

Enrolled Senate Bill 237

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CHAPTER

AN ACT

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

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

SECTION 1. ORS 654.062 is amended to read:

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

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

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

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

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

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

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

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

[(b)] **(6)(a)** Any employee or prospective employee *[who believes that the employee has]* **alleging to have** been barred or discharged from employment or otherwise discriminated against in com-

pensation, or in terms, conditions or privileges of employment, [by any person] in violation of [this] subsection (5) of this section may, within 30 days after the employee or prospective employee has reasonable cause to believe that [such a] the violation has occurred, file a complaint with the Commissioner of the Bureau of Labor and Industries alleging [such] discrimination under the provisions of ORS 659A.820. Upon receipt of [such] the complaint the commissioner shall process the complaint [and case] under the procedures, policies and remedies established by ORS chapter 659A and the policies established by ORS 654.001 to 654.295 and 654.750 to 654.780 in the same way and to the same extent that the complaint would be processed [by the commissioner] if the complaint involved allegations of unlawful employment practices [based upon race, religion, color, national origin, sex or age] under ORS 659A.030 (1)(f).

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

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

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

SECTION 2. The amendments to ORS 654.062 by section 1 of this 2005 Act apply only to conduct giving rise to a cause of action under ORS 654.062 that occurs on or after the effective date of this 2005 Act.

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

Passed by Senate March 3, 2005

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Secretary of Senate

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President of Senate

Passed by House May 25, 2005

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Speaker of House

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2005

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Secretary of State