

House Bill 2420

Sponsored by Representative HOLVEY (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Extends timeline for filing complaint with Commissioner of Bureau of Labor and Industries alleging retaliation or discrimination for reporting unlawful practices or exercising certain rights relating to safety and health in workplace.

A BILL FOR AN ACT

1
2 Relating to protections for reporting unlawful practices regarding workplace safety; amending ORS
3 654.062 and 659A.820.

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

5 **SECTION 1.** ORS 654.062 is amended to read:

6 654.062. (1) Every employee should notify the employer of any violation of law, regulation or
7 standard pertaining to safety and health in the place of employment when the violation comes to the
8 knowledge of the employee.

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

13 (3) Upon receiving any employee complaint, the director shall make inquiries, inspections and
14 investigations that the director considers reasonable and appropriate. When an employee or repre-
15 sentative of the employee has complained in writing of an alleged violation and no resulting citation
16 is issued to the employer, the director shall furnish to the employee or representative of the em-
17 ployee, upon written request, a statement of reasons for the decision.

18 (4) The director shall establish procedures for keeping confidential the identity of any employee
19 who requests protection in writing. When a request has been made, neither a written complaint from
20 an employee, or representative of the employee, nor a memorandum containing the identity of a
21 complainant may be disclosed under ORS 192.311 to 192.478.

22 (5) It is an unlawful employment practice for any person to bar or discharge from employment
23 or otherwise discriminate against any employee or prospective employee because the employee or
24 prospective employee has:

25 (a) Opposed any practice forbidden by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to
26 654.780;

27 (b) Made any complaint or instituted or caused to be instituted any proceeding under or related
28 to ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, or has testified or is about to
29 testify in any such proceeding;

30 (c) Exercised on behalf of the employee, prospective employee or others any right afforded by
31 ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780; or

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (d) In good faith reported an assault that occurred on the premises of a health care employer
 2 as defined in ORS 654.412 or in the home of a patient receiving home health care services.

3 (6)(a) Any employee or prospective employee alleging to have been barred or discharged from
 4 employment or otherwise discriminated against in compensation, or in terms, conditions or privileges
 5 of employment, in violation of subsection (5) of this section may, within [90 days] **one year** after the
 6 employee or prospective employee has reasonable cause to believe that the violation has occurred,
 7 file a complaint with the Commissioner of the Bureau of Labor and Industries alleging discrimi-
 8 nation under the provisions of ORS 659A.820. Upon receipt of the complaint the commissioner shall
 9 process the complaint under the procedures, policies and remedies established by ORS chapter 659A
 10 and the policies established by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 in
 11 the same way and to the same extent that the complaint would be processed if the complaint in-
 12 volved allegations of unlawful employment practices under ORS 659A.030 (1)(f).

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

15 (c) The affected employee or prospective employee may bring a civil action in any circuit court
 16 of the State of Oregon against any person alleged to have violated subsection (5) of this section. The
 17 civil action must be commenced within one year after the employee or prospective employee has
 18 reasonable cause to believe a violation has occurred, unless a complaint has been timely filed under
 19 ORS 659A.820.

20 (d) The commissioner or the circuit court may order all appropriate relief including rehiring or
 21 reinstatement to the employee’s former position with back pay.

22 **SECTION 2.** ORS 659A.820 is amended to read:

23 659A.820. (1) As used in this section, for purposes of a complaint alleging an unlawful practice
 24 under ORS 659A.145 or 659A.421 or discrimination under federal housing law, “person claiming to
 25 be aggrieved by an unlawful practice” includes, but is not limited to, a person who believes that the
 26 person:

27 (a) Has been injured by an unlawful practice under ORS 659A.145 or 659A.421 or a
 28 discriminatory housing practice; or

29 (b) Will be injured by an unlawful practice under ORS 659A.145 or 659A.421 or a discriminatory
 30 housing practice that is about to occur.

31 (2) Any person claiming to be aggrieved by an unlawful practice may file with the Commissioner
 32 of the Bureau of Labor and Industries a verified written complaint that states the name and address
 33 of the person alleged to have committed the unlawful practice. The complaint must be signed by the
 34 complainant. The complaint must set forth the acts or omissions alleged to be an unlawful practice.
 35 The complainant may be required to set forth in the complaint such other information as the com-
 36 missioner may require. Except as provided in subsection (3) of this section [or ORS 654.062], a
 37 complaint under this section must be filed no later than one year after the alleged unlawful practice.

38 (3) A complaint alleging an unlawful employment practice as described in ORS 243.323, 659A.030,
 39 659A.082, 659A.112 or 659A.370 must be filed no later than five years after the occurrence of the
 40 alleged unlawful employment practice.

41 (4)(a) Except as provided in paragraph (b) of this subsection, a complaint may not be filed under
 42 this section if a civil action has been commenced in state or federal court alleging the same matters.

43 (b) The prohibition described in paragraph (a) of this subsection does not apply to a complaint
 44 alleging an unlawful practice under ORS 659A.145 or 659A.421 or alleging discrimination under
 45 federal housing law.

1 (5) If an employer has one or more employees who refuse or threaten to refuse to abide by the
2 provisions of this chapter or to cooperate in carrying out the purposes of this chapter, the employer
3 may file with the commissioner a verified complaint requesting assistance by conciliation or other
4 remedial action.

5 (6) Except as provided in subsection (7) of this section, the commissioner shall notify the person
6 against whom a complaint is made within 30 days of the filing of the complaint. The commissioner
7 shall include in the notice the date, place and circumstances of the alleged unlawful practice.

8 (7) The commissioner shall notify the person against whom a complaint alleging an unlawful
9 practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law is made
10 within 10 days of the filing of the complaint. The commissioner shall include in the notice:

11 (a) The date, place and circumstances of the alleged unlawful practice; and

12 (b) A statement that the person against whom the complaint is made may file an answer to the
13 complaint.

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