

House Bill 2570

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Department of Consumer and Business Services)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes new disclosure laws. The Act requires the director of DCBS to not disclose to the public any information that could be used to identify certain employees who take part in certain OSHA inspections. The Act creates exceptions. The Act requires the director to adopt rules and procedures for carrying out the Act. (Flesch Readability Score: 60.5).

Requires the Director of the Department of Consumer and Business Services to keep confidential and not disclose to the public any personally identifiable information of employees who provided information for or participated in investigations or inspections of places of employment. Creates exceptions to the prohibition against disclosure. Requires the director to adopt rules and establish procedures regarding confidentiality and disclosure of personally identifiable information.

A BILL FOR AN ACT

1
2 Relating to confidentiality of identifying information of employees who participate in workplace
3 safety inspections; amending ORS 654.067.

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

5 **SECTION 1.** ORS 654.067 is amended to read:

6 654.067. (1) In order to carry out the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and
7 654.750 to 654.780, the Director of the Department of Consumer and Business Services, upon pre-
8 senting appropriate credentials to the owner, employer or agent in charge, is authorized:

9 (a) To enter without delay and at reasonable times any place of employment;

10 (b) To inspect and investigate during regular working hours and at other reasonable times, and
11 within reasonable limits and in a reasonable manner, any such place of employment and all pertinent
12 conditions, structures, machines, apparatus, devices, equipment and materials therein, and to ques-
13 tion privately the owner, employer, agents or employees; and

14 (c) To conduct a comprehensive inspection of any place of employment as deemed necessary by
15 the department based upon the prior violation history of the place of employment regarding any
16 state occupational safety or health law, regulation, standard, rule or order.

17 (2) Whenever an accident investigation reveals that a violation has caused or contributed to a
18 work-related fatality at a place of employment, the director shall conduct a comprehensive in-
19 spection of the place of employment within one year following the date on which the closing con-
20 ference associated with the work-related fatality was held.

21 (3) Whenever three or more willful or repeated violations occur at a place of employment within
22 a one-year period, the director shall conduct a comprehensive inspection of the place of employment
23 within one year following the date on which the closing conference associated with the most recent
24 willful or repeated violation was held.

25 (4) No person shall give an owner, employer, agent or employee advance notice of any inspection
26 to be conducted under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 of any place

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 of employment without authority from the director.

2 (5) Except in the case of an emergency, or of a place of employment open to the public, if the
 3 director is denied access to any place of employment for the purpose of an inspection or investi-
 4 gation, such inspection or investigation shall not be conducted without an inspection warrant ob-
 5 tained pursuant to ORS 654.202 to 654.216, or without such other authority as a court may grant in
 6 an appropriate civil proceeding. Nothing contained herein, however, is intended to affect the validity
 7 of a constitutionally authorized inspection conducted without an inspection warrant.

8 (6) A representative of the employer and a representative authorized by the employees of the
 9 employer shall be given an opportunity to accompany the director during the inspection of any place
 10 of employment for the purpose of aiding such inspection. When there is no employee representative,
 11 or the employee representative is not an employee of the employer, the director [*should*] **may** con-
 12 sult with a reasonable number of employees concerning matters of safety and health in the place
 13 of employment.

14 (7) The representative of the employer may, at the employer’s option, be an attorney retained
 15 by the employer.

16 **(8)(a) The director shall keep confidential and not disclose to the public any information**
 17 **obtained during the course of an investigation or inspection of any place of employment**
 18 **conducted under ORS 654.001 to 654.295, 654.412 to 654.423 or 654.750 to 654.780 that would**
 19 **permit the identification of an employee, other than an agent, who provided information for**
 20 **or participated in the investigation or inspection, unless:**

21 **(A) The employee consents to the disclosure; or**

22 **(B) In accordance with criteria established by rule, the director deems disclosure neces-**
 23 **sary to carry out the provisions of the Oregon Safe Employment Act.**

24 **(b) The director shall adopt rules and establish procedures necessary to carry out the**
 25 **provisions of this subsection.**

26 [(8)] (9) As used in this section:

27 (a) “Accident investigation” means an official examination of a place of employment conducted
 28 by a compliance officer who is responsible for carrying out inspections and investigations on behalf
 29 of the department, that includes a systematic appraisal of an accident sequence to determine causal
 30 factors, corrective actions and preventative measures.

31 (b) “Closing conference” means a process that informs the employer and the employee repre-
 32 sentatives, if any, of the findings resulting from an inspection of a place of employment and any
 33 other pertinent issues related to the inspection.

34 (c) “Comprehensive inspection” means a substantially complete inspection of a place of employ-
 35 ment that, in the professional judgment of the inspector who conducts the inspection, may be deemed
 36 comprehensive although not all potentially hazardous conditions, operations and practices within the
 37 place of employment are inspected.

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