

**A-Engrossed**  
**Senate Bill 907**

Ordered by the Senate April 7  
Including Senate Amendments dated April 7

Sponsored by Senator PATTERSON, Representatives HUDSON, NELSON, ANDERSEN; Senator MEEK, Representatives CHAICHI, GAMBA, NOSSE, WALTERS

**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.

*[Provides employee with right to refuse to perform task assigned by employer under certain circumstances. Protects employee against disciplinary action for exercising right.]*

Prohibits employer from retaliating or discriminating against employee *[for invoking right]* or **prospective employee who, in good faith and with no reasonable alternative, refuses exposure arising from hazardous condition at place of employment.**

*[Allows employee to use sick leave to cover period when employee is not working due to employee's exercising right to refuse to perform assigned task.]*

**Requires Director of Department of Consumer and Business Services to adopt rules to implement provisions of Act that are in accordance with federal Occupational Safety and Health Act.**

**A BILL FOR AN ACT**

1  
2 Relating to employees' rights to refuse to perform certain work assignments; amending ORS 654.062.

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

4 **SECTION 1.** ORS 654.062 is amended to read:

5 654.062. (1) Every employee should notify the employer of any violation of law, regulation or  
6 standard pertaining to safety and health in the place of employment when the violation comes to the  
7 knowledge of the employee.

8 (2) However, any employee or representative of the employee may complain to the Director of  
9 the Department of Consumer and Business Services or any authorized representatives of the director  
10 of any violation of law, regulation or standard pertaining to safety and health in the place of em-  
11 ployment, whether or not the employee also notifies the employer.

12 (3) Upon receiving any employee complaint, the director shall make inquiries, inspections and  
13 investigations that the director considers reasonable and appropriate. When an employee or repre-  
14 sentative of the employee has complained in writing of an alleged violation and no resulting citation  
15 is issued to the employer, the director shall furnish to the employee or representative of the em-  
16 ployee, upon written request, a statement of reasons for the decision.

17 (4) The director shall establish procedures for keeping confidential the identity of any employee  
18 who requests protection in writing. When a request has been made, neither a written complaint from  
19 an employee, or representative of the employee, nor a memorandum containing the identity of a  
20 complainant may be disclosed under ORS 192.311 to 192.478.

21 (5) It is an unlawful employment practice for any person to bar or discharge from employment  
22 or otherwise discriminate against any employee or prospective employee because the employee or  
23 prospective employee has:

**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 (a) Opposed any practice forbidden by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to  
2 654.780;

3 (b) Made any complaint or instituted or caused to be instituted any proceeding under or related  
4 to ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, or has testified or is about to  
5 testify in any such proceeding;

6 (c) Exercised on behalf of the employee, prospective employee or others any right afforded by  
7 ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780; [or]

8 (d) In good faith reported an assault that occurred on the premises of a health care employer  
9 as defined in ORS 654.412 or in the home of a patient receiving home health care services[.]; or

10 (e) **With no reasonable alternative and in good faith, refused to expose the employee or**  
11 **prospective employee to serious injury or death arising from a hazardous condition at a place**  
12 **of employment.**

13 (6)(a) Any employee or prospective employee alleging to have been barred or discharged from  
14 employment or otherwise discriminated against in compensation, or in terms, conditions or privileges  
15 of employment, in violation of subsection (5) of this section may, within one year after the employee  
16 or prospective employee has reasonable cause to believe that the violation has occurred, file a  
17 complaint with the Commissioner of the Bureau of Labor and Industries alleging discrimination un-  
18 der the provisions of ORS 659A.820. Upon receipt of the complaint the commissioner shall process  
19 the complaint under the procedures, policies and remedies established by ORS chapter 659A and the  
20 policies established by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 in the same  
21 way and to the same extent that the complaint would be processed if the complaint involved  
22 allegations of unlawful employment practices under ORS 659A.030 (1)(f).

23 (b) Within 90 days after receipt of a complaint filed under this subsection, the commissioner  
24 shall notify the complainant of the commissioner's determination.

25 (c) The affected employee or prospective employee may bring a civil action in any circuit court  
26 of the State of Oregon against any person alleged to have violated subsection (5) of this section. The  
27 civil action must be commenced within one year after the employee or prospective employee has  
28 reasonable cause to believe a violation has occurred, unless a complaint has been timely filed under  
29 ORS 659A.820.

30 (d) The commissioner or the circuit court may order all appropriate relief including rehiring or  
31 reinstatement to the employee's former position with back pay.

32 (7)(a) In any action brought under subsection (6) of this section, there is a rebuttable  
33 presumption that a violation of subsection (5) of this section has occurred if a person bars or dis-  
34 charges an employee or prospective employee from employment or otherwise discriminates against  
35 an employee or prospective employee within 60 days after the employee or prospective employee has  
36 engaged in any of the protected activities described in subsection (5)(a) to [(d)] (e) of this section.  
37 The person may rebut the presumption that a violation of subsection (5) of this section has occurred  
38 by a demonstration of a preponderance of the evidence.

39 (b) If a person bars or discharges an employee or prospective employee from employment or  
40 otherwise discriminates against the employee or prospective employee more than 60 days after the  
41 employee or prospective employee has engaged in any of the protected activities described under  
42 subsection (5)(a) to [(d)] (e) of this section, such action does not create a presumption in favor of  
43 or against finding that a violation of subsection (5) of this section has occurred. Where such action  
44 has occurred more than 60 days after the protected activity, this subsection does not modify any  
45 existing rule of case law relating to the proximity of time between a protected activity and an ad-

1   verse employment action. The burden of proof shall be on the employee or prospective employee to  
2   demonstrate by a preponderance of the evidence that a violation occurred.

3       **(8) The director shall adopt rules necessary for the administration of subsection (5)(e)**  
4   **of this section that are in accordance with the federal Occupational Safety and Health Act**  
5   **of 1970 (29 U.S.C. 651 et seq.).**

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