

Electronic Alert

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2021 Oregon Legislative Session General Overview

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The Oregon Legislative Assembly's current session ended on Saturday, June 26, 2021, with several bills creating notable changes for Oregon employers. The following is a list of the relevant bills that have been signed into law by the Governor.

HB 2818 – Amendments to Pay Equity

Paving the way for employers to offer vaccine incentives (both monetary & non-monetary), the legislature has carved out vaccine incentives from the definition of compensation in Oregon's pay equity law. This change applies to lawsuits filed on or after April 29, 2021, and for any pending BOLI complaints that had not been decided as of that date. Additionally, to address the current labor shortage and allow employers to incentivize employment, between May 25, 2021, and March 1, 2022, hiring bonuses and retention bonuses are also excluded from the definition of "compensation."

HB 2474 – Oregon Family Leave Act (OFLA) Amendments

- Allows employees who have a break in service due to termination or temporary furlough or layoff of 180 days or less to retain their OFLA eligibility and count time prior to break in service to overall break in service.
- Expands eligibility of OFLA during a public health emergency to employees working at least 30 days immediately prior to taking leave (reduced from 180 days) and an average of 25 hours or more per week during those 30 days.
- Expands the definition of sick child leave to include providing home care to the employee's child due to the closure of the child's school or child care provider as a result of a public health emergency and allows for certain employer verification.
- Clarifies that pregnancy disability leave may be taken by "an eligible employee" rather than "a female eligible employee."

These changes take effect January 1, 2022.

HB 3389 – Changes to Unemployment Taxes

Employers in good standing with a rate increase of 0.5% or more may defer up to one-third of their 2021 tax obligation without accruing interest or penalties until June 30, 2022. Additionally, 2021 and 2022 are not included in the lookback period and the experience rating used to determine 2020 tax rate will be used in 2022, 2023, and 2024. Pending the governor's signature, this law takes effect September 26, 2021.

SB 483 – Employee-Protected Activities & Workplace Safety

Creates a rebuttable presumption that an employer retaliated against an employee or prospective employee if an adverse employment action is taken within 60 days of the employee engaging in certain protected activities relating to health and safety complaints in the workplace. This law takes effect immediately.

HB 2420 – Timeline for Filing a BOLI Retaliation, Discrimination, or Safety Complaint

Extends employee timeline for filing a complaint with the Bureau of Labor and Industries from 90 days to one year for alleged retaliation or discrimination for reporting unlawful practices regarding workplace safety. This law takes effect January 1, 2022.

SB 569 – Driver’s License as Condition of Employment

Prohibits an employer from requiring an employee or prospective employee to present a valid driver’s license as a condition of employment unless the ability to legally drive is an essential function of the position or is related to a legitimate business purpose. This law takes effect January 1, 2022.

HB 2935 – Race-Based Discrimination

The definition of race-based discrimination is updated to include hairstyles, textures, and types. It also provides that any otherwise valid dress code or policy cannot disproportionately, adversely impact a member of a protected class. This law takes effect January 1, 2022. For more details on these changes, see our E-Alert: [*Oregon Becomes the 12th State to Pass the CROWN Act.*](#)

SB 716 – Predictive Scheduling Amendment regarding Child Care Needs

Amends Oregon’s predictive scheduling law by explicitly adding “child care needs” as an identifiable limitation or change in an employee’s work schedule availability. This law takes effect immediately.

HB 3389 – Delayed Implementation of Oregon’s Paid Family Medical Leave Program

The deadline for the Employment Department Director to adopt rules for Oregon’s Paid Family Medical Leave Program (OPFMLP) is moved from September 1, 2021, to September 1, 2022. As a result of this change, subsequent dates relating to progress reports and reviews of implementation and costs have been pushed back accordingly. Pending the governor’s signature, this law takes effect September 26, 2022.

SB 169 – Noncompetition Agreements

This new law changes the length of time a noncompetition is valid, as well as some of the qualifying criteria for the employer, employee, and the contract itself. This law takes effect January 1, 2022. For more details on these changes, see our E-Alert: [*New Changes to Oregon’s Statute on Employee Noncompetition Agreements.*](#)

SB 588 – Sick Time Exemptions Changed for Multi-Employer Collective Bargaining Agreements

The multiemployer exception for providing sick time to employees covered by collective bargaining agreements is being modified. Previously, many trades that were covered by multiemployer trusts

were exempt from Oregon's Sick Time Law. Effective January 1, 2023, an employer signatory to a collective bargaining agreement who contributes to a multiemployer-employee trust or benefit plan will have met the Oregon Sick Time requirements only if all of the following requirements are met:

- The terms of the agreement provide a sick leave policy or other paid time off program that is substantially equivalent or more generous than the minimum requirements of the Oregon Sick Time law for the benefit of employees:
 - Who are employed through a hiring hall, referral system, or third party;
 - Whose terms and conditions of employment are covered by the collective bargaining agreement; and
 - Whose employment benefits are provided by the joint multiemployer-employee trust;
- The trustees have agreed to the level of benefits provided by the sick leave policy; and
- The contributions to the trust or benefit plan are made solely by employer signatories to the agreement.

For questions on compliance with these rules or other labor and employment matters, contact Barran Liebman attorney Amy Angel at 503-276-2195 or aangel@barran.com.