

Minority Report
A-Engrossed
House Bill 2420

Ordered by the Senate June 1
Including Senate Minority Report Amendments dated June 1

Sponsored by nonconcurring members of the Senate Committee on Judiciary and Ballot Measure 110 Implementation: Senators LINTHICUM, THATCHER

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.

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.

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

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.

1 654.780;

2 (b) Made any complaint or instituted or caused to be instituted any proceeding under or related
3 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
4 testify in any such proceeding;

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

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

9 (6)(a) Any employee or prospective employee alleging to have been barred or discharged from
10 employment or otherwise discriminated against in compensation, or in terms, conditions or privileges
11 of employment, in violation of subsection (5) of this section may, within [90 days] **180 days** after the
12 employee or prospective employee has reasonable cause to believe that the violation has occurred,
13 file a complaint with the Commissioner of the Bureau of Labor and Industries alleging discrimi-
14 nation under the provisions of ORS 659A.820. Upon receipt of the complaint the commissioner shall
15 process the complaint under the procedures, policies and remedies established by ORS chapter 659A
16 and the policies established by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 in
17 the same way and to the same extent that the complaint would be processed if the complaint in-
18 volved allegations of unlawful employment practices under ORS 659A.030 (1)(f).

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

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

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

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