

HOUSE AMENDMENTS TO HOUSE BILL 3205

By COMMITTEE ON BUSINESS AND LABOR

April 7

- 1 On page 1 of the printed bill, line 2, delete “652.210” and insert “652.220”.
- 2 Delete lines 5 through 30.
- 3 On page 2, delete lines 1 through 25 and insert:
- 4 **“SECTION 1.** ORS 652.220 is amended to read:
- 5 “652.220. (1) It is an unlawful employment practice under ORS chapter 659A for an employer to:
- 6 “(a) In any manner discriminate between employees on the basis of a protected class in the
- 7 payment of wages or other compensation for work of comparable character.
- 8 “(b) Pay wages or other compensation to any employee at a rate greater than that at which the
- 9 employer pays wages or other compensation to employees of a protected class for work of compa-
- 10 rable character.
- 11 “(c) Screen job applicants based on current or past compensation.
- 12 “(d) Determine compensation for a position based on current or past compensation of a pro-
- 13 spective employee. This paragraph is not intended to prevent an employer from considering the
- 14 compensation of a current employee of the employer during a transfer, move or hire of the employee
- 15 to a new position with the same employer.
- 16 “(2) Notwithstanding subsection (1) of this section:
- 17 “(a) An employer may pay employees for work of comparable character at different compen-
- 18 sation levels if all of the difference in compensation levels is based on a bona fide factor that is
- 19 related to the position in question and is based on:
- 20 “(A) A seniority system;
- 21 “(B) A merit system;
- 22 “(C) A system that measures earnings by quantity or quality of production, including piece-rate
- 23 work;
- 24 “(D) Workplace locations;
- 25 “(E) Travel, if travel is necessary and regular for the employee;
- 26 “(F) Education;
- 27 “(G) Training;
- 28 “(H) Experience; or
- 29 “(I) Any combination of the factors described in this paragraph, if the combination of factors
- 30 accounts for the entire compensation differential.
- 31 “(b) An employer may pay employees for work of comparable character at different compen-
- 32 sation levels on the basis of one or more of the factors listed in paragraph (a) of this subsection that
- 33 are contained in a collective bargaining agreement.
- 34 **“(c)(A) An employer may pay employees for work of comparable character at different**
- 35 **compensation levels pursuant to a retention bonus, provided that:**

1 “(i) The employer does not discriminate between employees on the basis of a protected
2 class in the payment of the bonus; and

3 “(ii) The retention bonus paid accounts for the entire compensation differential.

4 “(B) Nothing in this section prohibits an employer from conditioning the employee’s el-
5 igibility for a retention bonus upon a requirement that the employee work for the employer
6 for a specified period of time that is at least 30 days.

7 “(3) An employer may not in any manner discriminate in the payment of wages or other com-
8 pensation against any employee because the employee has filed a complaint under ORS 659A.820 or
9 in a proceeding under ORS 652.210 to 652.235 or 659A.885 or has testified, or is about to testify, or
10 because the employer believes that the employee may testify, in any investigation or proceedings
11 pursuant to ORS 652.210 to 652.235, 659A.830 or 659A.885 or in a criminal action pursuant to ORS
12 652.210 to 652.235.

13 “(4) An employer may not reduce the compensation level of an employee to comply with the
14 provisions of this section.

15 “(5) It is not a violation of this section for an employer to pay a different level of compensation
16 to an employee who:

17 “(a) Pursuant to a claim for a compensable injury under ORS chapter 656, receives wages for
18 modified work; or

19 “(b) As a result of a medical condition, is temporarily performing modified work that is:

20 “(A) Authorized by a medical professional licensed under ORS chapter 677; or

21 “(B) Requested by the employee and authorized by the employer in a manner that does not dis-
22 criminate against employees on the basis of a protected class.

23 “(6) Amounts owed to an employee because of the failure of the employer to comply with the
24 requirements of this section are unpaid wages.

25 “(7) An employee who asserts a violation under this section may file a complaint with the
26 Commissioner of the Bureau of Labor and Industries under ORS 659A.820, a civil action under ORS
27 652.230 or a civil action under 659A.885.

28 “(8) An employer shall post a notice of the requirements of this section in every establishment
29 where employees work. The Bureau of Labor and Industries shall make available to employers a
30 template that meets the required notice provisions of this section.”.

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