

2007 workers' comp and employment bills

Bills are listed in alphabetical order by subject matter. If you wish to see the final version of a bill, just click on the bill number.

Employment law: Discrimination

The bill makes discrimination against an employee for taking wage-related actions an unlawful employment practice and permits the aggrieved person to file a civil action or a complaint with the Bureau of Labor and Industries.

Takes effect January 1, 2008.

[House Bill 2255](#)

Employment law: Discrimination

The bill allows compensatory and punitive damages and other relief for unlawful employment practices based on race, color, religion, sex, sexual orientation, national origin, marital status, or age.

Takes effect January 1, 2008.

[House Bill 2260](#)

Employment law: Discrimination complaint filing

The bill extends from 30 days to 90 days the time allowed for a worker to file a complaint with BOLI, alleging that the employer has discriminated against the worker for actions taken by the worker under the Oregon Safe Employment Act. These actions could include informing OR-OSHA of safety violations.

Applies to unlawful employment actions taken by an employer on or after June 1, 2007.

[House Bill 2259](#)

Employment law: Family leave

Employers can no longer charge lost time for a compensable workers' compensation claim against family leave under the Oregon Family Leave Act. However, an injured worker who refuses an offer of light duty or modified employment is automatically placed on family leave upon refusal of the job offer. These provisions do not apply to leave taken under the federal Family Medical Leave Act.

The first provision applies to periods of family leave taken on or after January 1, 2008.

The second applies to refusals of employment after January 1, 2008.

[House Bill 2460](#)

Employment law: Family leave

Current law allows employees to use accrued sick leave only for limited categories of family leave. The law has been revised to allow sick leave to be used for any authorized period of family leave.

Applies to periods of family leave taken on or after January 1, 2008.

[House Bill 2485](#)

Employment law: Family leave

The bill expands the list of family members for whom family leave may be taken, to include grandparents and grandchildren. In addition, discrimination against an employee regarding any family leave request is an unlawful employment practice.

Takes effect January 1, 2008.

[House Bill 2635](#)

Employment law: Lactation

Employers are required to provide unpaid rest periods of 30 minutes per four-hour shift for mothers to express milk, unless compliance would be an undue hardship on the employer. Employers must make reasonable efforts to provide a lactation room.

Takes effect January 1, 2008.

[House Bill 2372](#)

Employment law: Leave from employment for crime victims

The bill creates a new form of employment leave for eligible individuals, or parents of individuals, who are victims of domestic violence, sexual assault, or stalking. The law applies to employers with six or more employees. To be eligible, an employee must have been employed for 180 days. The employer is not required to grant paid leave, but the employee may use accrued paid vacation time. This leave is separate from family leave under OFLA.

Takes effect May 25, 2007.

[Senate Bill 946](#)

Employment law: Payment of wages

If an employer discovers that an employee's wages have been underpaid and the amount of the underpayment is less than five percent of the gross, the employer can make the additional payment on the next regular payday. If the underpayment is over five percent, the additional payment is due in three business days.

Takes effect January 1, 2008.

[House Bill 2258](#)

Employment law: Personnel records

When copies of personnel records are requested by an employee, the copies must be made available within 45 days, unless there is mutual agreement to extend the time.

Takes effect January 1, 2008.

[House Bill 2254](#)

Employment law: Protected classes

The Oregon Equality Act adds sexual orientation to the list of protected classes in employment and other anti-discrimination laws.

Takes effect January 1, 2008.

[Senate Bill 2](#)

Employment law: Veterans' preference

This bill adds to existing law requiring preference in hiring for veterans and disabled veterans in public employment. In addition to points added to test scores, veterans must be given preference in non-scored assessments such as interviews. Upon request, veterans will be entitled to written explanations of why they were not hired. Veterans may also be entitled to preference for promotions if they took military leave from the public employer to serve in the armed services.

Applies to hiring decisions made on or after June 20, 2007.

[Senate Bill 822](#)

Employment law: Wage deductions

When an employer deducts an amount from an employee's wages as required or authorized by law or agreement, the employer must pay the amount deducted within the time required by the law or agreement, or, if not specified, within seven days after the deduction.

Takes effect January 1, 2008.

[House Bill 2674](#)

Public health: Smoking

Smoking will be prohibited in all enclosed public places and places of employment (with limited exceptions). Smoking will also be prohibited within 10 feet of entrances, exits, windows, and ventilation intakes. Employers must post signs giving notice of the law.

Takes effect January 1, 2009.

[Senate Bill 571](#)

Workers' compensation: Alternative care providers

The Legislature enacted the Management-Labor Advisory Committee recommendation to expand the treatment authority of alternative care providers.

Existing law gives attending physician status to chiropractors for 30 days from the first visit on the initial claim or 12 visits, whichever occurs first. HB 2756 creates a group of "alternative care providers" who will have attending physician status for 60 days from the first visit on the initial claim or 18 visits, whichever occurs first, and can authorize time loss for 30 days. This group is comprised of chiropractors, physician assistants, podiatrists, and naturopaths. The 60/18 period begins with the first visit to any provider in the group, and all visits to any category of provider in the group must be contained within the 60/18 period.

A medical provider who does not qualify to be an attending physician will be able to treat for 30 days from the first visit on the initial claim without the authorization of an attending physician. Current law starts the 30-day period from the date of injury.

DCBS must make informational materials about the system available to the provider types mentioned above. Providers must certify that they have read the materials before they will be allowed to treat.

Takes effect January 2, 2008.

[House Bill 2756](#)

Workers' compensation: Appeals to Court of Appeals

The time limits for filing petitions for judicial review of a Workers' Compensation Board order cannot be waived or extended.

The timely filing requirement applies to petitions for judicial review filed on or after January 1, 2008.

The bill also specifies the circumstances under which the Board or the Court has authority to issue orders if the case is settled while the appeal is pending.

This provision applies to petitions for review pending on, or filed after, January 1, 2008.
[Senate Bill 268](#)

Workers' compensation: Assigned risk pool

The bill repeals the statutory ban on surcharges in assigned risk rate filings. DCBS asked for this change to give them flexibility in setting assigned risk rates when the pool has suffered greater than normal losses.

Takes effect January 1, 2008.

[House Bill 2250](#)

Workers' compensation: Attorney fees and litigation expenses

If the worker prevails on appeal of a denial, the worker (or the attorney) may be reimbursed for reasonable expenses and costs for records, expert opinions, and witness fees up to \$1500. All reimbursements must be approved in an order. Reimbursement over \$1500 may be authorized under extraordinary circumstances.

This provision applies to all claims in which a disposition of the claim has not become final on January 1, 2008.

If a worker's attorney was instrumental in obtaining a benefit for the worker, but was discharged by the worker before the benefit is formally awarded, the Workers' Compensation Board may grant the attorney a lien for attorney fees to be paid out of the benefit. Procedures will be set up by administrative rule.

This provision applies to all claims in which an order granting attorney fees is issued after January 1, 2008.

[Senate Bill 404](#)

Workers' compensation: Blood borne pathogens

An employee of the Department of Corrections who is exposed to the bodily fluids of another person may seek to have the source person tested for HIV and hepatitis B or C by petitioning the circuit court for an order compelling the testing. Many other categories of public safety officials already have that right.

Takes effect May 30, 2007.

[Senate Bill 190](#)

Workers' compensation: Claim Disposition Agreements

A Claim Disposition Agreement that results from mediation may be approved by the Administrative Law Judge who acted as mediator, rather than the full Workers' Compensation Board.

Takes effect January 1, 2008.

[Senate Bill 253](#)

Workers' compensation: Collection actions

The jurisdiction of small claims courts is increased from \$5,000 to \$7,500.

Applies to actions commenced on or after January 1, 2008.

[House Bill 2316](#)

Workers' compensation: Copy fees for medical records

The maximum charge for health care providers to copy medical records is increased to \$30 for up to ten pages, 50 cents per page for the next 40 pages, and 25 cents per page thereafter. In addition, the provider can earn a "bonus" of \$5 by sending the copies within seven business days of the date of the request. This does not appear in Chapter 656; it applies to any request for medical records.

Takes effect July 17, 2007.

[Senate Bill 591](#)

Workers' compensation: Death benefits

MLAC is instructed to conduct an interim study of the adequacy of benefits paid to survivors for fatalities that occur on the job, and to report to the 2009 legislative assembly.

Takes effect January 1, 2008.

[Senate Bill 835](#)

Workers' compensation: Domestic partnerships

This bill does not specifically amend Chapter 656. However, the bill contains provisions that apply to all Oregon statutes that refer to spouses. The parties to a same-sex, registered domestic partnership will be treated in the same way as spouses are treated under the law. For workers' compensation claim purposes, this is probably limited to benefits for surviving domestic partners in fatal claims or survivor benefits following the death of a PTD. Spouses are also mentioned when family-owned business entities are defined for the purpose of determining whether owners are subject workers.

Takes effect January 1, 2008.

[House Bill 2007](#)

Workers' compensation: Emergency room treatment

An emergency room physician who refers a worker to a primary care physician for further treatment is no longer considered to be an attending physician. However, the emergency room physician may authorize time loss for up to 14 days.

Takes effect January 1, 2008.

[Senate Bill 504](#)

Workers' compensation: Guaranty contracts

DCSS will begin the process to eliminate the use of guaranty contracts. Insurers will provide the department with proof of coverage. The insurer's legal liability to provide coverage will be governed by the existence of a policy, rather than a guaranty contract on file with DCBS.

Takes effect July 1, 2009.

[Senate Bill 559](#)

Workers' compensation: Handicapped Workers Program

This omnibus bill changes terminology throughout the statutes relating to people with disabilities. The Handicapped Workers Program within the Worker Benefit Fund is renamed the "Workers with Disabilities Program".

Takes effect January 1, 2008.

[Senate Bill 83](#) (page 176)

Workers' compensation: Home care workers

The State is now required to provide workers' compensation insurance coverage to home care workers; previously the State could elect whether to do so. Injured home care workers must accept modified job offers (subject to the usual limitations), or risk losing benefits, even if the offer of employment is with a different client/employer than the client/employer at the time of injury.

Takes effect January 1, 2008.

[House Bill 3362](#)

Workers' compensation: IME standards

This housekeeping bill requires DCBS to establish standards for the conduct of IMEs, rather than deferring to the standards of a trade association.

Takes effect June 4, 2007.

[House Bill 2943](#)

Workers' compensation: Inmate Injury Fund

This housekeeping bill gives SAIF specific authority to manage Inmate Injury Fund claims. It will not change our current practice.

Takes effect January 1, 2008.

[Senate Bill 233](#)

Workers' compensation: Managed Care Organizations

This housekeeping bill clarifies that MCO treatment standards must be established by a process approved by DCBS, but the standards themselves do not require prior DCBS approval.

Takes effect January 1, 2008.

[Senate Bill 563](#)

Workers' compensation: Non-disabling reimbursements

The maximum amount that an employer can reimburse the insurer on a non-disabling claim is currently \$1500. The maximum will now be linked to changes in a CPI index published by the federal government. Indicated changes will be rounded to the nearest \$100. The first date on which the maximum could change will be January 1, 2009.

Takes effect January 1, 2008.

[Senate Bill 762](#)

Workers' compensation: Nurse practitioners

This bill eliminates the sunset on the 2003 changes to the conditions for nurse practitioners to treat injured workers. No other changes are made.

Takes effect January 1, 2008.

[House Bill 2247](#)

Workers' compensation: Permanent Partial Disability

The bill removes the insurer's discretion about whether to pay a PPD award over \$6,000. If requested by the worker, it must be paid, unless specified exceptions apply.

If a worker's disability is not covered by the rating standards, DCBS will determine the award in the reconsideration order, rather than publishing a temporary rule.

Takes effect January 1, 2008.

[House Bill 2218](#)

Workers' compensation: Permanent Partial Disability

This bill eliminates the sunset on the changes to the calculation of PPD awards under Senate Bill 757 (2003) and related amendments that passed in 2005. No other changes are made.

Takes effect January 1, 2008.

[House Bill 2244](#)

Workers' compensation: Personal election

A construction contractor, who does not have employees and who is licensed by the Construction Contractors' Board as a commercial contractor, must maintain personal election coverage. A contractor must be licensed as a commercial contractor in order to work on a commercial project in a structure of more than 10,000-12,000 square feet, or where the total construction cost exceeds \$250,000. The personal election requirement will apply to any licensed commercial contractor, regardless of the size or nature of the project. Note the delayed implementation date.

Takes effect July 1, 2010.

[House Bill 3242](#)

Workers' compensation: OR-OSHA

The time for an employer to appeal an OR-OSHA citation, notice, or order is increased from 20 to 30 days.

Applies to citations, notices, and orders issued on or after January 1, 2008.

[Senate Bill 556](#)

Workers' compensation: OR-OSHA

This bill eliminates the statutory exemptions specifying that safety committees are not required for employers of 10 or less. OR-OSHA will set new, more flexible standards by rule.

Takes effect January 1, 2008.

[House Bill 2222](#)

Workers' compensation: OR-OSHA

For OR-OSHA actions, the definition of "employer" is expanded to include the successor or assignee of an employer, when a successor is substantially the same entity as the predecessor.

Applies to successors created or assignments made on or after June 26, 2007.

[House Bill 2223](#)

Workers' compensation: OR-OSHA

This bill removes the sunset on the statute that prohibits OR-OSHA from adopting a steel-erection, fall-protection rule that is more stringent than the federal OSHA standard. The effect is to pre-empt any OR-OSHA rule that requires fall protection at a lower height than federal regulation.

Takes effect June 27, 2007.

[House Bill 3400](#)

Workers' Compensation – OR-OSHA

Hospitals and ambulatory surgical centers will be required to implement programs and training to address assaults on employees, and to maintain a record of assaults.

Takes effect January 1, 2008.

[House Bill 2022](#)

Workers' compensation: Subject workers

This bill changes the criteria for determining whether owner/drivers of taxicabs are subject workers. In addition, owner/drivers of vehicles used for non-emergency medical transportation on contract with a mass transit district may also qualify as non-subject.

Takes effect January 1, 2008.

[Senate Bill 688](#)

Workers' compensation: Termination of coverage

Insurers must give policyholders 45 days advance notice of termination, rather than the current 30 days. However, if termination is for non-payment of premium, the notice requirement is reduced from 30 days to 10 days.

Takes effect January 1, 2008.

[House Bill 2783](#)