

HB 2005 THE EQUAL PAY ACT

The Equal Pay Act extends wage protection to members of all protected classes under Oregon law. The listed protected classes are race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, and age. Employers are required to pay equal wages for work of a "comparable character," meaning work that requires substantially similar knowledge, skill, effort and is performed under similar working conditions. Job titles or job descriptions are not controlling in determining whether work is of a "comparable character."

Employers are prohibited from screening job applicants on the basis of their current or past pay at other employees and are further prohibited from reducing a current employee's compensation to bring it in line with that of another employee who may be hired.

The law is being phased in; currently, employers are not allowed to seek salary history from applicants or current employees. Most of the other requirements of the law take effect January 1, 2019, including the requirement to post the new equal pay notice. A poster meeting those requirements will be available from the Oregon Bureau of Labor & Industries in advance of the effective date of that requirement. (The poster will no doubt include another picture of the Labor Commissioner.)

GENERAL ADVICE *These new laws, especially the extension of coverage in the Equal Pay Act, make it will very important for employers to evaluate all job positions, titles and descriptions to determine the essential functions and pay scales for each job. In the event of any investigation of employer pay practices, the burden will be on employers to demonstrate the differences between work that is paid at different rates. Employers will need to avoid, to the extent possible, concentrations of employees in protected classes in lower-wage positions.*

SB 828 SCHEDULE NOTIFICATION

Another significant Bill was SB828, which requires large retail, hotel and food service establishments to provide at least 10 hours between work shifts for employees, to provide work schedules in writing at least 14 calendar days before the first day of the schedule and to pay employees who show up as scheduled even if there is no work available. While the coverage of this bill is limited to employers of 500 or more employees, that measure is applied world wide, including members of chains or integrated enterprises. Individual franchisees of national or international chains will be required to comply with this law.

SB828 was identified as the top priority last session for Oregon labor unions who represent employees of such establishments. Not only does it extend additional protections to those employees, it provides a powerful example of union benefits for employees of smaller establishments where the unions are conducting organizing activities. It will not be surprising if labor unions attempt to extend the coverage of this law to employees of much smaller companies in upcoming legislative sessions.

HB 3458 OVERTIME ADJUSTMENT

Both labor and management are finding things to like in this Bill, which took effect in August, 60 days after enactment. It corrects a BOLI misinterpretation of overtime law which required both daily and weekly overtime pay, after ten (10) hours in any given day, in mills, factories, manufacturing establishments, sawmills, planing mills, shingle mills, logging camps, canneries, driers, and packing plants. Employers must now pay the higher of the daily or weekly overtime rate, but only one of those. In addition, the bill guarantees ten (10) hours of rest to manufacturing employees between shifts of eight (8) hours or more and establishes a cap of sixty (60) hours per week (employees in Unions can bargain away some of those provisions if they choose to do so). The definitions of "manufacturing establishments" are very complex and require a close reading of the legislation and its history. Feel free to call on us if you have questions about the application of this law to your business.

Call our office or visit our website to schedule your next appointment!