

NEW OREGON LAW PROHIBITS EMPLOYMENT DISCRIMINATION BASED UPON SEXUAL ORIENTATION

As mentioned previously, the 2007 Oregon legislature enacted a number of laws that could significantly impact Oregon employers. BOLI's Technical Assistance Unit is currently devoting its regular columns to discussing some of the most important changes. In this week's column, we will focus on the new laws relating to sexual orientation discrimination.

The Oregon Equality Act

A number of Oregon cities and counties already have ordinances that prohibit employment discrimination based on sexual orientation. The OEA expands this protection to the whole state, and generally prohibits discrimination on this basis in employment, housing and public accommodation. It will go into effect on January 1, 2008.

ORS 659A.030 will thus be amended to include sexual orientation as a protected class. "Sexual orientation" is defined as "an individual's actual or perceived heterosexuality, homosexuality, bi-sexuality or gender identity, regardless of whether the individual's gender identity, appearance, expression or behavior differs from that traditionally associated with the individual's sex at birth."

The OEA contains two important exemptions: First, it will not be unlawful for a bona fide church or other religious institution to take employment actions based upon a sincere religious belief about sexual orientation – as long as those actions are only focused on employment positions directly related to religious activities. Examples would be employment in a church, a non-profit religious school or summer camp, or a non-profit religious bookstore.

Second, employers will be allowed to enforce otherwise valid dress codes or policies, as long as the employers also provide reasonable accommodations on a case-by-case basis based on the health and safety needs of an individual.

The Oregon Family Fairness Act (HB 2007)

This law, which is scheduled to go into effect January 1, 2008, provides a procedure for same-sex couples to establish domestic partnerships. These partnerships will provide the same rights and protections currently granted to married couples. However, the law does not require employers to provide spousal benefits coverage to domestic partnerships.

Note: There is currently an effort to refer both of these laws to the voters by ballot measures. If enough signatures are approved, the laws will not take effect in January but will await the decision of the Oregon voters in November 2008.

For more information on these and other important issues affecting employers, visit our website at www.oregon.gov/boli/TA. **Be sure to mark your calendar for BOLI's 23rd Annual Employment Law Conference December 5-6.**