

# D R A F T

## SUMMARY

Provides that employer must provide injured worker, within 48 hours after injury, with form that Director of Department of Consumer and Business Services develops. Prohibits employer from requiring worker to ask for form before supplying form.

## A BILL FOR AN ACT

1  
2 Relating to forms used to report to employers injuries that are subject to  
3 workers' compensation; creating new provisions; and amending ORS  
4 656.265.

### 5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 656.265 is amended to read:

7 656.265. (1)(a) Notice of an accident resulting in an injury or death  
8 [*shall*] **must** be given immediately by the worker or a beneficiary of the  
9 worker to the employer, but not later than 90 days after the accident. The  
10 employer shall acknowledge forthwith receipt of such notice.

11 (b) Notwithstanding paragraph (a) of this subsection, if an injured worker  
12 has not submitted a claim under this chapter but has submitted a claim to  
13 a health benefit plan that provides benefits to the worker, and the health  
14 benefit plan rejects the claim as being work related, the injured worker may  
15 file a claim under this section within 90 days [*from*] **after** the date the health  
16 benefit plan rejects the claim. If a claim filed under this section is denied,  
17 the workers' compensation insurer or self-insured employer shall inform the  
18 health benefit plan of the denial and the health benefit plan shall process  
19 the claim for payment in accordance with the terms, conditions and benefits  
20 of the plan.

1 (2) The notice need not be in any particular form[. *However, it shall*] **but**  
2 **the notice must** be in writing and [*shall*] **must** apprise the employer when  
3 and where and how an injury has occurred to a worker. A report or state-  
4 ment secured from a worker, or from the doctor of the worker and signed  
5 by the worker, concerning an accident [*which*] **that** may involve a  
6 compensable injury [*shall be considered*] **is** notice from the worker and the  
7 employer shall forthwith furnish the worker a copy of any such report or  
8 statement.

9 (3) Notice [*shall*] **must** be given to the employer by mail, addressed to the  
10 employer at the last-known place of business of the employer, or by personal  
11 delivery to the employer or to a foreman or other supervisor of the employer.  
12 If for any reason [*it is not possible to so notify*] **notifying** the employer **is**  
13 **not possible**, notice may be given to the Director of the Department of  
14 Consumer and Business Services and referred to the insurer or self-insured  
15 employer.

16 (4) Failure to give notice as required by this section bars a claim under  
17 this chapter unless the notice is given within one year after the date of the  
18 accident and:

19 (a) The employer had knowledge of the injury or death;

20 (b) The worker died within 180 days after the date of the accident; or

21 (c) The worker or beneficiaries of the worker establish that the worker  
22 had good cause for failure to give notice within 90 days after the accident.

23 (5) The issue of failure to give notice must be raised at the first hearing  
24 on a claim for compensation in respect to the injury or death.

25 (6) The director shall promulgate and prescribe uniform forms to be used  
26 by workers in reporting their injuries to their employers. [*These forms shall*  
27 *be supplied by*] All employers **shall supply the forms to an** injured [*workers*  
28 *upon request of the injured*] worker or [*some other*] **to another** person on  
29 behalf of the worker **within 48 hours after the injury, without requiring**  
30 **the worker to ask for the form.** The failure of the worker to use a speci-  
31 fied form [*shall*] **does** not, in itself, defeat the claim of the worker if the

1 worker has complied with the requirement that the claim be presented in  
2 writing.

3 **SECTION 2. The amendments to ORS 656.265 by section 1 of this**  
4 **2017 Act apply to injuries that occur on or after the effective date of**  
5 **this 2017 Act.**

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