

GETTING READY FOR 2008, ONE COLUMN AT A TIME

Throughout the coming weeks, we will inform readers of several upcoming legislative changes that Oregon employers should be aware of. A few of them are outlined below:

Minimum Wage Increase

As of January 1, 2008, Oregon's minimum wage will go up 15 cents - from \$7.80 to \$7.95 per hour.

Note that this change will only apply to wages earned after January 1, 2008. Thus, if an employer writes a check in 2008 that compensates a minimum wage employee for work performed in 2007, the employer would not be violating the law if it paid the employee at the 2007 minimum wage.

Changes in the Oregon Family Medical Leave Act (OFLA)

Workers' Compensation Leave Not Counted against OFLA Leave:

In many instances, a workplace injury also meets the definition of a "serious health condition" under both OFLA and the federal Family and Medical Leave Act (FMLA). As things stand now, both OFLA and FMLA allow an employer to count the time off for a compensable workplace injury as part of OFLA and FMLA leave. As of January 1, however, employers will no longer be able to count it as OFLA leave.

Example: James is a 40-hour a week employee who has been working with the employer for two years. He strains his back at work on March 1, 2008, and his workers' compensation claim is accepted. James then takes 3 weeks off to recuperate.

Assuming that James otherwise meets the qualification standards for OFLA and FMLA, the employer would be able to count the time off as FMLA leave, but

could not count it as OFLA. Therefore, if James's son subsequently developed a serious health condition, James would only have 9 weeks left in his FMLA bank, but would be able to use the full 12-week entitlement under OFLA.

Employees allowed to use accrued paid sick leave for any OFLA Purpose:

Example: James is using OFLA and FMLA to care for his son, who has a serious health condition. The employer's policy allows employees to use sick leave for their own illnesses, but not for those of their family members. Nevertheless, James asks to use his sick leave for the absence.

Currently, the employer would not be obligated to let James use his sick leave for either OFLA or FMLA purposes. Rather (with the exception of OFLA parental leave) the employer could just adhere to the regular sick leave policy.

As of January 1, however, the employer must allow the employee to use sick leave for any OFLA purpose, even if it conflicts with the employer's policy.

Grandparents and Grandchildren are now "Family Members" Under OFLA:

James's grandchild develops strep throat, and James asks for time off to care for him. As of now, James would not be entitled to take either OFLA or FMLA leave, because neither grandparents nor grandchildren are considered "family members." But that will change in January, and James will be able to take OFLA leave to care for his grandchild.

For more information on this and other important issues affecting Oregon employers, please visit our website at www.boli.state.or.us. You can also call us at 971-673-0824.

Mark your calendar to attend BOLI's 23rd Annual Employment Law Conference on December 5-6 at the Oregon Convention Center. Our website will have more details posted shortly.