



April 10, 2017

Testimony to Senate Committee on Workforce
Provided by: Paloma Sparks, Legislative Director
Oregon Bureau of Labor and Industries

The Oregon Bureau of Labor and Industries (BOLI) appreciates the opportunity to testify in support of the -1 amendments to SB 299, which makes clarifications to the sick time law originally passed in 2015.

The Bureau of Labor and Industries enforces anti-discrimination laws that apply to workplaces, housing and public accommodations; enforces wage and hour laws; educates employers to avoid unnecessary worker complaints; and partners with labor, business and other organizations to develop a highly-skilled, competitive workforce.

Background

During the 2015 session the legislature passed Senate Bill 454 requiring all employers to allow employees to earn and use sick time, up to 40 hours per year. This was a new program involving many new concepts and moving parts. The law needed to mesh with existing wage and hour and civil rights laws. BOLI was tasked with implementation, enforcement and public education.

BOLI made every effort to address ambiguities in statutory language and to provide guidance to employers and employees. But, as with many new laws, some organizations wanted changes to the law and resulting rules. Several bills were introduced in the 2016 session. While non of those bills went forward advocates for workers and employers and BOLI agreed to revisit the rules after the conclusion of the 2016 session. Around July 2016 BOLI began reviewing the sick time statutes and existing administrative rules to determine what changes would be made. As we carefully examined the sick time law it became clear that the statutory language limited our ability to make many of the changes requested by employer advocates.

There is continued confusion as to legislative intent in several areas of the current sick time law. Some have urged BOLI to adopt an interpretation that is counter to the plain language in the statute. BOLI cannot ignore the unambiguous language in a statute. The legislative record is not sufficient on its own to support an interpretation that runs counter to the plain meaning in the law. Given the confusion, the agency opted not to finalize the proposed rules in 2016.

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Senate Bill 299

Senate bill 299 was introduced as a placeholder by the interim Senate Committee on Workforce for potential updates to the sick time statutes. On December 13, 2016 I presented to this committee to review the rulemaking process and implementation of the sick time law. Several areas of potential legislative changes were identified during that presentation.

The proposed -1 amendments to SB 299 make several clarifications to the statutes: exemption for work-study students; sick time accrual and carryover; how employees paid on a piece-rate or commission basis are paid when sick time is taken; counting employees; how substantially equivalent policies should be tracked when they are more generous than is required by the sick time law; how sick time and workers' compensation work together; and temporary location in Portland. These amendments still need work to reach consensus among all interested parties. For example, the language around corporate directors and limited liability corporation members isn't yet satisfactory to both employer and worker advocates. But, we have made great progress and I am confident we will be able to craft a solution going forward.

Thank you for your attention. I am happy to answer any questions.