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New Laws affecting Oregon employers in 2010

by Leah Lively and Gail E. Mautner
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Oregon employers should be aware that several new labor and employment laws went into effect Jan. 1. A summary of some of the more significant new employment laws effective with the New Year follows:

1. **Religious Accommodation.** The Oregon Workplace Religious Freedom Act ("OWRFA") expands existing protections against discrimination based on religion in the workplace and requires employers to reasonably accommodate the religious observances and practices of their employees, unless to do so would impose an undue hardship on the employer. Religious activities that must be accommodated, absent undue hardship include: wearing religious clothing, taking time off for a holy day, and participating in religious observances or practices. An undue hardship is defined in the statute as imposing "a significant difficulty or expense on the employer," taking into account the nature and cost of the accommodation, the overall financial resources of the employer and the facilities involved, the type of business operations conducted by the employer, and safety and health requirements.

For further discussion of the OWRFA, please see the Lane Powell Employer Advisor on this topic.

2. **Protection of Victims of Domestic Violence.** In 2007, the Oregon legislature provided leave for employees who are victims of domestic violence, sexual assault and stalking. In 2009, the legislature provided additional protection for such individuals. Effective January 1, employers are required to make reasonable safety accommodations for victims of domestic violence, sexual assault and stalking. Such

accommodations may include transfer, re-assignment, a modified schedule, unpaid leave or implementation of safety procedures, unless the proposed accommodation is an undue hardship. The new law also prohibits discrimination and retaliation against victims of domestic violence.

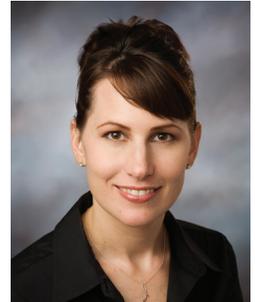
3. **Religious or Political Communications.** Employers are prohibited from discharging, disciplining or taking any other adverse employment action against any employee, or threatening to do so, because the employee declines to attend or participate in a meeting with the employer where the primary purpose of the meeting is to communicate the employer's opinion about religious or political matters. Employers are required to post a notice of employee rights under this section in a place normally reserved for employment-related notices in a location commonly frequented by employees. The new law applies to employer meetings discussing employees joining a labor union. Because federal labor law permits employers to address employees concerning labor unions, it is unclear whether this part of the Oregon law is pre-empted by federal labor laws.

4. **Disability Discrimination.** The Oregon legislature revised the state disability discrimination law to conform to the amendments made to the federal Americans with Disabilities Act last year. The changes make it easier for an individual to establish that he/she is a "qualified person with a disability." The changes to the federal law are discussed in greater detail on the Lane Powell website in a 2009 and a 2008 article.

5. **Whistleblower Protection.** Oregon law now makes it unlawful to discriminate or retaliate against any employee who has, in good faith, reported information that the employee believes is evidence of a vio-

lation of any federal or state law, rule or regulation. This law extends the whistleblower protection previously enjoyed only by public employees to the private sector.

6. **Protection for Military Service.** It is an unlawful employment practice to discriminate or retaliate against any individual because of that person's service in the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard, military reserve forces or other uniformed service. Federal law already provides similar protection for such individuals under the Uniformed Services Employment and Re-Employment Rights Act of 1994.



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In addition to the above laws, which became effective January 1, employers should be aware of another law from the last legislative session that requires employers with 25 or more employees in Oregon to provide leave to spouses of service members prior to their deployment or during leave from active duty during periods of military conflict. ORS 659A.090 to 099. This law has been in effect since June 25, 2009. Employees are entitled to a total of 14 days of unpaid leave per deployment. The employee is free, however, to use any accrued paid leave to which the employee is entitled.

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