

## Oregon Sick Time



**BOLI**

---

---

---

---

---

---

---

---

Chet Nakada  
Training & Development Specialist

971-673-0915  
[chet.nakada@state.or.us](mailto:chet.nakada@state.or.us)

Main TA line: 971-673-0824

[boli.ta@boli.state.or.us](mailto:boli.ta@boli.state.or.us)



**BOLI**

---

---

---

---

---

---

---

---

## Top 5 Oregon Sick Time Questions

1. We give 40 hours of PTO we are substantially equivalent so we don't need to anything right?
2. If we suspect the employees are not sick we can get medical verification right?
3. Can we continue our use it or lose it sick time plan?
4. How do temporary employees work? Do we have to count their time before they were hired?
5. What happens when someone has only accrued four hours of sick time but they are absent for an eight hour day?



**BOLI**

---

---

---

---

---

---

---

---

## Finding the law and rules:

<http://www.oregon.gov/BOLI/TA/pages/index.aspx>

Both the statute and rules are on the BOLI Technical Assistance website and available for download.

BOLI provided Notification is on this page.

New rules available soon, comment period has ended



**BOLI**

---

---

---

---

---

---

---

---

---

---

## “Year” defined

“Year” includes any consecutive 12-month period such as a calendar year, a tax year, a fiscal year, a contract year or the 12 month period beginning on the anniversary of the date of employment of the employee.

ORS 653.601 (8)



**BOLI**

---

---

---

---

---

---

---

---

---

---

## Employers on the line...

Employers with **10 (ten) or 6 (six) in Portland** or more employees need to have a per day average number of employees for each of 20 workweeks in the calendar year or the fiscal year of the employer immediately preceding the year in which the leave is to be taken.

ORS 653.606 (2)  
OAR 839-007-0015



10/6

**BOLI**

---

---

---

---

---

---

---

---

---

---

## Qualifying Absences

- Diagnosis, care or treatment, includes preventive
- Family member's diagnosis, care or treatment, includes preventive
- All OFLA covered absences
- Domestic Violence, harassment, sexual assault or stalking
- Public health emergencies which closes school, work or child care

ORS 653.616  
OAR 839-007-0020



**BOLI**

---

---

---

---

---

---

---

---

---

---

## Family Members (1)

"Family Member" with Oregon Sick Time is the same as OFLA,  
OAR 839-007-0000 (1)

Spouse  
Same-gender domestic partner  
Custodial parent  
Non-custodial parent  
Adoptive parent  
Foster parent  
Biological parent  
Stepparent  
Parent in law  
Parent of employee's same-gender  
domestic partner

Grandparent  
Grandchild  
In loco parentis  
Biological child  
Adopted child  
Foster child  
Stepchild  
Child of same gender  
domestic partner



**BOLI**

---

---

---

---

---

---

---

---

---

---

## Family Members (2)

Family members who are NOT covered:

- *Opposite-sex* domestic partners
- Siblings\*
- Cousins\*
- Aunts and uncles\*



\* EXCEPTIONS for *in loco parentis* relationships.



**BOLI**

---

---

---

---

---

---

---

---

---

---

## Accrual of Oregon Sick Time

Beginning on January 1, 2016, Oregon Sick Time accrues at the rate of at least one (1) hour for every thirty (30) hours worked or 1 1/3 hours for every 40 hours worked.



**BOLI**

---

---

---

---

---

---

---

---

---

---

## Use of Oregon Sick Time (1)

Pay rate for Oregon Sick Time

Employees are paid at their regular rate of pay.

For commission, piece-rate without a previously established regular rate of pay, the employer needs to pay at least minimum wage.

ORS 653.606 (5)(c)(B)



**BOLI**

---

---

---

---

---

---

---

---

---

---

## Use of Oregon Sick Time (2)

An employer may not require an employee to:

- Find a replacement
- Work an alternate shift to make up the use of sick time

Upon mutual consent between employer and employee an employee can make up the time they were absent without using sick leave, however, the employer may not require the employee to work additional hours or shifts.



ORS 653.606(8)

**BOLI**

---

---

---

---

---

---

---

---

---

---

## Absences are Protected

It is an unlawful employment practice for an employer to deny, interfere with restrain or fail to pay an eligible employee for Oregon Sick Time.

It is an unlawful employment practice for an employer to retaliate or in any way discriminate against an employee with respect to any term or condition of employment because an employee has inquired about or requested Oregon Sick Time.

Oregon Sick Time absences are protected from attendance policies.



ORS 653.641(1)(2)(3)



---

---

---

---

---

---

---

---

---

---

## Eligibility

Employees are eligible to use Oregon Sick Time on the 91<sup>st</sup> calendar day of employment.

An employer may authorize an employee to use accrued sick time prior to the 91<sup>st</sup> calendar day of employment.

ORS 653.606 (5) (a) (b)

An employer shall restore previously accrued unused sick time to an employee who is reemployed by that employer within 180 days of separation of employment. If the employee leaves before 90 days, and is reemployed within 180 days, their sick leave shall be restored.

ORS 653.606 (11)(a) (b)



---

---

---

---

---

---

---

---

---

---

## Eligibility and “Carryover”

An employee shall begin to earn and accrue sick time on the first day of employment and may carry over up to 40 hours of unused sick time from one year to the next.

However, an employer may adopt a policy:

- a. Capping accrual at 80 hours
- b. Capping 40 hours of sick leave in a year.

ORS 653.606 (3)(a) and (b)



---

---

---

---

---

---

---

---

---

---

## No Payout Requirement

Employers are not required to pay out Oregon Sick Time upon separation from employment.

ORS 653.607 (7)



**BOLI**

---

---

---

---

---

---

---

---

## Front-load

Employers can front-load Oregon Sick Time by making the leave available as soon as the employee is eligible and on the first day of the next year disregarding accrual.

ORS 653.601 (5) (a)

Carry over not required for employers who front-load.

ORS 653.606 (1) (c)

More on Front-loading Sick Time: OAR 839-007-0007



**BOLI**

---

---

---

---

---

---

---

---

## PTO needs to be “substantially equivalent”

Employers with a sick leave policy, vacation policy, paid personal time off or other paid time off program that is substantially equivalent to Oregon Sick Time shall be deemed in compliance.

Employees who have exhausted all paid and unpaid leave available to the employee, the employer is **not** obligated to provide additional leave for paid or unpaid Oregon Sick Time.

ORS 653.611 (1) (2),  
OAR 839-007-0055



**BOLI**

---

---

---

---

---

---

---

---

## Intersection with other Leave Laws

OFLA/FMLA: Oregon Sick Time may run concurrently  
If the employee is eligible for OFLA and/or FMLA  
and the absence also qualifies under OFLA and/or FMLA

Oregon Sick Time could intersect with the ADA/State disability law  
Worker's Compensation claim

A key difference of Oregon Sick Time is pay.



**BOLI**

---

---

---

---

---

---

---

---

## Intersection with CBA

Oregon Sick Time does not apply to an employee whose terms and conditions of  
employment are:

- a) covered by a collective bargaining agreement,
- b) who is hired through a hiring hall or similar referral system operated by the  
labor organization or a third party,
- c) whose employment-related benefits are provided by a joint multi-employer-  
employee trust or benefit plan.

ORS 653.646 (1) (a) (b) & (c),  
OAR 839-007-0060

\*All three of the a, b, & c terms must apply for  
this exemption.



**BOLI**

---

---

---

---

---

---

---

---

## Employee Notice

Employers may require reasonable advance notice for use of Oregon Sick Time if  
the leave is foreseeable.

Section 7. (3)  
ORS 653.621(3)

If the Oregon Sick Time Leave is unforeseeable the employee needs to provide  
notice as soon as practicable.

ORS 653.621(4)



**BOLI**

---

---

---

---

---

---

---

---

## Documentation (1)

If an employee takes more than three consecutive scheduled workdays for Oregon Sick Time, an employer may require verification from a health care provider of the need for leave.

ORS 653.626 (1)

Medical verification shall be provided within 15 calendar days.

ORS 653.626 (1) (c) (A)

Employer needs to pay for any out of pocket costs.

ORS 653.626(2)



**BOLI**

---

---

---

---

---

---

---

---

---

---

## Documentation (2)

- Suspected abuse
- Engaging in a pattern of abuse

An employer may require verification from a health care provider of the need to use sick time without missing more than three consecutive scheduled workdays

ORS 653.626 (3) (b)



**BOLI**

---

---

---

---

---

---

---

---

---

---

## Quarterly Employer Notice to Employees

Employers need to provide employees with the amount of accrued and unused Oregon Sick Time available for use by the employee.

Inclusion of this information in paycheck stubs should be sufficient for compliance.

ORS 653.631 (1)



**BOLI**

---

---

---

---

---

---

---

---

---

---

## Employer Notice to Employees

Employers need to provide employees with written notice of the requirements for Oregon Sick Time.

Section 9, (1) (b)  
ORS 653.631 (1) (b)

BOLI provided notice on website.

**NOTICE!**



**BOLI**

---

---

---

---

---

---

---

---

## Safe Harbor

Civil Penalties will be assessed for Oregon Sick Time for violations on or after January 1, 2017.\*

Section 22.

\*Does not cover civil suits



**BOLI**

---

---

---

---

---

---

---

---