

Requested by Representative HOLVEY

**PROPOSED AMENDMENTS TO
HOUSE BILL 3205**

1 On page 1 of the printed bill, line 2, delete “652.210” and insert
2 “652.220”.

3 Delete lines 5 through 30.

4 On page 2, delete lines 1 through 25 and insert:

5 **“SECTION 1.** ORS 652.220 is amended to read:

6 “652.220. (1) It is an unlawful employment practice under ORS chapter
7 659A for an employer to:

8 “(a) In any manner discriminate between employees on the basis of a
9 protected class in the payment of wages or other compensation for work of
10 comparable character.

11 “(b) Pay wages or other compensation to any employee at a rate greater
12 than that at which the employer pays wages or other compensation to em-
13 ployees of a protected class for work of comparable character.

14 “(c) Screen job applicants based on current or past compensation.

15 “(d) Determine compensation for a position based on current or past
16 compensation of a prospective employee. This paragraph is not intended to
17 prevent an employer from considering the compensation of a current em-
18 ployee of the employer during a transfer, move or hire of the employee to a
19 new position with the same employer.

20 “(2) Notwithstanding subsection (1) of this section:

21 “(a) An employer may pay employees for work of comparable character

1 at different compensation levels if all of the difference in compensation lev-
2 els is based on a bona fide factor that is related to the position in question
3 and is based on:

4 “(A) A seniority system;

5 “(B) A merit system;

6 “(C) A system that measures earnings by quantity or quality of pro-
7 duction, including piece-rate work;

8 “(D) Workplace locations;

9 “(E) Travel, if travel is necessary and regular for the employee;

10 “(F) Education;

11 “(G) Training;

12 “(H) Experience; or

13 “(I) Any combination of the factors described in this paragraph, if the
14 combination of factors accounts for the entire compensation differential.

15 “(b) An employer may pay employees for work of comparable character
16 at different compensation levels on the basis of one or more of the factors
17 listed in paragraph (a) of this subsection that are contained in a collective
18 bargaining agreement.

19 “(c)(A) **An employer may pay employees for work of comparable**
20 **character at different compensation levels pursuant to a retention**
21 **bonus, provided that:**

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

24 “(ii) **The retention bonus paid accounts for the entire compensation**
25 **differential.**

26 “(B) **Nothing in this section prohibits an employer from condition-**
27 **ing the employee’s eligibility for a retention bonus upon a requirement**
28 **that the employee work for the employer for a specified period of time**
29 **that is at least 30 days.**

30 “(3) An employer may not in any manner discriminate in the payment of

1 wages or other compensation against any employee because the employee has
2 filed a complaint under ORS 659A.820 or in a proceeding under ORS 652.210
3 to 652.235 or 659A.885 or has testified, or is about to testify, or because the
4 employer believes that the employee may testify, in any investigation or
5 proceedings pursuant to ORS 652.210 to 652.235, 659A.830 or 659A.885 or in
6 a criminal action pursuant to ORS 652.210 to 652.235.

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

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

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

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

15 “(A) Authorized by a medical professional licensed under ORS chapter
16 677; or

17 “(B) Requested by the employee and authorized by the employer in a
18 manner that does not discriminate against employees on the basis of a pro-
19 tected class.

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

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

26 “(8) An employer shall post a notice of the requirements of this section
27 in every establishment where employees work. The Bureau of Labor and In-
28 dustries shall make available to employers a template that meets the re-
29 quired notice provisions of this section.”.

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