

House Bill 2762

Sponsored by COMMITTEE ON BUSINESS AND LABOR

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**.

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 workers' compensation;
3 creating new provisions; and amending ORS 656.265.

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

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

6 656.265. (1)(a) Notice of an accident resulting in an injury or death [*shall*] **must** be given im-
7 mediately by the worker or a beneficiary of the worker to the employer, but not later than 90 days
8 after the accident. The employer shall acknowledge forthwith receipt of such notice.

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

17 (2) The notice need not be in any particular form[. *However, it shall*] **but the notice must** be
18 in writing and [*shall*] **must** apprise the employer when and where and how an injury has occurred
19 to a worker. A report or statement secured from a worker, or from the doctor of the worker and
20 signed by the worker, concerning an accident [*which*] **that** may involve a compensable injury [*shall*
21 *be considered*] **is** notice from the worker and the employer shall forthwith furnish the worker a copy
22 of any such report or statement.

23 (3) Notice [*shall*] **must** be given to the employer by mail, addressed to the employer at the
24 last-known place of business of the employer, or by personal delivery to the employer or to a fore-
25 man or other supervisor of the employer. If for any reason [*it is not possible to so notify*] **notifying**
26 the employer **is not possible**, notice may be given to the Director of the Department of Consumer
27 and Business Services and referred to the insurer or self-insured employer.

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

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

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

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

3 (5) The issue of failure to give notice must be raised at the first hearing on a claim for com-
4 pensation in respect to the injury or death.

5 (6) The director shall promulgate and prescribe uniform forms to be used by workers in report-
6 ing their injuries to their employers. [*These forms shall be supplied by*] All employers **shall supply**
7 **the forms** to **an** injured [*workers upon request of the injured*] worker or [*some other*] **to another**
8 person on behalf of the worker **within 48 hours after the injury, without requiring the worker**
9 **to ask for the form.** The failure of the worker to use a specified form [*shall*] **does** not, in itself,
10 defeat the claim of the worker if the worker has complied with the requirement that the claim be
11 presented in writing.

12 **SECTION 2. The amendments to ORS 656.265 by section 1 of this 2017 Act apply to inju-**
13 **ries that occur on or after the effective date of this 2017 Act.**

14