

House Bill 2790

Sponsored by Representative NELSON; Representative MUNOZ, Senator FREDERICK (Presession filed.)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act clarifies that employees can take sick leave for a mental health condition. (Flesch Readability Score: 65.7).

Clarifies the meaning of "mental health condition" for purposes of sick leave provisions to include leave taken to restore the employee or the employee's family member to a state of mental well-being.

Requires the Commissioner of the Bureau of Labor and Industries to develop informational materials and training opportunities on the relationship between mental and physical health and the benefits of mental health leave.

Permits the Commissioner of the Bureau of Labor and Industries to enter into contracts with mental health professionals to investigate retaliation complaints involving absences relating to a mental health condition. Requires the commissioner to adopt rules concerning retaliation for absences related to a mental health condition.

A BILL FOR AN ACT

1
2 Relating to sick leave for mental health; creating new provisions; and amending ORS 653.601,
3 653.626, 653.646, 653.651 and 653.656.

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

5 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS 653.601 to**
6 **653.661.**

7 **SECTION 2. The Commissioner of the Bureau of Labor and Industries shall develop and**
8 **offer informational materials and training opportunities for employers and employees to in-**
9 **crease awareness about the relationship between mental and physical health and the benefits**
10 **of taking leave from work to address mental health needs.**

11 **SECTION 3. ORS 653.601 is amended to read:**

12 653.601. As used in ORS 653.601 to 653.661:

13 (1)(a) "Employee" means an individual who renders personal services at a fixed rate to an em-
14 ployer if the employer either pays or agrees to pay for personal services or permits the individual
15 to perform personal services.

16 (b) "Employee" includes, but is not limited to:

17 (A) An individual who is paid on a piece-rate basis or the basis of the number of operations
18 accomplished or quantity produced or handled;

19 (B) Individuals paid on an hourly, salary or commission basis;

20 (C) Individuals for whom withholding is required under ORS 316.162 to 316.221;

21 (D) Home care workers as defined in ORS 410.600; and

22 (E) Personal support workers as defined in ORS 410.600.

23 (c) "Employee" does not include:

24 (A) An employee who receives paid sick time under federal law;

25 (B) An independent contractor;

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) A participant in a work training program administered under a state or federal assistance
 2 program;

3 (D) A participant in a work-study program that provides students in secondary or post-secondary
 4 educational institutions with employment opportunities for financial assistance or vocational train-
 5 ing;

6 (E) A railroad worker exempted under the federal Railroad Unemployment Insurance Act; and

7 (F) An individual employed by that individual's parent, spouse or child.

8 (2)(a) "Employer" means any person that employs one or more employees working anywhere in
 9 this state, a political subdivision of the state and any county, city, district, authority, public corpo-
 10 ration or entity, and any instrumentality of a county, city, district, authority, public corporation or
 11 entity, organized and existing under law or charter.

12 (b) "Employer" includes an employer located in a city with a population exceeding 500,000.

13 (c) "Employer" does not include the federal government.

14 (3)(a) "Employer located in a city with a population exceeding 500,000" includes, but is not
 15 limited to, an employer that maintains any office, store, restaurant or establishment in that city.

16 (b) "Employer located in a city with a population exceeding 500,000" does not include an em-
 17 ployer that maintains only a seasonal farm stand or a trailer that is used temporarily on a con-
 18 struction site for office purposes only.

19 (4) "Family member" has the meaning given that term in ORS 659A.150.

20 (5)(a) "Front-load," except as provided in paragraph (b) of this subsection, means to assign and
 21 make available a certain number of hours of sick time to an employee as soon as the employee be-
 22 comes eligible to use sick time and on the first day of the immediately subsequent year without re-
 23 gard to an accrual rate.

24 (b) For employees employed by an employer for less than a full year, "front-load" means to as-
 25 sign and make available to an employee as soon as the employee becomes eligible to use sick time
 26 a number of hours of sick time that is the pro rata percentage of the hours the employee would be
 27 entitled to for an entire year based on the number of hours the employee was actually employed by
 28 the employer for the year.

29 **(6) "Mental health condition" includes a condition for which an employee determines that**
 30 **the use of sick time is necessary to restore the employee or the employee's family member**
 31 **to a state of mental well-being.**

32 [(6)] (7) "Paid sick time" means time off:

33 (a) That is provided to an employee by an employer that employs 10 or more employees;

34 (b) That may be used for the purposes specified in ORS 653.616; and

35 (c) That is compensated at the regular rate of pay and without reductions in benefits, including
 36 but not limited to health care benefits, that the employee earns from the employer at the time the
 37 employee uses the paid sick time.

38 [(7)] (8) "Sick time" means time during which an employee is permitted to be absent from work
 39 for a reason authorized under ORS 653.616 without a reduction in benefits, including but not limited
 40 to health care benefits, that the employee earns from the employer.

41 [(8)] (9) "Year" includes any consecutive 12-month period, such as a calendar year, a tax year,
 42 a fiscal year, a contract year or the 12-month period beginning on the anniversary of the date of
 43 employment of the employee.

44 **SECTION 4.** ORS 653.626 is amended to read:

45 653.626. (1)(a) If an employee takes more than three consecutive scheduled workdays of sick time

1 for a purpose described in ORS 653.616 (1) to (4), an employer may require the employee to provide
2 verification from a health care provider of the need for the sick time, or certification of the need
3 for leave for purposes of ORS 659A.272 as provided in ORS 659A.280.

4 (b) If the need for sick time is foreseeable and is projected to last more than three scheduled
5 workdays and an employee is required to provide notice under ORS 653.621, the employer may re-
6 quire that verification or certification be provided before the sick time commences or as soon as
7 otherwise practicable.

8 (c) If the employee commences sick time without providing prior notice required by the employer
9 under ORS 653.621:

10 (A) Medical verification shall be provided to the employer within 15 calendar days after the
11 employer requests the verification; or

12 (B) Certification provided as specified in ORS 659A.280 shall be provided to the employer within
13 a reasonable time after the employee receives the request for certification.

14 (2) The employer shall pay any reasonable costs for providing medical verification or certifica-
15 tion required under this section, including lost wages, that are not paid under a health benefit plan
16 in which the employee is enrolled.

17 (3)(a) An employer may not require that the verification or certification required under this
18 section explain the nature of the illness or details related to the domestic violence, sexual assault,
19 harassment, or stalking that necessitates the use of sick time.

20 (b) If an employer suspects that an employee is abusing sick time, including engaging in a pat-
21 tern of abuse, the employer may require verification from a health care provider of the need of the
22 employee to use sick time, regardless of whether the employee has used sick time for more than
23 three consecutive days. As used in this paragraph, “pattern of abuse” includes, but is not limited to,
24 repeated use of unscheduled sick time on or adjacent to weekends, holidays, vacation days or pay-
25 days.

26 (c) **Notwithstanding any other provision of law, an employer may not require verification**
27 **under subsection (1) of this section for any mental health condition.**

28 (4) As used in this section, “health care provider” has the meaning given that term in ORS
29 659A.150.

30 **SECTION 5.** ORS 653.651 is amended to read:

31 653.651. (1) An employee asserting a violation of ORS 653.641 (2) or (3) may file a complaint with
32 the Commissioner of the Bureau of Labor and Industries under ORS 659A.820 or a civil action as
33 provided in ORS 659A.885.

34 (2) The commissioner has the same enforcement powers with respect to the rights established
35 under ORS 653.601 to 653.661 as are established in ORS chapters 652 and 653.

36 (3) **The commissioner may enter into contracts with mental health professionals to in-**
37 **vestigate complaints alleging retaliation for an absence covered under ORS 653.601 to 653.661**
38 **that relates to a mental health condition.**

39 **SECTION 6.** ORS 653.656 is amended to read:

40 653.656. The Commissioner of the Bureau of Labor and Industries:

41 (1) Shall enforce the provisions of ORS 653.601 to 653.661; [and]

42 (2) **Shall adopt rules concerning retaliation for absences related to mental health that**
43 **are covered under ORS 653.601 to 653.661; and**

44 [(2)] (3) May adopt rules necessary for the implementation and enforcement of ORS 653.601 to
45 653.661.

1 **SECTION 7.** ORS 653.646 is amended to read:

2 653.646. (1) An employer signatory to a collective bargaining agreement to which the employer
3 has agreed to contribute to a multiemployer-employee trust or benefit plan that is maintained for
4 the benefit of the employees subject to the agreement shall be considered to have met the require-
5 ments of ORS 653.601 to 653.661 if:

6 (a) The terms of the agreement provide a sick leave policy or other paid time off program that
7 is substantially equivalent to or more generous than the minimum requirements of ORS 653.601 to
8 653.661 for the benefit of employees:

9 (A) Who are employed through a hiring hall or similar referral system operated by the labor
10 organization or a third party;

11 (B) Whose terms and conditions of employment are covered by the multiemployer collective
12 bargaining agreement; and

13 (C) Whose employment-related benefits are provided by the joint multiemployer-employee trust
14 or benefit plan;

15 (b) The trustees of the trust or benefit plan have agreed to the level of benefits provided under
16 the sick leave policy or other paid time off program; and

17 (c) The contributions to the trust or benefit plan are made solely by the employer signatories
18 to the agreement.

19 (2)(a) An employee is eligible to use sick time accrued under a sick time policy or other program
20 made available by an employer under subsection (1) of this section beginning on the 91st calendar
21 day of employment with an employer who is a signatory to the multiemployer collective bargaining
22 agreement described under subsection (1) of this section.

23 (b) An employee may combine employment service attributable to each employer signatory for
24 whom the employee worked to meet the eligibility requirements under paragraph (a) of this sub-
25 section.

26 (3) The requirements of ORS 653.601 to 653.661 do not apply to an employee:

27 (a) Who is employed as a longshore worker;

28 (b) Who is employed through a hiring hall or similar referral system operated by the labor or-
29 ganization or a third party;

30 (c) Whose terms and conditions of employment are covered by a collective bargaining agree-
31 ment; and

32 (d) Whose employment-related benefits are provided by a joint multiemployer-employee trust or
33 benefit plan.

34 (4)(a) The Home Care Commission created under ORS 410.602 shall establish a paid sick time
35 policy for consumer employed home care workers and consumer employed personal support workers.

36 (b) A policy for paid sick time for consumer employed home care workers and consumer em-
37 ployed personal support workers implemented by the Home Care Commission that allows an eligible
38 home care worker or personal support worker to accrue and use up to 40 hours of paid time off a
39 year, including but not limited to sick time, is deemed to meet the requirements of ORS 653.601 to
40 653.661 and is exempt from the provisions of ORS 653.601 [(6)] (7), 653.606 (5), 653.611, 653.621,
41 653.626 and 653.631.

42 (5) As used in this section:

43 (a) “Consumer employed home care worker” has the meaning given the term “home care
44 worker” in ORS 410.600.

45 (b) “Consumer employed personal support worker” has the meaning given the term “personal

1 support worker” in ORS 410.600.

2 **SECTION 8.** In addition to and not in lieu of any other appropriation, there is appropri-
3 ated to the Bureau of Labor and Industries, for the biennium beginning July 1, 2025, out of
4 the General Fund, the amount of \$_____, which may be expended for carrying out the
5 provisions of section 2 of this 2025 Act and for carrying out the amendments to ORS 653.651
6 and 653.656 by sections 5 and 6 of this 2025 Act.

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