



Urban League
of Portland



HB 2668: Civil Rights Protections in Public Accommodations

BACKGROUND

ORS 659A.400-659A.417 protects Oregonians from discrimination in places of public accommodation on the basis of race, sex (including pregnancy), sexual orientation, gender identity, national origin, religion, marital status, physical or mental disability, or age (18 years of age and older).

As defined by ORS 659A.400(1) a place of public accommodation is:

“...any place or service offering to the public accommodations, advantages, facilities or privileges, whether in the nature of goods, services, lodging, amusements or otherwise.

(2) However, a place of public accommodation does not include an institution, bona fide club or place of accommodation which is in its nature distinctly private.”

The Bureau of Labor and Industries (BOLI) enforces the public accommodations law against both private and government entities. However, in a 1976 Oregon Supreme Court case, the court implied the public accommodations law may apply only to entities with a commercial interest. This interpretation appears contrary to the current language in the statute and could be viewed as excluding some government bodies from the nondiscrimination law.

Typical examples of places of public accommodation with a commercial interest include restaurants, hotels, banks, theaters, and stores. Nonprofit organizations or private schools, which provide goods and services to the general public have a commercial interest, as do government bodies like Lane Transit District, Tri-Met or the OLCC. The nondiscrimination law would clearly apply to these examples but, under the Schwenk ruling, it could be argued the law would not equally apply to a city, state agency or other government body without a commercial interest.

PROBLEM: Oregon’s public accommodations law can be interpreted as not applying equally to all government bodies and private entities.

SOLUTION: Amend ORS 659A.400 to clarify that Oregon’s public accommodations law equally applies to both government and private entities regardless of their commercial interest. This change would not impact membership organizations, such as the Boy Scouts of America, which are distinctly private and not typically covered under public accommodations laws.

Government bodies should be held to the same standard to which they hold commercial entities.

