his agent or successor in interest to the particular business involved violate any terms or conditions thereof.
[Amended by 1957 c.724 §6; 1963 c.622 §6]

659.055 Complainant not to be deprived of services, real property or employment pending determination of complaint. Prior to a final administrative determination on the merits of a complaint filed against him under ORS 659.010 to 659.110 and subsequent to receipt of notice from the commissioner or his deputy that such complaint has been filed subject to ORS 659.105, no respondent shall, with an intention to defeat a purpose of this chapter, take any action which makes unavailable to the complainant therein, any services, real property, employment or employment opportunities sought by said complaint upon administrative determination on the merits thereof.
[1963 c.622 §4]

659.060 Charges by Attorney General; hearing on complaints; findings; orders. (1) In case of failure to resolve a complaint after reasonable effort under ORS 659.050 a copy of the records on file in the case shall be certified by an officer of the Bureau of

Labor familiar with the details thereof. He shall deliver such copy, together with a list of available dates for hearing, to the Attorney General or an Assistant Attorney General authorized to receive it.

(2) Upon receipt of the copy of records referred to in subsection (1) of this section the Attorney General shall prepare and serve upon the commissioner and each respondent required to appear at a hearing before the commissioner, specific charges in writing he intends to prefer against such respondents, together with a written notice of the time and place of such hearing. The commissioner shall immediately schedule a hearing on the case at the time and place specified in the notice prepared and served by the Attorney General.

(3) All proceedings before the commissioner under this section shall be in conformity with the provisions of ORS chapter 183.

(4) After considering all the evidence, the commissioner shall cause to be issued findings of facts, and conclusions of law. He shall also issue an order dismissing the charge and complaint against any respondent not found to have engaged in any unlawful practice charged and an appropriate cease and desist order against any respondent found to have engaged in any unlawful practice charged.

(5) Nothing stated in ORS 659.010 to 659.110 shall be construed to prevent a settlement of any case scheduled for hearing under the provisions of ORS 659.010 to 659.110 by conciliation, conference and persuasion, nor to prevent the commissioner from appointing a special tribunal to hear and determine matters of fact under ORS 659.010 to 659.110, reserving to himself the conclusions of law and formulation of an order appropriate to the facts as found.

[Amended by 1957 c.724 §7; 1961 c.145 §1; 1963 c.622 §7]

659.070 Enforcement of conciliation agreements and orders. Any conciliation agreement or 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.

[Amended by 1963 c.622 §10]

659.080 Appeal to circuit court. 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 in accordance with the provisions of ORS chapter 183. For the purpose of this section a conciliation agreement disposing of a complaint is an order of the commissioner against a complainant who did not approve of such agreement, and such complainant is a party aggrieved thereby.

[Amended by 1957 c.724 §8; 1961 c.145 §2; 1963 c.622 §11]

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 659.024 and 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.

(5) No person delegated any powers or duties under this section and ORS 659.103 shall act as prosecutor and examiner in processing any violation under ORS 659.010 to 659.110.

[Amended by 1957 c.724 §9; 1959 c.547 §6; 1959 c.689 §14; 1961 c.145 §3; 1963 c.622 §8; part renumbered 659.103]

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]

659.103 Rules for carrying out ORS 659.010 to 659.110. (1) In accordance with any applicable provision of ORS chapter 183, the commissioner may adopt reasonable rules:

(a) Establishing what acts and communications constitute a notice, sign or advertisement that public accommodation or real property will be refused, withheld from, or denied to any person or that discrimination will be made against him because of race, religion, color or national origin.

(b) Establishing what inquiries in connection with employment and prospective employment express a limitation, specification or discrimination as to race, religion, color, national origin or age.

(c) Establishing what inquiries in connection with employment and prospective employment soliciting information as to race, religion, color, national origin or age are based on bona fide job qualifications.

(d) Establishing rules for internal operation and rules of practice and procedure before the commissioner under ORS 659.010 to 659.110.

(e) Establishing rules covering any other matter required to carry out the purpose of ORS 659.010 to 659.110.

(2) In adopting rules under this section the commissioner shall consider the following factors, among others:

(a) The relevance of information requested to job performance in connection with which it is requested.

(b) Available reasonable alternative ways of obtaining requested information without soliciting responses as to race, religion, color, national origin or age.

(c) Whether a statement or inquiry soliciting information as to race, religion, color, national origin or age communicates an idea independent of an intention to limit, specify or discriminate as to race, religion, color, national origin or age.

(d) Whether the independent idea communicated is relevant to a legitimate objective of the kind of transaction which it contemplates.

(e) The ease with which the independent idea relating to a legitimate objective of the kind of transaction contemplated could be communicated without connoting an intention to discriminate as to race, religion, color, national origin or age.

[Formerly part of 659.100]

659.105 Cause of action for violation of ORS 659.050 or 659.055; defenses. (1) Any person aggrieved by a violation of ORS 659.055 or subsection (3) of ORS 659.050 shall have a cause of action against the violator thereof for damages sustained thereby and also for such additional sum as may be reasonable as exemplary damages.

(2) As a defense to any cause of action arising under this section based on a violation of ORS 659.055 the defendant may plead and prove that either:

(a) Subsequent to the defendant's conduct on which the plaintiff bases his cause of action, the complaint under ORS 659.040 or 659.045 has been dismissed by the commissioner or his deputy, or the court, either for want of evidence to proceed to a hearing or for lack of merit after such hearing; or

(b) Defendant's conduct giving rise to plaintiff's cause of action was neither committed within the first 90 days after notice by the commissioner or his deputy of the filing of the complaint of discrimination under ORS 659.010 to 659.110, nor within any extended period of time obtained at the request of respondent for disposition of the case.

[1963 c.622 §9]

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 employes.

(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 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.

659.225 Requiring polygraph or lie detector test prohibited. No person, or agent or representative of such person, shall require, as a condition for employment or continuation of employment, any person or employe to take a polygraph test or any form of a so-called lie detector test.
[1963 c.249 §1]

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 employes 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 659.310 [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.

(7) Violation of ORS 659.225 is punishable, upon conviction, by a fine of not more than $500 or by imprisonment in the county jail for not more than one year, or by both.

[Subsection (6) enacted as last sentence of 1957 c.548 §1; subsection (7) enacted as 1963 c.249 §2]

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 15, 1965.

Sam R. Haley
Legislative Counsel