

HB 4052-1
(LC 276)
2/2/16 (GES/ps)

Requested by HOUSE COMMITTEE ON BUSINESS AND LABOR

**PROPOSED AMENDMENTS TO
HOUSE BILL 4052**

1 On page 9 of the printed bill, delete lines 34 through 45 and delete pages
2 10 and 11 and insert:

3 **SECTION 3.** ORS 656.265 is amended to read:

4 “656.265. (1)(a) Notice of an accident resulting in an injury or death shall
5 be given immediately by the worker or a beneficiary of the worker to the
6 employer, but not later than 90 days after the accident. The employer shall
7 acknowledge forthwith receipt of such notice.

8 “(b) Notwithstanding paragraph (a) of this subsection, if an injured
9 worker has not submitted a claim under this chapter but has submitted a
10 claim to a health benefit plan that provides benefits to the worker, and the
11 health benefit plan rejects the claim as being work related, the injured
12 worker may file a claim under this section within 90 days from the date the
13 health benefit plan rejects the claim. If a claim filed under this section is
14 denied, the workers’ compensation insurer or self-insured employer shall in-
15 form the health benefit plan of the denial and the health benefit plan shall
16 process the claim for payment in accordance with the terms, conditions and
17 benefits of the plan.

18 “(2) The notice need not be in any particular form. However, it shall be
19 in writing and shall apprise the employer when and where and how an injury
20 has occurred to a worker. A report or statement secured from a worker, or
21 from the doctor of the worker and signed by the worker, concerning an ac-

1 cident which may involve a compensable injury shall be considered notice
2 from the worker and the employer shall forthwith furnish the worker a copy
3 of any such report or statement.

4 “(3) Notice shall be given to the employer by mail, addressed to the em-
5 ployer at the last-known place of business of the employer, or by personal
6 delivery to the employer or to a foreman or other supervisor of the employer.
7 If for any reason it is not possible to so notify the employer, notice may be
8 given to the Director of the Department of Consumer and Business Services
9 and referred to the insurer or self-insured employer.

10 “(4) Failure to give notice as required by **subsection (1), (2) or (3) of**
11 **this section bars a claim under this chapter unless the notice is given within**
12 **one year after the date of the accident and:**

13 “(a) The employer had knowledge of the injury or death;

14 “(b) The worker died within 180 days after the date of the accident; or

15 “(c) The worker or beneficiaries of the worker establish that the worker
16 had good cause for failure to give notice within 90 days after the accident.

17 “(5) The issue of failure to give notice must be raised at the first hearing
18 on a claim for compensation in respect to the injury or death.

19 “(6) The director shall promulgate and prescribe uniform forms to be used
20 by workers in reporting their injuries to their employers. These forms shall
21 be supplied by all employers to injured workers upon request of the injured
22 worker or some other person on behalf of the worker. The failure of the
23 worker to use a specified form shall not, in itself, defeat the claim of the
24 worker if the worker has complied with the requirement that the claim be
25 presented in writing.

26 “**(7)(a) Prior to providing compensable medical services under this**
27 **chapter, a medical service provider shall provide to the worker written**
28 **notice explaining the medical treatment rights the worker has for a**
29 **compensable injury. The notice required under this subsection must**
30 **include, but is not limited to, an explanation that, subject to the pro-**

1 **visions of this chapter:**

2 **“(A) The worker may seek treatment with a medical service pro-**
3 **vider of the worker’s choice;**

4 **“(B) Neither the worker’s employer nor any other person may re-**
5 **quire that the worker seek treatment from a medical service provider**
6 **other than the provider selected by the worker; and**

7 **“(C) If the worker’s employer requires post-injury drug testing by**
8 **a facility of the employer’s choice, after the testing the worker may**
9 **continue treatment with the medical service provider of the worker’s**
10 **choice.**

11 **“(b) The notice of medical treatment rights required by paragraph**
12 **(a) of this subsection must be signed by the injured worker or injured**
13 **worker’s representative and the medical service provider.**

14 **“(c) The medical service provider shall provide a copy of the signed**
15 **notice to the injured worker and to the insurer, if any. The injured**
16 **worker or insurer may request to receive the copy of the signed notice**
17 **in electronic format. The insurer or self-insured employer shall make**
18 **available a fully executed copy of the notice upon request by the di-**
19 **rector or injured worker’s representative.**

20 **“(d) The director shall adopt rules consistent with this section and**
21 **shall create by rule a form to be used by medical service providers to**
22 **provide workers notice of their medical treatment rights under this**
23 **chapter. The form must expressly include the provisions provided in**
24 **paragraph (a) of this subsection.”.**

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