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Oregon State House Committee on Business and Labor

Chair Holvey, Vice Chair Barreto, Vice Chair Bynum, and Members of the Committee,

I urge you to support and vote favorably on House Bill 2181. This bill requires that an employer provide a statement of the reasons for discharge and provides a rebuttable presumption of retaliation if an adverse employment action is taken within 90 days of an employee's wage complaint.

No one should be discouraged from exerting their rights because of fear of retaliation. But this is not the case. Fear of retaliation, being labeled a trouble maker, black-listing and worse is a primary reason that wage theft and discrimination are severely underreported.

In addition retaliation is difficult to prove because employers offer pretextual reasons for discriminatory actions. A rebuttable presumption that adverse actions taken shortly after a complaint are retaliatory will ease the burden of proof for employees.

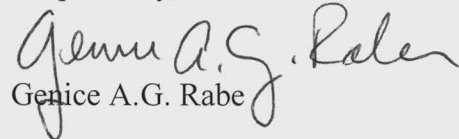
Unfortunately, too many employers offer various and different reasons for discharge. They substitute one reason for another when a stated reason is disproved. Requiring employers to declare their reasons in writing limits this problem.

My thirty years as an employment and labor lawyer is the basis for my request. Employees are too often discharged or disciplined when they raise legitimate and legally actionable complaints. A rebuttable presumption of retaliation when an adverse action is taken within 90 days is just and necessary to curb retaliation and not harm employees who raise complaints.

As an attorney I frequently ran into the situation of disproving one reason for adverse action only to face another and other reasons. This happens seriatum: first reason is shown to be pretextual, second reason is raised and also shown to be pretextual, and on and on. An employer has a reason or reasons for discharge or adverse action at the time the action is taken. He should be required to state the real reason or reasons in writing when asked. Then the frustrating and time consuming proof issues regarding shifting reasons will not arise. This requirement would also protect from references varying from the stated reason.

Thank-you for your consideration of HB 2181. I urge you to approve this bill and forward it with a do pass recommendation.

Respectfully,


Genice A.G. Rabe