

A-Engrossed
Senate Bill 237

Ordered by the Senate March 1
Including Senate Amendments dated March 1

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Specifies statute of limitations for filing civil actions for discrimination based on exercise of rights under workplace safety statutes.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to discrimination based on exercise of rights under workplace safety statutes; creating new
3 provisions; amending ORS 654.062; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 654.062 is amended to read:

6 654.062. (1) Every employee should notify the employer of any violation of law, regulation or
7 standard pertaining to safety and health in the place of employment when the violation comes to the
8 knowledge of the employee.

9 (2) However, any employee or representative of the employee may complain to the Director of
10 the Department of Consumer and Business Services or any authorized representatives of the director
11 of any violation of law, regulation or standard pertaining to safety and health in the place of em-
12 ployment, whether or not the employee also notifies the employer.

13 (3) Upon receiving any employee complaint, the director shall make *[such]* inquiries, inspections
14 and investigations *[as]* **that** the director considers reasonable and appropriate. *[Where]* **When** an
15 employee **or representative of the employee** has complained in writing of an alleged violation and
16 no resulting citation is issued to the employer, the director shall furnish to the employee or repre-
17 sentative of the employee, upon written request, a statement of reasons for the decision.

18 (4) The director shall establish procedures for keeping confidential the identity of any employee
19 who requests *[such]* protection in writing. *[Where such]* **When** a request has been made, neither a
20 written complaint from an employee, or representative of the employee, nor a memorandum con-
21 taining the identity of a complainant *[shall be construed as]* **is** a public record under ORS 192.210
22 to 192.505 and 192.610 to 192.990.

23 *[(5)(a)]* **(5)** It is an unlawful employment practice for any person to bar or discharge from em-
24 ployment or otherwise discriminate against any employee or prospective employee because *[such]*
25 **the employee or prospective employee** has:

26 **(a)** Opposed any practice forbidden by ORS 654.001 to 654.295 and 654.750 to 654.780[.];

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **(b)** Made any complaint or instituted or caused to be instituted any proceeding under or related
2 to ORS 654.001 to 654.295 and 654.750 to 654.780, or has testified or is about to testify in any such
3 proceeding[.]; or

4 **(c)** *[because of the exercise of such employee]* **Exercised** on behalf of the employee, **prospective**
5 **employee** or others *[of]* any right afforded by ORS 654.001 to 654.295 and 654.750 to 654.780.

6 **(b)** **(a)** Any employee or prospective employee *[who believes that the employee has]* **alleging**
7 **to have** been barred or discharged from employment or otherwise discriminated against in compen-
8 sation, or in terms, conditions or privileges of employment, *[by any person]* in violation of *[this]*
9 subsection **(5) of this section** may, within 30 days after the employee **or prospective employee** has
10 reasonable cause to believe that *[such a]* **the** violation has occurred, file a complaint with the
11 Commissioner of the Bureau of Labor and Industries alleging *[such]* discrimination under the pro-
12 visions of ORS 659A.820. Upon receipt of *[such]* **the** complaint the commissioner shall process the
13 complaint *[and case]* under the procedures, policies and remedies established by ORS chapter 659A
14 and the policies established by ORS 654.001 to 654.295 and 654.750 to 654.780 in the same way and
15 to the same extent that the complaint would be processed *[by the commissioner]* if the complaint
16 involved allegations of unlawful employment practices *[based upon race, religion, color, national ori-*
17 *gin, sex or age]* under ORS 659A.030 (1)(f).

18 **(b)** **Within 90 days after receipt of a complaint filed under this subsection, the commis-**
19 **sioner shall notify the complainant of the commissioner's determination.**

20 **(c)** The affected employee **or prospective employee** *[shall also have the right to]* **may** bring a
21 *[suit]* **civil action** in any circuit court of the State of Oregon against any person alleged to have
22 violated *[this]* subsection **(5) of this section. The civil action must be commenced within one**
23 **year after the employee or prospective employee has reasonable cause to believe a violation**
24 **has occurred, unless a complaint has been timely filed under ORS 659A.820.** The commissioner
25 or the circuit court may order all appropriate relief including rehiring or reinstatement *[of the em-*
26 *ployee]* to the employee's former position with back pay.

27 *[(c) Within 90 days after the receipt of a complaint filed under this subsection the commissioner*
28 *shall notify the complainant of the commissioner's determination under paragraph (b) of this*
29 *subsection.]*

30 **SECTION 2. The amendments to ORS 654.062 by section 1 of this 2005 Act apply only to**
31 **conduct giving rise to a cause of action under ORS 654.062 that occurs on or after the ef-**
32 **fective date of this 2005 Act.**

33 **SECTION 3. This 2005 Act being necessary for the immediate preservation of the public**
34 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
35 **on its passage.**

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