



# Oregon

Bureau of Labor and Industries

Brad Avakian  
Commissioner

May 13, 2008

The Honorable Carolyn Tomei  
Chair, House Human Services and Women's Wellness Committee  
900 Court St. NE  
Salem, OR 97301

RE: Update on the Implementation of HB 2372, Expression of Breast Milk the Workplace

Chair Tomei and Members of the House Human Services and Women's Wellness Committee:

My name is Marcia Ohlemiller with the Bureau of Labor and Industries. I am here today to give an update on the implementation of HB 2372, which was passed by the 2007 Legislature to require that rest periods be given to accommodate certain employees who are also nursing mothers.

## Overview of HB 2372

The provisions of HB 2372 require that employers with 25 or more employees provide reasonable rest periods to accommodate an employee who needs to express milk for her child of 18 months of age or younger and are enforced by the Bureau of Labor and Industries (ORS 653.077). Employers covered by this law are required to offer unpaid rest periods of no less than 30 minutes during each four-hour work period, or the major portion of a four-hour work period. Rest periods are paid up to the time, usually 10-minutes, required by state law or by contract. Employers are also required to make reasonable efforts to provide a private location where employees can express milk. The measure became effective January 1, 2008.

## Implementation of Administrative Rules

After passage of HB 2372 and prior to its effective date, BOLI worked to promulgate administrative rules for the statute's implementation; OAR 839-020-0051 now sets out specific rules for the additional rest periods to be provided for the expression of milk. During the rulemaking process stakeholders, advocates and businesses participated and offered feedback on rule proposals and their ultimate adoption. A copy of the final OARs has been provided for the committee with this testimony.

During the development of the administrative rules, several issues of note were discussed, including outlining acceptable accommodations, "close proximity," "undue hardships" that might merit modifications in rule, and a "reasonable time" for the employer to make accommodations. Many of these clarifications and potentially others will have to be further defined through experience and with the guidance of the Advisory Committee.

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### **Appointment of the Advisory Committee**

As directed by ORS 653.077, BOLI has appointed an advisory committee which will look at compliance questions or changes to the existing law and administrative rule. Members of the Advisory Committee include:

- Ryan Deckert, Oregon Business Association (Business)
- Tricia Yates, Oregon School Boards Association (Business)
- Katelyn Oldham, Oregon State Bar, Civil Rights Sect. (Public)
- Diana Garrett, Nursing Mother's Council of Oregon (Public)
- Susan Woodbury, Oregon WIC Program (Public)
- Connie Ashbrook, Oregon Tradeswomen Inc. (Public)
- Maye Thompson, Oregon Nurses Association (Labor)
- BethAnne Darby, Oregon Education Association (Labor)

While the advisory committee has not yet met, it is anticipated that compliance issues, questions and any recommended changes to the administrative rule will be taken to the Advisory Committee for review and guidance.

### **Violation Complaints Received**

To date, the Bureau has not received any complaints of nursing mothers not being provided the additional rest periods provided under this law. The Bureau has a trained Wage and Hour investigator ready to handle any complaints BOLI might receive.

### **Outreach to Workers and Employers about HB 2372**

In an effort to educate both employees and employers about their rights and responsibilities under this new law, the Bureau has been responding to inquiries from both workers and employers. BOLI's Technical Assistance for Employers has developed a component of its Wage and Hour seminar specific to the new expression of breast milk in the workplace law and has been answering employer questions through our Technical Assistance Employer Hotline. Technical Assistance has also posted an overview of the law and a Frequently Asked Questions document on its website, which employers routinely reference for employment law guidance. The Commissioner's Office has also been doing public outreach on the law and recently participated in a forum at the Breastfeeding Coalition of Oregon conference. BOLI has also worked with the Women, Infants and Children Program (WIC), the Department of Human Services (DHS) and the Nursing Mothers Council to gather input, answer questions and help them explain the law to their clients. Included with this testimony is an overview of the law compiled by our Technical Assistance for Employers unit to assist employers in understanding their responsibilities.

Thank you for the opportunity to update the committee on the implementation on HB 2372. BOLI is proud of the progress made so far and is committed to enforcing the expression of breast milk in the workplace law. We are confident in our ability to enforce a strong law. Please do not hesitate to contact our Legislative Director, Kate Newhall at 971-673-0786 if you have any additional questions or have constituent inquiries we can be helpful with.