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Background Brief on...

# Employment Law

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## Background

Employee-employer relations are governed by a myriad of state and federal laws. Some laws affect only a small group of employers, while others apply to every employer – whether a private company, government agency, religious institution, or non-profit enterprise. The following is a short summary of some of the federal and state laws that affect the workplace in Oregon.

## Affirmative Action

Affirmative action in Oregon is defined as “a method of eliminating the effects of past and present discrimination, intended or unintended, on the basis of race, religion, national origin, age, sex, marital status or physical or mental disabilities” (ORS 243.305).

All state agencies are required to follow affirmative action plans as defined by state law. Private employers are not required by state law to adopt affirmative action plans. The state has separate affirmative action laws in the following areas: state personnel practices, public contracting, executive appointments, higher education recruitment and retention of minority students and staff, community colleges, and economic development.

## Employment Civil Rights Laws

Employment discrimination laws seek to prevent discrimination by employers based on race, color, sex, religion, national origin, disability, or age. Both state and federal laws provide protection for employees, with some differences, mainly in the size of business the laws apply to. State law also provides protection for additional reasons, including marital status, family relationship, injured workers (in companies with six or more employees). The Bureau of Labor and Industries’ (**BOLI**) Civil Rights Division is charged with enforcing state laws to ensure job seekers and employees have equal access to jobs, career schools, promotions, and a work environment free from discrimination and harassment.

## Employment Wage and Hour Laws

Employers are required by both federal and state laws to post certain employment-related information about employment laws in their workplaces. Employers are also required to follow laws covering the state minimum wage (see discussion below), overtime requirements, working conditions, child labor, farm and

forest labor contracting, and wage collection. BOLI enforces these laws through its Wage and Hour Division, and also regulates the employment of workers on public works projects (prevailing wage).

**Minimum Wage**

The federal minimum wage is the default wage for all states, unless they choose to set a minimum wage above the federal rate. States may also set a different minimum wage rate for certain specific occupations not covered by the federal rate.

The current federal minimum wage is \$5.15 per hour.

In 1996 Oregon voters approved a ballot measure to increase the state hourly minimum wage from \$4.75 to

\$6.50 over a three-year period. In 2002, Oregon voters approved a ballot measure to increase the state minimum wage to \$6.90 in 2003 with future increases tied to inflation. For 2004 the state minimum wage is \$7.05.

There are exceptions to the minimum wage law (ORS 653.020). Professional executives paid on a salary are exempt, as are employees of specific occupations, such as certain agricultural workers, taxicab operators, in-home care providers, and volunteer firefighters.

According to the Employment Department, nationwide the typical minimum wage earner is female (65 percent), young (54 percent are aged 16 - 24), and works part time (62 percent). In 2004, about 908,000 Oregonians aged 16 and older were paid on an hourly basis. Roughly 127,000 (14 percent) of those hourly Oregon workers earned \$7.05 per hour or less (if not covered by Oregon law).

<b>Top State Hourly Minimum Wages 2002</b>	
Washington	\$6.90
Massachusetts California	\$6.75
Connecticut	\$6.70
Oregon	\$6.50
Hawaii Maine <i>(starting 1/1/03)</i>	\$6.25
Vermont	\$6.25
Rhode Island Delaware Dist. of Columbia	\$6.15
Alaska	\$5.65

**Family Leave**

In 1993, Congress enacted the Family and Medical Leave Act (FMLA), which requires companies with 50 or more employees to allow their employees to take up to 12 weeks unpaid leave per year to care for a newborn or newly adopted child, to care for certain seriously ill family members, or to recover from their own serious health conditions. An employee is entitled to his or her former job or an equivalent job upon return from FMLA leave.

The 1995 Legislature enacted the Oregon Family Leave Act (OFLA). It requires employers of 25 or more employees to provide their workers with up to 12 weeks leave to care for themselves or family members in cases of illness, injury, childbirth or adoption. To be eligible for OFLA leave to care for a newborn or newly adopted child, employees must have been on the job at least 180 days. For all other OFLA leave benefits, workers must have been employed at least 180 days and also have worked at least an average of 25 hours a week. Oregon’s family leave law requires an employee returning from family leave to be restored to their previously held position or to an equivalent job if the former position no longer exists.

There are a few situations, such as sick child leave and leave to care for a parent-in-law, where OFLA provides for leave and FMLA does not. Employers are required to provide leave according to the law that is most beneficial to the employee.

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**Oregon Safe Employment Act**

The Oregon Occupational Safety and Health Administration (OR-OSHA) administers the Oregon Safe Employment Act of 1973 (OSEA), under which employers must provide safe and healthy workplaces for their employees and ensure that workers have the training and equipment to do their jobs safely. OR-OSHA enforces rules that establish minimum safety and health standards for all industries and outline specific standards for individual industries such as logging and agriculture.

OR-OSHA provides employer training and consultations to assist in business compliance with safety laws. OR-OSHA also conducts both scheduled and unannounced compliance inspections of workplaces. They may issue penalties against employers who violate OSEA, require employers to correct hazards, or can shut down dangerous worksites.

### **Unemployment Insurance**

*(For more information, see the Unemployment Insurance Background Brief)*

Established in 1935, unemployment insurance (UI) was established to provide temporary and partial compensation for wages lost to eligible workers during periods of involuntary unemployment caused by layoffs. It was designed to promote economic stability by maintaining purchasing power and preventing the dispersal of an employer's trained workforce. About 90 percent of all wage earners are covered by UI.

Total benefits for a worker are set by state law. As of July 2003, the minimum benefit is \$96 per week and the maximum weekly benefit is \$410. Under the Regular Program, claimants are usually eligible for 26 weeks of benefits. If qualifying wages are less than \$7,680, benefits are limited to one third of those wages. Unemployment insurance claims and benefits are based on the worker's work record for a 12-month period known as the base year. Benefits have been extended by 13 weeks during periods of high unemployment.

### **Workers' Compensation**

*(For more information, please see the Workers' Compensation Background Brief)*

Workers' compensation insurance provides medical treatment and lost wages to employees (or their

dependents) in the case of employment-related accidents. In Oregon, workers' compensation insurance is what is known as "no-fault" insurance – this essentially bypasses the concept of one party or the other being at fault, which in turn eliminates lawsuits arising out of work place injuries or illnesses.

Oregon employers are required to carry workers' compensation insurance or be self-insured. Almost all Oregon employees are covered by workers' compensation, but employees are eligible for benefits whether or not their employers are in compliance with the law. Certain corporate officers, partners and family-member business owners, as well as independent contractors, are not required to be covered by workers' compensation insurance (ORS 656.027).

### **Staff and Agency Contacts:**

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503-731-4075

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800-922-2689

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800-237-3710

Workers' Compensation Division  
503-947-7810

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