

SELECTED OREGON EMPLOYMENT LEGISLATION¹

JANUARY 2009 REPORT

RANDY SUTTON, J.D.

2009 Oregon State Council Legislative Affairs Director

The session has begun, and bills are slowly dropping . . . there are already a number of employment bills at issue already.

If you don't like the way some employment laws work, now is your chance to take action! To avoid bad legislation, you can help inform your representative and the members of the committees to which these bills have been assigned. More information is available at (www.leg.state.or.us). If you have questions or would like to be placed on a notification list regarding bills of interest, please send an email to rsutton@sglaw.com.

BILL	DESCRIPTION	COMMENT
SB 57	<p>Would eliminate the word "solely" from the Oregon statute that prohibits an employer from discriminating against a person "solely" because another member of the person's family works or has worked for the employer.</p> <p><i>Referred to Judiciary Committee. Public hearing held.</i></p>	<p><i>Current law requires proof that the employer's sole reason for the allegedly discriminatory action was the employee's status as a family member. The change would allow an employee or potential hire to prove a claim by showing that the family relationship was one of the factors in the decision. The bill might also discourage diversity in the workplace, by placing a disincentive on an employer looking beyond the family members of employees when making hiring decisions.</i></p>
SB 60	<p>Would allow the BOLI commissioner to charge attorney fees against the respondent employer when collecting a judgment on a wage claim.</p> <p><i>Referred to Consumer Protection and Public Affairs Committee, which has heard the bill, had a work session, and recommended to pass.</i></p>	<p><i>The current statute allows BOLI to charge these fees against the claimant's recovery only.</i></p>
SB 358	<p>Would modify an employer's liability for punitive damages. The employer would not be liable for the wrongdoing of an employee unless the employer knew that the employee intended to commit the wrong, and the employer failed to take action to prevent it from happening.</p> <p><i>Referred to Judiciary Committee.</i></p>	<p><i>Although the bill would limit liability of employers, the employer would be required to act on any knowledge that an employee intended harm.</i></p>

¹ Randy Sutton is a shareholder with the SAALFELD GRIGGS law firm (www.sglaw.com). This summary was prepared with the firm's assistance. The information contained herein is current as of January 4, 2009. This summary is not intended to cover every employment-related bill. The status of particular bills will change rapidly during legislative session. This information is considered accurate but is not guaranteed. Additional information is available at www.leg.state.or.us. The above comments are not legal advice and do not necessarily reflect the views of SHRM or the Oregon State Council, its board or members, or any affiliated organization.

BILL	DESCRIPTION	COMMENT
HB 2038	Requires that every person driving a vehicle use a hands-free cell phone feature. Also requires that any person under the age of 18 not talk or text message while driving. <i>Referred to Transportation Committee.</i>	<i>The bill would require employers to install hand-free phones in company vehicles or make sure that employees are using hands-free devices while driving.</i>
HB 2377	Requires that every person driving a vehicle use a hands-free cell phone feature. Would allow drivers under 18 to use a cell phone while driving so long as it was hands free. <i>Referred to Transportation Committee.</i>	<i>See comments re: HB 2038</i>
HB 2497	The bill allows an employer to refuse to accommodate medical use of marijuana, regardless of where the use occurs. The bill would also allow employers to establish drug-free workforce policies. <i>Referred to Business & Labor Committee</i>	<i>This is an important bill that really needs the attention of the SHRM membership!</i> <i>Because of the time marijuana stays in a person's system, it is difficult to determine whether a medical marijuana user is presently under the influence. Recent court cases have made it difficult for employers to impose zero-tolerance policies in the workplace. This bill would give employers more flexibility to enforce their drug policies.</i>
HB 2503	Would restrict employers from making employment decisions based upon medical marijuana use, except where the employer could show that the use occurred on the employer's property or during work hours. Exception for "safety sensitive" positions. <i>Referred to Business & Labor Committee</i>	<i>This pro-medical marijuana bill would broadly expand the rights of medical marijuana users and impose serious limitations on an employer's ability to enforce its drug policies.</i>

OFLA Family Leave Regulations Review

BOLI recently published a table (attached) comparing the new FMLA regulations to the existing OFLA regulations. The table makes it clear that the new FMLA regulations do very little to change how employers comply with OFLA. BOLI is asking for input on drafting new regulations. There is an understanding that employers would like to see more uniformity with the new FMLA regulations, which are for the most part, helpful to employers in administering family leave.

BOLI will be conducting forums to obtain feedback and will be accepting correspondence with comments about the new regulations. This is a great opportunity to have your voice and concerns heard! The forums will be:

Portland - February 24 Portland State Office Building 800 NE Oregon St., Room 1-B Portland, OR 97232 4:00-6:00pm	Eugene - February 26 City Council Chambers 777 Pearl Street Eugene, Or 97401 4:00-6:00pm	Portland - February 26 Portland State Office Building 800 NE Oregon St., Room 1-B Portland, OR 97232 4:00-6:00pm
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Or submit written comments to:

Amy Klare, BOLI Civil Rights Administrator
800 NE Oregon St. #1045, Portland, OR 97232
Amy.K.Klare@state.or.us