

ASAPs

Northwest

Oregon Legislative Update July 2009

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By:

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The national drive toward improved health care coverage and education coupled with Oregon's beleaguered economy provided most of the legislative thunder for the state's 2009 session. While employment law issues were not completely absent, much of that legislation centered on creating jobs in a state where the unemployment rate is second only to Michigan's.

There are, however, a few new employment-related laws or changes to existing laws. Employers whose employees are affected by these laws, all of which take effect on January 1, 2010 unless otherwise noted, should review and revise their policies and handbooks as needed:

- **Senate Bill (SB) 519** - prohibits employers of all sizes from mandating employee attendance at meetings involving the employer's opinions regarding religious or political matters, including unionization, and prohibits employers from taking adverse employment action against employees who decline to attend such meetings.¹
- **House Bill (HB) 2744** - requires employers of 26 or more persons in Oregon to provide leave to spouses of members of U.S. military forces on active duty during periods of military conflict. The employee is entitled to be restored to employment and to continuation of benefits. The employer may not deny a leave and may not retaliate or discriminate against a qualified employee who has requested or taken leave. *Effective date 6/25/2009.*
- **SB 928** - prohibits employers of all sizes from refusing to hire, discharging, threatening to discharge, demoting, suspending, discriminating or refusing to make reasonable safety accommodations for a victim of domestic violence,

sexual assault or stalking. The employer may require the employee to provide certification of this status in the form of a police report, protective order or documentation from an attorney, law enforcement officer, health care professional, clergy or victims' service provider.

- **HB 2540** - repeals ORS 657.506 which had designated as employers (for purposes of unemployment taxes) those persons or organizations engaging musicians. *Effective date 4/28/2009.*
- **HB 2826** - increases the hours of a day during which a child under 16 years of age may work and authorizes additional hours of work during summer and any vacation period of five or more consecutive days.
- **HB 3474** - amends ORS 18.736 and 18.838 to increase the processing fee chargeable to the employee by the employer for garnishment of an employee's wages from one dollar per week to two dollars per week.
- **SB 373** - amends ORS 25.424 which provides that a civil action may be brought against an employer or others who withhold money under a court order but fail to pay the withheld amount within the time period allowed by law;² and eliminates the cap on the amount of damages that may be recovered by the obligee against the withholder.
- **SB 874** - amends several Oregon statutes prohibiting disability discrimination and brings Oregon law in line with the federal government's Americans with Disabilities Act Amendments Act (ADAAA). The new law contains four key changes: (1) Prohibits discrimination against an individual regarded as disabled even if the disability is not perceived to limit a major life activity; (2) Construes the term "disability" in favor of broad coverage; (3) Considers an impairment that is episodic or in remission to be a disability if it would substantially limit a major life activity when active; and (4) Determines whether an impairment substantially limits a major life activity without regard to the effects of mitigating measures (except ordinary eyeglasses).
- **HB 3162** - provides protections for whistleblowers and prohibits employers of any size from discriminating against any employee who in good faith reports violations of state or federal laws, rules or regulations.
- **HB 3256** - prohibits an employer of any size from discriminating against a person because of the person's service in the Army, Navy, Air Force, Marine Corps, Coast Guard, National Guard or military reserve; prohibits the denial of initial employment and reemployment following a leave from employment taken by reason of service; and requires that employees engaged in service receive the same terms, conditions or privileges of employment.
- **HB 2433** - requires employers with two to 19 employees covered under group health insurance policies to permit employees and their spouses and dependents to continue group policy coverage for nine months after the employees' employment terminates or they are no longer covered under group policies.
- **HB 2298** - amends ORS 399.230 to include overtime in the calculation of amounts of donated leave public sector employees may receive.

- Also passed by the legislature but yet to be signed into law is SB 786, which requires an employer of any size to provide reasonable accommodations to religious observances or practices of an employee unless providing those accommodations would impose undue hardship on the employer.

2010 Watch

The 2009 Oregon Legislative Session left a number of bills of interest on the table likely to be picked up by the 2010 Session. Among them are a bill that prohibits discrimination in employment if the discrimination is based on a person's status as a medical marijuana registry cardholder,⁴ and a bill that requires an employer to pay final wages to an employee who has been discharged or terminated within five working days of the date of cessation of employment.⁴ We will be watching the next legislative session closely to see how these, and other employment law related bills, develop. Watch for ASAP updates on these and other topics in the future.

¹ See Littler ASAP: *Employer Speech in Oregon's Workplaces, the Impact of SB 519*, July 2009

² Seven business days. ORS 25.411

³ HB 2503

⁴ HB 3403

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