

House Bill 2259

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Dan Gardner)

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**.

Increases time in which person may file retaliation complaint under occupational safety and health laws from 30 days to 90 days.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to filing of retaliation complaint under occupational safety laws; creating new provisions;
3 amending ORS 654.062; and declaring an emergency.

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

5 **SECTION 1.** ORS 654.062 is amended to read:

6 654.062. (1) Every employee should notify the employer of any violation of law, regulation or
7 standard pertaining to safety and health in the place of employment when the violation comes to the
8 knowledge of the employee.

9 (2) However, any employee or representative of the employee may complain to the Director of
10 the Department of Consumer and Business Services or any authorized representatives of the director
11 of any violation of law, regulation or standard pertaining to safety and health in the place of em-
12 ployment, whether or not the employee also notifies the employer.

13 (3) Upon receiving any employee complaint, the director shall make inquiries, inspections and
14 investigations that the director considers reasonable and appropriate. When an employee or repre-
15 sentative of the employee has complained in writing of an alleged violation and no resulting citation
16 is issued to the employer, the director shall furnish to the employee or representative of the em-
17 ployee, upon written request, a statement of reasons for the decision.

18 (4) The director shall establish procedures for keeping confidential the identity of any employee
19 who requests protection in writing. When a request has been made, neither a written complaint from
20 an employee, or representative of the employee, nor a memorandum containing the identity of a
21 complainant [*is a public record under ORS 192.210 to 192.505 and 192.610 to 192.990*] **may be dis-**
22 **closed under ORS 192.410 to 192.505.**

23 (5) It is an unlawful employment practice for any person to bar or discharge from employment
24 or otherwise discriminate against any employee or prospective employee because the employee or
25 prospective employee has:

26 (a) Opposed any practice forbidden by ORS 654.001 to 654.295 and 654.750 to 654.780;

27 (b) Made any complaint or instituted or caused to be instituted any proceeding under or related
28 to ORS 654.001 to 654.295 and 654.750 to 654.780, or has testified or is about to testify in any such
29 proceeding; or

30 (c) Exercised on behalf of the employee, prospective employee or others any right afforded by

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 ORS 654.001 to 654.295 and 654.750 to 654.780.

2 (6)(a) Any employee or prospective employee alleging to have been barred or discharged from
3 employment or otherwise discriminated against in compensation, or in terms, conditions or privileges
4 of employment, in violation of subsection (5) of this section may, within [30] **90** days after the em-
5 ployee or prospective employee has reasonable cause to believe that the violation has occurred, file
6 a complaint with the Commissioner of the Bureau of Labor and Industries alleging discrimination
7 under the provisions of ORS 659A.820. Upon receipt of the complaint the commissioner shall process
8 the complaint under the procedures, policies and remedies established by ORS chapter 659A and the
9 policies established by ORS 654.001 to 654.295 and 654.750 to 654.780 in the same way and to the
10 same extent that the complaint would be processed if the complaint involved allegations of unlawful
11 employment practices under ORS 659A.030 (1)(f).

12 (b) Within 90 days after receipt of a complaint filed under this subsection, the commissioner
13 shall notify the complainant of the commissioner's determination.

14 (c) The affected employee or prospective employee may bring a civil action in any circuit court
15 of the State of Oregon against any person alleged to have violated subsection (5) of this section. The
16 civil action must be commenced within one year after the employee or prospective employee has
17 reasonable cause to believe a violation has occurred, unless a complaint has been timely filed under
18 ORS 659A.820.

19 (d) The commissioner or the circuit court may order all appropriate relief including rehiring or
20 reinstatement to the employee's former position with back pay.

21 **SECTION 2. The amendments to ORS 654.062 by section 1 of this 2007 Act apply only to**
22 **employment practices occurring on or after the effective date of this 2007 Act.**

23 **SECTION 3. This 2007 Act being necessary for the immediate preservation of the public**
24 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
25 **on its passage.**