

Civil Rights Work Group:
STATUTE OF LIMITATIONS
FOR
PUBLIC ACCOMMODATION DISCRIMINATION CLAIMS

SB 236

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From the Offices of Executive Director
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I. Introductory Summary

For the 2005 Legislative Session, the Oregon Law Commission's Civil Rights Work Group proposes a bill that provides for a one-year statute of limitation for filing a claim in court for unlawful discrimination in places of public accommodations.

II. History of the Project

In 2001, the Oregon legislature enacted legislation recommended by the Oregon Law Commission's Civil Rights Work Group to reorganize ORS Chapter 659 and amend other statutes outside Chapter 659 relating to unlawful employment practices and other unlawful discrimination practices. The intent of the reorganization completed with HB 2352 (2001) was to make the statutes easier to understand and use, with only minor substantive amendments.

During the process of working on the reorganization bill, the Civil Rights Work Group identified a list of more substantive problems that the Group hoped to address later. The Work Group did present two clean-up bills in the 2003 session, HB 2275 and HB 2276. However, those two bills only fixed unintended consequences of the reorganization bill. HB 2275 (2003) restored "age" as a protected class in the public accommodation provisions and HB 2276 (2003) restored the remedies for certain injured worker rights.

The Law Commission authorized the Civil Rights Work Group to continue again for the 2005 session, charged with the task of addressing the more substantive problems identified earlier. This session the Civil Rights Work Group presents five bills with each addressing an identified gap, ambiguity, or conflict in the present civil rights laws.

Sen. Vicki Walker served as the Chair of the Civil Rights Work Group¹ in 2005. The Work Group needed to meet only once, having received bill drafts and materials in advance of the meeting. The Group met on January 26 and then finalized their recommendations to the Commission via email. The meeting took place at Willamette University in Salem and was open to the public. Several discussions among Work Group members took place before and after the meeting via electronic correspondence.

¹ The Work Group included the following members:

Jeffrey Chicoine	Newcomb, Sabine, Schwartz, and Landsverk LLP
Barbara Diamond	Smith, Diamond & Olney
Corbett Gordon	Fisher & Phillips LLP
Bob Joondeph	Oregon Law Center
David Nebel	OSB
Marcia Ohlemiller	BOLI
Louis Savage	DCBS

Interested Participants:

Patricia Altenhofen	Cascade Employers
Leslie Bottomly	Ater Wynne LLP
Barbara Brainard	Stoel Rives LLP
Clay Creps	Bullivant, Houser, Bailey PC
Patricia Haim	Amburgey & Rubin PC
Sandra Hansberger	Lewis & Clark Clinic
Victor Kisch	Tonkon Torp LLP
Stacey Mark	Ater Wynne LLP
Andrea Meyer	ACLU
Karen O’Kasey Hoffman, Hart & Wagner LLP	
Kathy Peck	Williams, Zografos & Peck PC
Edward Reeves	Stoel Rives LLP
Dennis Steinman	Kell, Alterman & Runstein LLP
Diana Stuart	Goldberg, Mechanic, Stuart & Gibson LLP
Nathan Sykes	Schwabe, Williamson & Wyatt PC
Annette Talbott	BOLI
Jerry Watson	Oregon Law Commission

Doug McKean, Deputy Legislative Counsel, provided drafting and research assistance.

III. Statement of the Problem Area

Oregon statutes provide that it is an unlawful practice for any person to deny full and equal accommodations, advantages, facilities and privileges of any place of public accommodation or to aid and abet such discrimination. See ORS 659A.403, 659A.406. Individuals filing public accommodations discrimination claims have one year after the discriminatory act to file a complaint with the Bureau of Labor and Industries. See ORS 659A.820. However, individuals may also take their claims directly to circuit court. There is no codified statute of limitations for bringing a public accommodations claim in court. The general reason for this bill is based on the theory that all civil rights statutes should provide for clear rights and remedies, including the statute of limitations. Having a clear statute of limitations ensures finality.

IV. Objective of the Proposal

This bill provides for a one-year statute of limitations for filing a public accommodations discrimination suit in court. Currently, there is no specific statute of limitations for these types of claims found in the Oregon Revised Statutes. The Work Group proposes a one-year statute of limitations because it is consistent with both the amount of time to file a complaint with BOLI, and is the same statute of limitations as most unlawful employment practice discrimination claims. See ORS 659A.875(1) (providing one year statute of limitations for civil actions under ORS 659A.885). While public accommodation discrimination is different than employment discrimination, the two have similar policy goals and the same statute of limitations is logical.

V. The Proposal

See SB 236 (2005).

Section 1

Section 1 amends ORS 659A.875 and inserts a new subsection (4) to provide for a one year statute of limitations for civil actions alleging an unlawful practice in violation of ORS 649A.403 or ORS 659.406. The present subsections (4) and (5) are renumbered to subsections (5) and (6).

Section 2

Section 2 provides that amendments to the ORS made by this bill apply only to conduct giving rise to a cause of action occurring on or after the effective date of the Act. No emergency clause is provided and thus the Act will become effective on the customary date of January 1, 2006.