

LC 418  
2023 Regular Session  
44000-001  
7/15/22 (ASD/ps)

# D R A F T

## SUMMARY

Updates reporting requirements for worker leasing companies providing workers' compensation coverage to client employers.

### A BILL FOR AN ACT

1

2 Relating to worker leasing company reporting; amending ORS 656.018 and  
3 656.850.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 656.850 is amended to read:

6 656.850. (1) As used in this section and ORS 656.018, 656.403, 656.855 and  
7 737.270:

8 (a)(A) "Worker leasing company" means a person [*who*] **that** provides  
9 workers, by contract and for a fee, to work for a client [*but*].

10 (B) "**Worker leasing company**" does not include a person [*who*] **that**  
11 provides workers to a client on a temporary basis.

12 (b) "Temporary basis" means providing workers to a client:

13 (A) For special situations such as to cover employee absences, employee  
14 leaves, professional skill shortages, seasonal workloads and special assign-  
15 ments and projects with the expectation that the position or positions will  
16 be terminated upon completion of the special situation. [*Workers also are*  
17 *provided on a temporary basis if they are provided*]

18 (B) As probationary new hires with a reasonable expectation of transi-  
19 tioning to permanent employment with the client [*and*], **if** the client uses a  
20 preestablished probationary period in its overall employment selection pro-

1 gram.

2 (c) “Temporary service provider” means a person [*who*] **that** provides  
3 workers, by contract and for a fee, to a client on a temporary basis.

4 (2) No person shall perform services as a worker leasing company in this  
5 state without first having obtained a license therefor from the Director of  
6 the Department of Consumer and Business Services. No person required by  
7 this section to obtain a license shall fail to comply with this section or ORS  
8 656.855, or any rule adopted pursuant thereto.

9 **(3) When a worker leasing company provides workers to a client,**  
10 **the worker leasing company shall ensure that the client provides ade-**  
11 **quate training, supervision and instruction for those workers to meet**  
12 **the requirements of ORS chapter 654.**

13 [(3)] (4)(a) When a worker leasing company provides workers to a client,  
14 the worker leasing company shall satisfy the requirements of ORS 656.017  
15 and 656.407 and provide workers’ compensation coverage for those workers  
16 and any subject workers employed by the client, unless during the term of  
17 the lease arrangement the client has proof of coverage on file with the di-  
18 rector that extends coverage to subject workers employed by the client and  
19 any workers leased by the client.

20 (b) If the client allows the coverage to expire and continues to employ  
21 subject workers or has leased workers, the client shall be considered a non-  
22 complying employer unless the worker leasing company has complied with  
23 subsection (5) of this section.

24 [(4) *When a worker leasing company provides workers for a client, the*  
25 *worker leasing company shall assure that the client provides adequate train-*  
26 *ing, supervision and instruction for those workers to meet the requirements of*  
27 *ORS chapter 654.*]

28 (5) When a worker leasing company provides subject workers to work for  
29 a client [*and also provides workers’ compensation coverage for those*  
30 *workers*], the worker leasing company shall:

31 (a) Notify the director in writing[. *The notification shall be given*] in such

1 manner as the director may prescribe; **and**

2 **(b) If the worker leasing company is obligated to provide workers'**  
3 **compensation coverage to the client under subsection (4) of this sec-**  
4 **tion, notify the insurer in writing.**

5 **(6)(a)** A worker leasing company may terminate its obligation to provide  
6 workers' compensation coverage [*for workers provided to a client by giving*  
7 *to the client and the director*] **under subsection (4) of this section by giv-**  
8 **ing** written notice of the termination, **in such manner as the director**  
9 **may prescribe, to:**

10 **(A) The client and the insurer; or**

11 **(B) If the worker leasing company is self-insured, the client and the**  
12 **director.**

13 **(b)** [*A notice of termination shall state the effective date and hour of the*  
14 *termination, but the termination shall be effective not less than*] **Unless a**  
15 **later date is specified, the termination shall become effective at 12**  
16 **midnight** [*30 days after*] **on the 30th day following the date on which the**  
17 **notice is received by** [*the director.*]:

18 **(A) An authorized representative of the insurer; or**

19 **(B) If the worker leasing company is self-insured, the director.**

20 **(c)(A) Notwithstanding paragraph (b) of this subsection, a termi-**  
21 **nation may take effect sooner than 30 days following the date on**  
22 **which the written notice is received if the client:**

23 **(i) Obtains other coverage from an insurer;**

24 **(ii) Has coverage provided to it by another worker leasing company;**

25 **or**

26 **(iii) Becomes a self-insured employer.**

27 **(B) The written notice of termination authorized under this para-**  
28 **graph shall become effective immediately upon the effective date of**  
29 **the other coverage or the client's certification as a self-insured em-**  
30 **ployer.**

31 **(7) When a worker leasing company satisfies its obligation to pro-**

1 **vide workers' compensation coverage under subsection (4) of this sec-**  
2 **tion by obtaining a workers' compensation insurance policy, the**  
3 **coverage under the policy shall continue until the earliest of the date**  
4 **on which:**

5 (a) **The term of the policy expires;**

6 (b) **Termination of the obligation becomes effective under sub-**  
7 **section (6) of this section;**

8 (c) **Another insurer files proof of coverage on behalf of the client;**

9 (d) **Another worker leasing company provides coverage to the cli-**  
10 **ent; or**

11 (e) **The client becomes self-insured under ORS 656.430.**

12 (8) **Written** notice to the client under this section shall be given by mail,  
13 addressed to the client at the client's last-known address. If the client is a  
14 partnership, **the** notice may be given to any of the partners. If the client is  
15 a corporation, **the** notice may be given to any agent or officer of the corpo-  
16 ration upon whom legal process may be served.

17 **SECTION 2.** ORS 656.018 is amended to read:

18 656.018. (1)(a) The liability of every employer who satisfies the duty re-  
19 quired by ORS 656.017 (1) is exclusive and in place of all other liability  
20 arising out of injuries, diseases, symptom complexes or similar conditions  
21 arising out of and in the course of employment that are sustained by subject  
22 workers, the workers' beneficiaries and anyone otherwise entitled to recover  
23 damages from the employer on account of such conditions or claims resulting  
24 therefrom, specifically including claims for contribution or indemnity as-  
25 serted by third persons from whom damages are sought on account of such  
26 conditions, except as specifically provided otherwise in this chapter.

27 (b) This subsection shall not apply to claims for indemnity or contribution  
28 asserted by a railroad, as defined in ORS 824.020, or by a corporation, indi-  
29 vidual or association of individuals which is subject to regulation pursuant  
30 to ORS chapter 757 or 759.

31 (c) Except as provided in paragraph (b) of this subsection, all agreements

1 or warranties contrary to the provisions of paragraph (a) of this subsection  
2 entered into after July 19, 1977, are void.

3 (2) The rights given to a subject worker and the beneficiaries of the sub-  
4 ject worker under this chapter for injuries, diseases, symptom complexes or  
5 similar conditions arising out of and in the course of employment are in lieu  
6 of any remedies they might otherwise have for such injuries, diseases,  
7 symptom complexes or similar conditions against the worker's employer un-  
8 der ORS 654.305 to 654.336 or other laws, common law or statute, except to  
9 the extent the worker is expressly given the right under this chapter to bring  
10 suit against the employer of the worker for an injury, disease, symptom  
11 complex or similar condition.

12 (3) The exemption from liability given an employer under this section is  
13 also extended to the employer's insurer, the self-insured employer's claims  
14 administrator, the Department of Consumer and Business Services, and to  
15 the contracted agents, employees, partners, limited liability company mem-  
16 bers, general partners, limited liability partners, limited partners, officers  
17 and directors of the employer, the employer's insurer, the self-insured  
18 employer's claims administrator and the department, except that the ex-  
19 emption from liability shall not apply:

20 (a) If the willful and unprovoked aggression by a person otherwise exempt  
21 under this subsection is a substantial factor in causing the injury, disease,  
22 symptom complex or similar condition;

23 (b) If the worker and the person otherwise exempt under this subsection  
24 are not engaged in the furtherance of a common enterprise or the accom-  
25 plishment of the same or related objectives;

26 (c) If the failure of the employer to comply with a notice posted pursuant  
27 to ORS 654.082 is a substantial factor in causing the injury, disease, symptom  
28 complex or similar condition; or

29 (d) If the negligence of a person otherwise exempt under this subsection  
30 is a substantial factor in causing the injury, disease, symptom complex or  
31 similar condition and the negligence occurs outside of the capacity that

1 qualifies the person for exemption under this section.

2 (4) The exemption from liability given an employer under this section  
3 applies to a worker leasing company and the client to whom workers are  
4 provided when the worker leasing company and the client comply with ORS  
5 656.850 [(3)] (4).

6 (5)(a) The exemption from liability given an employer under this section  
7 applies to a temporary service provider, as that term is used in ORS 656.850,  
8 and also extends to the client to whom workers are provided when the tem-  
9 porary service provider complies with ORS 656.017.

10 (b) The exemption from liability given a client under paragraph (a) of this  
11 subsection is also extended to the client's insurer, the self-insured client's  
12 claims administrator, the department, and the contracted agents, employees,  
13 officers and directors of the client, the client's insurer, the self-insured  
14 client's claims administrator and the department, except that the exemption  
15 from liability shall not apply:

16 (A) If the willful and unprovoked aggression by a person otherwise ex-  
17 empt under this subsection is a substantial factor in causing the injury,  
18 disease, symptom complex or similar condition;

19 (B) If the worker and the person otherwise exempt under this subsection  
20 are not engaged in the furtherance of a common enterprise or the accom-  
21 plishment of the same or related objectives;

22 (C) If the failure of the client to comply with a notice posted pursuant  
23 to ORS 654.082 is a substantial factor in causing the injury, disease, symptom  
24 complex or similar condition; or

25 (D) If the negligence of a person otherwise exempt under this subsection  
26 is a substantial factor in causing the injury, disease, symptom complex or  
27 similar condition and the negligence occurs outside of the capacity that  
28 qualifies the person for exemption under this subsection.

29 (6) Nothing in this chapter shall prohibit payment, voluntarily or other-  
30 wise, to injured workers or their beneficiaries in excess of the compensation  
31 required to be paid under this chapter.

1 (7) The exclusive remedy provisions and limitation on liability provisions  
2 of this chapter apply to all injuries and to diseases, symptom complexes or  
3 similar conditions of subject workers arising out of and in the course of  
4 employment whether or not they are determined to be compensable under  
5 this chapter.

6

---