



Associated Oregon Industries

AOI TESTIMONY ON HOUSE BILL 2669 HOUSE BUSINESS & LABOR COMMITTEE

MEASURE: HB 2669
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HB 2669 confers various ORS 659A employment protections to interns.

The bill specifically precludes an employment relationship for the purposes of ORS 652 (wage & hour laws), ORS 653 (minimum wage), ORS 654 (occupational safety), ORS 656 (workers' compensation), ORS 657 (unemployment insurance) and ORS 658 (farm labor laws).

AOI is concerned about HB 2669 for the following reasons:

- ✓ Does the bill do what it is intended to do? AOI has worked with BOLI and interested parties in a narrowly constructed concept that would give interns recourse in the event of sexual harassment in the workplace. HB 2669 confers a number of 659A protections, none of which deal with the issue of sexual harassment of interns.
- ✓ Keep in mind BOLI's definition of an intern. An intern must meet the following six criteria:
 1. The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;
 2. The training is for the benefit of the trainees or students;
 3. The trainees or students do not displace regular employees, but work under their close supervision;
 4. The employer that provides the training derives no immediate advantage from the activities of the trainees or students; and on occasion his operations may actually be impeded;
 5. The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and
 6. The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.
- ✓ An "intern" would be considered an "employee" under federal law if:
 1. They provide essential services to the employer; or
 2. They are working in a position where someone is normally paid; or
 3. There is a history of paying someone to do the same or similar work; or
 4. Other people are currently paid for the same or similar work.

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✓ HB 2669 grants the following employment protections to interns:

659A.030 – Employment non-discrimination, non-discrimination on wages or terms, conditions or privileges of employment

659A.082 – Non-discrimination against person for service in uniformed service

659A.109 – Non-discrimination against individuals on basis of applying for benefits, giving testimony under disability anti-discrimination statutes

659A.112 – Non-discrimination on basis of disability

659A.136 – Protection from medical exams and disability inquiries

659A.142 – Non-discrimination on basis of disability by labor organization, government, employment agency

659A.199 – Whistleblower protections

659A.230 – Non-discrimination for initiating or aiding in criminal or civil proceedings

659A.233 – Non-discrimination for reporting certain violations (nursing home facilities) or testifying at unemployment compensation hearing

659A.236 – Non-discrimination for testifying before Legislative Assembly, committee or task force

659A.290 – Non-discrimination for victims of domestic violence, harassment, sexual assault or stalking

659A.300 – Prohibits breathalyzer, polygraph, psychological stress or brain-wave test or genetic test

659A.303 – Prohibits employer from obtaining, seeking to obtain or using genetic information

659A.306 – Protects employee from requirement to pay for medical examination as condition of continued employment

659A.315 – Prohibits restricting use of tobacco in nonworking hours

✓ What is the overall policy objective of HB 2669? Why these protections and not others? For instance, why not invoke the protections of 659A.309 (discrimination based on employment of another family member), 659A.312 (leave of absence for bone marrow donation), 659A.320 (discrimination based on information in credit history)?

AOI is supportive of a cogent strategy as it relates to the rights of interns in the workplace, particularly as it relates to recourse for sexual harassment in the workplace, but it needs to be thoughtful and it needs to support a clear policy objective. It is AOI's contention that HB 2669 in its current form would actually discourage employers from providing internship opportunities.