



NEW LAWS GOVERNING YOUR BUSINESS

Court Actions

Arbitration

Sets arbitration threshold at \$50,000 after January 1, 2006. Now applies to all counties in Oregon.

Health Care

Mental Health Parity

Requires health insurance policies to include mental health coverage.

Estimated 2% to 2.5% increase in health insurance premiums. 3,000 Oregonians lose coverage for each 1% increase.

May deprive up to 7,500 citizens of health insurance coverage.

Prostate Exam Mandate

Requires group plans to provide bi-annual (every 2 years) prostate cancer screenings for men over 50 years old and younger men at risk for prostate cancer.

Clinical Breast Exam Mandate

Requires group plans to include a physical breast exam for women 18 years and older.

Not subject to a sunset provision that allows for evaluation of the benefit.

Colorectal Exams

Requires colorectal exams for certain people. Requires insurers to electronically report certain group health information.

Independent Contractors

Revises Independent Contractor Definition

Simplifies the test to determine whether a person is an independent

contractor for purposes of employment taxes (ORS Chapter 316), unemployment insurance (ORS Chapter 657), architects, landscape architects and landscape contractors (ORS Chapter 671) and construction contractors (ORS Chapter 701).

A worker qualifies as an independent contractor if:

- (1) They are free from direction and control over the means and manner of providing services.
- (2) They are customarily engaged in an independently established business.
- (3) They are appropriately licensed.

In determining whether a person has an independently established business, they must meet three of the following five criteria:

- (1) Maintains a business location
- (2) Bears the risk of loss related to the business.
- (3) Provides contracted service to two or more persons in a 12 month period or solicits new contracts.
- (4) Makes a significant investment in the business.
- (5) Has the authority to hire and fire other persons to assist in the business.

Employment

Minimum Wage Increase

The Oregon minimum wage increases to \$7.50 on January 1, 2006.

New Poster must be displayed.

Workplace Bullying

Failed – will be back. Employer liability. No safe harbors.

Wage & Hour

Payment on Termination of Employment

Previously, if an employee is responsible for maintaining time records and quits without 48 hours notice, the final paycheck must be delivered within 5 days.

HB 3319 requires employers to pay estimated wages within 5 days of termination. Must pay any additional amount owed within 5 days of submission of time records.

No penalty if estimate is less than total amount due.

Teenage Worker Mealtimes

Eliminates requirement that 30 minute meal time for employees under 16 must occur at noon.

Civil Rights

Nursing Mother Accommodation

Permits – DOES NOT REQUIRE - employers with 25 or more employees allow employees that are mothers to nurse a child under 18 months or express milk.

Suggested accommodations –

Unpaid rest periods

Make up time before or after shifts
Changing job duties
Providing a private location

Mandates were removed from bill.
References to breast-feeding were also removed.

Clarifies Discrimination Remedies

Expands ORS 659A.885 to provide remedies for discrimination against:

- (1) Legislators taking leave to perform official duties.
- (2) Volunteer firefighters taking leave to perform duties.
- (3) Employees that use tobacco products during non-working hours.

Military Rights Expands State Military Leave Law

Expands Oregon's Military Leave Law, ORS 399.230, to include employees that are members of the militia of another state and called into active duty by that state's governor.

Unemployment Compensation & Insurance Extends Emergency Unemployment Benefits

Provided emergency benefits from April 21, 2005 through August 13, 2005 for people that had exhausted their benefits.

Unemployment Tax Cut

Unemployment taxes cut an average of 12% by changing the assumptions for calculating trust fund solvency.

Transfer of Liabilities to Reorganized Businesses

Amends ORS Chapter 657 to authorize the Director of the Employment Department to transfer and assess unemployment insurance tax liabilities when a "reorganized business" is operating substantially the same business as the prior employer.

Workplace Safety Statute of Limitations for Discrimination Claims Based on Workplace Safety Reporting

Took effect June 9, 2005.

Clarifies that the statute of limitations for employees bringing suit claiming discrimination based on exercising workplace safety rights under ORS Chapter 654 is one year.

If an administrative complaint is filed, the employee has 90 days for BOLI's issuance of a right to sue letter.

Notice to Employers

ORS 654.035 requires OR – OSHA to notify businesses that might be inspected if the business had a claims rate higher than their industry's average.

As a result, tens of thousands of notices went to companies that would probably never be inspected.

HB 2093 allows OR – OSHA to send letters to just those employers whose workplaces are rates as one of the most unsafe.