

Oregon Employment Law Changes in 2022: New Year, New Laws

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Changes to Oregon employment laws taking effect next year will be keeping human resources professionals very busy this holiday season and into the new year in the Pacific Northwest.

Extended State of Public Health Emergency and Impact on Leave Entitlements

On December 21, 2021, Oregon Governor Kate Brown issued [Executive Order No. 21-36](#) extending Oregon's state of public health emergency until June 30, 2022. With school returning in the new year, the potential exists for school closures and/or student quarantining due to exposures to COVID-19 and the Omicron variant in particular. Employers may want to familiarize themselves with [leave entitlements](#) that may be available to Oregonians under the Oregon Sick Leave (OSL) law and/or the Oregon Family Leave Act (OFLA) in the event that the children of employees are subject to quarantine orders or required closures of their schools or places of care.

CROWN Act

Starting January 1, 2022, Oregon will join several other states in implementing a law explicitly prohibiting employers from discriminating against individuals based on physical characteristics historically associated with race, including hair texture and protective hairstyles. Known as the Creating a Respectful and Open World for Natural Hair Act ([CROWN Act](#)), the law will also prohibit employer dress code policies that "have a disproportionate adverse impact on members of a protected class to a greater extent than the policy impacts persons generally." Employers may want to revisit any outdated dress code policies to ensure they are not prohibiting protective hairstyles and other physical characteristics historically associated with race.

Oregon Family Leave Act Amendments

Changes to the Oregon Family Leave Act (OFLA) also take effect on January 1, 2022. Under the [amended OFLA](#), employees who are reemployed after a separation or who have returned to work after a temporary work cessation within 180 days are eligible to take leave. OFLA also now includes expanded eligibility to take leave during public health emergencies. In addition, OFLA no longer includes gendered language.

As amended, OFLA allows an employee of a covered employer to take leave for any qualifying reason during a period of public health emergency if:

- the employer has employed the worker for at least 30 days immediately before the leave begins, and
- the worker worked an average of at least 25 hours per week during the 30 days immediately preceding the leave.

The amendments mark a significant change from the current eligibility criteria. Until the end of the year, Oregon employees who work for an employer with at least 25 employees in Oregon are eligible to take OFLA leave if the employer has employed them for at least 180 days immediately before the leave begins. In addition, OFLA currently provides that for OFLA-qualifying reasons other than parental leave, employees must have “worked an average of at least 25 hours per week” during the 180 days immediately before the leave begins to be eligible.

The implementation of the Oregon Paid Family Medical Leave Act has been delayed. The Oregon Employment Department must adopt rules by September 1, 2022, and contributions to the program will commence on January 1, 2023. Employees will be eligible to use benefits on or after September 3, 2023.

Workplace Safety Violations

Starting January 1, 2022, employees claiming workplace safety violations will have a year to file administrative complaints with the Oregon Bureau of Labor and Industries (BOLI) rather than a 90-day limitation period. The time to file a claim commences after the employee has “reasonable cause to believe” that retaliation or discrimination occurred. Enhanced whistleblower protections for workplace safety complaints that are [already in effect](#) include a “rebuttable presumption” of discrimination or retaliation if an employee or prospective employee experiences an adverse employment action within 60 days after reporting certain workplace safety violations.

Employment Eligibility Based on Driver’s License

Under [Senate Bill 569](#), effective January 1, 2022, it will be an unlawful employment practice to require an employee or prospective employee to have a driver license “as a condition for employment or continuation of employment” unless driving is an essential job duty “or is related to a legitimate business purpose.” Employers must also accept a valid form of identification other than a driver’s license for I-9 verification. The law does not prohibit an employer from accepting a driver’s license as a form of identification if voluntarily offered by an employee or prospective employee.

Noncompetition Agreements

On January 1, 2022, [substantial changes](#) to the statute that limits non-competition agreements with Oregon employees will take effect. Two notable changes to the statute are a requirement that employees subject to a non-competition agreement earn a gross salary and commissions of more than \$100,533 (adjusted annually for inflation) and a shortened post-employment restricted period of 12 months instead of 18 months.

Minimum Wage Increases

On July 1, 2022, Oregon's [minimum wage increase](#) will take effect. In Oregon, the minimum wage rate varies depending upon an employer's location categorized by (1) standard counties; (2) Portland's metropolitan area; and (3) nonurban counties. The wage increase for each location will be as follows: (1) standard counties: \$13.50 per hour; (2) Portland metro region: \$14.75 per hour; and (3) nonurban counties: \$12.50 per hour. BOLI provides a [map](#) identifying the applicable minimum wage for each county.

Oregon employers that have not done so already may want to take steps to ensure that their workplace policies, non-compete agreements, practices, and trainings comply with the above-mentioned laws for 2022.

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