

OREGON LEGAL UPDATES

LEGISLATION, REGULATIONS & NOTABLE CASES

OREGON LEGISLATION

Legislative Changes to Paid Leave Oregon and the Oregon Family Leave Act

Senate Bill 69 was signed into law on May 14, 2025, and made several amendments to Paid Leave Oregon (PLO) and the Oregon Family Leave Act (OFLA). Effective September 26, 2025, the statute of limitations on interference/retaliation claims under PLO will be tolled for employees who appeal a denied PLO claim. Employers can also now require a “fitness for duty” certification before reinstating an employee returning from PLO medical leave, provided that the policy is applied uniformly. (The statute was previously silent on this topic, suggesting that employers did not have authority to require fitness for duty certifications upon return from leave under PLO.) As with other leave laws that expressly allow for such certifications, employers should confirm that any request for a fitness for duty certification is permitted by law and implemented consistently.

In addition, SB 69 addresses the coordination of PLO benefits with accrued paid leave provided by an employer policy, such as vacation leave, sick leave, or PTO. SB 1515 (2024) permitted an employer to limit an employee’s use of accrued paid leave, including vacation, PTO, and sick time, to an amount that, when combined with PLO benefits, equals 100% wage replacement (ORS 657B.030(2)). That framework created difficulty for employers attempting to determine an employee’s benefit amount, which often required voluntary disclosure by the employee. As of September 26, 2025, SB 69 authorizes the Oregon Employment Department to disclose information needed by employers to calculate and pay accrued paid leave up to full wage replacement.

SB 69 also revised the definition of sick child leave for purposes of OFLA, effective September 26, 2025, to limit its application to only: (1) a child under the age of 18; or (2) an adult dependent child who is substantially limited by a physical or mental impairment. The bill also clarifies that sick child leave due to a school or child care closure during a public health emergency may be taken without notice, unless the public health emergency was declared more than 30 days earlier.

Effective January 1, 2026, rulemaking authority over the job-protection and anti-retaliation/anti-discrimination provisions of PLO transferred to the Bureau of Labor and Industries (BOLI). BOLI has established rules pursuant to this authority at OAR 839-009-0150.



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KEY TAKEAWAYS

Employers should update PLO and OFLA policies, forms, and leave-administration practices to reflect these changes, including the ability to require uniformly applied, legally compliant fitness-for-duty certifications for employees returning from PLO medical leave. Employers should also adjust payroll and leave systems to allow for the coordination of accrued paid leave and PLO benefits and update OFLA materials and supervisor training for the revised sick child leave definition and public-health-emergency closure notice rules.

Pay Differentials for American Sign Language

Effective January 1, 2026, [Senate Bill 731](#) requires public employers that offer bilingual or multilingual pay differentials to extend the same differential to employees using American Sign Language (ASL).

KEY TAKEAWAYS

Public employers should review any existing language-differential policies to confirm that ASL is treated consistently with other qualifying language skills. If a pay differential is available for bilingual or multilingual work, the policy should expressly address ASL to avoid inconsistent administration.

Veteran and National Guard Preference

Under ORS chapter 408, public employers must provide veterans and disabled veterans with preference in hiring and promotion. These preferences include, in many circumstances, an interview preference and a selection procedure that provides preference at each stage of the hiring process.

Effective January 1, 2026, [Senate Bill 808](#) extends preference rights to former and current Oregon National Guard members.

KEY TAKEAWAYS

Public employers should review their veteran preference policies, application materials, and hiring procedures to ensure that former and current Oregon National Guard members are included in the preference process. Hiring staff should also be trained on how the preference applies at each stage of selection. Policies that refer only to “veterans” or “disabled veterans” should be updated to reflect the broader statutory coverage.

Unemployment Benefits for Striking Workers

Effective January 1, 2026, [Senate Bill 916](#) repeals Oregon’s prior prohibition on unemployment insurance benefits for striking workers. SB 916 applies to striking workers in both the private and public sectors.

Under SB 916, otherwise eligible striking workers are not disqualified for any week in which they are unemployed because of a strike or lockout. The statute imposes a two-week waiting period before benefits begin and caps benefits at 10 weeks. An employee must repay benefits if later back pay results in overpayment.

KEY TAKEAWAYS

Employers involved in labor disputes should account for the possibility of unemployment benefit eligibility during a strike or lockout. The statute may affect bargaining leverage and labor-relations strategy. Employers should also consider how later back-pay awards may interact with benefit repayment obligations.

Establishment of BOLI's Employer Assistance Division

Effective September 26, 2025, [House Bill 2248](#) established the Employer Assistance Division (EAD) within BOLI. The EAD formalizes BOLI's existing employer-assistance efforts and authorizes education, training, and interpretive guidance to help employers comply with laws enforced by BOLI.

Communications with the EAD cannot be disclosed by BOLI and are not admissible as evidence in any subsequent adjudicatory proceeding conducted by BOLI; provided, however, employers may use those communications and admit them into evidence to demonstrate good-faith reliance on the division's guidance. BOLI may not impose a penalty on a requesting employer for good-faith action taken in reliance on EAD communications unless the employer omitted or misstated material facts. Employers bear the burden to show that: (1) the communications applied the same law that was in effect at the time that the employer took the good faith actions; and (2) the communications involved the same or substantially similar facts such that it was reasonable for the employer to have relied on the communications in taking good faith actions. Employers should still proceed cautiously when communicating with BOLI and consult counsel where possible.

The EAD may also issue advisory opinions, either on request or on its own initiative. Those advisory opinions will be published on BOLI's website.

KEY TAKEAWAYS

Employers should view the EAD as a potentially useful compliance resource, but not a substitute for legal advice. Although good-faith reliance may provide some protection, the safest course is to obtain counsel before seeking guidance on a sensitive or fact-specific issue. Employers should also monitor BOLI's website for published advisory opinions and any related implementation guidance.

Liability for Unpaid Wages on Construction Projects

Effective January 1, 2026, Senate Bill 426 creates liability for property owners and contractors for the unpaid wages of unrepresented employees on construction projects. An unrepresented employee, a third-party representative, or the Attorney General may bring a civil action against the property owner, direct contractor, or subcontractor for unpaid wages within two years after the wages and benefits were due.

The statute authorizes recovery of interest, penalty wages, damages, and attorney fees. Before filing suit, the claimant must send written notice of nonpayment. If the violation is cured within 21 days after notice, a civil action may not be brought.

The law creates a rebuttable presumption that a person performing labor within the scope of the construction contract is an employee of the owner or director contractor. It also allows an owner or direct contractor to seek recovery from a subcontractor for amounts paid, although any waiver, release, or indemnity agreement that attempts to avoid liability under the statute is invalid.

The law requires subcontractors, upon request, to provide specified records and information, including certified payroll records, contact information, worker classifications, subcontractor identities, anticipated contract dates, and an affidavit concerning prior wage-related proceedings. The statute also limits the records that must be produced to a third-party representative to those relating to the represented employee and only to the extent required by ORS 652.750.

The law excludes public agencies from the definition of “owner” and excludes certain financial institutions when they are not directing construction work beyond activities necessary to preserve or secure foreclosed property. It also does not apply to work on an owner’s principal residence or to property consisting of five or fewer residential or commercial units on a single tract.

KEY TAKEAWAYS

Owners, general contractors, and subcontractors should review contract language, payment workflows, and record-production procedures to assess potential exposure under SB 426. The statute creates meaningful wage-and-hour risk, including fee-shifting and penalty exposure, and invalidates contractual efforts to waive or shift liability away from covered parties. Employers should also confirm that subcontractor onboarding materials and payment practices are aligned with the new notice and records requirements.

Compensation for Home Health Care and Hospice Care Staff

Current law prohibits a home health agency or hospice program from compensating a “nurse” on a per-visit basis. Effective January 1, 2026, [Senate Bill 1168](#) replaced referenced to “nurse” with “home health care staff” and “home hospice care staff” and expanded these definitions. For example, these definitions now include individuals who provide home health/hospice services including but not limited to home care workers, direct caregivers employed by an in-home care agency, physicians, nurse practitioners, psychiatrists, psychologists, volunteers, and individuals classified as a supervisor under an applicable collective bargaining agreement. The bill also clarifies what constitutes compensation on a per-visit basis.

KEY TAKEAWAYS

Employers in home health and hospice care should review compensation structures to ensure they do not run afoul of the revised statutory terminology or pay-model restrictions. Because the law adds definitions and clarifying language, employers should evaluate whether any existing piece-rate, per-visit, or visit-based pay arrangements need revision. Careful review is especially important for staffing models that mix clinical, administrative, and field-based work.

City of Portland Expands Anti-Discrimination Protections to Family and Relationship Structure

Effective April 10, 2026, it is now unlawful under the City of Portland's civil rights code to discriminate in employment, housing, or places of public accommodation based on the "family or relationship structure." The City of Portland joins a small number of jurisdictions that have expanded legal protections for a broad array of personal relationships. Both Oakland and Berkeley, California, passed similar laws prohibiting discrimination on the basis of relationship and family structure in 2024.

Portland's Definition of "Family or Relationship Structure"

The new definition of "family or relationship structure," adopted by the Portland City Council on March 11, 2026, includes "the actual or perceived involvement, or lack thereof, of consenting individuals in intimate personal relationships. Intimate personal relationships include, but are not limited to, multi-partner or multi-parent families and relationships, step-families, multi-generational households, diverse family structures, consensually nonmonogamous relationships, and consensual sexual and/or intimate relationships, including asexual and aromantic relationships." This definition is broader than the definition of "familial status" found in state law, which includes individuals residing with minor children or in the process of securing legal custody of a minor.

Changes to Portland's Civil Rights Code

The new City code expands protections for non-traditional relationships. For example, it prohibits Portland employers from taking adverse employment action against an employee because the employee is in a polyamorous relationship—that is, a consensual relationship among more than two adults who are not married. The City code also prohibits businesses from refusing public services on the basis of family or relationship structure, such as restaurant service or other services available to the general public. Further, the code prohibits discrimination in the selling, renting, or leasing real property on the basis of multi-generational or diverse family structures or polyamorous families. Notably, landlords within Portland may need to revise their resident applications and policies to reflect these changes, including changing policies from a limit of "one family per rental unit" to a certain number of persons residing in a rental unit.

However, the City code does not limit the ability of a Portland employer offering health insurance coverage in connection with a group health plan to **limit** plan enrollment and benefits coverage to an employee, their spouse or domestic partner, and their dependent children.

Any person claiming to be aggrieved by an unlawful discriminatory act under the new protections may file a complaint with BOLI or pursue a lawsuit in court.

KEY TAKEAWAYS

Portland employers, businesses, and landlords should review current employee handbooks, business policies, and landlord rental applications and policies to ensure the definition of “family” is revised where necessary. They should also train human resources and other pertinent staff on this new, broader definition of “family” and how it impacts leave policies, employer-provided PTO and sick leave policies and practices, and the breadth of “discrimination” claims.

OREGON CASES

***Athena v. Pelican Brewing Co.*, 345 Or App 172, 583 P3d 550 (2025), rev. allowed, 375 Or 395 (2026)**

In *Athena v. Pelican Brewing Co.*, et al., the Oregon Court of Appeals confirmed that when hourly employees do not receive a full 30-minute, duty-free meal period, the missed time is treated as regular unpaid wages recoverable under Oregon’s wage statutes. The court’s decision also exposes employers to significant penalty liability where meal-period violations are willful.

The plaintiffs in *Athena* alleged that they regularly received meal breaks shorter than 30 minutes and were not paid for the lost time. The court held that the required compensation is a wage, not a penalty, because a shortened or interrupted meal period is treated as compensable work time. The court also confirmed that BOLI had authority to adopt the meal-period rule and that employees have a private right of action to recover the unpaid wages associated with shortened meal periods.

The court further held that claims for unpaid meal-period wages are subject to a six-year statute of limitations under ORS 12.080. Finally, the court concluded that employees may recover statutory penalty wages, up to 30 days of pay, when the failure to pay is willful.

KEY TAKEAWAYS

Athena underscores that employers must actually ensure that employees receive a full, uninterrupted 30-minute meal period; a policy alone is not enough. Employers should audit timekeeping practices, train supervisors not to interrupt meal periods, and ensure that shortened meal breaks are paid and recorded as work time. Because the claim period extends back six years, employers should also consider a backward-looking audit to identify any systemic exposure.

***Mitchell v. Bureau of Labor & Industries*, 349 Or App 520, 592 P3d 977, adh’d to on recons, 352 Or App 122 (2026)**

In *Mitchell v. Bureau of Labor & Industries*, the Oregon Court of Appeals clarified the mental-state requirement for aider-and-abettor liability under ORS 659A.030(1)(g). The court held that, to be liable for aiding and abetting unlawful discrimination, a person must be actually aware of the underlying discriminatory conduct when assisting another

in committing unlawful conduct. The court rejected BOLI's argument that the lower "knew or should have known" standard applicable to employer vicarious liability should govern aider-and-abettor claims as well.

The court's decision is important because it distinguishes between direct employer liability and individual liability. Under *Mitchell*, BOLI cannot impose aider-and-abettor liability on a supervisor, manager, or business owner based only on what that person should have known. Instead, the agency must show actual knowledge of the discriminatory conduct and the requisite assistance or participation.

KEY TAKEAWAYS

This decision provides a meaningful limitation on personal exposure for supervisors, managers, and business owners. Employers should still train decision makers carefully, because individuals may remain exposed where they knowingly participate in, direct, or substantially assist unlawful conduct. But *Mitchell* makes clear that aider-and-abettor liability under ORS 659A.030(1)(g) requires more than negligence or constructive knowledge.

***Mirkovic v. Tenasys Corp.*, 348 Or App 70, 589 P3d 1142, rev den, 375 Or 395 (2026)**

In *Mirkovic v. Tenasys Corp.*, the Oregon Court of Appeals held that ORS 659A.355, which prohibits retaliation against employees who inquire about, discuss, or disclose their wages, also protects an employee who asks for a salary increase. The court rejected the employer's argument that the statute was limited to wage discussions among employees aimed at addressing pay inequity.

The court also declined to adopt a narrower federal district court interpretation, reaffirming that Oregon courts are not bound by federal courts' views of Oregon statutes. As a result, the statute's protections extend to employees who raise questions about their own compensation, including requests for a raise.

KEY TAKEAWAYS

Employers should treat employee requests for increased compensation as potentially protected activity under ORS 659A.355. Adverse action taken after an employee makes a raise request may create retaliation exposure, particularly where the timing or surrounding circumstances suggest a causal connection. Employers should train supervisors and decision makers to avoid conflating compensation complaints or raise requests with insubordination or disloyalty.

***Patrick v. McMenamins, Inc.*, 350 Or App 44, 592 P3d 991 (2026)**

In *Patrick v. McMenamins, Inc.*, the Oregon Court of Appeals addressed the relationship between Oregon's minimum wage statute, ORS 653.025, and the penalty wage provision, ORS 653.055. The court held that an employer who pays wages at a rate above the statutory minimum wage does not violate the minimum wage statute merely because payment is made after the regular payday.

The court distinguished between a violation of the minimum wage rate itself and a violation of wage payment timing requirements. Late payment of wages that exceed the minimum wage rate is governed by Oregon's wage collection statutes in ORS chapter 652, not by the minimum wage statute, and therefore does not trigger penalty wages under ORS 653.055.

KEY TAKEAWAYS

This decision clarifies that Oregon employers do not face minimum wage liability solely because wages were paid late, so long as the wages were computed at a rate above the applicable minimum wage. Employers should still comply carefully with Oregon's wage payment timing rules under ORS chapter 652, because late payment may still create separate wage-collection exposure. In a tiered minimum wage system, the case helps distinguish rate-based minimum wage violations from timing-based wage payment issues.

***Winn v. Blakeslee Vineyard Estate, Inc.*, 352 Or App 803 (2026)**

In *Winn v. Blakeslee Vineyard Estate, Inc.*, the Oregon Court of Appeals held that the \$200 statutory damage for unlawful paycheck deductions under ORS 652.615 applies per category of violation in the aggregate, not per paycheck. The court rejected the theory that each unlawful paycheck is a separate \$200 violation, reasoning that the Legislature knew how to impose per-pay-period damages—as it did in ORS 652.100(2)—but did not do so here. Chief Judge Lagesen dissented, and the split may draw Oregon Supreme Court review.

The court also confirmed that an employer can defeat a wage class action by voluntarily curing the alleged violation under ORCP 32 I before the case proceeds. There, the employer notified affected employees and agreed to pay what the statute required, and the trial court allowed it to supplement an initially inadequate notice. The cure worked because the deduction violations were discrete and quantifiable; it is far less reliable where the amount owed is itself contested, as in overtime, meal and rest break, off-the-clock, and misclassification claims.

KEY TAKEAWAYS

Winn is a favorable decision for Oregon employers facing paycheck-deduction class claims, but its value shrinks as the underlying violations become harder to quantify. Employers should not treat it as a template for buying their way out of every wage class action. The prudent course remains to proactively audit pay practices and correct problems early and completely, rather than counting on the per-category cap or the ORCP 32 I cure to neutralize class exposure after the fact.

Disclaimer: This summary is not legal advice and is based upon current statutes, regulations, and related guidance that is subject to change, with or without notice. It is provided solely for informational and educational purposes and does not fully address the complexity of the issues or steps employers must take under applicable laws. For legal advice on these or related issues, please consult qualified legal counsel directly.