

# Electronic Alert

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## **BOLI Issues New Draft Rule on Paid Sick Time By Amy Angel and Nicole Elgin**

The Oregon Bureau of Labor and Industries (BOLI) recently issued [new draft rules](#) clarifying Oregon's Paid Sick Time Laws. The draft rules update and explain certain provisions that have been unclear since the mandatory sick leave law went into effect in 2015.

These proposed rules give more examples of workers that are and are not included in the definition of an "employee." Under these rules, "employee" would include individuals paid on a piece-rate basis and individuals paid on commission. The proposed rules require employers to pay these employees a "regular rate of pay" for sick time, which is calculated by dividing the employee's total earnings by the number of hours worked in that pay period.

The draft rules also clarify that a secondary employer in a joint-employer relationship is prohibited from discriminating against an employee for qualifying absences with the primary employer. However, the rules also note that the secondary employer is only liable for the sick time the employee earned while working for the secondary employer.

Another proposed change clarifies that employers located in Portland on a temporary basis, who maintain another permanent location within Oregon, and who do not intend to stay in Portland "beyond the duration of the temporary project or season," are not considered employers in a city with a population exceeding 500,000. This means that these employers are not subject to Portland's six employee threshold for unpaid leave.

The comment period is now open and ends September 26, 2016 at 5 PM. Employers should take the time to review the proposed rules and send any comments or questions to BOLI for additional clarification or recommendations. Comments regarding the proposed rules may be directed to Paloma Sparks, Legislative Director, at [paloma.sparks@state.or.us](mailto:paloma.sparks@state.or.us) or to Marcia Ohlemiller, BOLI Rules Coordinator, c/o BOLI, 800 NE Oregon Street, Ste. 1045, Portland, OR 97232 at [marcia.l.ohlemiller@state.or.us](mailto:marcia.l.ohlemiller@state.or.us). Stay tuned for the final rule changes later this year.