

# Summary of Oregon Employment Laws Effective on January 1, 2016

<p><b>Restrictions to Employer Required Employee Social Media Accounts</b></p> <p>Makes it an unlawful employment practice for employers to require an employee or applicant for employment to establish and maintain personal social media accounts or to require an employee or an applicant for employment to authorize the employer to advertise on their personal social media account of the employee or applicant.</p>	<p>Adds some requirements to the existing social media law, which prevents employers from asking employees and applicants for passwords or usernames to their personal social media accounts.</p> <p>Defines a "<u>personal social media account</u>" as a social media account that is used by an employee or applicant for employment, exclusively for personal purposes unrelated to any business purpose of the employer or prospective employer and that is not provided by or paid for the employer or prospective employer.</p>
<p><b>Oregon Paid Sick Leave</b></p> <p>Generally requires that employers with ten or more employees working anywhere in Oregon to provide a sick time policy that allows employees to earn and use up to 40 hours of paid sick time per year. Generally, Employers with fewer than ten employees working anywhere in Oregon must also establish the same sick time policy, but sick time may be unpaid.</p> <p>Sick time shall accrue at the rate of one hour for every thirty hours worked or 1-1/3 hours for every 40 hours worked. The employer must allow for carryover of accrued but unused sick time from year-to-year, but employers are allowed to cap total accrued sick time at 80 hours or require that employers not use more than 40 hours of sick time in anyone year. Alternatively, employers and employees can enter into certain end-of-year payout agreements by mutual consent. An employee begins accruing sick leave on the first day of employment, but is not eligible to use sick leave until their 91st day of employment.</p> <p>Sick leave must be paid out at the employee's regular rate of pay and can be used in hourly increments for the employee's own self-care or to care for the employee's qualifying family member. The employer may not require more than 10 days' notice for the use of foreseeable sick time. The bill generally provides for employer required health verifications where the employee uses more than three consecutive scheduled work days for sick time at the employer's cost.</p> <p>The bill does not require pay-out at termination or resignation, but does require reinstatement of accrued and unused sick time when the employee is reemployed within 180 days of separation. The bill outlines specific protections against retaliation for employees that inquire about sick time. The bill creates additional record keeping requirements for employers related to paid sick leave, with quarterly updates provided to employees. This bill further makes any violation of the paid sick leave law an unlawful employment practice subject to the jurisdiction of BOLI.</p>	<p>See additional handout</p> <p>A statewide mandate for paid and unpaid sick leave. Prior to this, paid and unpaid sick leave was not required in Oregon except by Portland's local ordinance, and Eugene's local ordinance, which would have gone into effect this summer.</p> <p>The bill expressly states that for employers located in a city exceeding populations of 500,000 (only Portland exceeds 500,000 in Oregon to date) and employing six or more employees, such employers shall be subject to the paid sick time requirements. In other words, this provision creates an exception for Portland employers and requires paid sick leave for those employers with six or more employees, and unpaid sick time for Portland employers with less than six employees.</p> <p>The bill provides that an employer's existing PTO or sick leave policy may satisfy the new law as long as it meets the minimum requirements of the law.</p> <ul style="list-style-type: none"> <li>• Be sure to verify the accrual rate, as the accrual is different for one hour for every 30 hours worked up to 40 hours, compared to 40 hours of accrued time per year.</li> </ul> <p><u>Determining 10 employees for paid sick leave:</u></p> <p>How to count:</p> <ul style="list-style-type: none"> <li>• <u>Established employers</u>: the number of employees on a per-day average for 20 workweeks in the calendar or fiscal year immediately preceding the year in which the leave is to be taken.</li> <li>• <u>Newer employers</u>: the number of employees based on any 20 workweeks preceding the request for sick time</li> </ul>
<p><b>BOLI Warrants for Debt Collection</b></p> <p>Authorizes the Commissioner of Bureau of Labor and Industries to issue warrants for collection of debts owed the bureau, within 30 days of the date payment becomes due, where no provision has been made to secure the payment. This bill would apply retroactively and covers debts owed to the bureau before, on or after the effective date of the bill.</p>	<p>The final bill has no provision that expressly requires notice to the employer or entity that may be subject to a BOLI warrant to collect debts, other than mailing the warrant to the debtor's last known address, and the bill does not provide a right to cure.</p>
<p><b>Authorized use of Accrued Sick Leave or Personal Leave for Victims of Domestic Violence</b></p> <p>Authorizes the use of accrued sick leave or personal business leave by certain employees who are victims of domestic violence, harassment, sexual assault or stalking.</p>	<p>Oregon law already allows employees who are eligible for leave as victims of domestic violence, harassment, sexual assault or stalking, to use any paid accrued vacation leave or any other paid leave that is offered by the covered employer in lieu of vacation leave during the period of leave. This bill expressly adds any "accrued sick leave or personal business leave" to accrued leave that the employee may use during the covered leave period</p>

<p><b>Protection for Wage Information Disclosures</b>  makes it an unlawful employment practice to take disciplinary action, including discharging, demoting, suspending, discriminating or retaliating against an employee who inquires about, discusses or discloses, in any manner, wage information about him or herself or another employee. Such disclosure includes discussing wage information to make a complaint or institute an investigation. The bill carves out an exception for an employee who has access to wage information as a part of that employee's job, and allows employers to discipline such an employee for unauthorized disclosures of wage related information acquired through an employee's position.</p>	<p>The NLRA already restricts employers both in union and non-unionized workforces from creating or enforcing policies that stifle employees' discussions about hours, wages, and working conditions. In this respect, discussions about pay are already protected by the NLRA. This bill creates a cause of action under Oregon law.</p>
<p><b>Health Insurance Coverage Continuation</b>  Requires continuation of group health insurance coverage for an employee on family leave covered by OFLA pursuant to the same terms as if the employee were not on leave.</p>	<p>Requires employers to pay an employee's insurance premiums during the full duration of an employee's family leave. This bill also applies to coverage for family members.</p> <p>The employee is still required to make any regular contributions for the cost of the health insurance premiums</p>
<p><b>Increase to Workers' Compensation Costs</b>  Requires payment of interest on certain compensable benefits, attorney fees, penalties and costs withheld pending appeal. Requires attorney fees awarded to be equitable in aggregate in relation to fees earned by attorneys representing insurers and self-insured employers. Instructs the Workers' Compensation Board to adjust the schedule of attorney fees biennially based on increases to average weekly wages.</p>	
<p><b>Ban the Box</b>  Makes it an unlawful employment practice to exclude an applicant from an initial interview by requiring an applicant to disclose a criminal conviction on an application or otherwise requiring an applicant to disclose a criminal conviction prior to an initial interview.</p> <p>If no interview is conducted, it is an unlawful employment practice for the employer to require the applicant to disclose a criminal conviction prior to making a conditional job offer. Other than the limitation set out in the statute, nothing in the proposed bill prevents an employer from considering an applicant's conviction history when making a hiring decision.</p> <p>The application, interview and conditional offer requirements discussed above do not apply where federal, state or local law, including corresponding rules and regulations, require the consideration of an applicant's criminal history for an employer with a law enforcement agency, an employer in the criminal justice system, or an employer seeking a non-employee volunteer.</p>	<ul style="list-style-type: none"> <li>• May require a change to the employment application form.</li> </ul> <p>Employment applications that include a question similar to "Have you ever been convicted of a felony or crime?" followed by a Yes or No check box, for example, will have to be modified to remove this question.</p>
<p><b>Limitations of Noncompetition Agreements</b>  Amends current law regarding noncompetition agreements, and limits the term of non-competition to 18 months.</p>	<p>The previous law in Oregon limited non-competition agreements to 2 years. The law will apply to non-competition agreements entered into on or after January 1, 2016.</p>

Holloway HR Consulting specializes in HR compliance, employee relations & organizational development and crafting progressive solutions to address the continuously evolving challenges facing small and mid-sized companies.