

Senate Bill 213

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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**.

Updates reporting requirements for worker leasing companies providing workers' compensation coverage to client employers.

A BILL FOR AN ACT

1
2 Relating to worker leasing company reporting; amending ORS 656.018 and 656.850.

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

4 **SECTION 1.** ORS 656.850 is amended to read:

5 656.850. (1) As used in this section and ORS 656.018, 656.403, 656.855 and 737.270:

6 (a)(A) "Worker leasing company" means a person [*who*] **that** provides workers, by contract and
7 for a fee, to work for a client [*but*].

8 (B) "**Worker leasing company**" does not include a person [*who*] **that** provides workers to a
9 client on a temporary basis.

10 (b) "Temporary basis" means providing workers to a client:

11 (A) For special situations such as to cover employee absences, employee leaves, professional
12 skill shortages, seasonal workloads and special assignments and projects with the expectation that
13 the position or positions will be terminated upon completion of the special situation. [*Workers also*
14 *are provided on a temporary basis if they are provided*]

15 (B) As probationary new hires with a reasonable expectation of transitioning to permanent
16 employment with the client [*and*], **if** the client uses a preestablished probationary period in its
17 overall employment selection program.

18 (c) "Temporary service provider" means a person [*who*] **that** provides workers, by contract and
19 for a fee, to a client on a temporary basis.

20 (2) No person shall perform services as a worker leasing company in this state without first
21 having obtained a license therefor from the Director of the Department of Consumer and Business
22 Services. No person required by this section to obtain a license shall fail to comply with this section
23 or ORS 656.855, or any rule adopted pursuant thereto.

24 (3) **When a worker leasing company provides workers to a client, the worker leasing**
25 **company shall ensure that the client provides adequate training, supervision and instruction**
26 **for those workers to meet the requirements of ORS chapter 654.**

27 [(3)] (4)(a) When a worker leasing company provides workers to a client, the worker leasing
28 company shall satisfy the requirements of ORS 656.017 and 656.407 and provide workers' compen-
29 sation coverage for those workers and any subject workers employed by the client, unless during
30 the term of the lease arrangement the client has proof of coverage on file with the director that

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 extends coverage to subject workers employed by the client and any workers leased by the client.

2 **(b)** If the client allows the coverage to expire and continues to employ subject workers or has
 3 leased workers, the client shall be considered a noncomplying employer unless the worker leasing
 4 company has complied with subsection (5) of this section.

5 *[(4) When a worker leasing company provides workers for a client, the worker leasing company
 6 shall assure that the client provides adequate training, supervision and instruction for those workers
 7 to meet the requirements of ORS chapter 654.]*

8 (5) When a worker leasing company provides subject workers to work for a client *[and also
 9 provides workers' compensation coverage for those workers]*, the worker leasing company shall:

10 **(a)** Notify the director in writing*.[The notification shall be given]* in such manner as the director
 11 may prescribe; **and**

12 **(b) If the worker leasing company is obligated to provide workers' compensation coverage
 13 to the client under subsection (4) of this section, notify the insurer in writing.**

14 **(6)(a)** A worker leasing company may terminate its obligation to provide workers' compensation
 15 coverage *[for workers provided to a client by giving to the client and the director]* **under subsection
 16 (4) of this section by giving** written notice of the termination, **in such manner as the director
 17 may prescribe, to:**

18 **(A) The client and the insurer; or**

19 **(B) If the worker leasing company is self-insured, the client and the director.**

20 **(b)** *[A notice of termination shall state the effective date and hour of the termination, but the ter-
 21 mination shall be effective not less than]* **Unless a later date is specified, the termination shall
 22 become effective at 12 midnight [30 days after] on the 30th day following the date on which the
 23 notice is received by [the director.]:**

24 **(A) An authorized representative of the insurer; or**

25 **(B) If the worker leasing company is self-insured, the director.**

26 **(c)(A)** Notwithstanding paragraph (b) of this subsection, a termination may take effect
 27 sooner than 30 days following the date on which the written notice is received if the client:

28 **(i) Obtains other coverage from an insurer;**

29 **(ii) Has coverage provided to it by another worker leasing company; or**

30 **(iii) Becomes a self-insured employer.**

31 **(B)** The written notice of termination authorized under this paragraph shall become ef-
 32 fective immediately upon the effective date of the other coverage or the client's certification
 33 as a self-insured employer.

34 **(7)** When a worker leasing company satisfies its obligation to provide workers' compen-
 35 sation coverage under subsection (4) of this section by obtaining a workers' compensation
 36 insurance policy, the coverage under the policy shall continue until the earliest of the date
 37 on which:

38 **(a) The term of the policy expires;**

39 **(b) Termination of the obligation becomes effective under subsection (6) of this section;**

40 **(c) Another insurer files proof of coverage on behalf of the client;**

41 **(d) Another worker leasing company provides coverage to the client; or**

42 **(e) The client becomes self-insured under ORS 656.430.**

43 **(8)** **Written** notice to the client under this section shall be given by mail, addressed to the cli-
 44 ent at the client's last-known address. If the client is a partnership, **the** notice may be given to any
 45 of the partners. If the client is a corporation, **the** notice may be given to any agent or officer of the

1 corporation upon whom legal process may be served.

2 **SECTION 2.** ORS 656.018 is amended to read:

3 656.018. (1)(a) The liability of every employer who satisfies the duty required by ORS 656.017 (1)
4 is exclusive and in place of all other liability arising out of injuries, diseases, symptom complexes
5 or similar conditions arising out of and in the course of employment that are sustained by subject
6 workers, the workers' beneficiaries and anyone otherwise entitled to recover damages from the em-
7 ployer on account of such conditions or claims resulting therefrom, specifically including claims for
8 contribution or indemnity asserted by third persons from whom damages are sought on account of
9 such conditions, except as specifically provided otherwise in this chapter.

10 (b) This subsection shall not apply to claims for indemnity or contribution asserted by a rail-
11 road, as defined in ORS 824.020, or by a corporation, individual or association of individuals which
12 is subject to regulation pursuant to ORS chapter 757 or 759.

13 (c) Except as provided in paragraph (b) of this subsection, all agreements or warranties contrary
14 to the provisions of paragraph (a) of this subsection entered into after July 19, 1977, are void.

15 (2) The rights given to a subject worker and the beneficiaries of the subject worker under this
16 chapter for injuries, diseases, symptom complexes or similar conditions arising out of and in the
17 course of employment are in lieu of any remedies they might otherwise have for such injuries, dis-
18 eases, symptom complexes or similar conditions against the worker's employer under ORS 654.305
19 to 654.336 or other laws, common law or statute, except to the extent the worker is expressly given
20 the right under this chapter to bring suit against the employer of the worker for an injury, disease,
21 symptom complex or similar condition.

22 (3) The exemption from liability given an employer under this section is also extended to the
23 employer's insurer, the self-insured employer's claims administrator, the Department of Consumer
24 and Business Services, and to the contracted agents, employees, partners, limited liability company
25 members, general partners, limited liability partners, limited partners, officers and directors of the
26 employer, the employer's insurer, the self-insured employer's claims administrator and the depart-
27 ment, except that the exemption from liability shall not apply:

28 (a) If the willful and unprovoked aggression by a person otherwise exempt under this subsection
29 is a substantial factor in causing the injury, disease, symptom complex or similar condition;

30 (b) If the worker and the person otherwise exempt under this subsection are not engaged in the
31 furtherance of a common enterprise or the accomplishment of the same or related objectives;

32 (c) If the failure of the employer to comply with a notice posted pursuant to ORS 654.082 is a
33 substantial factor in causing the injury, disease, symptom complex or similar condition; or

34 (d) If the negligence of a person otherwise exempt under this subsection is a substantial factor
35 in causing the injury, disease, symptom complex or similar condition and the negligence occurs
36 outside of the capacity that qualifies the person for exemption under this section.

37 (4) The exemption from liability given an employer under this section applies to a worker leasing
38 company and the client to whom workers are provided when the worker leasing company and the
39 client comply with ORS 656.850 [(3)] (4).

40 (5)(a) The exemption from liability given an employer under this section applies to a temporary
41 service provider, as that term is used in ORS 656.850, and also extends to the client to whom
42 workers are provided when the temporary service provider complies with ORS 656.017.

43 (b) The exemption from liability given a client under paragraph (a) of this subsection is also
44 extended to the client's insurer, the self-insured client's claims administrator, the department, and
45 the contracted agents, employees, officers and directors of the client, the client's insurer, the self-

1 insured client's claims administrator and the department, except that the exemption from liability
2 shall not apply:

3 (A) If the willful and unprovoked aggression by a person otherwise exempt under this subsection
4 is a substantial factor in causing the injury, disease, symptom complex or similar condition;

5 (B) If the worker and the person otherwise exempt under this subsection are not engaged in the
6 furtherance of a common enterprise or the accomplishment of the same or related objectives;

7 (C) If the failure of the client to comply with a notice posted pursuant to ORS 654.082 is a
8 substantial factor in causing the injury, disease, symptom complex or similar condition; or

9 (D) If the negligence of a person otherwise exempt under this subsection is a substantial factor
10 in causing the injury, disease, symptom complex or similar condition and the negligence occurs
11 outside of the capacity that qualifies the person for exemption under this subsection.

12 (6) Nothing in this chapter shall prohibit payment, voluntarily or otherwise, to injured workers
13 or their beneficiaries in excess of the compensation required to be paid under this chapter.

14 (7) The exclusive remedy provisions and limitation on liability provisions of this chapter apply
15 to all injuries and to diseases, symptom complexes or similar conditions of subject workers arising
16 out of and in the course of employment whether or not they are determined to be compensable under
17 this chapter.

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