Laws Relating to Workers' Compensation and Safe Employment in Oregon

❖ ❖ ❖ ❖ ❖ ❖ ❖

2024-2025

WCD | Workers' Compensation Division

Department of Consumer and Business Services

Laws Relating to

Workers' Compensation and Safe Employment

in Oregon

2025-2026

Workers' Compensation
Chapter 656 Oregon Revised Statutes

Occupational Safety and Health
Chapter 654 Oregon Revised Statutes

Administrative Procedures Act; Review of Rules; Civil Penalties
Chapter 183 Oregon Revised Statues

Miscellaneous Prohibitions Relating to Employment and Discrimination
Chapter 659 Oregon Revised Statutes

Unlawful Discrimination in Employment, Public Accommodations and Real Property Transactions; Administrative and Civil Enforcement
Chapter 659A Oregon Revised Statutes

Farmworker Camps
Chapter 658 (partial) Oregon Revised Statutes

Issued by:
Oregon Department of Consumer and Business Services
350 Winter St. NE
P.O. Box 14480
Salem, OR 97309-0405

Tina Kotek, Governor
State of Oregon

Matt West, Administrator
Workers' Compensation Division

Renée Stapleton, Administrator
Oregon OSHA

Table of contents

Prefaces

Department of Consumer and Business Services telephone directory iii

Significant laws passed in 2025 affecting workers' compensation v

Significant laws passed in 2025 affecting Oregon OSHA vii

Significant laws passed in 2026 affecting workers' compensation ix

Oregon laws

The following pages contain direct reproductions of officially published Oregon laws relating to, and administered by, the Workers' Compensation Division and Oregon OSHA, divisions of the Department of Consumer and Business Services.

General Index of Laws Relating to Workers' Compensation in Oregon

ORS Chapter 656: Workers' Compensation 1

ORS Chapter 654: Occupational Safety and Health 125

ORS Chapter 183: Administrative Procedures Act; Review of Rules; Civil Penalties 153

ORS Chapter 659: Miscellaneous Prohibitions Relating to Employment and Discrimination 191

ORS Chapter 659A: Unlawful Discrimination in Employment, Public Accommodations and Real Property Transactions; Administrative and Civil Enforcement 203

ORS Chapter 658 (partial): Farmworker Camps 269

General Index INDEX-1

Applicable rules and regulations are published by the department and filed with the Office of the Secretary of State.

DCBS | Department of Consumer and Business Services

Workers' Compensation Division
350 Winter St. NE
P.O. Box 14480
Salem, Oregon 97309-0405

DIRECTOR'S OFFICE

Director	503-378-4100
Ombuds Office for Oregon Workers	503-378-3351
Small Business Ombudsman	503-329-4260

BUILDING CODES DIVISION

Administrator	503-373-2160
Information	503-378-4133

CENTRAL SERVICES DIVISION

Administrator	971-718-7227
Chief Financial Officer	503-302-1287
Accounting	503-983-5200
Budget	971-718-1241
Self-insureds and Premium Assessment	971-718-1681
Workers' Compensation Assessment	971-718-1681
Chief Information Officer	971-718-2374
Research and Analysis	503-949-4422
Procurement	503-508-7033
Mailroom	503-947-7928

DIVISION OF FINANCIAL REGULATION

Main	503-378-4140
Administrator	503-947-7980
Consumer Advocacy	888-877-4894
Insurance Institutions	503-947-7982
Product Regulation	503-947-7983
Licensing and Retaliatory Tax	503-947-7981
Drug Price Transparency Program	503-947-7200
Non-Depository	503-947-7300

OREGON OSHA

Administrator	503-378-3272
Consultative Services	503-378-3272
Education	503-947-7443
Enforcement	503-378-3272
Standards and Technical Services	503-378-3272
Occupational Health Lab, Portland	971-201-1254

OREGON OSHA Field Offices

Bend:	Enforcement	541-388-6066
	Consultation	541-388-6068
Eugene:	Enforcement	541-686-7562
	Consultation	541-686-7913
Medford:	Enforcement	541-776-6030
	Consultation	541-776-6016
Pendleton:	Enforcement	541-276-9175
	Consultation	541-276-2353
Portland:	Enforcement	503-229-5910
	Consultation	503-229-6193
Salem:	Enforcement	503-378-3274
	Consultation	503-373-7819

UNIVERSAL HEALTH PLAN GOVERNANCE BOARD

Main	503-378-4100

WORKERS' COMPENSATION BOARD

Portland	971-673-0900
Salem	503-378-3308
Board Chair and Members	503-378-3308
Board Review	503-934-0103
Claim Disposition Agreement	503-934-0116
Managing Attorney	503-378-3308
Medford Administrative Law Judges	541-776-6217
Mediation	503-934-0104
Own Motion	503-934-0103
Presiding Administrative Law Judge	503-378-3308

WORKERS' COMPENSATION DIVISION

Administrator	503-947-7810
General Information	503-947-7585
Benefits Information	503-947-7840
Employer Compliance	888-877-5670
Medical Resolution	503-947-7606
Reemployment	503-947-7588

Significant laws passed in 2025 affecting workers' compensation

Note: The Oregon Revised Statutes are published every two years. The statutes in this law book incorporate laws enacted by the Oregon Legislature through the 2025 session. The bills passed in 2026 can be accessed on the legislative website www.oregonlegislature.gov.

HB 2800 Updated the statute for worker leasing companies and uses modern terms for professional employer organizations (PEOs). The statutory changes will close the gaps that will allow electronic reporting.

Notice – effective date: *While the bill officially takes effect 91 days after the end of the 2025 legislative session, its operative date is July 1, 2027.*

HB 2802 Amended the statute where insurers must pay permanent partial disability benefits in a lump sum award. If the lump sum award exceeds $6,000, the worker may request a lump sum payment, instead of receiving the award in installments. The bill establishes that the insurer must make a lump sum payment if the worker waives their right to request reconsideration of the notice of closure, or if the award has become final by operation of law. The bill also specifies that an insurer is allowed to deny a lump sum payment if the insurer has requested reconsideration of the notice of closure and the proceeding has not yet been completed.

The bill does not change an existing requirement to pay awards that do not exceed $6,000 in a lump sum payment. This bill applies to claims in which a closure notice is issued on or after Jan. 1, 2026.
Effective Jan. 1, 2026.

HB 2799 Raised the maximum amount allowed for witness fees, expenses, and other claim costs to $3,500, unless the claimant demonstrates extraordinary circumstances justifying payment of a greater amount. The limit will increase annually based on changes to the state average weekly wage.
Effective Jan. 1, 2026.

SB 904 Updated the statute to allow public school districts with self-insurance to apply for an exemption from the security deposit like other public employers. Five districts will be able to apply for this exemption through the WCD administrator. WCD will develop rules with stakeholders to assist with this process for the self-insured public-school districts to ask for the exemption.
Effective Jan. 1, 2026.

Significant laws passed in 2025 affecting Oregon OSHA

Note The Oregon Revised Statutes are published every two years. This law book incorporates the changes to laws enacted by the Oregon Legislature through the 2025 session. There were no significant bills affecting Oregon OSHA passed in the 2026 session.

SB 537 Amended existing workplace violence prevention requirements and established new requirements to improve worker safety at certain healthcare sites; the bill took effect Jan. 1, 2026. The bill amended ORS 654.062 (Notice of violation to employer by worker; complaint by worker to director; inspection; employee protections; rebuttable presumption; rules), ORS 654.182 (Safety Committees), ORS 654.412 (Safety Of Health Care Employees), ORS 654.414 (Duties of health care employer; security and safety assessment; workplace violence prevention and protection program; requirements), and ORS 654.416 (Required records of assaults against employees; contents; summary report; rules).

The bill introduced a new definition of "workplace violence" that "includes any act or threat of physical violence, harassment, intimidation, assault, homicide or any other threatening behavior that occurs in the workplace."

The bill also defined those healthcare employers covered by the bill which includes "ambulatory surgical centers," "hospitals," "home health agencies," and "home hospice programs"; however, the Oregon State Hospital is specifically exempted.

Provisions in the bill requires healthcare employers to work with their safety committees to develop procedures for investigating, collecting, and reporting on incidents of workplace violence, and develop a workplace violence prevention and protection program for employees, enhanced workplace violence prevention and protection training, and healthcare employers must provide to each employee a written copy of the workplace violence prevention and response plan.
Effective Jan. 1, 2026.

HB 2024 Amended ORS 654.062 (Notice of violation to employer by worker; complaint by worker to director; inspection; employee protections; rebuttable presumption; rules) by increasing protections for behavioral health workers; if the commissioner of the Oregon Bureau of Labor and Industries or the circuit court finds that a behavioral health employer illegally discharged an employee, the employee must have the right to be reinstated to the employee's former position with back pay. The bill took effect July 24, 2025.

The bill defines a behavioral health employer as a residential treatment facility; a residential treatment home; a secure residential treatment facility except for the Oregon State Hospital; a secure residential treatment home; a sobering facility; a detoxification center; a halfway house; a mobile crisis intervention team; or an emergency shelter.

Significant laws passed in 2026 affecting workers' compensation

Note The Oregon Revised Statutes are published every two years. The statutes in this law book incorporate laws enacted by the Oregon Legislature through the 2025 session. The bills passed in 2026 can be accessed on the legislative website www.oregonlegislature.gov.

HB 4027 The bill established the Bureau of Labor and Industries (BOLI) Expenses Fund in the Department of Treasury and directs the director of the Department of Consumer and Business Services (DCBS) to manage the fund, subject to an agreement between the DCBS director and the BOLI commissioner.
Effective June 5, 2026.

HB 4040 The bill grants physician associates and nurse practitioners to continue treating injured workers beyond 180 days. It also allows physician associates and nurse practitioners to authorize temporary disability benefits, includes them in the definition of attending physician, and permits them to make findings of impairment. In addition, the bill allows a physician associate or nurse practitioner to remain a worker's attending physician after a claim closure.
Effective April 7, 2026.

SB 1519 Modifies the compensation an injured worker receives from workers' compensation insurance during a period of temporary total disability. Workers will receive 75 percent of the portion of their wage that is equal to or less than 75 percent of the average weekly wage, and 65 percent of the portion of their wage that exceeds 75 percent of the average weekly wage. The bill specifies that this modification to the compensation an injured worker receives during a period of temporary total disability applies to the average weekly wage in effect on the date of injury.

The bill also modifies the compensation an injured worker receives from workers' compensation during a period of permanent total disability. The worker will receive 75 percent of their wage that is up to 75 percent of the average weekly wage, and 65 percent of the portion of their wage that is more than 75 percent of the average weekly wage in effect on the date of the injury.

The bill retains existing minimum and maximum compensation rates during a period of temporary or permanent total disability. It specifies that the statutory definition for "average weekly wage" applicable to temporary total disability only applies to increases in compensation benefits paid when the applicable average weekly wage has increased since the previous fiscal year. The bill applies to claims with a date of injury on or after Jan. 1, 2027.
Effective Jan. 1, 2027.

General index of laws

relating to

Workers' Compensation in Oregon

2025 Oregon Revised Statutes

Chapter 656

2025 EDITION

Workers' Compensation

GENERAL PROVISIONS

656.001 Short title

656.003 Application of definitions to construction of chapter

656.005 Definitions

656.006 Effect on employers' liability law

656.008 Extension of laws relating to workers' compensation to federal lands and projects within state

656.010 Treatment by spiritual means

656.012 Findings and policy

COVERAGE

656.017 Employer required to pay compensation and perform other duties; state not authorized to be direct responsibility employer

656.018 Effect of providing coverage; exclusive remedy

656.019 Civil negligence action for claim denied on basis of failure to meet major contributing cause standard; statute of limitations

656.020 Damage actions by workers against noncomplying employers; defenses outlawed

656.021 Coverage exception for laborers under contracts with construction and landscape contractor licensees

656.023 Who are subject employers

656.025 Individuals engaged in commuter ridesharing not subject workers; conditions

656.027 Who are subject workers

656.029 Obligation of person awarding contract to provide coverage for workers under contract; exceptions; effect of failure to provide coverage

656.031 Coverage for municipal volunteer personnel

656.033 Coverage for participants in work experience or school directed professional training programs

656.035 Status of workers in separate occupations of employer

656.037 Exemption from coverage for persons engaged in certain real estate activities

656.039 Election of coverage for workers not subject to law; procedure; cancellation; election of coverage for home care workers and personal support workers

656.041 City or county may elect to provide coverage for adults in custody

656.043 Governmental agency paying wages responsible for providing coverage

656.044 State Accident Insurance Fund Corporation may insure liability under Longshoremen's and Harbor Workers' Compensation Act; procedure; cancellation

656.046 Coverage of persons in college work experience and professional education programs

656.047 Oregon Health Authority obligation to provide coverage for volunteer health care providers and support and administrative personnel

656.052 Prohibition against employment without coverage; proposed order declaring noncomplying employer; effect of failure to comply

656.054 Claim of injured worker of noncomplying employer; procedure for disputing acceptance of claim; recovery of costs from noncomplying employer; restrictions

656.056 Subject employers must post notice of manner of compliance

656.070 Definitions for ORS 656.027, 656.070 and 656.075

656.075 Exemption from coverage for newspaper carriers; casualty insurance and other requirements

656.126 Coverage while temporarily in or out of state; judicial notice of other state's laws; agreements between states relating to conflicts of jurisdiction; limitation on compensation for claims in this state and other jurisdictions

656.128 Sole proprietors, limited liability company members, partners, independent contractors may elect coverage by insurer; cancellation

656.132 Coverage of minors

656.135 Coverage of deaf school work experience trainees

656.138 Coverage of apprentices, trainees participating in related instruction classes

656.140 Coverage of persons operating equipment for hire

656.154 Injury due to negligence or wrong of a person not in the same employ as injured worker; remedy against such person

656.156 Intentional injuries

656.160 Effect of incarceration on receipt of compensation

656.170 Validity of provisions of certain collective bargaining agreements; alternative dispute resolution systems; exclusive medical service provider lists; authority of director

656.172 Applicability of and criteria for establishing program under ORS 656.170

656.174 Rules

656.202 Compensation payable to subject worker in accordance with law in effect at time of injury; exceptions; notice regarding payment

COMPENSATION AND MEDICAL BENEFITS

656.204 Death

656.206 Permanent total disability

656.208 Death during permanent total disability

656.209 Offsetting permanent total disability benefits against Social Security benefits

656.210 Temporary total disability; payment during medical treatment; employer election to pay supplemental benefits; rules

656.211 "Average weekly wage" defined

656.212 Temporary partial disability

656.214 Permanent partial disability

656.216 Permanent partial disability; method of payment; effect of prior receipt of temporary disability payments

656.218 Continuance of permanent partial disability payments to survivors; effect of death prior to final claim disposition

656.222 Compensation for additional accident

656.225 Compensability of certain preexisting conditions

656.226 Cohabitants entitled to compensation

656.228 Payments directly to beneficiary or custodian

656.230 Lump sum award payments

656.232 Payments to noncitizens residing outside of United States

656.234 Compensation not assignable nor to pass by operation of law; certain benefits subject to support obligations

656.236 Compromise and release of claim matters except for medical benefits; approval by Administrative Law Judge or board; approval by director for certain reserve reimbursements; restriction on charging costs to workers; restriction on joinder as parties for responsibility determinations

656.240 Deduction of benefits from sick leave payments paid to employees

656.245 Medical services to be provided; worker choice of provider; restrictions on providers outside managed care organizations; director exclusion of medical treatments; when workers to receive services as prescribed in managed care organization contract; provision of services by nurse practitioners and physician associates; administrative review of disapproved claims; rules

656.247 Payment for medical services prior to claim acceptance or denial; review of disputed services; duty of health benefit plan to pay for certain medical services in denied claim

656.248 Medical service fee schedules; basis of fees; application to service provided by managed care organization; resolution of fee disputes; rules

656.250 Limitation on compensability of physical therapist services

656.252 Medical report regulation; rules; duties of attending physician or nurse practitioner; disclosure of information; notice of changing attending physician or nurse practitioner; copies of medical service billings to be furnished to worker

656.254 Medical report forms; penalties and other sanctions; procedure for declaring health care practitioner ineligible for workers' compensation reimbursement

656.256 Considerations for rules regarding certain rural hospitals

656.258 Vocational assistance service payments

656.260 Certification procedure for managed health care provider; required findings; denial or termination of provider authorization; scope of director's review; confidentiality of certain information; immunity from liability; rules; medical service dispute resolution; penalties

PROCEDURE FOR OBTAINING COMPENSATION

656.262 Processing of claims and payment of compensation; payment by employer; acceptance and denial of claim; penalties and attorney fees; cooperation by worker and attorney in claim investigation; rules

656.263 To whom notices sent under ORS 656.262, 656.265, 656.268 to 656.289, 656.295 to 656.325 and 656.382 to 656.388

656.264 Compensable injury, denied claim and other reports

656.265 Notice of accident from worker

656.266 Burden of proving compensability and nature and extent of disability

656.267 Claims for new and omitted medical conditions

656.268 Claim closure; termination of temporary total disability benefits; reconsideration of closure; medical arbiter to make findings of impairment for reconsideration; credit or offset for fraudulently obtained or overpaid benefits; rules

656.273 Aggravation for worsened conditions; procedure; limitations; additional compensation

656.277 Request for reclassification of nondisabling claim; nondisabling claim procedure; attorney fees

656.278 Board has continuing authority to alter earlier action on claim; limitations

656.283 Hearing rights and procedure; rules; impeachment evidence; use of standards for evaluation of disability

656.285 Protection of witnesses at hearings

656.287 Use of vocational reports in determining loss of earning capacity at hearing; rules

656.289 Orders of Administrative Law Judge; review; disposition of claim when compensability disputed; approval of director required for reimbursement of certain expenditures

656.291 Expedited Claim Service; jurisdiction; procedure; representation; rules

656.295 Board review of Administrative Law Judge orders; application of standards for evaluation of disability

656.298 Judicial review of board orders; settlement during pendency of petition for review

656.304 When acceptance of compensation precludes hearing

656.307 Determination of issues regarding responsibility for compensation payment; mediation or arbitration procedure; rules

656.308 Responsibility for payment of claims; effect of new injury; denial of responsibility; procedure for joining employers and insurers; attorney fees; limitation on filing claims subject to settlement agreement

656.310 Presumption concerning notice of injury and self-inflicted injuries; reports as evidence

656.313 Stay of compensation pending request for hearing or review; procedure for denial of claim for medical services; reimbursement

656.319 Time within which hearing must be requested

656.325 Required medical examination; worker-requested examination; qualified physicians; claimant's duty to reduce disability; suspension or reduction of benefits; cessation or reduction of temporary total disability benefits; rules; penalties

656.327 Review of medical treatment of worker; findings; review; costs

656.328 List of authorized providers and standards of professional conduct for providers of independent medical examinations; exclusion; complaints; rules

656.331 Contact, medical examination of worker represented by attorney prohibited without written notice; rules

656.340 Vocational assistance procedure; eligibility criteria; service providers; resolution of vocational assistance disputes; rules

DISCLOSURE OF WORKER MEDICAL AND VOCATIONAL CLAIM RECORDS

656.360 Confidentiality of worker medical and vocational claim records

656.362 Liability for disclosure of worker medical and vocational claim records

LEGAL REPRESENTATION

656.382 Penalties and attorney fees payable by insurer or employer in processing claim

656.383 Attorney fees in cases prior to decision or after request for hearing

656.385 Attorney fees in cases regarding certain medical service or vocational rehabilitation matters; rules; limitation; penalties

656.386 Recovery of attorney fees, expenses and costs in appeal on denied claim; attorney fees in other cases

656.388 Approval of attorney fees required; lien for fees; fee schedule; adjustment; report of legal service costs

656.390 Frivolous appeals, hearing requests or motions; expenses and attorney fee

SELF-INSURED AND CARRIER-INSURED EMPLOYERS; INSURERS

656.403 Obligations of self-insured employer

656.407 Qualifications of insured employers

656.419 Workers' compensation insurance contracts

656.423 Cancellation of coverage by employer; notice required

656.427 Termination of workers' compensation insurance contract or surety bond liability by insurer

656.430 Certification of self-insured employer; employer groups; insurance policy requirements; revocation of certification; rules

656.434 Certification effective until canceled or revoked; revocation of certificate

656.440 Notice of certificate revocation; appeal; effective date

656.441 Advancement of funds from Workers' Benefit Fund for compensation due workers insured by certain decertified self-insured employer groups

656.443 Procedure upon default by employer or self-insured employer group; rules

656.445 Advancement of funds from Workers' Benefit Fund for compensation due workers insured by insurer in default; limitations; rules

656.447 Sanctions against insurer for failure to comply with contracts, orders or rules

656.455 Self-insured employers to process claims and make records available at authorized locations; disposal of records; expenses for out-of-state audits; rules

CHARGES AGAINST EMPLOYERS AND WORKERS

656.502 "Fiscal year" defined

656.504 Rates, charges, fees and reports by employers insured by State Accident Insurance Fund Corporation

656.505 Estimate of payroll when employer fails to file payroll report; demand for and recovery of premiums and assessments

656.506 Assessments for programs; setting assessment amount; determination by director of benefit level

656.508 Authority to fix premium rates for employers

656.526 Distribution of dividends from surplus in Industrial Accident Fund

656.536 Premium charges for coverage of reforestation cooperative workers based on prevailing wage; manner of determining prevailing wage

ENFORCEMENT OF PREMIUM PAYMENTS

656.552 Deposit of cash, bond or letter of credit to secure payment of employer's premiums

656.554 Injunction against employer failing to comply with deposit requirements

656.556 Liability of person letting a contract for amounts due from contractor

656.560 Default in payment of premiums, fees, assessments or deposit; remedies

656.562 Moneys due Industrial Accident Fund as preferred claims; moneys due department as taxes due state

656.564 Lien for amounts due from employer on real property, improvements and equipment on or with which labor is performed by workers of employer

656.566 Lien on property of employer for amounts due

RECOVERY AGAINST THIRD PERSONS AND NONCOMPLYING EMPLOYERS

656.576 "Paying agency" defined

656.578 Workers' election whether to sue third person or noncomplying employer for damages

656.580 Payment of compensation notwithstanding cause of action for damages; lien on cause of action for compensation paid

656.583 Paying agency may compel election and prompt action
656.587 Paying agency must join in any compromise
656.591 Election not to bring action operates as assignment of cause of action; repayments to department by paying agency
656.593 Procedure when worker or beneficiary elects to bring action; release of liability and lien of paying agency in certain cases
656.595 Precedence of cause of action; compensation paid or payable not to be an issue
656.596 Damage recovery as offset against compensation; recovery procedure; notice to paying agency

FUNDS; SOURCE; INVESTMENT; DISBURSEMENT

(General Provisions)

656.602 Disbursement procedures
656.605 Workers' Benefit Fund; uses and limitations
656.612 Assessments for department activities; amount; collection procedure
656.614 Self-Insured Employer Adjustment Reserve; Self-Insured Employer Group Adjustment Reserve
656.622 Reemployment Assistance Program; claim data not to be used for insurance rating; rules
656.625 Reopened Claims Program; rules
656.628 Workers with Disabilities Program; use of funds; conditions and limitations; rules
656.630 Oregon Institute of Occupational Health Sciences funding; report of activities

(Industrial Accident Fund and Reserves)

656.632 Industrial Accident Fund
656.634 Trust fund status of Industrial Accident Fund
656.635 Reserve accounts in Industrial Accident Fund
656.636 Reserves in Industrial Accident Fund for awards for permanent disability or death
656.640 Creation of reserves

(Other Funds)

656.642 Emergency Fund
656.644 Petty cash funds

ADMINISTRATION

(General Provisions)

656.702 Disclosure of records of corporation, department and insurers
656.704 Actions and orders regarding matters concerning claim and matters other than matters concerning claim; authority of director and board; administrative and judicial review; rules
656.708 Hearings Division; duties
656.709 Ombudsman for injured workers; ombudsman for small business; duties
656.712 Workers' Compensation Board; members; qualifications; chairperson; confirmation; term; vacancies
656.714 Removal of board member
656.716 Board members not to engage in political or business activity that interferes with duties as board member; oath and bond required
656.718 Chairperson; quorum; panels
656.720 Prosecution and defense of actions by Attorney General and district attorneys
656.722 Authority to employ subordinates
656.724 Administrative Law Judges; appointment; qualifications; term; performance survey; removal procedure
656.725 Duties and status of Administrative Law Judges
656.726 Duties and powers to carry out workers' compensation and occupational safety laws; rules
656.727 Rules for administration of benefit offset
656.730 Assigned risk plan
656.732 Power to compel obedience to subpoenas and punish for misconduct
656.735 Civil penalty for noncomplying employers; amount; liability of partners and of corporate and limited liability company officers; effect of final order; penalty as preferred claim; disposition of moneys collected
656.740 Review of proposed order declaring noncomplying employer or nonsubjectivity determination; review of proposed assessment or civil penalty; insurer as party; hearing
656.745 Civil penalty for inducing failure to report claims; limits on penalty amounts; failure to pay assessments; failure to comply with statutes, rules or orders; amount; procedure

(State Accident Insurance Fund Corporation)

656.751 State Accident Insurance Fund Corporation created; board; members' qualifications; terms; compensation; expenses; function; report
656.752 State Accident Insurance Fund Corporation; purpose and functions
656.753 State Accident Insurance Fund Corporation exempt from certain financial administration laws; contracts with state agencies for services
656.754 Manager; appointment; functions
656.758 Inspection of books, records and payrolls; statement of employment data; civil penalty for misrepresentation; failure to submit books for inspection and refusal to keep correct payroll
656.772 Annual audit of State Accident Insurance Fund Corporation by Secretary of State; scope of review; report of audit
656.774 Annual report by State Accident Insurance Fund Corporation to Secretary of State; contents
656.776 Notice to Secretary of State regarding action on audit report

(Claims Examiner Certification)

656.780 Certification and training of claims examiners; records of certification and training of examiners; department inspection of records; penalties; rules

(Advisory Committees)

656.790 Workers' Compensation Management-Labor Advisory Committee; membership; duties; expenses

656.794 Advisory committee on medical care; rules

INFORMATIONAL MATERIALS ABOUT WORKERS' COMPENSATION SYSTEM

656.795 Informational materials for nurse practitioners

656.797 Certification by nurse practitioner of review of required materials

656.798 Duty of insurer, self-insured employer and self-insured employer group to provide information to director

656.799 Informational materials for other health care professionals; certification of review of materials

OCCUPATIONAL DISEASE LAW

656.802 Occupational disease; mental disorder; presumptions as to stress disorders; proof

656.804 Occupational disease as an injury under Workers' Compensation Law

656.807 Time for filing of claims for occupational disease; procedure

PROFESSIONAL EMPLOYER ORGANIZATIONS AND WORKER LEASING COMPANIES

656.849 Definitions for PEOs

656.850 License; compliance with workers' compensation and safety laws

656.855 Licensing system for worker leasing companies; rules; fees; dedication of moneys received

PENALTIES

656.990 Penalties

GENERAL PROVISIONS

656.001 Short title. This chapter may be cited as the Workers' Compensation Law. [1965 c.285 §1; 1977 c.109 §1]

656.002 [Amended by 1957 c.718 §1; 1959 c.448 §1; 1965 c.285 §4; 1967 c.341 §2; 1969 c.125 §1; 1969 c.247 §1; 1973 c.497 §1; 1973 c.620 §1; repealed by 1975 c.556 §1 (656.003 and 656.005 enacted in lieu of 656.002)]

656.003 Application of definitions to construction of chapter. Except where the context otherwise requires, the definitions given in this chapter govern its construction. [1975 c.556 §2 (enacted in lieu of 656.002)]

656.004 [Repealed by 1981 c.535 §28 (656.012 enacted in lieu of 656.004)]

656.005 Definitions. (1) "Average weekly wage" means the Oregon average weekly wage in covered employment, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which the injury occurred.

(2)(a) "Beneficiary" means an injured worker, and the spouse in a marriage, child or dependent of a worker, who is entitled to receive payments under this chapter.

(b) "Beneficiary" does not include a person who intentionally causes the compensable injury to or death of an injured worker.

(3) "Board" means the Workers' Compensation Board.

(4) "Carrier-insured employer" means an employer who provides workers' compensation coverage with the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in this state.

(5) "Child" means a child of an injured worker, including:

(a) A posthumous child;

(b) A child legally adopted before the injury;

(c) A child toward whom the worker stands in loco parentis;

(d) A child born out of wedlock;

(e) A stepchild, if the stepchild was, at the time of the injury, a member of the worker's family and substantially dependent upon the worker for support; and

(f) A child of any age who was incapacitated at the time of the accident and thereafter remains incapacitated and substantially dependent on the worker for support.

(6) "Claim" means a written request for compensation from a subject worker or someone on the worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

(7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death. An injury is accidental if the result is an accident, whether or not due to accidental means, if it is established by medical evidence supported by objective findings, subject to the following limitations:

(A) An injury or disease is not compensable as a consequence of a compensable injury unless the compensable injury is the major contributing cause of the consequential condition.

(B) If an otherwise compensable injury combines at any time with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition is compensable only if, so long as and to the extent that the otherwise compensable injury is the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.

(b) "Compensable injury" does not include:

(A) Injury to any active participant in assaults or combats that are not connected to the job assignment and that amount to a deviation from customary duties;

(B) Injury incurred while engaging in or performing, or as the result of engaging in or performing, any recreational or social activities primarily for the worker's personal pleasure; or

(C) Injury the major contributing cause of which is demonstrated to be by a preponderance of the evidence the injured worker's consumption of alcoholic beverages or cannabis or the unlawful consumption of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of such consumption.

(c) A "disabling compensable injury" is an injury that entitles the worker to compensation for disability or death. An injury is not disabling if no temporary benefits are due and payable, unless there is a reasonable expectation that permanent disability will result from the injury.

(d) A "nondisabling compensable injury" is any injury that requires medical services only.

(8) "Compensation" includes all benefits, including medical services, provided for a compensable injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pursuant to this chapter.

(9) "Department" means the Department of Consumer and Business Services.

(10) "Dependent" means any of the following individuals who, at the time of an accident, depended in whole or in part for the individual's support on the earnings of a worker who dies as a result of an injury:

(a) A parent of a worker or the parent's spouse or domestic partner;

(b) A grandparent of a worker or the grandparent's spouse or domestic partner;

(c) A grandchild of a worker or the grandchild's spouse or domestic partner;

(d) A sibling or stepsibling of a worker or the sibling's or stepsibling's spouse or domestic partner; and

(e) Any individual related by blood or affinity whose close association with a worker is the equivalent of a family relationship.

(11) "Director" means the Director of the Department of Consumer and Business Services.

(12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the healing arts in any country or in any state, territory or possession of the United States within the limits of the license of the licensee.

(b) Except as otherwise provided for workers subject to a managed care contract, "attending physician" means a doctor, physician or physician associate who is primarily responsible for the treatment of a worker's compensable injury and who is:

(A) A physician licensed under ORS 677.100 to 677.228 by the Oregon Medical Board, or a podiatric physician and surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the United States;

(B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative total of 18 visits, whichever occurs first, to any of the medical service providers listed in this subparagraph, a:

(i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States; or

(ii) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States; or

(C) For a cumulative total of 180 days from the first visit on the initial claim, a physician associate licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician associate in any country or in any state, territory or possession of the United States.

(c) Except as otherwise provided for workers subject to a managed care contract, "attending physician" does not include a physician who provides care in a hospital emergency room and refers the injured worker to a primary care physician for follow-up care and treatment.

(d) "Consulting physician" means a doctor or physician who examines a worker or the worker's medical record to advise the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 regarding treatment of a worker's compensable injury.

(13)(a) "Employer" means any person, including receiver, administrator, executor or trustee, and the state, state agencies, counties, municipal corporations, school districts and other public corporations or political subdivisions, that contracts to pay a remuneration for the services of any worker.

(b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of a temporary service provider is not the employer of temporary workers provided by the temporary service provider.

(c) As used in paragraph (b) of this subsection, "temporary service provider" has the meaning given that term in ORS 656.850.

(d) For the purposes of this chapter, "subject employer" means an employer that is subject to this chapter as provided in ORS 656.023.

(14) "Insurer" means the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in this state or an assigned claims agent selected by the director under ORS 656.054.

(15) "Consumer and Business Services Fund" means the fund created by ORS 705.145.

(16) "Incapacitated" means an individual is physically or mentally unable to earn a livelihood.

(17) "Medically stationary" means that no further material improvement would reasonably be expected from medical treatment or the passage of time.

(18) "Noncomplying employer" means a subject employer that has failed to comply with ORS 656.017.

(19) "Objective findings" in support of medical evidence are verifiable indications of injury or disease that may include, but are not limited to, range of motion, atrophy, muscle strength and palpable muscle spasm. "Objective findings" does not include physical findings or subjective responses to physical examinations that are not reproducible, measurable or observable.

(20) "Palliative care" means medical service rendered to reduce or moderate temporarily the intensity of an otherwise stable medical condition, but does not include those medical services rendered to diagnose, heal or permanently alleviate or eliminate a medical condition.

(21) "Party" means a claimant for compensation, the employer of the injured worker at the time of injury and the insurer, if any, of the employer.

(22) "Payroll" means a record of wages payable to workers for their services and includes commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or similar advantage received from the employer. However, "payroll" does not include overtime pay, vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments to reward workers for safe working practices. Bonus pay is limited to payments that are not anticipated under the contract of employment and that are paid at the sole discretion of the employer. The exclusion from payroll of bonus payments to reward workers for safe working practices is only for the purpose of calculations based on payroll to determine premium for workers' compensation insurance, and does not affect any other calculation or determination based on payroll for the purposes of this chapter.

(23) "Person" includes a partnership, joint venture, association, limited liability company and corporation.

(24)(a) "Preexisting condition" means, for all industrial injury claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment, provided that:

(A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the worker has been diagnosed with the condition, or has obtained medical services for the symptoms of the condition regardless of diagnosis; and

(B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes the initial injury;

(ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the new medical condition; or

(iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment precedes the onset of the worsened condition.

(b) "Preexisting condition" means, for all occupational disease claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim for worsening in such claims pursuant to ORS 656.273 or 656.278.

(c) For the purposes of industrial injury claims, a condition does not contribute to disability or need for treatment if the condition merely renders the worker more susceptible to the injury.

(25) "Self-insured employer" means an employer or group of employers certified under ORS 656.430 as meeting the qualifications set out by ORS 656.407.

(26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident Insurance Fund Corporation created under ORS 656.752.

(27) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including reasonable value of board, rent, housing, lodging or similar advantage received from the employer, and includes the amount of tips required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips reported, whichever amount is greater. The State Accident Insurance Fund Corporation may establish assumed minimum and maximum wages, in conformity with recognized insurance principles, at which any worker shall be carried upon the payroll of the employer for the purpose of determining the premium of the employer.

(28)(a) "Worker" means any person, other than an independent contractor, who engages to furnish services for a remuneration, including a minor whether lawfully or unlawfully employed and salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations, but does not include any person whose services are performed as an adult in custody or ward of a state institution or as part of the eligibility requirements for a general or public assistance grant.

(b) For the purpose of determining entitlement to temporary disability benefits or permanent total disability benefits under this

chapter, "worker" does not include a person who has withdrawn from the workforce during the period for which such benefits are sought.

(c) For the purposes of this chapter, "subject worker" means a worker who is subject to this chapter as provided in ORS 656.027.

(29) "Independent contractor" has the meaning given that term in ORS 670.600.
[1975 c.556 §§3 to 19 (enacted in lieu of 656.002); 1977 c.109 §2; 1977 c.804 §1; 1979 c.839 §26; 1981 c.535 §30; 1981 c.723 §3; 1981 c.854 §2; 1983 c.740 §242; 1985 c.212 §1; 1985 c.507 §1; 1985 c.770 §1; 1987 c.373 §31; 1987 c.457 §1; 1987 c.713 §3; 1987 c.884 §25; 1989 c.762 §3; 1990 c.2 §3; 1993 c.739 §23; 1993 c.744 §18; 1995 c.93 §31; 1995 c.332 §1; 1997 c.491 §5; 2001 c.865 §1; 2003 c.811 §§1,2; 2007 c.241 §§6,7; 2007 c.252 §§1,2; 2007 c.365 §1; 2007 c.505 §§1,2; 2009 c.43 §§6,7; 2011 c.117 §1; 2015 c.629 §53; 2017 c.21 §64; 2017 c.71 §1; 2017 c.409 §19; 2019 c.13 §62; 2019 c.213 §113; 2021 c.257 §1; 2022 c.6 §5; 2023 c.87 §2; 2024 c.73 §110]

Note: The amendments to 656.005 by section 22, chapter 78, Oregon Laws 2025, become operative July 1, 2027. See section 23, chapter 78, Oregon Laws 2025. The text that is operative on and after July 1, 2027, is set forth for the user's convenience.

656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered employment, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which the injury occurred.

(2)(a) "Beneficiary" means an injured worker, and the spouse in a marriage, child or dependent of a worker, who is entitled to receive payments under this chapter.

(b) "Beneficiary" does not include a person who intentionally causes the compensable injury to or death of an injured worker.

(3) "Board" means the Workers' Compensation Board.

(4) "Carrier-insured employer" means an employer who provides workers' compensation coverage with the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in this state.

(5) "Child" means a child of an injured worker, including:

(a) A posthumous child;

(b) A child legally adopted before the injury;

(c) A child toward whom the worker stands in loco parentis;

(d) A child born out of wedlock;

(e) A stepchild, if the stepchild was, at the time of the injury, a member of the worker's family and substantially dependent upon the worker for support; and

(f) A child of any age who was incapacitated at the time of the accident and thereafter remains incapacitated and substantially dependent on the worker for support.

(6) "Claim" means a written request for compensation from a subject worker or someone on the worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

(7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appliances, arising out of and in the course of employment requiring medical services or resulting in disability or death. An injury is accidental if the result is an accident, whether or not due to accidental means, if it is established by medical evidence supported by objective findings, subject to the following limitations:

(A) An injury or disease is not compensable as a consequence of a compensable injury unless the compensable injury is the major contributing cause of the consequential condition.

(B) If an otherwise compensable injury combines at any time with a preexisting condition to cause or prolong disability or a need for treatment, the combined condition is compensable only if, so long as and to the extent that the otherwise compensable injury is the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.

(b) "Compensable injury" does not include:

(A) Injury to any active participant in assaults or combats that are not connected to the job assignment and that amount to a deviation from customary duties;

(B) Injury incurred while engaging in or performing, or as the result of engaging in or performing, any recreational or social activities primarily for the worker's personal pleasure; or

(C) Injury the major contributing cause of which is demonstrated to be by a preponderance of the evidence the injured worker's consumption of alcoholic beverages or cannabis or the unlawful consumption of any controlled substance, unless the employer permitted, encouraged or had actual knowledge of such consumption.

(c) A "disabling compensable injury" is an injury that entitles the worker to compensation for disability or death. An injury is not disabling if no temporary benefits are due and payable, unless there is a reasonable expectation that permanent disability will result from the injury.

(d) A "nondisabling compensable injury" is any injury that requires medical services only.

(8) "Compensation" includes all benefits, including medical services, provided for a compensable injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pursuant to this chapter.

(9) "Department" means the Department of Consumer and Business Services.

(10) "Dependent" means any of the following individuals who, at the time of an accident, depended in whole or in part for the individual's support on the earnings of a worker who dies as a result of an injury:

(a) A parent of a worker or the parent's spouse or domestic partner;

(b) A grandparent of a worker or the grandparent's spouse or domestic partner;

(c) A grandchild of a worker or the grandchild's spouse or domestic partner;

(d) A sibling or stepsibling of a worker or the sibling's or stepsibling's spouse or domestic partner; and

(e) Any individual related by blood or affinity whose close association with a worker is the equivalent of a family relationship.

(11) "Director" means the Director of the Department of Consumer and Business Services.

(12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the healing arts in any country or in any state, territory or possession of the United States within the limits of the license of the licensee.

(b) Except as otherwise provided for workers subject to a managed care contract, "attending physician" means a doctor, physician or physician associate who is primarily responsible for the treatment of a worker's compensable injury and who is:

(A) A physician licensed under ORS 677.100 to 677.228 by the Oregon Medical Board, or a podiatric physician and surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly licensed doctor in any country or in any state, territory or possession of the United States;

(B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative total of 18 visits, whichever occurs first, to any of the medical service providers listed in this subparagraph, a:

(i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States; or

(ii) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States; or

(C) For a cumulative total of 180 days from the first visit on the initial claim, a physician associate licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician associate in any country or in any state, territory or possession of the United States.

(c) Except as otherwise provided for workers subject to a managed care contract, "attending physician" does not include a physician who provides care in a hospital emergency room and refers the injured worker to a primary care physician for follow-up care and treatment.

(d) "Consulting physician" means a doctor or physician who examines a worker or the worker's medical record to advise the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 regarding treatment of a worker's compensable injury.

(13)(a) "Employer" means any person, including receiver, administrator, executor or trustee, and the state, state agencies, counties, municipal corporations, school districts and other public corporations or political subdivisions, that contracts to pay a remuneration for the services of any worker.

(b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of a temporary service provider is not the employer of temporary workers provided by the temporary service provider.

(c) As used in paragraph (b) of this subsection, "temporary service provider" has the meaning given that term in ORS 656.849.

(d) For the purposes of this chapter, "subject employer" means an employer that is subject to this chapter as provided in ORS 656.023.

(14) "Insurer" means the State Accident Insurance Fund Corporation or an insurer authorized under ORS chapter 731 to transact workers' compensation insurance in this state or an assigned claims agent selected by the director under ORS 656.054.

(15) "Consumer and Business Services Fund" means the fund created by ORS 705.145.

(16) "Incapacitated" means an individual is physically or mentally unable to earn a livelihood.

(17) "Medically stationary" means that no further material improvement would reasonably be expected from medical treatment or the passage of time.

(18) "Noncomplying employer" means a subject employer that has failed to comply with ORS 656.017.

(19) "Objective findings" in support of medical evidence are verifiable indications of injury or disease that may include, but are not limited to, range of motion, atrophy, muscle strength and palpable muscle spasm. "Objective findings" does not include physical findings or subjective responses to physical examinations that are not reproducible, measurable or observable.

(20) "Palliative care" means medical service rendered to reduce or moderate temporarily the intensity of an otherwise stable medical condition, but does not include those medical services rendered to diagnose, heal or permanently alleviate or eliminate a medical condition.

(21) "Party" means a claimant for compensation, the employer of the injured worker at the time of injury and the insurer, if any, of the employer.

(22) "Payroll" means a record of wages payable to workers for their services and includes commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or similar advantage received from the employer. However, "payroll" does not include overtime pay, vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments to reward workers for safe working practices. Bonus pay is limited to payments that are not anticipated under the contract of employment and that are paid at the sole discretion of the employer. The exclusion from payroll of bonus payments to reward workers for safe working practices is only for the purpose of calculations based on payroll to determine premium for workers' compensation insurance, and does not affect any other calculation or determination based on payroll for the purposes of this chapter.

(23) "Person" includes a partnership, joint venture, association, limited liability company and corporation.

(24)(a) "Preexisting condition" means, for all industrial injury claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment, provided that:

(A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the worker has been diagnosed with the condition, or has obtained medical services for the symptoms of the condition regardless of diagnosis; and

(B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes the initial injury;

(ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the new medical condition; or

(iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment precedes the onset of the worsened condition.

(b) "Preexisting condition" means, for all occupational disease claims, any injury, disease, congenital abnormality, personality disorder or similar condition that contributes to disability or need for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim for worsening in such claims pursuant to ORS 656.273 or 656.278.

(c) For the purposes of industrial injury claims, a condition does not contribute to disability or need for treatment if the condition merely renders the worker more susceptible to the injury.

(25) "Self-insured employer" means an employer or group of employers certified under ORS 656.430 as meeting the qualifications set out by ORS 656.407.

(26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident Insurance Fund Corporation created under ORS 656.752.

(27) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including reasonable value of board, rent, housing, lodging or similar advantage received from the employer, and in-

cludes the amount of tips required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips reported, whichever amount is greater. The State Accident Insurance Fund Corporation may establish assumed minimum and maximum wages, in conformity with recognized insurance principles, at which any worker shall be carried upon the payroll of the employer for the purpose of determining the premium of the employer.

(28)(a) "Worker" means any person, other than an independent contractor, who engages to furnish services for a remuneration, including a minor whether lawfully or unlawfully employed and salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations, but does not include any person whose services are performed as an adult in custody or ward of a state institution or as part of the eligibility requirements for a general or public assistance grant.

(b) For the purpose of determining entitlement to temporary disability benefits or permanent total disability benefits under this chapter, "worker" does not include a person who has withdrawn from the workforce during the period for which such benefits are sought.

(c) For the purposes of this chapter, "subject worker" means a worker who is subject to this chapter as provided in ORS 656.027.

(29) "Independent contractor" has the meaning given that term in ORS 670.600.

656.006 Effect on employers' liability law. This chapter does not abrogate the rights of the employee under the present employers' liability law, in all cases where the employee, under this chapter is given the right to bring suit against the employer of the employee for an injury.

656.008 Extension of laws relating to workers' compensation to federal lands and projects within state. Where not inconsistent with the Constitution and laws of the United States, the laws of this state relating to workers' compensation and the duties and powers of the Department of Consumer and Business Services hereby are extended to all lands and premises owned or held by the United States of America by deed or act of cession, by purchase or otherwise, which are within the exterior boundaries of the State of Oregon and to all projects, buildings, constructions, improvements and all property belonging to the United States within the exterior boundaries of the State of Oregon in the same way and to the same extent as if said premises and property were under the exclusive jurisdiction of the State of Oregon. [Amended by 1977 c.804 §2]

656.010 Treatment by spiritual means. Nothing in this chapter shall be construed to require a worker who in good faith relies on or is treated by prayer or spiritual means by a duly accredited practitioner of a well-recognized church to undergo any medical or surgical treatment nor shall such worker or the dependents of the worker be deprived of any compensation payments to which the worker would have been entitled if medical or surgical treatment were employed, and the employer or insurance carrier may pay for treatment by prayer or spiritual means. [1965 c.285 §41c]

656.012 Findings and policy. (1) The Legislative Assembly finds that:

(a) The performance of various industrial enterprises necessary to the enrichment and economic well-being of all the citizens of this state will inevitably involve injury to some of the workers employed in those enterprises;

(b) The method provided by the common law for compensating injured workers involves long and costly litigation, without commensurate benefit to either the injured workers or the employers, and often requires the taxpayer to provide expensive care and support for the injured workers and their dependents; and

(c) An exclusive, statutory system of compensation will provide the best societal measure of those injuries that bear a sufficient relationship to employment to merit incorporation of their costs into the stream of commerce.

(2) In consequence of these findings, the objectives of the Workers' Compensation Law are declared to be as follows:

(a) To provide, regardless of fault, sure, prompt and complete medical treatment for injured workers and fair, adequate and reasonable income benefits to injured workers and their dependents;

(b) To provide a fair and just administrative system for delivery of medical and financial benefits to injured workers that reduces litigation and eliminates the adversary nature of the compensation proceedings, to the greatest extent practicable, while providing for access to adequate representation for injured workers;

(c) To restore the injured worker physically and economically to a self-sufficient status in an expeditious manner and to the greatest extent practicable;

(d) To encourage maximum employer implementation of accident study, analysis and prevention programs to reduce the economic loss and human suffering caused by industrial accidents; and

(e) To provide the sole and exclusive source and means by which subject workers, their beneficiaries and anyone otherwise entitled to receive benefits on account of injuries or diseases arising out of and in the course of employment shall seek and qualify for remedies for such conditions.

(3) In recognition that the goals and objectives of this Workers' Compensation Law are intended to benefit all citizens, it is declared that the provisions of this law shall

be interpreted in an impartial and balanced manner. [1981 c.535 §29 (enacted in lieu of 656.004); 1995 c.332 §4; amendments by 1995 c.332 §4a repealed by 1999 c.6 §1; amendments by 1999 c.6 §3 repealed by 2001 c.865 §23; 2015 c.521 §1]

656.016 [1965 c.285 §5; 1967 c.341 §3; repealed by 1975 c.556 §20 (656.017 enacted in lieu of 656.016)]

COVERAGE

656.017 Employer required to pay compensation and perform other duties; state not authorized to be direct responsibility employer. (1) Every employer subject to this chapter shall maintain assurance with the Director of the Department of Consumer and Business Services that subject workers of the employer and their beneficiaries will receive compensation for compensable injuries as provided by this chapter and that the employer will perform all duties and pay other obligations required under this chapter, by qualifying:

(a) As a carrier-insured employer; or

(b) As a self-insured employer as provided by ORS 656.407.

(2) Notwithstanding ORS chapter 278, this state shall provide compensation insurance for its employees through the State Accident Insurance Fund Corporation.

(3) Any employer required by the statutes of this state other than this chapter or by the rules, regulations, contracts or procedures of any agency of the federal government, this state or a political subdivision of this state to provide or agree to provide workers' compensation coverage, either directly or through bond requirements, may provide such coverage by any method provided in this section. [1975 c.556 §21 (enacted in lieu of 656.016); 1977 c.659 §1; 1979 c.815 §1; 1981 c.854 §3; 1985 c.731 §30]

656.018 Effect of providing coverage; exclusive remedy. (1)(a) The liability of every employer who satisfies the duty required by ORS 656.017 (1) is exclusive and in place of all other liability arising out of injuries, diseases, symptom complexes or similar conditions arising out of and in the course of employment that are sustained by subject workers, the workers' beneficiaries and anyone otherwise entitled to recover damages from the employer on account of such conditions or claims resulting therefrom, specifically including claims for contribution or indemnity asserted by third persons from whom damages are sought on account of such conditions, except as specifically provided otherwise in this chapter.

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

(c) Except as provided in paragraph (b) of this subsection, all agreements or warranties contrary to the provisions of paragraph (a) of this subsection entered into after July 19, 1977, are void.

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

(3) The exemption from liability given an employer under this section is also extended to the employer's insurer, the self-insured employer's claims administrator, the Department of Consumer and Business Services, and to the contracted agents, employees, partners, limited liability company members, general partners, limited liability partners, limited partners, officers and directors of the employer, the employer's insurer, the self-insured employer's claims administrator and the department, except that the exemption from liability shall not apply:

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

(b) If the worker and the person otherwise exempt under this subsection are not engaged in the furtherance of a common enterprise or the accomplishment of the same or related objectives;

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

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

(4) The exemption from liability given an employer under this section applies to a worker leasing company and the client to whom workers are provided when the worker

leasing company and the client comply with ORS 656.850 (3).

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

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

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

(B) If the worker and the person otherwise exempt under this subsection are not engaged in the furtherance of a common enterprise or the accomplishment of the same or related objectives;

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

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

(6) Nothing in this chapter shall prohibit payment, voluntarily or otherwise, to injured workers or their beneficiaries in excess of the compensation required to be paid under this chapter.

(7) The exclusive remedy provisions and limitation on liability provisions of this chapter apply to all injuries and to diseases, symptom complexes or similar conditions of subject workers arising out of and in the course of employment whether or not they are determined to be compensable under this chapter. [1965 c.285 §6; 1975 c.115 §1; 1977 c.514 §1; 1977 c.804 §3a; 1987 c.447 §110; 1989 c.600 §1; 1993 c.628 §6; 1995 c.332 §5; amendments by 1995 c.332 §5a repealed by 1999 c.6 §1; 1995 c.733 §76; 1997 c.275 §§6,7; 1997 c.491 §§1,2; amendments by 1999 c.6 §4 repealed by 2001 c.865 §23; 2013 c.488 §1]

Note: The amendments to 656.018 by section 5, chapter 78, Oregon Laws 2025, become operative July 1, 2027. See section 23, chapter 78, Oregon Laws 2025. The text that is operative on and after July 1, 2027, is set forth for the user's convenience.

656.018. (1)(a) Except as specifically provided otherwise in this chapter, the liability of every employer who satisfies the duty required under ORS 656.017 (1) is exclusive and in place of all other liability arising out of injuries, diseases, symptom complexes or similar conditions arising out of and in the course of employment that are sustained by subject workers, the workers' beneficiaries and anyone otherwise entitled to recover damages from the employer on account of such conditions or claims resulting therefrom, specifically including claims for contribution or indemnity asserted by third persons from whom damages are sought on account of such conditions.

(b) This subsection shall not apply to claims for indemnity or contribution asserted by a railroad, as defined in ORS 824.020, or by a corporation, individual or association of individuals which is subject to regulation under ORS chapter 757 or 759.

(c) Except as provided in paragraph (b) of this subsection, all agreements or warranties contrary to the provisions of paragraph (a) of this subsection entered into after July 19, 1977, are void.

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

(3)(a) The exemption from liability given an employer under this section is also extended to the employer's insurer, the self-insured employer's claims administrator, the Department of Consumer and Business Services, and to the contracted agents, employees, partners, limited liability company members, general partners, limited liability partners, limited partners, officers and directors of the employer, the employer's insurer, the self-insured employer's claims administrator and the department.

(b) Notwithstanding paragraph (a) of this subsection, the exemption from liability shall not apply if:

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

(B) The worker and the person otherwise exempt under this subsection are not engaged in the furtherance of a common enterprise or the accomplishment of the same or related objectives;

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

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

(4) The exemption from liability given an employer under this section applies to a professional employer organization and the client with which the professional employer organization has entered into a PEO relationship when the professional employer organization and the client comply with ORS 656.850 (2).

(5)(a) The exemption from liability given an employer under this section applies to a temporary service

provider and also extends to the client to whom workers are provided when the temporary service provider complies with ORS 656.017.

(b)(A) The exemption from liability given a client under paragraph (a) of this subsection is also extended to the client's insurer, the self-insured client's claims administrator, the department, and the contracted agents, employees, officers and directors of the client, the client's insurer, the self-insured client's claims administrator and the department.

(B) Notwithstanding subparagraph (A) of this paragraph, the exemption from liability shall not apply if:

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

(ii) The worker and the person otherwise exempt under this subsection are not engaged in the furtherance of a common enterprise or the accomplishment of the same or related objectives;

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

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

(6) Nothing in this chapter shall prohibit payment, voluntarily or otherwise, to injured workers or their beneficiaries in excess of the compensation required to be paid under this chapter.

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

656.019 Civil negligence action for claim denied on basis of failure to meet major contributing cause standard; statute of limitations. (1)(a) An injured worker may pursue a civil negligence action for a work-related injury that has been determined to be not compensable because the worker has failed to establish that a work-related incident was the major contributing cause of the worker's injury only after an order determining that the claim is not compensable has become final. The injured worker may appeal the compensability of the claim as provided in ORS 656.298, but may not pursue a civil negligence claim against the employer until the order affirming the denial has become final.

(b) Nothing in this subsection grants a right for a person to pursue a civil negligence action that does not otherwise exist in law.

(2)(a) Notwithstanding any other statute of limitation provided in law, a civil negligence action against an employer that arises because a workers' compensation claim has been determined to be not compensable because the worker has failed to establish that a work-related incident was the major contributing cause of the worker's injury must be commenced within the later of two years from the date of injury or 180 days from the date the order affirming that the claim is not compensable on such grounds becomes final.

(b) Notwithstanding paragraph (a) of this subsection, a person may not commence a civil negligence action for a work-related injury that has been determined to be not compensable because the worker has failed to establish that a work-related incident was the major contributing cause of the worker's injury, if the period within which such action may be commenced has expired prior to the filing of a timely workers' compensation claim for the work-related injury. [2001 c.865 §15]

656.020 Damage actions by workers against noncomplying employers; defenses outlawed. Actions for damages may be brought by an injured worker or the legal representative of the injured worker against any employer who has failed to comply with ORS 656.017 or is in default under ORS 656.560. Except for the provisions of ORS 656.578 to 656.593 and this section, such noncomplying employer is liable as the noncomplying employer would have been if this chapter had never been enacted. In such actions, it is no defense for the employer to show that:

(1) The injury was caused in whole or in part by the negligence of a fellow-servant of the injured worker.

(2) The negligence of the injured worker, other than a willful act committed for the purpose of sustaining the injury, contributed to the accident.

(3) The injured worker had knowledge of the danger or assumed the risk that resulted in the injury. [1965 c.285 §7]

656.021 Coverage exception for laborers under contracts with construction and landscape contractor licensees. For purposes of determining whether a person that awards a contract to another person is responsible for providing workers' compensation coverage to individuals who perform labor under the contract, the provisions of ORS 656.029 do not apply if, before labor under the contract commences, the other person:

(1) Has a construction contractor license issued by the Construction Contractors Board and performing the work of the contract requires a construction contractor license under ORS chapter 701; or

(2) Has a landscape contracting business license issued by the State Landscape Contractors Board and performing the work of the contract requires a landscape contracting business license under ORS 671.510 to

671.760. [1989 c.870 §13; 1999 c.402 §7; 2007 c.836 §48; 2021 c.21 §1]

656.022 [Repealed by 1965 c.285 §95]

656.023 Who are subject employers. Every employer employing one or more subject workers in the state is subject to this chapter. [1965 c.285 §8]

656.024 [Amended by 1959 c.448 §2; repealed by 1965 c.285 §95]

656.025 Individuals engaged in commuter ridesharing not subject workers; conditions. (1) For the purpose of this chapter, an individual is not a subject worker while commuting in a voluntary commuter ridesharing arrangement unless:

(a) The worker is reimbursed for travel expenses incurred therein;

(b) The worker receives payment for commuting time from the employer; or

(c) The employer makes an election to provide coverage for the worker pursuant to ORS 656.039.

(2) As used in this section "voluntary commuter ridesharing arrangement" means a carpool or vanpool arrangement in which participation is not required as a condition of employment and in which not more than 15 persons are transported to and from their places of employment, in a single daily round trip where the driver also is on the way to or from the driver's place of employment. [1981 c.227 §4]

656.026 [Amended by 1957 c.440 §1; 1959 c.448 §3; repealed by 1965 c.285 §95]

656.027 Who are subject workers. All workers are subject to this chapter except those nonsubject workers described in the following subsections:

(1) A worker employed as a domestic servant in or about a private home. For the purposes of this subsection "domestic servant" means any worker engaged in household domestic service by private employment contract, including, but not limited to, home health workers.

(2) A worker employed to do gardening, maintenance, repair, remodeling or similar work in or about the private home of the person employing the worker.

(3)(a) A worker whose employment is casual and either:

(A) The employment is not in the course of the trade, business or profession of the employer; or

(B) The employment is in the course of the trade, business or profession of a nonsubject employer.

(b) For the purpose of this subsection, "casual" refers only to employments where the work in any 30-day period, without regard to the number of workers employed, involves a total labor cost of less than $1,000. The total labor cost below which employment is casual under this paragraph must be adjusted annually on July 1 by the same percentage increase, if any, as is made to the average weekly wage, as defined in ORS 656.211.

(4) A person for whom a rule of liability for injury or death arising out of and in the course of employment is provided by the laws of the United States.

(5) A worker engaged in the transportation in interstate commerce of goods, persons or property for hire by rail, water, aircraft or motor vehicle, and whose employer has no fixed place of business in this state.

(6) Firefighter and police employees of any city having a population of more than 200,000 that provides a disability and retirement system by ordinance or charter.

(7)(a) Sole proprietors, except those described in paragraph (b) of this subsection. When labor or services are performed under contract, the sole proprietor must qualify as an independent contractor to be a nonsubject worker.

(b) Sole proprietors actively licensed under ORS 671.525 or 701.021. When labor or services are performed under contract for remuneration, notwithstanding ORS 656.005 (28), the sole proprietor must qualify as an independent contractor. Any sole proprietor licensed under ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an independent contractor.

(8) Except as provided in subsection (23) of this section, partners who are not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement on real property or appurtenances thereto. When labor or services are performed under contract, the partnership must qualify as an independent contractor to be a nonsubject worker.

(9) Except as provided in subsection (25) of this section, members, including members who are managers, of limited liability companies, regardless of the nature of the work performed. However, members, including members who are managers, of limited liability companies with more than one member, while engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement on real property or appurtenances thereto, are subject workers. When labor or services are performed under contract, the limited liability

company must qualify as an independent contractor to be a nonsubject worker.

(10) Except as provided in subsection (24) of this section, corporate officers who are directors of the corporation and who have a substantial ownership interest in the corporation, regardless of the nature of the work performed by such officers, subject to the following limitations:

(a) If the activities of the corporation are conducted on land that receives farm use tax assessment pursuant to ORS chapter 308A, corporate officer includes all individuals identified as directors in the corporate bylaws, regardless of ownership interest, and who are members of the same family, whether related by blood, marriage or adoption.

(b) If the activities of the corporation involve the commercial harvest of timber and all officers of the corporation are members of the same family and are parents, daughters or sons, daughters-in-law or sons-in-law or grandchildren, then all such officers may elect to be nonsubject workers. For all other corporations involving the commercial harvest of timber, the maximum number of exempt corporate officers for the corporation shall be whichever is the greater of the following:

(A) Two corporate officers; or

(B) One corporate officer for each 10 corporate employees.

(c) When labor or services are performed under contract, the corporation must qualify as an independent contractor to be a nonsubject worker.

(11) A person performing services primarily for board and lodging received from any religious, charitable or relief organization.

(12) A newspaper carrier utilized in compliance with the provisions of ORS 656.070 and 656.075.

(13) A person who has been declared an amateur athlete under the rules of the United States Olympic Committee or the Canadian Olympic Committee and who receives no remuneration for performance of services as an athlete other than board, room, rent, housing, lodging or other reasonable incidental subsistence allowance, or any amateur sports official who is certified by a recognized Oregon or national certifying authority, which requires or provides liability and accident insurance for such officials. A roster of recognized Oregon and national certifying authorities will be maintained by the Department of Consumer and Business Services, from lists of certifying organizations submitted by the Oregon School Activities Association and the Oregon Park and Recreation Society.

(14) Volunteer personnel participating in the ACTION programs, organized under the Domestic Volunteer Service Act of 1973, P.L. 93-113, known as the Foster Grandparent Program and the Senior Companion Program, whether or not the volunteers receive a stipend or nominal reimbursement for time and travel expenses.

(15) A person who has an ownership or leasehold interest in equipment and who furnishes, maintains and operates the equipment. As used in this subsection "equipment" means:

(a) A motor vehicle used in the transportation of logs, poles or piling.

(b) A motor vehicle used in the transportation of rocks, gravel, sand, dirt or asphalt concrete.

(c) A motor vehicle used in the transportation of property by a for-hire motor carrier that is required under ORS 825.100 or 825.104 to possess a certificate or permit or to be registered.

(16) A person engaged in the transportation of the public for recreational down-river boating activities on the waters of this state pursuant to a federal permit when the person furnishes the equipment necessary for the activity. As used in this subsection, "recreational down-river boating activities" means those boating activities for the purpose of recreational fishing, swimming or sightseeing utilizing a float craft with oars or paddles as the primary source of power.

(17) A person who receives no wage other than ski passes or other noncash remuneration for performing volunteer:

(a) Ski patrol activities; or

(b) Ski area program activities sponsored by a ski area operator, as defined in ORS 30.970, or by a nonprofit corporation or organization.

(18) A person 19 years of age or older who contracts with a newspaper publishing company or independent newspaper dealer or contractor to distribute newspapers to the general public and perform or undertake any necessary or attendant functions related thereto.

(19) A person performing foster parent or adult foster care duties pursuant to ORS chapter 418, 430 or 443.

(20) A person performing services on a volunteer basis for a nonprofit, religious, charitable or relief organization, whether or not such person receives meals or lodging or nominal reimbursements or vouchers for meals, lodging or expenses.

(21) A person performing services under a property tax work-off program established under ORS 310.800.

(22) A person who performs service as a caddy at a golf course in an established program for the training and supervision of caddies under the direction of a person who is an employee of the golf course.

(23)(a) Partners who are actively licensed under ORS 671.525 or 701.021 and who have a substantial ownership interest in a partnership. If all partners are members of the same family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grandchildren, all such partners may elect to be nonsubject workers. For all other partnerships licensed under ORS 671.510 to 671.760 or 701.021, the maximum number of exempt partners shall be whichever is the greater of the following:

(A) Two partners; or

(B) One partner for each 10 partnership employees.

(b) When labor or services are performed under contract for remuneration, notwithstanding ORS 656.005 (28), the partnership qualifies as an independent contractor. Any partnership licensed under ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an independent contractor.

(24)(a) Corporate officers who are directors of a corporation actively licensed under ORS 671.525 or 701.021 and who have a substantial ownership interest in the corporation, regardless of the nature of the work performed. If all officers of the corporation are members of the same family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grandchildren, all such officers may elect to be nonsubject workers. For all other corporations licensed under ORS 671.510 to 671.760 or 701.021, the maximum number of exempt corporate officers shall be whichever is the greater of the following:

(A) Two corporate officers; or

(B) One corporate officer for each 10 corporate employees.

(b) When labor or services are performed under contract for remuneration, notwithstanding ORS 656.005 (28), the corporation qualifies as an independent contractor. Any corporation licensed under ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an independent contractor.

(25)(a) Limited liability company members who are members of a company actively licensed under ORS 671.525 or 701.021 and who have a substantial ownership interest in the company, regardless of the nature of the work performed. If all members of the company are members of the same family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grandchildren, all such members may elect to be nonsubject workers. For all other companies licensed under ORS 671.510 to 671.760 or 701.021, the maximum number of exempt company members shall be whichever is the greater of the following:

(A) Two company members; or

(B) One company member for each 10 company employees.

(b) When labor or services are performed under contract for remuneration, notwithstanding ORS 656.005 (28), the company qualifies as an independent contractor. Any company licensed under ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an independent contractor.

(26) A person serving as a referee or assistant referee in a youth or adult recreational soccer match whose services are retained on a match-by-match basis.

(27) A person who operates, and who has an ownership or leasehold interest in, a passenger motor vehicle that is operated as a taxicab or for nonemergency medical transportation. As used in this subsection:

(a) "Lease" means a contract under which the lessor provides a vehicle to a lessee for consideration.

(b) "Leasehold" includes, but is not limited to, a lease for a shift or a longer period.

(c) "Passenger motor vehicle that is operated as a taxicab" means a vehicle that:

(A) Has a passenger seating capacity that does not exceed seven persons;

(B) Is transporting persons, property or both on a route that begins or ends in Oregon; and

(C)(i) Carries passengers for hire when the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of any combination of an initial fee, distance traveled or waiting time; or

(ii) Is in use under a contract to provide specific service to a third party to transport designated passengers or to provide errand services to locations selected by the third party.

(d) "Passenger motor vehicle that is operated for nonemergency medical transportation" means a vehicle that:

(A) Has a passenger seating capacity that does not exceed seven persons;

(B) Is transporting persons, property or both on a route that begins or ends in Oregon; and

(C) Provides medical transportation services under contract with or on behalf of a mass transit or transportation district. [1965 c.285 §9; 1971 c.386 §1; 1977 c.683 §1; 1977 c.817 §2; 1977 c.835 §7; 1979 c.821 §1; 1981 c.225 §1; 1981 c.444 §1; 1981 c.535 §3; 1981 c.839 §1; 1983 c.341 §1; 1983 c.541 §1; 1983 c.579 §3; 1985 c.431 §1; 1985 c.706 §2; 1987 c.94 §168; 1987 c.414 §161; 1987 c.800 §2; 1989 c.762 §4; 1990 c.2 §4; 1991 c.469 §1; 1991 c.707 §1; 1993 c.18 §138a; 1993 c.494 §2; 1993 c.777 §10; 1995 c.93 §32; 1995 c.216 §§3,3a; 1995 c.332 §6; 1997 c.337 §1; 1999 c.314 §91; 1999 c.402 §8; 2001 c.363 §1; 2001 c.765 §4; 2003 c.677 §1; 2005 c.167 §1; 2007 c.465 §6; 2007 c.541 §9; 2007 c.721 §1; 2007 c.836 §49; 2008 c.32 §§2,3; 2021 c.257 §2; 2021 c.453 §15]

656.028 [Amended by 1959 c.448 §4; repealed by 1965 c.285 §95]

656.029 Obligation of person awarding contract to provide coverage for workers under contract; exceptions; effect of failure to provide coverage. (1) If a person awards a contract involving the performance of labor where such labor is a normal and customary part or process of the person's trade or business, the person awarding the contract is responsible for providing workers' compensation insurance coverage for all individuals, other than those exempt under ORS 656.027, who perform labor under the contract unless the person to whom the contract is awarded provides such coverage for those individuals before labor under the contract commences. If an individual who performs labor under the contract incurs a compensable injury, and no workers' compensation insurance coverage is provided for that individual by the person who is charged with the responsibility for providing such coverage before labor under the contract commences, that person shall be treated as a noncomplying employer and benefits shall be paid to the injured worker in the manner provided in this chapter for the payment of benefits to the worker of a noncomplying employer.

(2) If a person to whom the contract is awarded is exempt from coverage under ORS 656.027, and that person engages individuals who are not exempt under ORS 656.027 in the performance of the contract, that person shall provide workers' compensation insurance coverage for all such individuals. If an individual who performs labor under the contract incurs a compensable injury, and no workers' compensation insurance coverage is provided for that individual by the person to whom the contract is awarded, that person shall be treated as a noncomplying employer and benefits shall be paid to the injured worker in the manner provided in this chapter for the payment of benefits to the worker of a noncomplying employer.

(3) As used in this section:

(a) "Person" includes partnerships, joint ventures, associations, corporations, limited liability companies, governmental agencies and sole proprietorships.

(b) "Sole proprietorship" means a business entity or individual who performs labor without the assistance of others. [1979 c.864 §2; 1981 c.725 §1; 1981 c.854 §4; 1983 c.397 §1; 1983 c.579 §2a; 1985 c.706 §1; 1989 c.762 §5; 1995 c.93 §34; 1995 c.332 §6a]

656.030 [Repealed by 1959 c.448 §14]

656.031 Coverage for municipal volunteer personnel. (1) Except as provided in ORS 404.215, all municipal personnel, other than those employed full-time, part-time, or substitutes therefor, shall, for the purpose of this chapter, be known as volunteer personnel and shall not be considered as workers unless the municipality has filed the election provided by this section.

(2) The county, city or other municipality utilizing volunteer personnel as specified in subsection (1) of this section may elect to have such personnel considered as subject workers for purposes of this chapter. Such election shall be made by filing a written application to the insurer, or in the case of a self-insured employer, the Director of the Department of Consumer and Business Services, that includes a resolution of the governing body declaring its intent to cover volunteer personnel as provided in subsection (1) of this section and a description of the work to be performed by such personnel. The application shall also state the estimated total number of volunteer personnel on a roster for each separate category for which coverage is elected. The county, city or other municipality shall notify the insurer, or in the case of self-insurers, the director, of changes in the estimated total number of volunteers.

(3) Upon receiving the written application the insurer or self-insured employer may fix assumed wage rates for the volunteer personnel, which may be used only for purposes of computations under this chapter, and shall require the regular payment of premiums or assessments based upon the estimated total numbers of such volunteers carried on the roster for each category being covered. The self-insured employer shall submit such assumed wage rates to the director. If the director finds that the rates are unreasonable, the director may fix appropriate rates to be used for purposes of this section.

(4) The county, city or municipality shall maintain separate official membership rosters for each category of volunteers. A certified copy of the official membership roster shall be furnished the insurer or director upon request. Persons covered under this section are entitled to the benefits of this

chapter and they are entitled to such benefits if injured as provided in ORS 656.202 while performing any duties arising out of and in the course of their employment as volunteer personnel, if the duties being performed are among those:

(a) Described on the application of the county, city or municipality; and

(b) Required of similar full-time paid employees.

(5) The filing of claims for benefits under this section is the exclusive remedy of a volunteer or a beneficiary of the volunteer for injuries compensable under this chapter against the state, its political subdivisions, their officers, employees, or any employer, regardless of negligence. [Formerly 656.088; 1969 c.527 §1; 1977 c.72 §1; 1979 c.815 §2; 1981 c.854 §5; 1981 c.874 §1; 2009 c.718 §14a]

656.032 [Amended by 1959 c.451 §1; repealed by 1965 c.285 §95]

656.033 Coverage for participants in work experience or school directed professional training programs. (1) All persons participating as trainees in a work experience program or a school directed professional education project of a school district, as defined in ORS 332.002, in which such persons are enrolled, including persons with intellectual disabilities in training programs, are workers of the district subject to this chapter for purposes of this section. Trainees placed in a work experience program with the trainees' resident school district as the training employer are subject workers under this section if the training and supervision are performed by noninstructional personnel.

(2) A school district conducting a work experience program or school directed professional education project shall submit a written statement to the insurer, or in the case of self-insurers, the Director of the Department of Consumer and Business Services, that includes a description of the work to be performed by such persons and an estimate of the total number of persons enrolled.

(3) The premium cost for coverage under this section is based on an assumed hourly wage which is approved by the Director of the Department of Consumer and Business Services. Such assumed wage is to be used only for calculation purposes under this chapter and without regard to ORS chapter 652 or ORS 653.010 to 653.565 and 653.991. A self-insured district shall submit such assumed wage rates to the director. If the director finds that the rates are unreasonable, the director may fix appropriate rates to be used for purposes of this section.

(4) The school district shall furnish the insurer, or in the case of self-insurers, the director, with an estimate of the total number of persons enrolled in the school district's work experience program or school directed professional education project and shall notify the insurer or director of any significant changes in the program or project. Persons covered under this section are entitled to the benefits of this chapter. However, such persons are not entitled to benefits under ORS 656.210 or 656.212. The persons are entitled to such benefits if injured as provided in ORS 656.156 and 656.202 while performing any duties arising out of and in the course of participating in the work experience program or school directed professional education project, provided the duties being performed are among those:

(a) Described on the application of the school district; and

(b) Required of similar full-time paid employees.

(5) Filing claims for benefits under this section is the exclusive remedy of a trainee or a beneficiary of the trainee for injuries compensable under this chapter against the state, the state's political subdivisions, the school district board, the members, officers and employees of the school district board or any employer, regardless of negligence.

(6) The provisions of this section do not apply to any trainee who has earned wages for such employment.

(7) As used in this section, "school directed professional education project" means an on-campus or off-campus project supervised by school personnel that is an assigned activity of a local professional education program approved pursuant to operating procedures of the State Board of Education. A school directed professional education project must be of a practicum experience nature, performed outside of a classroom environment and extending beyond initial instruction or demonstration activities. Such projects are limited to logging, silvicultural thinning, slash burning, fire fighting, stream enhancement, woodcutting, reforestation, tree surgery, construction, printing and manufacturing involving formed metals.

(8) Notwithstanding subsection (1) of this section, a school district may elect to make trainees subject workers under this chapter for school directed professional education projects not enumerated in subsection (7) of this section by making written request to the district's insurer, or in the case of a self-insured district, the director, with coverage to begin no sooner than the date the request is received by the insurer or director. The request for coverage must include a description of the work to be performed under the project and an estimate of the number of participating trainees. The insurer or director shall accept a request that meets the

criteria of this section. [1967 c.374 §2; 1979 c.814 §2a; 1979 c.815 §3; 1981 c.874 §2; 1987 c.489 §1; 1989 c.491 §63; 1991 c.534 §1; 1995 c.343 §52; 2007 c.70 §285; 2019 c.9 §1]

656.034 [Amended by 1959 c.441 §1; 1959 c.448 §5; repealed by 1965 c.285 §95]

656.035 Status of workers in separate occupations of employer. If an employer is engaged in an occupation in which the employer employs one or more subject workers and is also engaged in a separate occupation in which there are no subject workers, the employer is not subject to this chapter as to that separate occupation, nor are the workers wholly engaged in that occupation subject to this chapter. [1965 c.285 §10]

656.036 [Amended by 1957 c.441 §2; 1959 c.448 §6; repealed by 1965 c.285 §95]

656.037 Exemption from coverage for persons engaged in certain real estate activities. A person contracting to pay remuneration for professional real estate activity as defined in ORS chapter 696 to a qualified real estate broker or qualified principal real estate broker, as defined in ORS 316.209, is not an employer of that qualified broker under the Workers' Compensation Law. A qualified real estate broker or qualified principal real estate broker is not entitled to benefits under the Workers' Compensation Law unless such individual has obtained coverage for such benefits pursuant to ORS 656.128. [1983 c.597 §5; 2001 c.300 §71]

656.038 [Repealed by 1965 c.285 §95]

656.039 Election of coverage for workers not subject to law; procedure; cancellation; election of coverage for home care workers and personal support workers. (1) An employer of one or more persons defined as nonsubject workers or not defined as subject workers may elect to make them subject workers. If the employer is or becomes a carrier-insured employer, the election shall be made by filing written notice thereof with the insurer with a copy to the Director of the Department of Consumer and Business Services. The effective date of coverage is governed by ORS 656.419 (3). If the employer is or becomes a self-insured employer, the election shall be made by filing written notice thereof with the director, the effective date of coverage to be the date specified in the notice.

(2) Any election under subsection (1) of this section may be canceled by written notice thereof to the insurer or, in the case of a self-insured employer, by notice thereof to the director. The cancellation is effective at 12 midnight ending the day the notice is received by the insurer or the director, unless a later date is specified in the notice. The insurer shall, within 10 days after receipt of a notice of cancellation under this section, send a copy of the notice to the director.

(3) When necessary the insurer or the director shall fix assumed minimum or maximum wages for persons made subject workers under this section.

(4) Notwithstanding any other provision of this section, a person or employer not subject to this chapter who elects to become covered may apply to an insurer for coverage. An insurer other than the State Accident Insurance Fund Corporation may provide such coverage. However, the State Accident Insurance Fund Corporation shall accept any written notice filed and provide coverage as provided in this section if all subject workers of the employers will be insured with the State Accident Insurance Fund Corporation and the coverage of those subject workers is not considered by the State Accident Insurance Fund Corporation to be a risk properly assignable to the assigned risk pool.

(5)(a) The Home Care Commission created by ORS 410.602 shall elect coverage on behalf of persons who employ home care workers or personal support workers to make home care workers and personal support workers subject workers.

(b) As used in this subsection:

(A) "Home care worker" has the meaning given that term in ORS 410.600.

(B) "Personal support worker" has the meaning given that term in ORS 410.600. [1965 c.285 §11; 1975 c.556 §22; 1979 c.839 §1; 1981 c.854 §6; 1983 c.816 §1; 1985 c.212 §2; 2007 c.241 §8; 2007 c.835 §1; 2010 c.100 §9; 2014 c.116 §12; 2018 c.75 §28]

656.040 [Amended by 1959 c.448 §7; repealed by 1965 c.285 §95]

656.041 City or county may elect to provide coverage for adults in custody. (1) As used in this section, unless the context requires otherwise:

(a) "Adult in custody" means a person sentenced by any court or legal authority, whether in default of the payment of a fine or committed for a definite number of days, to serve sentence in a city or county jail or other place of incarceration except state and federal institutions. "Adult in custody" includes a person who performs community service pursuant to ORS 137.128, whether or not the person is incarcerated.

(b) "Authorized employment" means the employment of an adult in custody on work authorized by the governing body of a city or county.

(2) A city or county may elect to have adults in custody performing authorized employment considered as subject workers of the city or county for purposes of this chapter. Such election shall be made by a written

application to the insurer, or in the case of a self-insured employer, the Director of the Department of Consumer and Business Services, that includes a resolution of the governing body declaring its intent to cover adults in custody as provided in this section and a description of the work to be performed by such adults in custody. The application shall also state the estimated total number of adults in custody for which coverage is requested. The county or city shall notify the insurer or director of changes in the estimated total number of adults in custody performing authorized employment.

(3) Upon receiving the written application the insurer or self-insured employer may fix assumed wage rates for the adults in custody, which may be used only for purposes of computations under this chapter, and shall require the regular payment of premiums or assessments based upon the estimated total number of such adults in custody for which coverage is requested. The self-insured employer shall submit such assumed wage rates to the director. If the director finds that the rates are unreasonable, the director may fix appropriate rates to be used for purposes of this section.

(4) The city or county shall maintain a separate list of adults in custody performing authorized employment. A certified copy of the list shall be furnished the insurer or director upon request. Adults in custody covered under this section are entitled to the benefits of this chapter and they are entitled to such benefits if injured as provided in ORS 656.202 while performing any duties arising out of and in the course of their participation in the authorized employment, provided the duties being performed are among those described on the application of the city or county.

(5) The filing of claims for benefits under this section is the exclusive remedy of an adult in custody or a beneficiary of the adult in custody for injuries compensable under this chapter against a city or county and its officers and employees, regardless of negligence. [1967 c.472 §§2,3; 1977 c.807 §1; 1979 c.815 §4; 1981 c.854 §7; 1981 c.874 §3; 1983 c.706 §2; 2019 c.213 §149]

656.042 [Amended by 1959 c.448 §8; repealed by 1965 c.285 §95]

656.043 Governmental agency paying wages responsible for providing coverage. Except as otherwise provided in ORS 656.029 to 656.033 and 656.041, but notwithstanding any other provision of law, the state or any city, county, district, or agency thereof, that pays the wages of a subject worker is responsible for providing workers' compensation insurance coverage for that worker. [1987 c.414 §183]

656.044 State Accident Insurance Fund Corporation may insure liability under Longshoremen's and Harbor Workers' Compensation Act; procedure; cancellation. (1) The State Accident Insurance Fund Corporation may insure Oregon employers against their liability for compensation under the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901 to 950) or any Act amendatory or supplementary thereto or in lieu thereof, as fully as any private insurance carrier.

(2) The State Accident Insurance Fund Corporation may, from time to time, fix rates of contributions to be paid by such employers. These rates shall be based upon the costs of inspection and other administration, the hazard of the occupation and the accident experience of the employers. The State Accident Insurance Fund Corporation may require a minimum annual premium, contributions, assessments and fees from such employers.

(3) All claims for compensation and other costs arising from such insurance shall be paid from the Industrial Accident Fund.

(4) The State Accident Insurance Fund Corporation or any employer may cancel any insurance coverage issued under this section by giving notice as required by the Longshoremen's and Harbor Workers' Compensation Act, or the rules or regulations made in pursuance thereof. [Amended by 1965 c.285 §13; 1981 c.876 §2]

656.046 Coverage of persons in college work experience and professional education programs. (1) All persons registered at a college and participating as unpaid trainees in a work experience program who are subject to the direction of noncollege-employed supervisors, and those trainees participating in college directed professional education projects, are considered workers of the college subject to this chapter for purposes of this section. However, trainees who are covered by the Federal Employees Compensation Act shall not be subject to the provisions of this section.

(2) A college conducting a work experience program or college directed professional education project shall submit a written statement to the insurer, or in the case of self-insurers, to the Director of the Department of Consumer and Business Services, that includes a description of the work to be performed by such persons and an estimate of the total number of persons enrolled in the program or project.

(3) Persons covered under this section are entitled to the benefits of this chapter. However, such persons are not entitled to benefits under ORS 656.210 or 656.212. They are entitled to such benefits if injured as

provided in ORS 656.156 and 656.202 while performing any duties arising out of and in the course of their participation in the work experience program or college directed professional education project, provided the duties being performed are among those:

(a) Described on the application of the college; and

(b) Required of similar full-time paid employees.

(4) The filing of claims for benefits under this section is the exclusive remedy of a trainee or a beneficiary of the trainee for injuries compensable under this chapter against the state, its political subdivisions, the college district board, members, officers and employees of the board or any employer, regardless of negligence.

(5) A college may elect to make trainees subject to this chapter for college directed professional education projects not enumerated in subsection (8) of this section or for work experience programs under the direction of college-employed supervisors by filing a written request with the insurer of the college, or in the case of self-insured colleges, with the director. Coverage under such election shall become effective no sooner than the date of receipt by the insurer. The coverage request shall include a description of the work to be performed and an estimate of the number of participating trainees. The insurer or director shall accept a request that meets the criteria of this section.

(6) The provisions of this section shall be inapplicable to any trainee who has earned wages for such employment.

(7) As used in this section, "college" means any community college district or community college service district as defined in ORS chapter 341.

(8) As used in this section, "college directed professional education project" means an assigned on-campus or off-campus project that is a component of a program approved by the college board or the operating procedures of the Higher Education Coordinating Commission and involves work that provides practical experience beyond the initial instruction and demonstration phases, performed outside of the college classroom or laboratory environment and requiring substantial hands-on participation by trainees. Such projects are further limited to logging, silvicultural thinning, slash burning, fire fighting, stream enhancement, woodcutting, reforestation, tree surgery, construction, printing and manufacturing involving formed metals. [1991 c.534 §3; 1993 c.18 §139; 1995 c.343 §53; 2013 c.747 §189]

656.047 Oregon Health Authority obligation to provide coverage for volunteer health care providers and support and administrative personnel. (1) The Oregon Health Authority shall provide workers' compensation coverage for individuals registered under ORS 401.654 who are injured in the course and scope of performing volunteer services if the injury occurs:

(a) While the individual is performing services at the direction of the authority under ORS 401.661;

(b) While the individual is engaged in training being conducted or approved by the authority for the purpose of preparing the individual to perform services; or

(c) While the individual is performing services at the direction of the authority, pursuant to the Emergency Management Assistance Compact and the Pacific Northwest Emergency Management Arrangement, in another jurisdiction where such services are required by reason of an emergency in that jurisdiction.

(2) Workers' compensation coverage shall be provided under this section in the manner provided by ORS 656.039. [2022 c.37 §3; 2025 c.622 §8]

656.052 Prohibition against employment without coverage; proposed order declaring noncomplying employer; effect of failure to comply. (1) No person shall engage as a subject employer unless and until the person has provided coverage pursuant to ORS 656.017 for subject workers the person employs.

(2) Whenever the Director of the Department of Consumer and Business Services has reason to believe that any person has violated subsection (1) of this section, the director shall serve upon the person a proposed order declaring the person to be a noncomplying employer and containing the amount, if any, of civil penalty to be assessed pursuant to ORS 656.735 (1).

(3) If any person fails to comply with ORS 656.017 after an order declaring the person to be a noncomplying employer has become final by operation of law or on appeal, the circuit court of the county in which the person resides or in which the person employs workers shall, upon the commencement of a suit by the director for that purpose, permanently enjoin the person from employing subject workers without complying with ORS 656.017. Upon the filing of such a suit, the court shall set a day for hearing and shall cause notice thereof to be served upon the noncomplying employer. The hearing shall be not less than five days from the service of the notice.

(4) The court may award reasonable attorney fees to the director if the director prevails in an action under subsection (3) of this section. The court may award reasonable attorney fees to a defendant who prevails in an action under subsection (3) of this section if the court determines that the director had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court. [Amended by 1957 c.574 §2; 1965 c.285 §14; 1967 c.341 §4; 1973 c.447 §1; 1987 c.234 §1; 1990 c.2 §5; 1995 c.332 §6b; 1995 c.696 §43]

656.054 Claim of injured worker of noncomplying employer; procedure for disputing acceptance of claim; recovery of costs from noncomplying employer; restrictions. (1) A compensable injury to a subject worker while in the employ of a noncomplying employer is compensable to the same extent as if the employer had complied with this chapter. The Director of the Department of Consumer and Business Services shall refer the claim for such an injury to an assigned claims agent within 60 days of the date the director has notice of the claim. At the time of referral of the claim, the director shall notify the employer in writing regarding the referral of the claim and the employer's right to object to the claim. A claim for compensation made by such a worker shall be processed by the assigned claims agent in the same manner as a claim made by a worker employed by a carrier-insured employer, except that the time within which the first installment of compensation is to be paid, pursuant to ORS 656.262 (4), shall not begin to run until the director has referred the claim to the assigned claims agent. At any time within which the claim may be accepted or denied as provided in ORS 656.262, the employer may request a hearing to object to the claim. If an order becomes final holding the claim to be compensable, the employer is liable for all costs imposed by this chapter, including reasonable attorney fees to be paid to the worker's attorney for services rendered in connection with the employer's objection to the claim.

(2) In addition to, and not in lieu of, any civil penalties assessed pursuant to ORS 656.735, all costs to the Workers' Benefit Fund incurred under subsection (1) of this section shall be a liability of the noncomplying employer. Such costs include compensation, disputed claim settlements pursuant to ORS 656.289 and claim disposition agreements pursuant to ORS 656.236, whether or not the noncomplying employer agrees and executes such documents, reasonable administrative costs and claims processing costs provided by contract, attorney fees related to compensability issues and any attorney fees awarded to the claimant, but do not include assessments for reserves in the Workers' Benefit Fund. The director shall recover such costs from the employer. The director periodically shall pay the assigned claims agent from the Workers' Benefit Fund for any costs the assigned claims agent incurs under this section in accordance with the terms of the contract. When the director prevails in any action brought pursuant to this subsection, the director is entitled to recover from the noncomplying employer court costs and attorney fees incurred by the director.

(3) Periodically, or upon the request of a noncomplying employer in a particular claim, the director shall audit the files of the State Accident Insurance Fund Corporation and any assigned claims agents to validate the amount reimbursed pursuant to subsection (2) of this section. The conditions for granting or denying of reimbursement shall be specified in the contract with the assigned claims agent. The contract at least shall provide for denial of reimbursement if, upon such audit, any of the following are found to apply:

(a) Compensation has been paid as a result of untimely, inaccurate, or improper claims processing;

(b) Compensation has been paid negligently for treatment of any condition unrelated to the compensable condition;

(c) The compensability of an accepted claim is questionable and the rationale for acceptance has not been reasonably documented in accordance with generally accepted claims management procedures;

(d) The separate payments of compensation have not been documented in accordance with generally accepted accounting procedures; or

(e) The payments were made pursuant to a disposition agreement as provided by ORS 656.236 without the prior approval of the director.

(4) The State Accident Insurance Fund Corporation and any assigned claims agent may request review under ORS 656.704 of any disapproval of reimbursement made by the director under this section.

(5) Claims of injured workers of noncomplying employers may be assigned and reassigned by the director for claims processing regardless of the date of the worker's injury.

(6) In selecting an assigned claims agent, the director must consider the assigned claims agent's ability to deliver timely and appropriate benefits to injured workers, the ability to control both claims cost and administrative cost and such other factors as the director considers appropriate.

(7) If no qualified entity agrees to be an assigned claims agent, the director may require one or more of the three highest premium producing insurers to be assigned claims agents. Notwithstanding any other provision of law, the director's selection of assigned claims agents shall be made at the sole discretion of the director. Such selections shall not be subject to review by any court or other administrative body.

(8) Any assigned claims agent, except the State Accident Insurance Fund Corporation, may employ legal counsel of its choice for representation under this section.

(9) As used in this section, "assigned claims agent" means an insurer, casualty adjuster or a third party administrator with whom the director contracts to manage claims of injured workers of noncomplying employers. [Amended by 1959 c.448 §9; 1965 c.285 §15; 1967 c.341 §5; 1971 c.72 §1; 1973 c.447 §2; 1979 c.839 §2; 1981 c.854 §8; 1983 c.816 §2; 1987 c.234 §2; 1987 c.250 §3; 1991 c.679 §1; 1995 c.332 §7; 1995 c.641 §17; 1999 c.1020 §1; 2003 c.14 §399; 2003 c.170 §1; 2005 c.26 §1]

656.056 Subject employers must post notice of manner of compliance. (1) All subject employers shall display in a conspicuous manner about their works, and in a sufficient number of places reasonably to inform their workers of the fact, printed notices furnished by the Director of the Department of Consumer and Business Services stating that they are subject to this chapter and the manner of their compliance with this chapter.

(2) No employer who is not currently a subject employer shall post or permit to remain on or about the place of business or premises of the employer any notice that the employer is subject to, and complying with, this chapter. [Amended by 1965 c.285 §16]

656.070 Definitions for ORS 656.027, 656.070 and 656.075. As used in ORS 656.027, 656.075 and this section:

(1) "Newspaper" has the meaning for that term provided in ORS 193.010.

(2) "Newspaper carrier" means an individual age 18 years or younger who contracts with a newspaper publishing company or independent newspaper dealer or contractor to distribute newspapers to the general public and performs or undertakes any necessary or attendant functions related thereto, but receives no salary or wages, other than sales incentives or bonuses, for the performance of those duties from the newspaper publishing company or independent newspaper dealer or contractor. "Newspaper carrier" includes any individual appointed or utilized on a temporary basis by a newspaper carrier, a newspaper publishing company or independent newspaper dealer or contractor to perform any or all of the duties of a newspaper carrier. [1977 c.835 §3; 1981 c.535 §52]

656.075 Exemption from coverage for newspaper carriers; casualty insurance and other requirements. An individual qualifies for the exemption provided in ORS 656.027 only if the newspaper publishing company or independent newspaper dealer or contractor utilizing the individual:

(1) Encourages any minor so utilized to remain in school and attend classes;

(2) Encourages any minor so utilized to not allow newspaper carrier duties to interfere with any school activities of the individual;

(3) Provides accident insurance coverage for the individual while the individual is engaged in newspaper carrier duties that is at least equal to the following:

(a) $250,000 unallocated hospital and medical benefits;

(b) $10 per week lost time benefits for a period of 52 weeks; and

(c) $5,000 accidental death and dismemberment benefit; and

(4) Provides the individual with a clear, written explanation or description of the amount and the terms and conditions of the insurance coverage required by this section, including a specific statement that the insurance coverage is in lieu of benefits under the Workers' Compensation Law. [1977 c.835 §4; 1981 c.535 §53]

656.082 [Repealed by 1965 c.285 §95]

656.084 [Amended by 1959 c.448 §10; repealed by 1965 c.285 §95a]

656.086 [Repealed by 1965 c.285 §95]

656.088 [Amended by 1955 c.320 §1; 1965 c.285 §17; renumbered 656.031]

656.090 [Amended by 1953 c.673 §2; 1959 c.448 §11; repealed by 1965 c.285 §97]

656.120 [1969 c.527 §3; repealed by 1979 c.815 §9]

656.122 [Repealed by 1965 c.285 §95]

656.124 [Amended by 1957 c.554 §1; repealed by 1965 c.285 §95]

656.126 Coverage while temporarily in or out of state; judicial notice of other state's laws; agreements between states relating to conflicts of jurisdiction; limitation on compensation for claims in this state and other jurisdictions. (1) If a worker employed in this state and subject to this chapter temporarily leaves the state incidental to that employment and receives an accidental injury arising out of and in the course of employment, the worker, or beneficiaries of the worker if the injury results in death, is entitled to the benefits of this chapter as though the worker were injured within this state.

(2) Any worker from another state and the employer of the worker in that other state are exempted from the provisions of this chapter while that worker is temporarily within this state doing work for the employer:

(a) If that employer has furnished workers' compensation insurance coverage under the workers' compensation insurance or similar laws of a state other than Oregon so as to cover that worker's employment while in this state;

(b) If the extraterritorial provisions of this chapter are recognized in that other state; and

(c) If employers and workers who are covered in this state are likewise exempted from the application of the workers' compensation insurance or similar laws of the other state.

The benefits under the workers' compensation insurance Act or similar laws of the other state, or other remedies under a like Act or laws, are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the worker while working for that employer in this state.

(3) A certificate from the duly authorized officer of the Department of Consumer and Business Services or similar department of another state certifying that the employer of the other state is insured therein and has provided extraterritorial coverage insuring workers while working within this state is prima facie evidence that the employer carries that workers' compensation insurance.

(4) Whenever in any appeal or other litigation the construction of the laws of another jurisdiction is required, the courts shall take judicial notice thereof.

(5) The Director of the Department of Consumer and Business Services shall have authority to enter into agreements with the workers' compensation agencies of other states relating to conflicts of jurisdiction where the contract of employment is in one state and the injuries are received in the other state, or where there is a dispute as to the boundaries or jurisdiction of the states and when such agreements have been executed and made public by the respective state agencies, the rights of workers hired in such other state and injured while temporarily in Oregon, or hired in Oregon and injured while temporarily in another state, or where the jurisdiction is otherwise uncertain, shall be determined pursuant to such agreements and confined to the jurisdiction provided in such agreements.

(6) When a worker has a claim under the workers' compensation law of another state, territory, province or foreign nation for the same injury or occupational disease as the claim filed in Oregon, the total amount of compensation paid or awarded under such other workers' compensation law shall be credited against the compensation due under Oregon workers' compensation law. The worker shall be entitled to the full amount of compensation due under Oregon law. If Oregon compensation is more than the compensation under another law, or compensation paid the worker under another law is recovered from the worker, the insurer shall pay any unpaid compensation to the worker up to the amount required by the claim under Oregon law. [Amended by 1955 c.723 §1; 1957 c.474 §1; 1977 c.804 §4; 1989 c.684 §1; 1995 c.332 §10; 1997 c.234 §1]

656.128 Sole proprietors, limited liability company members, partners, independent contractors may elect coverage by insurer; cancellation. (1) Any person who is a sole proprietor, or a member, including a member who is a manager, of a limited liability company, or a member of a partnership, or an independent contractor pursuant to ORS 670.600, may make written application to an insurer to become entitled as a subject worker to compensation benefits. Thereupon, the insurer may accept such application and fix a classification and an assumed monthly wage at which such person shall be carried on the payroll as a worker for purposes of computations under this chapter.

(2) When the application is accepted, such person thereupon is subject to the provisions and entitled to the benefits of this chapter. The person shall promptly notify the insurer whenever the status of the person as an employer of subject workers changes. Any subject worker employed by such a person after the effective date of the election of the person shall, upon being employed, be considered covered automatically by the same workers' compensation insurance policy that covers such person.

(3) No claim shall be allowed or paid under this section, except upon corroborative evidence in addition to the evidence of the claimant.

(4) Any person subject to this chapter as a worker as provided in this section may cancel such election by giving written notice to the insurer. The cancellation shall become effective at 12 midnight ending the day of filing the notice with the insurer. [Amended by 1957 c.440 §2; 1959 c.448 §12; 1965 c.285 §18; 1969 c.400 §1; 1975 c.556 §23; 1981 c.854 §9; 1981 c.876 §3; 1993 c.777 §11; 1995 c.93 §33; 1995 c.332 §11; 2007 c.241 §9]

656.130 [Amended by 1957 c.574 §3; repealed by 1959 c.448 §14]

656.132 Coverage of minors. (1) A minor working at an age legally permitted under the laws of this state is considered sui juris for the purpose of this chapter. No other person shall have any cause of action or right to compensation for an injury to such minor worker, except as expressly provided in this chapter, but in the event of a lump-sum payment becoming due under this chapter to such minor worker, the control and management of any sum so paid shall be within the jurisdiction of the courts as in the case of other property of minors.

(2) If an employer subject to this chapter in good faith employed a minor under the age permitted by law, believing the minor to be of lawful age, and the minor sustains an injury or suffers death in such employment, the minor is conclusively presumed to have accepted the provisions of this chapter. The Director of the Department of Consumer and Business Services may determine conclusively the good faith of such employer unless the employer possessed at the time of the accident resulting in such injury or death a certificate from some duly constituted authority of this state authorizing the employment of the minor in the work in which the minor was then engaged. Such certificate is conclusive evidence of the good faith of such employer.

(3) If the employer holds no such certificate and the director finds that the employer did not employ such minor in good faith, the minor is entitled to the benefits of this chapter, but the employer shall pay to the Consumer and Business Services Fund by way of penalty a sum equal to 25 percent of the amount paid out or set apart under such statutes on account of the injury or death of such minor, but such penalty shall be not less than $100 nor exceed $500. [Amended by 1959 c.448 §13; 1985 c.212 §3]

656.135 Coverage of deaf school work experience trainees. (1) As used in this section "school" means the Oregon School for the Deaf.

(2) All persons participating as trainees in a work experience program of the school are considered as workers of the school subject to this chapter for purposes of this section.

(3) On behalf of a school conducting a work experience program, the Department of Education shall submit a written statement to the State Accident Insurance Fund Corporation that includes a description of the work to be performed by such persons.

(4) Upon receiving the written statement, the corporation may fix assumed wage rates for the persons enrolled in the work experience program, without regard to ORS chapter 652 or ORS 653.010 to 653.565 and 653.991, which may be used only for purposes of computations under this chapter.

(5) The Department of Education shall furnish the corporation with a list of the names of those enrolled in work experience programs in the school and shall notify the corporation of any changes therein. Only those persons whose names appear on such list prior to their personal injury by accident are entitled to the benefits of this chapter and they are entitled to such benefits if injured as provided in ORS 656.156 and 656.202 while performing any duties arising out of and in the course of their participation in the work experience program, provided the duties being performed are among those:

(a) Described on the application of the department; and

(b) Required of similar full-time paid employees.

(6) The filing of claims for benefits under this section is the exclusive remedy of a trainee or beneficiary of the trainee for injuries compensable under this chapter against the state, the school, the department, its officers and employees, or any employer, regardless of negligence.

(7) The provisions of this section shall be inapplicable to any trainee who is earning wages for such employment. [1969 c.406 §2; 2007 c.858 §83; 2009 c.562 §35]

656.138 Coverage of apprentices, trainees participating in related instruction classes. (1) All persons registered as apprentices or trainees and participating in related instruction classes conducted by a school district, community college district or education service district in accordance with the requirements of ORS 660.002 to 660.210 or section 50, title 29, United States Code as of September 13, 1975, are considered as workers of the school district, community college district or education service district subject to this chapter.

(2) A school district, community college district or education service district conducting related instruction classes shall submit a written statement to the insurer, or in the case of self-insurers, the Director of the Department of Consumer and Business Services, that includes a description of the related instruction to be given to such apprentices or trainees and an estimate of the total number of persons enrolled.

(3) Upon receiving the written statement, the insurer, or in the case of self-insurers, the director, may fix assumed wage rates for those apprentices or trainees participating in related instruction classes, which may be used only for the purposes of computations under this chapter.

(4) The State Apprenticeship and Training Council shall furnish the insurer, or in the case of self-insurers, the director, and the school district, community college district or education service district with an estimate of the total number of apprentices or trainees approved by it for participation in related instruction classes subject to coverage under this section and any significant changes in the estimated total. Apprentices and trainees as provided in subsection (1) of this section are entitled to benefits under this chapter.

(5) The filing of claims for benefits under the authority of this section is the exclusive remedy of apprentices or trainees or their beneficiaries for injuries compensable under this chapter against the state, its political subdivisions, the school district, community college district or education service district, their members, officers and employees, or any employer, regardless of negligence.

(6) This section does not apply to any apprentice or trainee who has earned wages for performing such duties. [1971 c.634 §2; 1975 c.775 §1; 1979 c.815 §5]

656.140 Coverage of persons operating equipment for hire. (1) Any person, or persons operating as partners, who have an ownership or leasehold interest in equipment and are engaged in the business of operating such equipment for hire, may elect to cover themselves under the Workers' Compensation Law by filing with an insurer a written application to become entitled as subject workers to the benefits of the Workers' Compensation Law.

(2) As used in this section "equipment" means:

(a) A motor vehicle used in the transportation of logs, poles or pilings.

(b) A motor vehicle used in the transportation of rocks, gravel, sand or dirt.

(c) A backhoe or other similar equipment used for digging and filling ditches or trenches.

(d) A tractor.

(e) Any other motor vehicle or heavy equipment of a kind commonly operated for hire.

(3) The insurer may accept such application and fix a classification and an assumed monthly wage at which such person, or persons operating as partners, shall be carried on the payroll as workers for purposes of computations under this chapter.

(4) When the application is accepted, such person, or persons operating as partners, become subject workers. Thereupon, such person, or persons operating as partners, shall be subject to this chapter as a subject employer notwithstanding ORS 656.023 and shall be entitled to benefits as subject workers.

(5) No claim shall be allowed or paid under this section, except upon corroborative evidence in addition to the evidence of the claimant.

(6) Any person, or persons operating as partners, electing coverage under this section, have the same duties and responsibilities of any other subject employer in the event they hire one or more subject workers.

(7) The rights given to a person, or persons operating as partners, and their beneficiaries pursuant to this section for injuries compensable under this chapter are in lieu of any remedies they might otherwise have for such injuries against the person for whom services are being performed. [1969 c.463 §2; 1975 c.556 §24; 1981 c.854 §10; 1981 c.876 §4]

656.152 [Amended by 1957 c.718 §2; repealed by 1965 c.285 §95]

656.154 Injury due to negligence or wrong of a person not in the same employ as injured worker; remedy against such person. If the injury to a worker is due to the negligence or wrong of a third person not in the same employ, the injured worker, or if death results from the injury, the spouse, children or other dependents, as the case may be, may elect to seek a remedy against such third person. [Amended by 1959 c.504 §1; 1975 c.152 §1; 1985 c.212 §4]

656.156 Intentional injuries. (1) If injury or death results to a worker from the deliberate intention of the worker to produce such injury or death, neither the worker nor the widow, widower, child or dependent of the worker shall receive any payment whatsoever under this chapter.

(2) If injury or death results to a worker from the deliberate intention of the employer of the worker to produce such injury or death, the worker, the widow, widower, child or dependent of the worker may take under this chapter, and also have cause for action against the employer, as if such statutes had not been passed, for damages over the amount payable under those statutes. [Amended by 1965 c.285 §20]

656.160 Effect of incarceration on receipt of compensation. (1) Notwithstanding any other provision of this chapter, an injured worker is not eligible to receive compensation under ORS 656.210 or 656.212 for periods of time during which the worker is incarcerated for the commission of a crime.

(2) As used in this section, an individual is not "incarcerated" if the individual is on parole or work release status. [1990 c.2 §50]

656.170 Validity of provisions of certain collective bargaining agreements; alternative dispute resolution systems; exclusive medical service provider lists; authority of director. (1) In a collective bargaining agreement between a private employer or groups of employers engaged in construction, construction maintenance or activities limited to rock, sand, gravel, cement and asphalt operations, heavy duty mechanics, surveying or construction inspection, and a union that is the recognized or certified exclusive bargaining representative, a provision establishing either of the following is valid and binding:

(a) An alternative dispute resolution system governing disputes between employees, employers and their insurers that supplements or replaces all or part of the dispute resolution processes of this chapter, including but not limited to provisions:

(A) Establishing any limitations on the liability of the employer while determinations regarding the compensability of an injury are being made;

(B) Describing the method for resolving disputes involving compensability of injuries under the alternative dispute resolution system and the amount of compensation due for a compensable injury and for medical and legal services;

(C) Relating to the payment of compensation for injuries incurred when the collective bargaining agreement is terminated or when an injured worker is no longer subject to the agreement; and

(D) Establishing arbitration and mediation procedures; or

(b) The use of a list of medical service providers that the parties may agree is the exclusive source of all medical treatment provided under this chapter.

(2) Any decision, order or award of compensation issued under an agreed upon alternative dispute resolution system adopted under subsection (1)(a) of this section is subject to review in the same manner as provided for the review of an order of an Administrative Law Judge pursuant to the provisions of this chapter.

(3) Nothing in this section allows a collective bargaining agreement that diminishes the entitlement of an employee to compensation as provided in this chapter. The portion of an agreement that violates this subsection is void. Notwithstanding any other provision of law, original jurisdiction over the compliance of a proposed collective bargaining agreement with this subsection is with the Director of the Department of Consumer and Business Services. The director shall determine the compliance of the agreement with this subsection prior to the agreement becoming operative. The decision of the director is subject to review as provided under ORS 656.704. [1999 c.841 §2; 2005 c.26 §2]

656.172 Applicability of and criteria for establishing program under ORS 656.170. (1) ORS 656.170 applies only to:

(a) An employer incurring or projecting an annual workers' compensation insurance premium in Oregon of at least $250,000 or an employer that paid an annual workers' compensation insurance premium in Oregon of at least $250,000 in one of the three years prior to the year in which the collective bargaining agreement takes effect.

(b) An employer who qualifies as a self-insured employer under ORS 656.407 and 656.430 that is incurring or projecting annual workers' compensation costs of at least $250,000 or who has had annual workers' compensation costs of at least $250,000 in one of the three years prior to the year in which the collective bargaining agreement takes effect.

(c) A group of employers who combine for the purpose of obtaining workers' compensation insurance as provided by ORS 737.316 and incur or project annual workers' compensation premiums of at least $1 million.

(d) A group of employers who qualify as a self-insured employer group under ORS 656.430 and incur or project annual workers' compensation costs of at least $1 million.

(e) Employers covered by a wrap-up insurance policy provided by an owner or general contractor and authorized by ORS 737.602 and 737.604, and that requires payment of annual workers' compensation premiums of $1 million or more for coverage of those employees covered by the wrap-up insurance policy.

(2) An employer or group of employers may not establish or continue a program established under ORS 656.170 until:

(a) The employer has provided the Director of the Department of Consumer and Business Services with the following:

(A) Upon original application and whenever the collective bargaining agreement is renegotiated, a copy of the collective bargaining agreement and an estimate of the number of employees covered by the collective bargaining agreement;

(B) Upon original application and annually thereafter, a valid license when that license is required as a condition of doing business in Oregon;

(C) Upon original application and annually thereafter, a signed, sworn statement that no action has been taken by any admin-

istrative agency or court of the United States to invalidate the collective bargaining agreement;

(D) Upon original application and annually thereafter, the name, address and telephone number of the contact person of the employer or group of employers; and

(E) A statement from the insurer or self-insured employer that the insurer or self-insured employer is willing to insure the risk under the terms of the collective bargaining agreement; and

(b) The director has approved the proposed program.

(3) A collective bargaining representative may not establish or continue to participate in a program established under ORS 656.170 until:

(a) The collective bargaining representative has provided the following to the director:

(A) Upon original application and annually thereafter, a copy of the most recent LM-2 or LM-3 filing with the United States Department of Labor, and a signed, sworn statement that the document is a true and correct copy; and

(B) Upon original application and annually thereafter, the name, address and telephone number of the contact person for the collective bargaining representative; and

(b) The director has approved the proposed program.

(4) When an employer, a group of employers or a collective bargaining representative has met the eligibility requirements of this section, the director shall issue a letter to the employer, group of employers or collective bargaining representative indicating that such eligibility has been established. [1999 c.841 §3; 2007 c.71 §207]

656.174 Rules. The Director of the Department of Consumer and Business Services shall adopt rules necessary for the implementation of the provisions of ORS 656.170 and 656.172. The rules must include, but are not limited to procedures for:

(1) Establishing and operating an alternative dispute resolution system;

(2) Resolution of disputes involving multiple claims when one or more of the claims are not subject to the collective bargaining agreement; and

(3) Providing benefits to injured workers whose compensable claims are covered under an alternative dispute resolution system after the expiration of the collective bargaining agreement or termination of any arrangement for the provision of benefits under ORS 656.170 and 656.172. [1999 c.841 §4]

656.202 Compensation payable to subject worker in accordance with law in effect at time of injury; exceptions; notice regarding payment. (1) If any subject worker sustains a compensable injury, the worker or the beneficiaries of the worker, if the injury results in death, shall receive compensation as provided in this chapter, regardless of whether the worker was employed by a complying or noncomplying employer.

(2) Except as otherwise provided by law, payment of benefits for injuries or deaths under this chapter shall be continued as authorized, and in the amounts provided for, by the law in force at the time the injury giving rise to the right to compensation occurred.

(3) When compensation is paid to a claimant or other payment is made to the provider of service pursuant to this chapter, the insurer or self-insured employer shall notify the payment recipient in writing of the specific purpose of the payment. When applicable, the notice shall indicate the time period for which the payment is made and the reimbursable expenses or other bills and charges covered. If any portion of the claim is denied, the notice shall identify that portion of the claimed amounts that is not being paid.

(4) Notwithstanding subsections (1) to (3) of this section, the amendments to ORS 656.325 by section 4, chapter 723, Oregon Laws 1981, and ORS 656.335 (1993 Edition) apply to all workers regardless of the date of injury.

(5) This section does not apply to vocational assistance benefits.

(6) Notwithstanding subsection (2) of this section, the increase in benefits to the surviving spouse of an injured worker made by the amendment to ORS 656.204 (2)(c) (1993 Edition) by section 1, chapter 108, Oregon Laws 1985, applies to a surviving spouse who remarries after September 20, 1985, regardless of the date of injury or death of the worker.

(7) Notwithstanding subsection (2) of this section, the increase in benefits to the surviving spouse of an injured worker made by the amendments to ORS 656.204 (3)(a) and (b) (1997 Edition) by section 2, chapter 927, Oregon Laws 1999, applies to a surviving spouse who remarries on or after October 23, 1999, regardless of the date of injury or death of the worker. [Amended by 1953 c.669 §4; 1953 c.670 §4; 1957 c.718 §3; 1959 c.450 §1; 1965 c.285 §21; 1977 c.430 §6; 1981 c.770 §1; subsection (4) enacted as 1981 c.723 §8; 1985 c.108 §3; 1985 c.600 §6; 1985 c.706 §6; 1985 c.770 §6; 1995 c.332 §12; 1999 c.927 §1]

COMPENSATION AND MEDICAL BENEFITS

656.204 Death. If death results from an accidental injury, payments must be made as follows:

(1)(a) The cost of final disposition of the body and funeral expenses, including but not limited to transportation of the body, must be paid, not to exceed 20 times the average weekly wage in any case.

(b) The insurer or self-insured employer shall pay bills submitted for disposition and funeral expenses up to the benefit limit established in paragraph (a) of this subsection. If any part of the benefit remains unpaid 60 days after the date of death or the date of claim acceptance, whichever is later, the insurer or self-insured employer shall pay the unpaid amount to the estate of the worker.

(2)(a) If a worker is survived by a spouse, monthly benefits must be paid in an amount equal to 4.35 times 66-2/3 percent of the average weekly wage to the surviving spouse until remarriage. Only one person may qualify as a spouse for the purposes of this paragraph. The payment shall cease at the end of the month in which the remarriage occurs.

(b) Upon remarriage, a surviving spouse must be paid 36 times the monthly benefit in a lump sum as final payment of the surviving spousal benefit.

(c) If, after the date of the subject worker's death, the surviving spouse cohabits with another person, such that the relationship would be subject to the provisions of ORS 107.105 to 107.136 and 107.700 to 107.735, the surviving spouse must be paid 36 times the monthly benefit in a lump sum as final payment of the surviving spousal benefit.

(3)(a) If a worker leaves a child under 19 years of age, a monthly benefit equal to 4.35 times 25 percent of the average weekly wage must be paid to each such child until the child becomes 19 years of age.

(b) The total benefits provided for in this subsection may not exceed 4.35 times 133-1/3 percent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the benefit for each child must be reduced proportionally.

(4)(a) If a worker leaves a dependent, a monthly payment must be made to each dependent that is equal to 50 percent of the average monthly support the dependent actually received from the worker during the 12 months preceding the occurrence of the accidental injury. If a dependent is under the age of 19 years at the time of the accidental injury, the payment to the dependent must cease when the dependent becomes 19 years of age. The payment to any dependent must cease under the same circumstances that would have terminated the dependency had the injury not happened.

(b) The total benefits provided for in this subsection may not exceed 4.35 times 10 percent of the average weekly wage. If the sum of the individual benefits exceeds this maximum, the benefit for each dependent must be reduced proportionally.

(5) If a child is incapacitated at the time the child otherwise becomes ineligible for benefits under this section, the payment to the child must continue while the child remains an incapacitated child. If an individual is entitled to payment because the individual is an incapacitated child, payment must terminate when the individual ceases to be an incapacitated child.

(6)(a) If a child or dependent is between 19 and 26 years of age at the time of a worker's death, or becomes 19 years of age after the worker's death, monthly benefits must be paid for not more than 48 months until the age of 26 during a period in which the child or dependent is completing secondary education, is obtaining a general educational development certificate or is attending a program of higher education. The child or dependent must provide an insurer or self-insured employer with documentation that enables the insurer or self-insured employer to determine the child's or dependent's eligibility for monthly benefits.

(b) If a child or dependent who is eligible for benefits under this subsection does not have a surviving parent, the child or dependent must receive 4.35 times 66-2/3 percent of the average weekly wage.

(c) As used in this subsection, "attending a program of higher education" means regularly attending community college, college or university, or regularly attending a course of vocational or technical training designed to prepare the participant for gainful employment. A child or dependent enrolled in an educational course load of less than one-half of that determined by the educational facility to constitute "full-time" enrollment is not "attending a program of higher education."

(7) As used in this section, "average weekly wage" has the meaning for that term provided in ORS 656.211. [Amended by 1957 c.453 §1; 1965 c.285 §22; 1967 c.286 §1; 1969 c.521 §1; 1971 c.415 §1; 1973 c.497 §2; 1974 c.41 §4; 1981 c.535 §4; 1981 c.874 §15; 1985 c.108 §1; 1987 c.235 §1; 1991 c.473 §1; 1995 c.332 §13; 1999 c.927 §2; 2009 c.171 §1; 2015 c.629 §54; 2017 c.71 §2; 2022 c.6 §1]

Note: Sections 1 and 2, chapter 106, Oregon Laws 2022, provide:

Sec. 1. (1) The Department of Consumer and Business Services, the Employment Department and the Oregon Health Authority shall enter into an

intergovernmental agreement, as authorized under ORS 190.110, for the purpose of sharing information necessary to enable the Department of Consumer and Business Services to inform beneficiaries of their rights under ORS 656.204.

(2) The information shared by the Oregon Health Authority under this section shall be the minimum necessary for the purpose set forth in subsection (1) of this section and is limited to information regarding deaths from COVID-19 associated with workplace outbreaks published by the authority. [2022 c.106 §1]

Sec. 2. Section 1 of this 2022 Act applies to data related to the rights of beneficiaries under ORS 656.204 arising before the date on which the state of emergency declared by the Governor on March 8, 2020, for the COVID-19 pandemic, and any extension of the state of emergency, is no longer in effect [April 1, 2022]. [2022 c.106 §2]

656.206 Permanent total disability. (1) As used in this section:

(a) "Essential functions" means the primary tasks associated with the job.

(b) "Materially improved medically" means an actual change for the better in the worker's medical condition that is supported by objective findings.

(c) "Materially improved vocationally" means an actual change for the better in the:

(A) Worker's vocational capability; or

(B) Likelihood that the worker can return to work in a gainful and suitable occupation.

(d) "Permanent total disability" means, notwithstanding ORS 656.225, the loss, including preexisting disability, of use or function of any portion of the body which permanently incapacitates the worker from regularly performing work at a gainful and suitable occupation.

(e) "Regularly performing work" means the ability of the worker to discharge the essential functions of the job.

(f) "Suitable occupation" means one that the worker has the ability and the training or experience to perform, or an occupation that the worker is able to perform after rehabilitation.

(g) "Wages" means wages as determined under ORS 656.210.

(2) If permanent total disability results from a worker's injury, the worker shall receive during the period of that disability compensation benefits equal to 66-2/3 percent of wages, no more than 133 percent of the average weekly wage or no less than 33 percent of the average weekly wage.

(3) A worker has the burden of proving permanent total disability status and must establish that the worker is willing to seek regular gainful employment and that the worker has made reasonable efforts to obtain such employment.

(4) When requested by the Director of the Department of Consumer and Business Services, a worker who receives permanent total disability benefits shall file on a form provided by the director, a sworn statement of the worker's gross annual income for the preceding year along with such other information as the director considers necessary to determine whether the worker regularly performs work at a gainful and suitable occupation.

(5) Each insurer shall reexamine periodically each permanent total disability claim for which the insurer has current payment responsibility to determine whether the worker has materially improved, either medically or vocationally, and is no longer permanently incapacitated from regularly performing work at a gainful and suitable occupation. Reexamination must be conducted every two years or at such other more frequent interval as the director may prescribe. Reexamination must include such medical examinations, vocational evaluations, reports and other records as the insurer considers necessary or the director may require.

(6)(a) If a worker receiving permanent total disability benefits is found to be materially improved and capable of regularly performing work at a gainful and suitable occupation, the insurer or self-insured employer shall issue a notice of closure pursuant to ORS 656.268. Permanent total disability benefits shall be paid through the date of the notice of closure. Notwithstanding ORS 656.268 (5), if a worker objects to a notice of closure issued under this subsection, the worker shall request a hearing. If the worker requests a hearing on the notice of closure before the Hearings Division of the Workers' Compensation Board within 30 days of the date of the notice of closure, the insurer or self-insured employer shall continue payment of permanent total disability benefits until an order of the Hearings Division or a subsequent order affirms the notice of closure or until another order that terminates the worker's benefits becomes final. If the worker requests a hearing on the notice of closure more than 30 days from the date of the notice of closure but before the 60-day period for requesting a hearing expires, the insurer or self-insured employer shall resume paying permanent total disability benefits from the date the hearing is requested and shall continue payment of benefits until an order of the Hearings Division or a subsequent order affirms the notice of closure or until another order that terminates the worker's benefits becomes final. If the notice of closure is upheld by the Hearings Division, the insurer or self-insured employer must be reimbursed from the Workers' Bene-

fit Fund for the amount of permanent total disability benefits paid after the date of the notice of closure issued under this subsection.

(b) An insurer or self-insured employer must establish that the condition of a worker who is receiving permanent total disability benefits has materially improved by a preponderance of the evidence presented at hearing.

(c) Medical examinations or vocational evaluations used to support the issuance of a notice of closure under this subsection must include at least one report in which the author personally observed the worker.

(d) Notwithstanding section 54 (3), chapter 2, Oregon Laws 1990, the Hearings Division of the Workers' Compensation Board may request the director to order a medical arbiter examination of an injured worker who has requested a hearing under this subsection.

(7) A worker who has had permanent total disability benefits terminated under this section by an order that has become final is eligible for vocational assistance pursuant to ORS 656.340. Notwithstanding ORS 656.268 (10), if a worker has enrolled in and is actively engaged in a training program, when vocational assistance provided under this section ends or the worker ceases to be enrolled and actively engaged in the training program, the insurer or the self-insured employer shall determine the extent of disability pursuant to ORS 656.214.

(8) A worker receiving permanent total disability benefits is required, if requested by the director, the insurer or the self-insured employer, to submit to a vocational evaluation at a time reasonably convenient to the worker as may be provided by the rules of the director. No more than three evaluations may be requested except after notification to and authorization by the director. If the worker refuses to submit to or obstructs a vocational evaluation, the rights of the worker to compensation must be suspended with the consent of the director until the evaluation has taken place, and no compensation is payable for the period during which the worker refused to submit to or obstructed the evaluation. The insurer or self-insured employer shall pay the costs of the evaluation and related services that are reasonably necessary to allow the worker to attend the evaluation requested under this subsection. As used in this subsection, "related services" includes, but is not limited to, wages, child care, travel, meals and lodging.

(9) Notwithstanding any other provisions of this chapter, if a worker receiving permanent total disability incurs a new compensable injury, the worker's entitlement to compensation for the new injury shall be limited to medical benefits pursuant to ORS 656.245 and permanent partial disability benefits for impairment, as determined in the manner set forth in ORS 656.214 (2).

(10) When a worker eligible for benefits under this section returns to work, if the combined total of the worker's post-injury wages plus permanent total disability benefit exceeds the worker's wage at the time of injury, the worker's permanent total disability benefit must be reduced by the amount the worker's wages plus statutory permanent total disability benefit exceeds the worker's wage at injury.

(11) For purposes of this section:

(a) A gainful occupation for workers with a date of injury prior to January 1, 2006, who were:

(A) Employed continuously for 52 weeks prior to the injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the worker's average weekly wages from all employment for the 52 weeks prior to the date of injury.

(B) Not employed continuously for the 52 weeks prior to the date of injury, but who were employed for at least four weeks prior to the date of injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the worker's average weekly wage from all employment for the 52 weeks prior to the date of injury based on weeks of actual employment, excluding any extended periods of unemployment.

(C) Employed for less than four weeks prior to the date of injury with no other employment during the 52 weeks prior to the date of injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the average weekly wages intended by the parties at the time of initial hire.

(b) A gainful occupation for workers with a date of injury on or after January 1, 2006, who were:

(A) Employed continuously for 52 weeks prior to the injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the worker's average weekly wages from all employment for the 52 weeks prior to the date of injury adjusted by the percentage of change in the applicable federal poverty guidelines for a family of three from the date of injury to the date of evaluation of the extent of the worker's disability.

(B) Not employed continuously for the 52 weeks prior to the date of injury, but who were employed for at least four weeks prior to the date of injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the worker's average weekly wage from all employment for the 52 weeks prior to the date of injury based on weeks of actual employment, excluding any extended periods of unemployment and as adjusted by the percentage of change in the applicable federal poverty guidelines for a family of three from the date of injury to the date of evaluation of the extent of the worker's disability.

(C) Employed for less than four weeks prior to the date of injury with no other employment during the 52 weeks prior to the date of injury, is an occupation that provides weekly wages that are the lesser of the most recent federal poverty guidelines for a family of three that are applicable to Oregon residents and that are published annually in the Federal Register by the United States Department of Health and Human Services or 66-2/3 percent of the average weekly wages intended by the parties at the time of initial hire adjusted by the percentage of change in the applicable federal poverty guidelines for a family of three from the date of injury to the date of evaluation of the extent of the worker's disability. [Amended by 1953 c.670 §4; 1955 c.553 §1; 1957 c.452 §1; 1959 c.517 §1; 1965 c.285 §22a; 1969 c.500 §2; 1973 c.614 §2; 1974 c.41 §5; 1975 c.506 §1; 1977 c.430 §1; 1981 c.874 §12; 1983 c.816 §3; 1995 c.332 §14; 1999 c.313 §13; 1999 c.927 §3; 2003 c.657 §§5,6; 2005 c.461 §§1,2; 2007 c.274 §3; 2011 c.99 §2; 2017 c.70 §1]

656.207 [1959 c.589 §2; repealed by 1965 c.285 §95]

656.208 Death during permanent total disability. If an injured worker dies during the period of the worker's permanent total disability, whatever the cause of death, and the worker leaves a beneficiary, payment must be made in the same manner and in the same amounts as provided in ORS 656.204. [Amended by 1957 c.453 §2; 1959 c.450 §2; 1965 c.285 §22b; 1969 c.521 §2; 1971 c.415 §2; 1973 c.497 §3; 1975 c.497 §2; 1985 c.108 §2; 2017 c.71 §3]

656.209 Offsetting permanent total disability benefits against Social Security benefits. (1) With the authorization of the Department of Consumer and Business Services, the amount of any permanent total disability benefits payable to an injured worker shall be reduced by the amount of any disability benefits the worker receives from federal Social Security.

(a) If the benefit amount to which the worker is entitled pursuant to this chapter exceeds the worker's federal disability benefit limitation determined pursuant to 42 U.S.C. 424(a), the reduction in worker's compensation benefits authorized by this subsection shall not be administered in such manner as to lower the amount the worker would have received pursuant to this chapter had such reduction not been made.

(b) If the benefit amount to which the worker is entitled pursuant to this chapter is less than the worker's federal disability benefit limitation determined pursuant to 42 U.S.C. 424(a), the reduction in worker's compensation benefits authorized by this subsection shall not be administered in such manner as to lower the amount of combined benefits the worker receives below the federal benefit limitation.

(2) No reduction of permanent total disability benefits shall be made pursuant to this section unless authorized by the department.

(3) No reduction of benefits shall be authorized pursuant to this section except upon actual receipt of federal Social Security disability benefits by the injured worker.

(4) The effective date of the operation of any offset provided in this section shall be the date established in the authorization provided in subsection (1) of this section, whether the authorization was issued prior to or subsequent to May 8, 1979. [1977 c.430 §5; 1979 c.117 §3]

656.210 Temporary total disability; payment during medical treatment; employer election to pay supplemental benefits; rules. (1) When the total disability is only temporary, the worker shall receive during the period of that total disability compensation equal to 66-2/3 percent of wages, but not more than 133 percent of the average weekly wage nor less than the amount of 90 percent of wages a week or the amount of $50 a week, whichever amount is less. Notwithstanding the limitation imposed by this subsection, an injured worker who is not otherwise eligible to receive an increase in benefits for the fiscal year in which com-

pensation is paid shall have the benefits increased each fiscal year by the percentage which the applicable average weekly wage has increased since the previous fiscal year.

(2)(a) For the purpose of this section, the weekly wage of workers shall be ascertained:

(A) For workers employed in one job at the time of injury, by multiplying the daily wage the worker was receiving by the number of days per week that the worker was regularly employed; or

(B) For workers employed in more than one job at the time of injury, by adding all earnings the worker was receiving from all subject employment.

(b) Notwithstanding paragraph (a)(B) of this subsection, the weekly wage calculated under paragraph (a)(A) of this subsection shall be used for workers employed in more than one job at the time of injury unless the insurer, self-insured employer or assigned claims agent for a noncomplying employer receives:

(A) Within 30 days of receipt of the initial claim, notice that the worker was employed in more than one job with a subject employer at the time of injury; and

(B) Within 60 days of the date of mailing a request for verification, verifiable documentation of wages from such additional employment.

(c) Notwithstanding ORS 656.005 (7)(c), an injury to a worker employed in more than one job at the time of injury is not disabling if no temporary disability benefits are payable for time lost from the job at injury. Claim costs incurred as a result of supplemental temporary disability benefits paid as provided in subsection (5) of this section may not be included in any data used for ratemaking or individual employer rating or dividend calculations by an insurer, a rating organization licensed pursuant to ORS chapter 737, the State Accident Insurance Fund Corporation or the Department of Consumer and Business Services if the injured worker is not eligible for permanent disability benefits or temporary disability benefits for time lost from the job at injury.

(d) For the purpose of this section:

(A) The benefits of a worker who incurs an injury shall be based on the wage of the worker at the time of injury.

(B) The benefits of a worker who incurs an occupational disease shall be based on the wage of the worker at the time there is medical verification that the worker is unable to work because of the disability caused by the occupational disease. If the worker is not working at the time that there is medical verification that the worker is unable to work because of the disability caused by the occupational disease, the benefits shall be based on the wage of the worker at the worker's last regular employment.

(e) As used in this subsection, "regularly employed" means actual employment or availability for such employment. For workers not regularly employed and for workers with no remuneration or whose remuneration is not based solely upon daily or weekly wages, the Director of the Department of Consumer and Business Services, by rule, may prescribe methods for establishing the worker's weekly wage.

(3) No disability payment is recoverable for temporary total or partial disability suffered during the first three calendar days after the worker leaves work or loses wages as a result of the compensable injury unless the worker is totally disabled after the injury and the total disability continues for a period of 14 consecutive days or unless the worker is admitted as an inpatient to a hospital within 14 days of the first onset of total disability. If the worker leaves work or loses wages on the day of the injury due to the injury, that day shall be considered the first day of the three-day period.

(4) When an injured worker with an accepted disabling compensable injury is required to leave work to receive compensable medical services for the compensable injury, the worker shall receive temporary disability benefits calculated pursuant to ORS 656.212 for the period during which the worker is absent, until such time as the worker is determined to be medically stationary. However, benefits under this subsection are not payable if wages are paid for the period of absence by the employer. An insurer may require a worker to confirm the period during which the worker is absent from work to receive compensable medical services under this subsection. The notice requirement under ORS 656.262 (4)(j) does not apply to temporary disability benefits paid pursuant to this subsection.

(5)(a) The insurer of the employer at injury or the self-insured employer at injury, may elect to be responsible for payment of supplemental temporary disability benefits to a worker employed in more than one job at the time of injury. In accordance with rules adopted by the director, if the worker's weekly wage is determined under subsection (2)(a)(B) of this section, the insurer or self-insured employer shall be reimbursed from the Workers' Benefit Fund for the amount of temporary disability benefits paid that exceeds the amount payable pursuant to subsection (2)(a)(A) of this section had the worker been employed in only one job at the time of injury. Such reimbursement shall in-

clude an administrative fee payable to the insurer or self-insured employer pursuant to rules adopted by the director.

(b) If the insurer or self-insured employer elects not to pay the supplemental temporary disability benefits for a worker employed in more than one job at the time of injury, the director shall either administer and pay the supplemental benefits directly or shall assign responsibility to administer and process the payment to a paying agent selected by the director.

(6) The director shall adopt rules for the payment and reimbursement of supplemental temporary disability benefits under this section. [Amended by 1955 c.713 §1; 1957 c.452 §2; 1959 c.517 §2; 1965 c.285 §22c; 1969 c.183 §1; 1969 c.500 §1; 1971 c.204 §1; 1973 c.614 §1; 1974 c.41 §6; 1975 c.507 §1; 1975 c.663 §1; 1985 c.507 §3; 1987 c.521 §1; 1987 c.713 §7; 1995 c.332 §15; 2001 c.865 §3; 2003 c.760 §1; 2007 c.241 §10; 2009 c.313 §1; 2023 c.142 §1]

656.211 "Average weekly wage" defined. As used in ORS 656.210 (1), "average weekly wage" means the average weekly wage of workers in covered employment in Oregon, as determined by the Employment Department, for the last quarter of the calendar year preceding the fiscal year in which compensation is paid and as computed by the Employment Department as of May 15 of each year. [1973 c.614 §4; 1990 c.2 §6]

656.212 Temporary partial disability. When the disability is or becomes partial only and is temporary in character:

(1) No disability payment is recoverable for temporary disability suffered during the first three calendar days after the worker leaves work or loses wages as a result of the compensable injury. If the worker leaves work or loses wages on the day of the injury due to the injury, that day shall be considered the first day of the three-day period.

(2) The payment of temporary total disability pursuant to ORS 656.210 shall cease and the worker shall receive that proportion of the payments provided for temporary total disability which the loss of wages bears to the wage used to calculate temporary total disability pursuant to ORS 656.210. [Amended by 1953 c.672 §2; 1995 c.332 §16; amendments by 1995 c.332 §16a repealed by 1999 c.6 §1; 1999 c.538 §1]

656.214 Permanent partial disability. (1) As used in this section:

(a) "Impairment" means the loss of use or function of a body part or system due to the compensable industrial injury or occupational disease determined in accordance with the standards provided under ORS 656.726, expressed as a percentage of the whole person.

(b) "Loss" includes permanent and complete or partial loss of use.

(c) "Permanent partial disability" means:

(A) Permanent impairment resulting from the compensable industrial injury or occupational disease; or

(B) Permanent impairment and work disability resulting from the compensable industrial injury or occupational disease.

(d) "Regular work" means the job the worker held at injury.

(e) "Work disability" means impairment modified by age, education and adaptability to perform a given job.

(2) When permanent partial disability results from a compensable injury or occupational disease, benefits shall be awarded as follows:

(a) If the worker has been released to regular work by the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 or has returned to regular work at the job held at the time of injury, the award shall be for impairment only. Impairment shall be determined in accordance with the standards provided by the Director of the Department of Consumer and Business Services pursuant to ORS 656.726 (4). Impairment benefits are determined by multiplying the impairment value times 100 times the average weekly wage as defined by ORS 656.005.

(b) If the worker has not been released to regular work by the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 or has not returned to regular work at the job held at the time of injury, the award shall be for impairment and work disability. Work disability shall be determined in accordance with the standards provided by the director pursuant to ORS 656.726 (4). Impairment shall be determined as provided in paragraph (a) of this subsection. Work disability benefits shall be determined by multiplying the impairment value, as modified by the factors of age, education and adaptability to perform a given job, times 150 times the worker's weekly wage for the job at injury as calculated under ORS 656.210 (2). The factor for the worker's weekly wage used for the determination of the work disability may be no more than 133 percent or no less than 50 percent of the average weekly wage as defined in ORS 656.005.

(3) Impairment benefits awarded under subsection (2)(a) of this section shall be expressed as a percentage of the whole person. Impairment benefits for the following body parts may not exceed:

(a) For the loss of one arm at or above the elbow joint, 60 percent.

(b) For the loss of one forearm at or above the wrist joint, or the loss of one hand, 47 percent.

(c) For the loss of one leg, at or above the knee joint, 47 percent.

(d) For the loss of one foot, 42 percent.

(e) For the loss of a great toe, six percent; for loss of any other toe, one percent.

(f) For partial or complete loss of hearing in one ear, that proportion of 19 percent which the loss bears to normal monaural hearing.

(g) For partial or complete loss of hearing in both ears, that proportion of 60 percent which the combined binaural hearing loss bears to normal combined binaural hearing. For the purpose of this paragraph, combined binaural hearing loss shall be calculated by taking seven times the hearing loss in the less damaged ear plus the hearing loss in the more damaged ear and dividing that amount by eight. In the case of individuals with compensable hearing loss involving both ears, either the method of calculation for monaural hearing loss or that for combined binaural hearing loss shall be used, depending upon which allows the greater award of impairment.

(h) For partial or complete loss of vision of one eye, that proportion of 31 percent which the loss of monocular vision bears to normal monocular vision. For the purposes of this paragraph, the term "normal monocular vision" shall be considered as Snellen 20/20 for distance and Snellen 14/14 for near vision with full sensory field.

(i) For partial loss of vision in both eyes, that proportion of 94 percent which the combined binocular visual loss bears to normal combined binocular vision. In all cases of partial loss of sight, the percentage of said loss shall be measured with maximum correction. For the purpose of this paragraph, combined binocular visual loss shall be calculated by taking three times the visual loss in the less damaged eye plus the visual loss in the more damaged eye and dividing that amount by four. In the case of individuals with compensable visual loss involving both eyes, either the method of calculation for monocular visual loss or that for combined binocular visual loss shall be used, depending upon which allows the greater award of impairment.

(j) For the loss of a thumb, 15 percent.

(k) For the loss of a first finger, eight percent; of a second finger, seven percent; of a third finger, three percent; of a fourth finger, two percent.

(4) The loss of one phalange of a thumb, including the adjacent epiphyseal region of the proximal phalange, is considered equal to the loss of one-half of a thumb. The loss of one phalange of a finger, including the adjacent epiphyseal region of the middle phalange, is considered equal to the loss of one-half of a finger. The loss of two phalanges of a finger, including the adjacent epiphyseal region of the proximal phalange of a finger, is considered equal to the loss of 75 percent of a finger. The loss of more than one phalange of a thumb, excluding the epiphyseal region of the proximal phalange, is considered equal to the loss of an entire thumb. The loss of more than two phalanges of a finger, excluding the epiphyseal region of the proximal phalange of a finger, is considered equal to the loss of an entire finger. A proportionate loss of use may be allowed for an uninjured finger or thumb where there has been a loss of effective opposition.

(5) A proportionate loss of the hand may be allowed where impairment extends to more than one digit, in lieu of ratings on the individual digits.

(6) All permanent disability contemplates future waxing and waning of symptoms of the condition. The results of waxing and waning of symptoms may include, but are not limited to, loss of earning capacity, periods of temporary total or temporary partial disability, or inpatient hospitalization. [Amended by 1953 c.669 §4; 1955 c.716 §1; 1957 c.449 §1; 1965 c.285 §22d; 1967 c.529 §1; 1971 c.178 §1; 1977 c.557 §1; 1979 c.839 §27; 1981 c.535 §27; 1985 c.506 §3; 1987 c.884 §36; 1990 c.2 §7; 1995 c.332 §17; 1999 c.6 §7; 1999 c.876 §2; 2001 c.865 §6; 2003 c.657 §§1,2; 2005 c.653 §§3,4; 2007 c.274 §1]

656.215 [1987 c.884 §36b; 1990 c.2 §8; repealed by 1991 c.745 §3]

656.216 Permanent partial disability; method of payment; effect of prior receipt of temporary disability payments. (1) Compensation for permanent partial disability may be paid monthly at 4.35 times the rate per week as provided for compensation for temporary total disability at the time the determination is made. In no case shall such payments be less than $108.75 per month.

(2) If a worker, who is entitled to compensation for a permanent disability, has received compensation for a temporary disability by reason of the same injury, compensation for such permanent disability shall be in addition to the payments which the worker has received on account of such temporary disability. [Amended by 1967 c.529 §2; 1973 c.459 §1; 1974 c.41 §7]

656.218 Continuance of permanent partial disability payments to survivors; effect of death prior to final claim disposition. (1) In case of the death of a worker entitled to compensation, whether eligibility therefor or the amount thereof has been determined, payments shall be made for the

period during which the worker, if surviving, would have been entitled thereto.

(2) If the worker's death occurs prior to issuance of a notice of closure under ORS 656.268, the insurer or the self-insured employer shall determine compensation for permanent partial disability, if any.

(3) If the worker has filed a request for hearing pursuant to ORS 656.283 or a request for reconsideration pursuant to ORS 656.268 and death occurs prior to the final disposition of the request, the persons described in subsection (5) of this section shall be entitled to pursue the matter to final determination of all issues presented by the request.

(4) If the worker dies before filing a request for hearing or a request for reconsideration, the persons described in subsection (5) of this section shall be entitled to file a request for hearing or a request for reconsideration and to pursue the matter to final determination as to all issues presented by the request.

(5) The payments provided in this section shall be made to the persons who would have been entitled to receive death benefits if the injury causing the disability had been fatal. In the absence of persons so entitled, the unpaid balance of the award shall be paid to the worker's estate.

(6) This section does not entitle any person to double payments on account of the death of a worker and a continuation of payments for permanent partial disability, or to a greater sum in the aggregate than if the injury had been fatal. [Amended by 1959 c.450 §3; 1973 c.355 §1; 1975 c.497 §3; 1981 c.854 §11; 1987 c.884 §16; 1999 c.313 §4; 2009 c.171 §2; 2015 c.144 §2]

656.220 [Amended by 1957 c.718 §4; 1965 c.285 §24; repealed by 1975 c.505 §1]

656.222 Compensation for additional accident. Should a further accident occur to a worker who is receiving compensation for a temporary disability, or who has been paid or awarded compensation for a permanent disability, the award of compensation for such further accident shall be made with regard to the combined effect of the injuries of the worker and past receipt of money for such disabilities.

656.224 [Amended by 1953 c.674 §13; repealed by 1959 c.517 §5]

656.225 Compensability of certain preexisting conditions. In accepted injury or occupational disease claims, disability solely caused by or medical services solely directed to a worker's preexisting condition are not compensable unless:

(1) In occupational disease or injury claims other than those involving a preexisting mental disorder, work conditions or events constitute the major contributing cause of a pathological worsening of the preexisting condition.

(2) In occupational disease or injury claims involving a preexisting mental disorder, work conditions or events constitute the major contributing cause of an actual worsening of the preexisting condition and not just of its symptoms.

(3) In medical service claims, the medical service is prescribed to treat a change in the preexisting condition as specified in subsection (1) or (2) of this section, and not merely as an incident to the treatment of a compensable injury or occupational disease. [1995 c.332 §3]

656.226 Cohabitants entitled to compensation. If, prior to and including the date of an accidental injury received by one or the other as a subject worker, two unmarried individuals have cohabited together such that the relationship would be subject to the provisions of ORS 107.105 to 107.136 and 107.700 to 107.735, the surviving cohabitant is entitled to compensation under this chapter the same as if the individuals had been legally married. [Amended by 1983 c.816 §4; 2015 c.629 §55; 2022 c.6 §2]

656.228 Payments directly to beneficiary or custodian. (1) If compensation is payable for the benefit of a beneficiary other than the injured worker, the insurer or the self-insured employer may segregate any additional compensation payable on account of that beneficiary and make payment directly to the beneficiary, if sui juris; otherwise, to the guardian or person having custody of the beneficiary.

(2) Compensation paid to an injured worker who is a minor prior to receipt of notice by the insurer or the self-insured employer from the parent or guardian of the minor that the parent or guardian claims the compensation shall discharge the obligation to pay compensation to the extent of such payment. [Amended by 1957 c.477 §1; 1965 c.285 §25; 1981 c.854 §12]

656.230 Lump sum award payments. (1) When a worker has been awarded compensation for permanent partial disability, and the total amount of the award does not exceed $6,000, the insurer or the self-insured employer shall pay the total amount of the award to the worker in a lump sum payment.

(2)(a) Subject to paragraph (b) of this subsection, when a worker has been awarded compensation for permanent partial disability, the total amount of the award exceeds $6,000 and the worker requests payment of all or part of the award in a lump sum payment, the insurer or self-insured employer shall make the payment requested if:

(A) The worker has waived the right to request reconsideration of the notice of closure; or

(B) The award has become final by operation of law.

(b) The insurer or self-insured employer is not required to make the payment requested if:

(A) The insurer or self-insured employer timely requests reconsideration of the notice of closure under ORS 656.268 (5)(e) and the reconsideration proceeding has not yet been completed;

(B) Payment of compensation has been stayed pending a request for hearing or review under ORS 656.313; or

(C) The worker is enrolled and actively engaged in training according to rules adopted pursuant to ORS 656.340 and 656.726.

(3) Any unpaid balance of the award that is not paid in a lump sum payment shall be paid pursuant to ORS 656.216. [Amended by 1957 c.574 §4; 1959 c.449 §1; 1965 c.285 §23a; 1973 c.221 §1; 1981 c.854 §13; 1983 c.816 §15; 1995 c.332 §22; 2007 c.270 §1; 2025 c.25 §1]

656.232 Payments to noncitizens residing outside of United States. (1) If a beneficiary is a noncitizen residing outside of the United States or its dependencies, payment of the sums due such beneficiary may, in the discretion of the Director of the Department of Consumer and Business Services, be made to the consul general of the country in which such beneficiary resides on behalf of the beneficiary. The receipt of the consul general to the director for the amounts thus paid shall be a full and sufficient receipt for the payment of the funds thus due the beneficiary.

(2) All benefit rights shall be canceled upon the commencement of a state of war between the United States and the country of a beneficiary's domicile.
[Amended by 2022 c.6 §3; 2022 c.97 §15a]

656.234 Compensation not assignable nor to pass by operation of law; certain benefits subject to support obligations. (1) No moneys payable under this chapter on account of injuries or death are subject to assignment prior to their receipt by the beneficiary entitled thereto, nor shall they pass by operation of law. All such moneys and the right to receive them are exempt from seizure on execution, attachment or garnishment, or by the process of any court.

(2) Notwithstanding any other provision of this section:

(a) Moneys payable under ORS 656.210 and 656.212 are subject to an order to enforce child support obligations, and spousal support when there is a current support obligation for a joint child of the obligated parent and the person to whom spousal support is owed, under ORS 25.378; and

(b) Moneys payable under ORS 656.206, 656.214, 656.236 and 656.289 (4) are subject to an order to enforce child support obligations under ORS 25.378.

(3) Notwithstanding the provisions of ORS 25.378 and 25.414, the amount of child support obligation subject to enforcement may not exceed:

(a) One-fourth of moneys paid under ORS 656.210 and 656.212 or the amount of the current support to be paid as continuing support, whichever is less, or, if there is no current support obligation and the withholding is for arrearages only, 15 percent of the moneys paid under ORS 656.210 and 656.212 or the amount previously paid as current support, whichever is less;

(b) One-half of moneys paid in a lump sum award under ORS 656.210 and 656.212 when the award becomes final by operation of law or waiver of the right to appeal its adequacy;

(c) One-half of moneys paid under ORS 656.206, 656.214 and 656.236; or

(d) One-half of the net proceeds paid to the worker in a disputed claim settlement under ORS 656.289 (4).

(4) Notwithstanding any other provision of this section, when withholding is only for arrearages assigned to this or another state, the Department of Justice may set a lesser amount to be withheld if the obligor demonstrates the withholding is prejudicial to the obligor's ability to provide for a child the obligor has a duty to support. [Amended by 1967 c.468 §1; 1989 c.520 §2; 1991 c.758 §3; 1993 c.48 §1; 1993 c.798 §22; 1995 c.272 §2; 2001 c.455 §26; 2003 c.73 §70; 2011 c.317 §2]

656.236 Compromise and release of claim matters except for medical benefits; approval by Administrative Law Judge or board; approval by director for certain reserve reimbursements; restriction on charging costs to workers; restriction on joinder as parties for responsibility determinations. (1)(a) The parties to a claim, by agreement, may make such disposition of any or all matters regarding a claim, except for medical services, as the parties consider reasonable, subject to such terms and conditions as the Workers' Compensation Board may prescribe. For the purposes of this section, "matters regarding a claim" includes the disposition of a beneficiary's independent claim for compensation under this chapter. Unless otherwise specified, a disposition resolves all matters and all rights to compensation, attorney fees

and penalties potentially arising out of claims, except medical services, regardless of the conditions stated in the agreement. Each disposition shall be filed with the board for approval by the Administrative Law Judge who mediated the agreement or by the board. If the worker is not represented by an attorney, the worker may, at the worker's request, personally appear before the board. Submission of a disposition shall stay all other proceedings and payment obligations, except for medical services, on that claim. The disposition shall be approved in a final order unless:

(A) The Administrative Law Judge who mediated the agreement or the board finds the proposed disposition is unreasonable as a matter of law;

(B) The Administrative Law Judge who mediated the agreement or the board finds the proposed disposition is the result of an intentional misrepresentation of material fact; or

(C) Within 30 days of submitting the disposition for approval, the worker, the insurer or self-insured employer requests the Administrative Law Judge who mediated the agreement or the board to disapprove the disposition.

(b) Notwithstanding paragraph (a)(C) of this subsection, a disposition may provide for waiver of the provisions of that subparagraph if the worker was represented by an attorney at the time the worker signed the disposition.

(2) Notwithstanding any other provision of this chapter, an order approving disposition of a claim pursuant to this section is not subject to review. However, an order disapproving a disposition is subject to review pursuant to ORS 656.298. The board shall file with the Department of Consumer and Business Services a copy of each disposition that the Administrative Law Judge who mediated the agreement or the board approves. If the Administrative Law Judge who mediated the agreement or the board does not approve a disposition, the Administrative Law Judge or the board shall enter an order setting aside the disposition.

(3) Unless the terms of the disposition expressly provide otherwise, no payments, except for medical services, pursuant to a disposition are payable until the Administrative Law Judge who mediated the agreement or the board approves the disposition.

(4) If a worker is represented by an attorney in the negotiation of a disposition under this section, the insurer or self-insured employer shall pay to the attorney a fee prescribed by the Administrative Law Judge who mediated the agreement or the board.

(5) Except as otherwise provided in this chapter, none of the cost of workers' compensation to employers under this chapter, or in the court review of any claim therefor, shall be charged to a subject worker.

(6) Any claim in which the parties enter into a disposition under this section shall not be eligible for reimbursement of expenditures authorized by law from the Workers' Benefit Fund without the prior approval of the Director of the Department of Consumer and Business Services.

(7) Insurers or self-insured employers who are parties to an approved claim disposition agreement under this section shall not be joined as parties in subsequent proceedings under this chapter to determine responsibility for payment for any matter for which disposition is made by the agreement. Insurers or self-insured employers may be joined as parties in subsequent proceedings under this chapter to determine responsibility for medical services for claim conditions for which disposition is made by an approved claim disposition agreement, but no order in any subsequent proceedings may alter the obligations of an insurer or self-insured employer set forth in an approved claims disposition agreement, except as those obligations concern medical services.

(8) No release by a worker or beneficiary of any rights under this chapter is valid, except pursuant to a claim disposition agreement under this section or a release pursuant to ORS 656.593.

(9) Notwithstanding ORS 656.005 (21), as used in this section, "party" does not include a noncomplying employer. [1965 c.285 §28; 1985 c.212 §5; 1987 c.250 §4; 1990 c.2 §9; 1995 c.332 §24; 1995 c.641 §18; 1997 c.639 §5; 2007 c.17 §2; 2007 c.491 §1]

656.240 Deduction of benefits from sick leave payments paid to employees. Notwithstanding any other law, an employer, with the consent of the worker, may deduct from any sick leave payments made to an individual amounts equal to benefits received by the individual under this chapter with respect to the same injury that gave rise to the sick leave. However, the deduction of sick leave shall not exceed an amount determined by taking the worker's daily wage for the period less daily time loss benefits received under this chapter divided by the worker's daily wage.
[1969 c.398 §2; 1983 c.816 §5]

656.242 [Amended by 1959 c.589 §1; repealed by 1965 c.285 §95]

656.244 [Amended by 1959 c.378 §1; repealed by 1965 c.285 §95]

656.245 Medical services to be provided; worker choice of provider; restrictions on providers outside managed care organizations; director exclusion of medical treatments; when workers to receive services as prescribed in managed care organization contract; provision of services by nurse practitioners and physician associates; administrative review of disapproved claims; rules. (1)(a) For every compensable injury, the insurer or the self-insured employer shall cause to be provided medical services for conditions caused in material part by the injury for such period as the nature of the injury or the process of the recovery requires, subject to the limitations in ORS 656.225, including such medical services as may be required after a determination of permanent disability. In addition, for consequential and combined conditions described in ORS 656.005 (7), the insurer or the self-insured employer shall cause to be provided only those medical services directed to medical conditions caused in major part by the injury.

(b) Compensable medical services shall include medical, surgical, hospital, nursing, ambulances and other related services, and drugs, medicine, crutches and prosthetic appliances, braces and supports and where necessary, physical restorative services. A pharmacist or dispensing physician shall dispense generic drugs to the worker in accordance with ORS 689.515. The duty to provide such medical services continues for the life of the worker.

(c) Notwithstanding any other provision of this chapter, medical services after the worker's condition is medically stationary are not compensable except for the following:

(A) Services provided to a worker who has been determined to be permanently and totally disabled.

(B) Prescription medications.

(C) Services necessary to administer prescription medication or monitor the administration of prescription medication.

(D) Prosthetic devices, braces and supports.

(E) Services necessary to monitor the status, replacement or repair of prosthetic devices, braces and supports.

(F) Services provided pursuant to an accepted claim for aggravation under ORS 656.273.

(G) Services provided pursuant to an order issued under ORS 656.278.

(H) Services that are necessary to diagnose the worker's condition.

(I) Life-preserving modalities similar to insulin therapy, dialysis and transfusions.

(J) With the approval of the insurer or self-insured employer, palliative care that the worker's attending physician referred to in ORS 656.005 (12)(b)(A) prescribes and that is necessary to enable the worker to continue current employment or a vocational training program. If the insurer or self-insured employer does not approve, the attending physician or the worker may request approval from the Director of the Department of Consumer and Business Services for such treatment. The director may order a medical review by a physician or panel of physicians pursuant to ORS 656.327 (3) to aid in the review of such treatment. The decision of the director is subject to review under ORS 656.704.

(K) With the approval of the director, curative care arising from a generally recognized, nonexperimental advance in medical science since the worker's claim was closed that is highly likely to improve the worker's condition and that is otherwise justified by the circumstances of the claim. The decision of the director is subject to review under ORS 656.704.

(L) Curative care provided to a worker to stabilize a temporary and acute waxing and waning of symptoms of the worker's condition.

(d) When the medically stationary date in a disabling claim is established by the insurer or self-insured employer and is not based on the findings of the attending physician, the insurer or self-insured employer is responsible for reimbursement to affected medical service providers for otherwise compensable services rendered until the insurer or self-insured employer provides written notice to the attending physician of the worker's medically stationary status.

(e) Except for services provided under a managed care contract, out-of-pocket expense reimbursement to receive care from the attending physician or nurse practitioner authorized to provide compensable medical services under this section shall not exceed the amount required to seek care from an appropriate nurse practitioner or attending physician of the same specialty who is in a medical community geographically closer to the worker's home. For the purposes of this paragraph, all physicians and nurse practitioners within a metropolitan area are considered to be part of the same medical community.

(2)(a) The worker may choose an attending doctor, physician or nurse practitioner within the State of Oregon. The worker may choose the initial attending physician or nurse practitioner and may subsequently change attending physician or nurse practitioner two times without approval from the

director. If the worker thereafter selects another attending physician or nurse practitioner, the insurer or self-insured employer may require the director's approval of the selection. The decision of the director is subject to review under ORS 656.704. The worker also may choose an attending doctor or physician in another country or in any state or territory or possession of the United States with the prior approval of the insurer or self-insured employer.

(b) A medical service provider who is not a member of a managed care organization is subject to the following provisions:

(A) A medical service provider who is not qualified to be an attending physician may provide compensable medical service to an injured worker for a period of 30 days from the date of the first visit on the initial claim or for 12 visits, whichever first occurs, without the authorization of an attending physician. Thereafter, medical service provided to an injured worker without the written authorization of an attending physician is not compensable.

(B) A medical service provider who is not an attending physician cannot authorize the payment of temporary disability compensation. However, an emergency room physician who is not authorized to serve as an attending physician under ORS 656.005 (12)(c) may authorize temporary disability benefits for a maximum of 14 days. A medical service provider qualified to serve as an attending physician under ORS 656.005 (12)(b)(B) may authorize the payment of temporary disability compensation for a period not to exceed 30 days from the date of the first visit on the initial claim.

(C) Except as otherwise provided in this chapter, only a physician qualified to serve as an attending physician under ORS 656.005 (12)(b)(A) or (B)(i) who is serving as the attending physician at the time of claim closure may make findings regarding the worker's impairment for the purpose of evaluating the worker's disability.

(D) Notwithstanding subparagraphs (A) and (B) of this paragraph, a nurse practitioner licensed under ORS 678.375 to 678.390 or a physician associate licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician associate in any country or in any state, territory or possession of the United States:

(i) May provide compensable medical services for 180 days from the date of the first visit on the initial claim;

(ii) May authorize the payment of temporary disability benefits for a period not to exceed 180 days from the date of the first visit on the initial claim; and

(iii) When an injured worker treating with a nurse practitioner or physician associate authorized to provide compensable services under this section becomes medically stationary within the 180-day period in which the nurse practitioner or physician associate is authorized to treat the injured worker, shall refer the injured worker to a physician qualified to be an attending physician as defined in ORS 656.005 for the purpose of making findings regarding the worker's impairment for the purpose of evaluating the worker's disability. If a worker returns to the nurse practitioner or physician associate after initial claim closure for evaluation of a possible worsening of the worker's condition, the nurse practitioner or physician associate shall refer the worker to an attending physician and the insurer shall compensate the nurse practitioner or physician associate for the examination performed.

(3) Notwithstanding any other provision of this chapter, the director, by rule, upon the advice of the committee created by ORS 656.794 and upon the advice of the professional licensing boards of practitioners affected by the rule, may exclude from compensability any medical treatment the director finds to be unscientific, unproven, outmoded or experimental. The decision of the director is subject to review under ORS 656.704.

(4) Notwithstanding subsection (2)(a) of this section, when a self-insured employer or the insurer of an employer contracts with a managed care organization certified pursuant to ORS 656.260 for medical services required by this chapter to be provided to injured workers:

(a) Those workers who are subject to the contract shall receive medical services in the manner prescribed in the contract. Workers subject to the contract include those who are receiving medical treatment for an accepted compensable injury or occupational disease, regardless of the date of injury or medically stationary status, on or after the effective date of the contract. If the managed care organization determines that the change in provider would be medically detrimental to the worker, the worker shall not become subject to the contract until the worker is found to be medically stationary, the worker changes physicians or nurse practitioners, or the managed care organization determines that the change in provider is no longer medically detrimental, whichever event first occurs. A worker becomes subject to the contract upon the worker's receipt of actual notice of the worker's enrollment in the managed care organization, or upon the third

day after the notice was sent by regular mail by the insurer or self-insured employer, whichever event first occurs. A worker shall not be subject to a contract after it expires or terminates without renewal. A worker may continue to treat with the attending physician or nurse practitioner authorized to provide compensable medical services under this section under an expired or terminated managed care organization contract if the physician or nurse practitioner agrees to comply with the rules, terms and conditions regarding services performed under any subsequent managed care organization contract to which the worker is subject. A worker shall not be subject to a contract if the worker's primary residence is more than 100 miles outside the managed care organization's certified geographical area. Each such contract must comply with the certification standards provided in ORS 656.260. However, a worker may receive immediate emergency medical treatment that is compensable from a medical service provider who is not a member of the managed care organization. Insurers or self-insured employers who contract with a managed care organization for medical services shall give notice to the workers of eligible medical service providers and such other information regarding the contract and manner of receiving medical services as the director may prescribe. Notwithstanding any provision of law or rule to the contrary, a worker of a noncomplying employer is considered to be subject to a contract between the State Accident Insurance Fund Corporation as a processing agent or the assigned claims agent and a managed care organization.

(b)(A) For initial or aggravation claims filed after June 7, 1995, the insurer or self-insured employer may require an injured worker, on a case-by-case basis, immediately to receive medical services from the managed care organization.

(B) If the insurer or self-insured employer gives notice that the worker is required to receive treatment from the managed care organization, the insurer or self-insured employer must guarantee that any reasonable and necessary services so received, that are not otherwise covered by health insurance, will be paid as provided in ORS 656.248, even if the claim is denied, until the worker receives actual notice of the denial or until three days after the denial is mailed, whichever event first occurs. The worker may elect to receive care from a primary care physician, nurse practitioner or physician associate authorized to provide compensable medical services under this section who agrees to the conditions of ORS 656.260 (4)(g). However, guarantee of payment is not required by the insurer or self-insured employer if this election is made.

(C) If the insurer or self-insured employer does not give notice that the worker is required to receive treatment from the managed care organization, the insurer or self-insured employer is under no obligation to pay for services received by the worker unless the claim is later accepted.

(D) If the claim is denied, the worker may receive medical services after the date of denial from sources other than the managed care organization until the denial is reversed. Reasonable and necessary medical services received from sources other than the managed care organization after the date of claim denial must be paid as provided in ORS 656.248 by the insurer or self-insured employer if the claim is finally determined to be compensable.

(5)(a) A nurse practitioner, or a physician associate described in ORS 656.005 (12)(b)(C), who is not a member of the managed care organization is authorized to provide the same level of services as a primary care physician as established by ORS 656.260 (4) if the nurse practitioner or physician associate:

(A) Maintains the worker's medical records;

(B) Has a documented history of treatment with the worker;

(C) Agrees to refer the worker to the managed care organization for any specialized treatment, including physical therapy, to be furnished by another provider that the worker may require; and

(D) Agrees to comply with all the rules, terms and conditions regarding services performed by the managed care organization.

(b)(A) A nurse practitioner or physician associate authorized to provide medical services to a worker enrolled in the managed care organization may:

(i) Provide medical treatment to the worker if the treatment is determined to be medically appropriate according to the service utilization review process of the managed care organization; and

(ii) Authorize temporary disability payments as provided in subsection (2)(b)(D) of this section.

(B) The managed care organization may also authorize the nurse practitioner or physician associate to provide medical services and authorize temporary disability payments beyond the periods established in subsection (2)(b)(D) of this section.

(6) Subject to the provisions of ORS 656.704, if a claim for medical services is disapproved, the injured worker, insurer or

self-insured employer may request administrative review by the director pursuant to ORS 656.260 or 656.327. [1965 c.285 §23; 1979 c.839 §32; 1981 c.535 §31; 1981 c.854 §14; 1985 c.739 §4; 1987 c.884 §24; 1990 c.2 §10; 1995 c.332 §25; amendments by 1995 c.332 §25a repealed by 1999 c.6 §1; 1999 c.6 §10; 1999 c.582 §12; 1999 c.868 §1; 1999 c.926 §1; 2003 c.811 §§3,4; 2005 c.26 §§3,4; 2007 c.252 §§3,4; 2007 c.270 §§2,3; 2007 c.365 §2a; 2007 c.505 §§3,4; 2009 c.32 §1; 2009 c.36 §1; 2013 c.179 §1; 2023 c.87 §1; 2024 c.73 §111]

656.246 [Repealed by 1965 c.285 §95]

656.247 Payment for medical services prior to claim acceptance or denial; review of disputed services; duty of health benefit plan to pay for certain medical services in denied claim. (1) Except for medical services provided to workers subject to ORS 656.245 (4)(b)(B), payment for medical services provided to a subject worker in response to an initial claim for a work-related injury or occupational disease from the date of the employer's notice or knowledge of the claim until the date the claim is accepted or denied shall be payable in accordance with subsection (4) of this section.

(2) Notwithstanding subsection (1) of this section, no payment shall be due from the insurer or self-insured employer if the insurer or self-insured employer denies the claim within 14 days of the date of the employer's notice or knowledge of the claim.

(3)(a) Disputes about whether the medical services provided to treat the claimed work-related injury or occupational disease under subsection (1) of this section are excessive, inappropriate or ineffectual or are consistent with the criteria in subsection (1) of this section shall be resolved by the Director of the Department of Consumer and Business Services. The director may order a medical review by a physician or panel of physicians pursuant to ORS 656.327 (3) to aid in the review of such services. If a party is dissatisfied with the order of the director, the dissatisfied party may request review under ORS 656.704 within 60 days of the date of the director's order. The order of the director may be modified only if it is not supported by substantial evidence in the record or if it reflects an error of law.

(b) Disputes about the amount of the fee or nonpayment of bills for medical treatment and services pursuant to this section shall be resolved pursuant to ORS 656.248.

(c) Except as provided in subsection (2) of this section, when a claim is settled pursuant to ORS 656.289 (4), all medical services payable under subsection (1) of this section that are provided on or before the date of denial shall be paid in accordance with subsection (4) of this section. The insurer or self-insured employer shall notify each affected service provider of the results of the settlement.

(4)(a) If the claim in which medical services are provided under subsection (1) of this section has not been accepted or denied and a health benefit plan provides benefits to the worker, the health benefit plan shall expedite preauthorizations and guarantee payment of expenses for medical services provided prior to acceptance or denial of the claim according to the terms, conditions and benefits of the plan.

(b) If the claim for which medical services are provided under subsection (1) of this section is accepted, after the claim has been accepted the insurer or self-insured employer shall pay for the medical services provided for accepted conditions, including reimbursements for medical expenses, copayments and deductibles paid by the injured worker or the health benefit plan. Payments made under this subsection are subject to the fee schedules, limitations and conditions of this chapter.

(c) If the claim for which medical services are provided under subsection (1) of this section is denied and a health benefit plan provides benefits to the worker, after the claim is denied the health benefit plan shall pay for medical services provided according to the terms, conditions and benefits of the plan.

(d) As used in this subsection, "health benefit plan" has the meaning given that term in ORS 743B.005 and also means self-insured benefit plans and health benefit plans offered by the Oregon Educators Benefit Board and the Public Employees' Benefit Board. [2001 c.865 §14; 2005 c.26 §5; 2011 c.99 §3; 2014 c.94 §1]

656.248 Medical service fee schedules; basis of fees; application to service provided by managed care organization; resolution of fee disputes; rules. (1) The Director of the Department of Consumer and Business Services, in compliance with ORS 656.794 and ORS chapter 183, shall promulgate rules for developing and publishing fee schedules for medical services provided under this chapter. These schedules shall represent the reimbursement generally received for the services provided. Where applicable, and to the extent the director determines practicable, these fee schedules shall be based upon any one or all of the following:

(a) The current procedural codes and relative value units of the Department of Health and Human Services Medicare Fee Schedules for all medical service provider services included therein;

(b) The average rates of fee schedules of the Oregon health insurance industry;

(c) A reasonable rate of markup for the sale of medical devices or other medical services;

(d) A commonly used and accepted medical service fee schedule; or

(e) The actual cost of providing medical services.

(2) Medical fees equal to or less than the fee schedules published under this section shall be paid when the vendor submits a billing for medical services. In no event shall that portion of a medical fee be paid that exceeds the schedules.

(3) In no event shall a provider charge more than the provider charges to the general public.

(4) If no fee has been established for a given service or procedure the director may, in compliance with ORS 656.794 and ORS chapter 183, promulgate a reasonable rate, which shall be the same within any given area for all primary health care providers to be paid for that service or procedure.

(5) At the request of the director and in the method and manner prescribed by rule, all providers of health insurance, as defined by ORS 731.162, shall cooperate and consult with the director in providing information reasonably necessary and available to develop the fee schedules prescribed under subsection (1) of this section. A provider shall not be required to provide information or data that the provider deems proprietary or confidential. However, the information provided shall be considered proprietary and shall not be released by the director. The director shall not require such information from a health insurance provider more than once per year and shall reimburse the provider's costs for providing the required information.

(6) Notwithstanding subsection (1) or (2) of this section, such rates or fees provided in subsections (1) and (2) of this section shall be adequate to insure at all times to the injured workers the standard of services and care intended by this chapter.

(7) The director shall update the schedule required by subsection (1) of this section annually. As appropriate and applicable, the update shall be based upon:

(a) A statistically valid survey by the director of medical service fees or markups;

(b) That information provided to the director by any person or state agency having access to medical service fee information;

(c) That information provided to the director pursuant to subsection (5) of this section; or

(d) The annual percentage increase or decrease in the physician's services component of the national Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor.

(8) The director is prohibited from adopting or administering rules which treat manipulation, when performed by an osteopathic physician, as anything other than a separate therapeutic procedure which is paid in addition to other services or office visits.

(9) The director may, by rule, establish a fee schedule for reimbursement for specific hospital services based upon the actual cost of providing the services.

(10) A medical service provider is not authorized to charge a fee for preparing or submitting a medical report form required by the director under this chapter.

(11) Notwithstanding any other provision of this section, fee schedules for medical services and hospital services shall apply to those services performed by a managed care organization certified pursuant to ORS 656.260, unless otherwise provided in the managed care contract.

(12) When a dispute exists between an injured worker, insurer or self-insured employer and a medical service provider regarding either the amount of the fee or nonpayment of bills for compensable medical services, notwithstanding any other provision of this chapter, the injured worker, insurer, self-insured employer or medical service provider may request administrative review by the director. The decision of the director is subject to review under ORS 656.704.

(13) The director may exclude hospitals defined in ORS 442.470 from imposition of a fee schedule authorized by this section upon a determination of economic necessity. [Amended by 1965 c.285 §26; 1969 c.611 §1; 1971 c.329 §1; 1981 c.535 §5; 1983 c.816 §6; 1985 c.107 §1; 1985 c.739 §5; 1987 c.884 §42; 1990 c.2 §14; 1995 c.332 §26; 1999 c.233 §1; 2005 c.26 §6; 2009 c.36 §2]

656.250 Limitation on compensability of physical therapist services. A physical therapist shall not provide compensable services to injured workers governed by this chapter except as allowed by a governing managed care organization contract or as authorized by the worker's attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245. [1993 c.211 §6; 2003 c.811 §§5,6; 2007 c.365 §3]

656.252 Medical report regulation; rules; duties of attending physician or nurse practitioner; disclosure of information; notice of changing attending physician or nurse practitioner; copies of medical service billings to be furnished to worker. (1) In order to ensure the prompt and correct reporting and payment of com-

pensation in compensable injuries, the Director of the Department of Consumer and Business Services shall make rules governing audits of medical service bills and reports by attending and consulting physicians and other personnel of all medical information relevant to the determination of a claim to the injured worker's representative, the worker's employer, the employer's insurer and the Department of Consumer and Business Services. Such rules shall include, but not necessarily be limited to:

(a) Requiring attending physicians and nurse practitioners authorized to provide compensable medical services under ORS 656.245 to make the insurer or self-insured employer a first report of injury within 72 hours after the first service rendered.

(b) Requiring attending physicians and nurse practitioners authorized to provide compensable medical services under ORS 656.245 to submit follow-up reports within specified time limits or upon the request of an interested party.

(c) Requiring examining physicians and nurse practitioners authorized to provide compensable medical services under ORS 656.245 to submit their reports, and to whom, within a specified time.

(d) Such other reporting requirements as the director may deem necessary to insure that payments of compensation be prompt and that all interested parties be given information necessary to the prompt determination of claims.

(e) Requiring insurers and self-insured employers to audit billings for all medical services, including hospital services.

(2) The attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 shall do the following:

(a) Cooperate with the insurer or self-insured employer to expedite diagnostic and treatment procedures and with efforts to return injured workers to appropriate work.

(b) Advise the insurer or self-insured employer of the anticipated date for release of the injured worker to return to employment, the anticipated date that the worker will be medically stationary, and the next appointment date. Except when the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 has previously indicated that temporary disability will not exceed 14 days, the insurer or self-insured employer may request a medical report every 15 days, and the attending physician or nurse practitioner shall forward such reports.

(c) Advise the insurer or self-insured employer within five days of the date the injured worker is released to return to work. Under no circumstances shall the physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 notify the insurer or employer of the worker's release to return to work without notifying the worker at the same time.

(d) After a claim has been closed, advise the insurer or self-insured employer within five days after the treatment is resumed or the reopening of a claim is recommended. The attending physician under this paragraph need not be the same attending physician who released the worker when the claim was closed.

(3) In promulgating the rules regarding medical reporting the director may consult and confer with physicians and members of medical associations and societies.

(4) No person who reports medical information to a person referred to in subsection (1) of this section, in accordance with department rules, shall incur any legal liability for the disclosure of such information.

(5) Whenever an injured worker changes attending physicians or nurse practitioners authorized to provide compensable medical services under ORS 656.245, the newly selected attending physician or nurse practitioner shall so notify the responsible insurer or self-insured employer not later than five days after the date of the change or the date of first treatment. Every attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 who refers a worker to a consulting physician promptly shall notify the responsible insurer or self-insured employer of the referral.

(6) A provider of medical services, including hospital services, that submits a billing to the insurer or self-insured employer shall also submit a copy of the billing to the worker for whom the service was performed after receipt from the injured worker of a written request for such a copy. [1967 c.626 §§2,5; 1979 c.839 §3; 1981 c.535 §6; 1981 c.874 §17; 1987 c.884 §3; 1995 c.332 §26a; 2001 c.865 §14a; 2003 c.811 §§7,8; 2007 c.365 §4]

656.254 Medical report forms; penalties and other sanctions; procedure for declaring health care practitioner ineligible for workers' compensation reimbursement. (1) The Director of the Department of Consumer and Business Services shall establish medical report forms, in duplicate snap-outs where applicable, to be used by insurers, self-insured employers and physicians, including in such forms information necessary to establish facts required in the determination of the claim.

(2) The director shall establish sanctions for the enforcement of medical reporting re-

quirements. Such sanctions may include, but are not limited to, forfeiture of fees and penalty not to exceed $1,000 for each occurrence.

(3) If the director finds that a health care practitioner has:

(a) Been found, pursuant to ORS 656.327, to have failed to comply with rules adopted pursuant to this chapter regarding the performance of medical services for injured workers or to have provided medical treatment that is excessive, inappropriate or ineffectual, the director may impose a sanction that includes forfeiture of fees and a penalty not to exceed $1,000 for each occurrence. If the failure to comply or perform is repeated and willful, the director may declare the health care practitioner ineligible for reimbursement for treating workers' compensation claimants for a period not to exceed three years.

(b) Had the health care practitioner's license revoked or suspended by the practitioner's professional licensing board for a violation of that profession's ethical standards, the director may declare the health care practitioner ineligible for reimbursement for treating workers' compensation claimants for a period not to exceed three years or the period the practitioner's license is suspended or revoked, whichever period is the longer.

(c) Engaged in any course of conduct demonstrated to be dangerous to the health or safety of a workers' compensation claimant, the director may impose a sanction that includes forfeiture of fees and a penalty not to exceed $1,000 for each occurrence. If the conduct is repeated and willful, the director may declare the health care practitioner ineligible for reimbursement for treating workers' compensation claimants for a period not to exceed three years.

(4) Any declaration that a health care practitioner is ineligible to receive reimbursement under this chapter shall not otherwise interfere with or impair treatment of any person by the health care practitioner.

(5) ORS 656.735 (4) to (6) and 656.740 also apply to orders and penalties assessed under this section. [1967 c.626 §§3,4; 1975 c.556 §40; 1979 c.839 §30; 1981 c.854 §15; 1987 c.233 §1; 1987 c.884 §27; 1995 c.94 §2; 1997 c.249 §200; 2003 c.170 §12; 2005 c.26 §7]

656.256 Considerations for rules regarding certain rural hospitals. Whenever the Workers' Compensation Division of the Department of Consumer and Business Services adopts any rule affecting a type A or B rural hospital, the division shall take into consideration the risk assessment formula set forth in ORS 442.520 (2). [1991 c.947 §19]

656.258 Vocational assistance service payments. The insurer or self-insured employer shall pay a vocational assistance provider for all vocational assistance services, including the cost of an evaluation to determine whether a worker is eligible for vocational assistance, that are performed at the request of the insurer or self-insured employer. Within 60 days after receiving a billing, the insurer or self-insured employer shall pay for all vocational assistance services performed, including those services performed in good faith without knowledge that the worker's eligibility to receive vocational assistance has been terminated or that the worker has withdrawn or is otherwise ineligible for vocational assistance. [1985 c.600 §18]

656.260 Certification procedure for managed health care provider; required findings; denial or termination of provider authorization; scope of director's review; confidentiality of certain information; immunity from liability; rules; medical service dispute resolution; penalties. (1) Any health care provider or group of medical service providers may make written application to the Director of the Department of Consumer and Business Services to become certified to provide managed care to injured workers for injuries and diseases compensable under this chapter. However, nothing in this section authorizes an organization that is formed, owned or operated by an insurer or employer other than a health care provider to become certified to provide managed care.

(2) Each application for certification shall be accompanied by a reasonable fee prescribed by the director. A certificate is valid for such period as the director may prescribe unless sooner revoked or suspended.

(3) Application for certification shall be made in such form and manner and shall set forth such information regarding the proposed plan for providing services as the director may prescribe. The information shall include, but not be limited to:

(a) A list of the names of all individuals who will provide services under the managed care plan, together with appropriate evidence of compliance with any licensing or certification requirements for that individual to practice in this state.

(b) A description of the times, places and manner of providing services under the plan.

(c) A description of the times, places and manner of providing other related optional services the applicants wish to provide.

(d) Satisfactory evidence of ability to comply with any financial requirements to

ensure delivery of service in accordance with the plan which the director may prescribe.

(4) The director shall certify a health care provider or group of medical service providers to provide managed care under a plan if the director finds that the plan:

(a) Proposes to provide medical and health care services required by this chapter in a manner that:

(A) Meets quality, continuity and other treatment standards adopted by the health care provider or group of medical service providers in accordance with processes approved by the director; and

(B) Is timely, effective and convenient for the worker.

(b) Subject to any other provision of law, does not discriminate against or exclude from participation in the plan any category of medical service providers and includes an adequate number of each category of medical service providers to give workers adequate flexibility to choose medical service providers from among those individuals who provide services under the plan. However, nothing in the requirements of this paragraph shall affect the provisions of ORS 441.055 relating to the granting of medical staff privileges.

(c) Provides appropriate financial incentives to reduce service costs and utilization without sacrificing the quality of service.

(d) Provides adequate methods of peer review, service utilization review, quality assurance, contract review and dispute resolution to ensure appropriate treatment or to prevent inappropriate or excessive treatment, to exclude from participation in the plan those individuals who violate these treatment standards and to provide for the resolution of such medical disputes as the director considers appropriate. A majority of the members of each peer review, quality assurance, service utilization and contract review committee shall be physicians licensed to practice medicine by the Oregon Medical Board. As used in this paragraph:

(A) "Contract review" means the methods and processes whereby the managed care organization monitors and enforces its contracts with participating providers for matters other than matters enumerated in subparagraphs (C), (D) and (E) of this paragraph.

(B) "Dispute resolution" includes the resolution of disputes arising under peer review, service utilization review and quality assurance activities between insurers, self-insured employers, workers and medical and health care service providers, as required under the certified plan.

(C) "Peer review" means evaluation or review of the performance of colleagues by a panel with similar types and degrees of expertise. Peer review requires participation of at least three physicians prior to final determination.

(D) "Quality assurance" means activities to safeguard or improve the quality of medical care by assessing the quality of care or service and taking action to improve it.

(E) "Service utilization review" means evaluation and determination of the reasonableness, necessity and appropriateness of a worker's use of medical care resources and the provision of any needed assistance to clinician or member, or both, to ensure appropriate use of resources. "Service utilization review" includes prior authorization, concurrent review, retrospective review, discharge planning and case management activities.

(e) Provides a program involving cooperative efforts by the workers, the employer and the managed care organizations to promote workplace health and safety consultative and other services and early return to work for injured workers.

(f) Provides a timely and accurate method of reporting to the director necessary information regarding medical and health care service cost and utilization to enable the director to determine the effectiveness of the plan.

(g)(A) Authorizes workers to receive compensable medical treatment from a primary care physician or chiropractic physician who is not a member of the managed care organization, but who maintains the worker's medical records and is a physician with whom the worker has a documented history of treatment, if:

(i) The primary care physician or chiropractic physician agrees to refer the worker to the managed care organization for any specialized treatment, including physical therapy, to be furnished by another provider that the worker may require;

(ii) The primary care physician or chiropractic physician agrees to comply with all the rules, terms and conditions regarding services performed by the managed care organization; and

(iii) The treatment is determined to be medically appropriate according to the service utilization review process of the managed care organization.

(B) Nothing in this paragraph is intended to limit the worker's right to change primary care physicians or chiropractic physicians prior to the filing of a workers' compensation claim.

(C) A chiropractic physician authorized to provide compensable medical treatment under this paragraph may provide services and authorize temporary disability compensation as provided in ORS 656.005 (12)(b)(B) and 656.245 (2)(b). However, the managed care organization may authorize chiropractic physicians to provide medical services and authorize temporary disability payments beyond the periods established in ORS 656.005 (12)(b)(B) and 656.245 (2)(b).

(D) As used in this paragraph, "primary care physician" means a physician who is qualified to be an attending physician referred to in ORS 656.005 (12)(b)(A) and who is a family practitioner, a general practitioner or an internal medicine practitioner.

(h) Provides a written explanation for denial of participation in the managed care organization plan to any licensed health care provider that has been denied participation in the managed care organization plan.

(i) Does not prohibit the injured worker's attending physician from advocating for medical services and temporary disability benefits for the injured worker that are supported by the medical record.

(j) Complies with any other requirement the director determines is necessary to provide quality medical services and health care to injured workers.

(5)(a) Notwithstanding ORS 656.245 (5) and subsection (4)(g) of this section, a managed care organization may deny or terminate the authorization of a primary care physician or chiropractic physician to serve as an attending physician under subsection (4)(g) of this section or of a nurse practitioner or physician associate to provide medical services as provided in ORS 656.245 (5) if the physician, nurse practitioner or physician associate, within two years prior to the worker's enrollment in the plan:

(A) Has been terminated from serving as an attending physician, nurse practitioner or physician associate for a worker enrolled in the plan for failure to meet the requirements of subsection (4)(g) of this section or of ORS 656.245 (5); or

(B) Has failed to satisfy the credentialing standards for participating in the managed care organization.

(b) The director shall adopt by rule reporting standards for managed care organizations to report denials and terminations of the authorization of primary care physicians, chiropractic physicians, nurse practitioners and physician associates who are not members of the managed care organization to provide compensable medical treatment under ORS 656.245 (5) and subsection (4)(g) of this section. The director shall annually report to the Workers' Compensation Management-Labor Advisory Committee the information reported to the director by managed care organizations under this paragraph.

(6) The director shall refuse to certify or may revoke or suspend the certification of any health care provider or group of medical service providers to provide managed care if the director finds that:

(a) The plan for providing medical or health care services fails to meet the requirements of this section.

(b) Service under the plan is not being provided in accordance with the terms of a certified plan.

(7) Any issue concerning the provision of medical services to injured workers subject to a managed care contract and service utilization review, quality assurance, dispute resolution, contract review and peer review activities as well as authorization of medical services to be provided by other than an attending physician pursuant to ORS 656.245 (2)(b) shall be subject to review by the director or the director's designated representatives. The decision of the director is subject to review under ORS 656.704. Data generated by or received in connection with these activities, including written reports, notes or records of any such activities, or of any review thereof, shall be confidential, and shall not be disclosed except as considered necessary by the director in the administration of this chapter. The director may report professional misconduct to an appropriate licensing board.

(8) No data generated by service utilization review, quality assurance, dispute resolution or peer review activities and no physician profiles or data used to create physician profiles pursuant to this section or a review thereof shall be used in any action, suit or proceeding except to the extent considered necessary by the director in the administration of this chapter. The confidentiality provisions of this section shall not apply in any action, suit or proceeding arising out of or related to a contract between a managed care organization and a health care provider whose confidentiality is protected by this section.

(9) A person participating in service utilization review, quality assurance, dispute resolution or peer review activities pursuant to this section shall not be examined as to any communication made in the course of such activities or the findings thereof, nor shall any person be subject to an action for civil damages for affirmative actions taken or statements made in good faith.

(10) No person who participates in forming consortiums, collectively negotiating fees or otherwise solicits or enters into contracts in a good faith effort to provide medical or health care services according to the provisions of this section shall be examined or subject to administrative or civil liability regarding any such participation except pursuant to the director's active supervision of such activities and the managed care organization. Before engaging in such activities, the person shall provide notice of intent to the director in a form prescribed by the director.

(11) The provisions of this section shall not affect the confidentiality or admission in evidence of a claimant's medical treatment records.

(12) In consultation with the committees referred to in ORS 656.790 and 656.794, the director shall adopt such rules as may be necessary to carry out the provisions of this section.

(13) As used in this section and ORS 656.245, 656.248 and 656.327, "medical service provider" means a person duly licensed to practice one or more of the healing arts in any country or in any state or territory or possession of the United States.

(14) Notwithstanding ORS 656.005 (12) or subsection (4)(b) of this section, a managed care organization contract may designate any medical service provider or category of providers as attending physicians.

(15) If a worker, insurer, self-insured employer, the attending physician or an authorized health care provider is dissatisfied with an action of the managed care organization regarding the provision of medical services pursuant to this chapter, peer review, service utilization review or quality assurance activities, that person or entity must first apply to the director for administrative review of the matter before requesting a hearing. Such application must be made not later than the 60th day after the date the managed care organization has completed and issued its final decision.

(16) Upon a request for administrative review, the director shall create a documentary record sufficient for judicial review. The director shall complete administrative review and issue a proposed order within a reasonable time. The proposed order of the director issued pursuant to this section shall become final and not subject to further review unless a written request for a hearing is filed with the director within 30 days of the mailing of the order to all parties.

(17) At the contested case hearing, the order may be modified only if it is not supported by substantial evidence in the record or reflects an error of law. No new medical evidence or issues shall be admitted. The dispute may also be remanded to the managed care organization for further evidence taking, correction or other necessary action if the Administrative Law Judge or director determines the record has been improperly, incompletely or otherwise insufficiently developed. Decisions by the director regarding medical disputes are subject to review under ORS 656.704.

(18) Any person who is dissatisfied with an action of a managed care organization other than regarding the provision of medical services pursuant to this chapter, peer review, service utilization review or quality assurance activities may request review under ORS 656.704.

(19) Notwithstanding any other provision of law, original jurisdiction over contract review disputes is with the director. The director may resolve the matter by issuing an order subject to review under ORS 656.704, or the director may determine that the matter in dispute would be best addressed in another forum and so inform the parties.

(20) The director shall conduct such investigations, audits and other administrative oversight in regard to managed care as the director deems necessary to carry out the purposes of this chapter.

(21)(a) Except as otherwise provided in this chapter, only a managed care organization certified by the director may:

(A) Restrict the choice of a health care provider or medical service provider by a worker;

(B) Restrict the access of a worker to any category of medical service providers;

(C) Restrict the ability of a medical service provider to refer a worker to another provider;

(D) Require preauthorization or precertification to determine the necessity of medical services or treatment; or

(E) Restrict treatment provided to a worker by a medical service provider to specific treatment guidelines, protocols or standards.

(b) The provisions of paragraph (a) of this subsection do not apply to:

(A) A medical service provider who refers a worker to another medical service provider;

(B) Use of an on-site medical service facility by the employer to assess the nature or extent of a worker's injury; or

(C) Treatment provided by a medical service provider or transportation of a worker in an emergency or trauma situation.

(c) Except as provided in paragraph (b) of this subsection, if the director finds that a person has violated a provision of paragraph (a) of this subsection, the director may impose a sanction that may include a civil penalty not to exceed $2,000 for each violation.

(d) If violation of paragraph (a) of this subsection is repeated or willful, the director may order the person committing the violation to cease and desist from making any future communications with injured workers or medical service providers or from taking any other actions that directly or indirectly affect the delivery of medical services provided under this chapter.

(e)(A) Penalties imposed under this subsection are subject to ORS 656.735 (4) to (6) and 656.740.

(B) Cease and desist orders issued under this subsection are subject to ORS 656.740. [1990 c.2 §12; 1995 c.332 §27; amendments by 1995 c.332 §27a repealed by 1999 c.6 §1; 1997 c.639 §§1,2; 2005 c.26 §8; 2005 c.364 §1; 2007 c.423 §1; 2011 c.98 §1; 2013 c.179 §2; 2023 c.87 §3; 2024 c.73 §112; 2025 c.2 §36]

PROCEDURE FOR OBTAINING COMPENSATION

656.262 Processing of claims and payment of compensation; payment by employer; acceptance and denial of claim; penalties and attorney fees; cooperation by worker and attorney in claim investigation; rules. (1) Processing of claims and providing compensation for a worker shall be the responsibility of the insurer or self-insured employer. All employers shall assist their insurers in processing claims as required in this chapter.

(2) The compensation due under this chapter shall be paid periodically, promptly and directly to the person entitled thereto upon the employer's receiving notice or knowledge of a claim, except where the right to compensation is denied by the insurer or self-insured employer.

(3)(a) Employers shall, immediately and not later than five days after notice or knowledge of any claims or accidents which may result in a compensable injury claim, report the same to their insurer. The report shall include:

(A) The date, time, cause and nature of the accident and injuries.

(B) Whether the accident arose out of and in the course of employment.

(C) Whether the employer recommends or opposes acceptance of the claim, and the reasons therefor.

(D) The name and address of any health insurance provider for the injured worker.

(E) Any other details the insurer may require.

(b) Failure to so report subjects the offending employer to a charge for reimbursing the insurer for any penalty the insurer is required to pay under subsection (11) of this section because of such failure. As used in this subsection, "health insurance" has the meaning for that term provided in ORS 731.162.

(4)(a) The first installment of temporary disability compensation shall be paid no later than the 14th day after the subject employer has notice or knowledge of the claim and of the worker's disability, if the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 authorizes the payment of temporary disability compensation. Thereafter, temporary disability compensation shall be paid at least once each two weeks, except where the Director of the Department of Consumer and Business Services determines that payment in installments should be made at some other interval. The director may by rule convert monthly benefit schedules to weekly or other periodic schedules.

(b) Notwithstanding any other provision of this chapter, if a self-insured employer pays to an injured worker who becomes disabled the same wage at the same pay interval that the worker received at the time of injury, such payment shall be deemed timely payment of temporary disability payments pursuant to ORS 656.210 and 656.212 during the time the wage payments are made.

(c) Notwithstanding any other provision of this chapter, when the holder of a public office is injured in the course and scope of that public office, full official salary paid to the holder of that public office shall be deemed timely payment of temporary disability payments pursuant to ORS 656.210 and 656.212 during the time the wage payments are made. As used in this subsection, "public office" has the meaning for that term provided in ORS 260.005.

(d) Temporary disability compensation is not due and payable for any period of time for which the insurer or self-insured employer has requested from the worker's attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 verification of the worker's inability to work resulting from the claimed injury or disease and the physician or nurse practitioner cannot verify the worker's inability to work, unless the worker has been unable to receive treatment for reasons beyond the worker's control.

(e) If a worker fails to appear at an appointment with the worker's attending physician or nurse practitioner authorized to

provide compensable medical services under ORS 656.245, the insurer or self-insured employer shall notify the worker by certified mail that temporary disability benefits may be suspended after the worker fails to appear at a rescheduled appointment. If the worker fails to appear at a rescheduled appointment, the insurer or self-insured employer may suspend payment of temporary disability benefits to the worker until the worker appears at a subsequent rescheduled appointment.

(f) If the insurer or self-insured employer has requested and failed to receive from the worker's attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 verification of the worker's inability to work resulting from the claimed injury or disease, medical services provided by the attending physician or nurse practitioner are not compensable until the attending physician or nurse practitioner submits such verification.

(g)(A) Temporary disability compensation is not due and payable pursuant to ORS 656.268 after the worker's attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 ceases to authorize temporary disability or for any period of time not authorized by the attending physician or nurse practitioner. No authorization of temporary disability compensation by the attending physician or nurse practitioner under ORS 656.268 shall be effective to retroactively authorize the payment of temporary disability more than 45 days prior to its issuance.

(B) Subparagraph (A) of this paragraph does not apply:

(i) During periods in which there is a denial under the jurisdiction of the Workers' Compensation Board that affects the worker's ability to obtain authorization of temporary disability;

(ii) During periods in which there is a dispute over the identity of, or treatment by, an attending physician or nurse practitioner that affects the worker's ability to obtain authorization of temporary disability; or

(iii) When notice has not been given pursuant to paragraph (j) of this subsection.

(h) The worker's disability may be authorized only by a person described in ORS 656.005 (12)(b)(B) or 656.245 for the period of time permitted by those sections. The insurer or self-insured employer may unilaterally suspend payment of temporary disability benefits to the worker at the expiration of the period until temporary disability is reauthorized by an attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245.

(i) The insurer or self-insured employer may unilaterally suspend payment of all compensation to a worker enrolled in a managed care organization if the worker continues to seek care from an attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 that is not authorized by the managed care organization more than seven days after the mailing of notice by the insurer or self-insured employer.

(j)(A) The insurer or self-insured employer may not end temporary disability benefits until written notice has been mailed or delivered to the worker and the worker's attorney, if the worker is represented. The notice must state the reason that temporary disability benefits are no longer due and payable.

(B) The worker's attending physician or nurse practitioner may retroactively authorize temporary disability for up to 45 days prior to the date of the notice.

(C) If the notice required under subparagraph (A) of this paragraph is given more than 45 days after the worker was no longer eligible for benefits, the attending physician or nurse practitioner may retroactively authorize temporary disability back to the date on which benefits were no longer due and payable, provided the authorization is made within 30 days following the earlier of the date of mailing or delivery of the written notice that the eligibility ended to the worker and the worker's attorney, if the worker is represented.

(5)(a) Payment of compensation under subsection (4) of this section or payment, in amounts per claim not to exceed the maximum amount established annually by the Director of the Department of Consumer and Business Services, for medical services for nondisabling claims, may be made by the subject employer if the employer so chooses. The making of such payments does not constitute a waiver or transfer of the insurer's duty to determine entitlement to benefits. If the employer chooses to make such payment, the employer shall report the injury to the insurer in the same manner that other injuries are reported. However, an insurer shall not modify an employer's experience rating or otherwise make charges against the employer for any medical expenses paid by the employer pursuant to this subsection.

(b) To establish the maximum amount an employer may pay for medical services for nondisabling claims under paragraph (a) of this subsection, the director shall use $1,500 as the base compensation amount and shall adjust the base compensation amount annually to reflect changes in the United States City Average Consumer Price Index for All

Urban Consumers for Medical Care for July of each year as published by the Bureau of Labor Statistics of the United States Department of Labor. The adjustment shall be rounded to the nearest multiple of $100.

(c) The adjusted amount established under paragraph (b) of this subsection shall be effective on January 1 following the establishment of the amount and shall apply to claims with a date of injury on or after the effective date of the adjusted amount.

(6)(a) Written notice of acceptance or denial of the claim shall be furnished to the claimant by the insurer or self-insured employer within 60 days after the employer has notice or knowledge of the claim. Once the claim is accepted, the insurer or self-insured employer shall not revoke acceptance except as provided in this section. The insurer or self-insured employer may revoke acceptance and issue a denial at any time when the denial is for fraud, misrepresentation or other illegal activity by the worker. If the worker requests a hearing on any revocation of acceptance and denial alleging fraud, misrepresentation or other illegal activity, the insurer or self-insured employer has the burden of proving, by a preponderance of the evidence, such fraud, misrepresentation or other illegal activity. Upon such proof, the worker then has the burden of proving, by a preponderance of the evidence, the compensability of the claim. If the insurer or self-insured employer accepts a claim in good faith, in a case not involving fraud, misrepresentation or other illegal activity by the worker, and later obtains evidence that the claim is not compensable or evidence that the insurer or self-insured employer is not responsible for the claim, the insurer or self-insured employer may revoke the claim acceptance and issue a formal notice of claim denial, if such revocation of acceptance and denial is issued no later than two years after the date of the initial acceptance. If the worker requests a hearing on such revocation of acceptance and denial, the insurer or self-insured employer must prove, by a preponderance of the evidence, that the claim is not compensable or that the insurer or self-insured employer is not responsible for the claim. Notwithstanding any other provision of this chapter, if a denial of a previously accepted claim is set aside by an Administrative Law Judge, the Workers' Compensation Board or the court, temporary total disability benefits are payable from the date any such benefits were terminated under the denial. Except as provided in ORS 656.247, pending acceptance or denial of a claim, compensation payable to a claimant does not include the costs of medical benefits or funeral expenses. The insurer shall also furnish the employer a copy of the notice of acceptance.

(b) The notice of acceptance shall:

(A) Specify what conditions are compensable.

(B) Advise the claimant whether the claim is considered disabling or nondisabling.

(C) Inform the claimant of the Expedited Claim Service and of the hearing and aggravation rights concerning nondisabling injuries, including the right to object to a decision that the injury of the claimant is nondisabling by requesting reclassification pursuant to ORS 656.277.

(D) Inform the claimant of employment reinstatement rights and responsibilities under ORS chapter 659A.

(E) Inform the claimant of assistance available to employers and workers from the Reemployment Assistance Program under ORS 656.622.

(F) Be modified by the insurer or self-insured employer from time to time as medical or other information changes a previously issued notice of acceptance.

(c) An insurer's or self-insured employer's acceptance of a combined or consequential condition under ORS 656.005 (7), whether voluntary or as a result of a judgment or order, shall not preclude the insurer or self-insured employer from later denying the combined or consequential condition if the otherwise compensable injury ceases to be the major contributing cause of the combined or consequential condition.

(d) An injured worker who believes that a condition has been incorrectly omitted from a notice of acceptance, or that the notice is otherwise deficient, first must communicate in writing to the insurer or self-insured employer the worker's objections to the notice pursuant to ORS 656.267. The insurer or self-insured employer has 60 days from receipt of the communication from the worker to revise the notice or to make other written clarification in response. A worker who fails to comply with the communication requirements of this paragraph or ORS 656.267 may not allege at any hearing or other proceeding on the claim a de facto denial of a condition based on information in the notice of acceptance from the insurer or self-insured employer. Notwithstanding any other provision of this chapter, the worker may initiate objection to the notice of acceptance at any time.

(7)(a) After claim acceptance, written notice of acceptance or denial of claims for aggravation or new medical or omitted condition claims properly initiated pursuant to ORS 656.267 shall be furnished to the

claimant by the insurer or self-insured employer within 60 days after the insurer or self-insured employer receives written notice of such claims. A worker who fails to comply with the communication requirements of subsection (6) of this section or ORS 656.267 may not allege at any hearing or other proceeding on the claim a de facto denial of a condition based on information in the notice of acceptance from the insurer or self-insured employer.

(b) Once a worker's claim has been accepted, the insurer or self-insured employer must issue a written denial to the worker when the accepted injury is no longer the major contributing cause of the worker's combined condition before the claim may be closed.

(c) When an insurer or self-insured employer determines that the claim qualifies for claim closure, the insurer or self-insured employer shall issue at claim closure an updated notice of acceptance that specifies which conditions are compensable. The procedures specified in subsection (6)(d) of this section apply to this notice. Any objection to the updated notice or appeal of denied conditions shall not delay claim closure pursuant to ORS 656.268. If a condition is found compensable after claim closure, the insurer or self-insured employer shall reopen the claim for processing regarding that condition.

(8) The assigned claims agent in processing claims under ORS 656.054 shall send notice of acceptance or denial to the noncomplying employer.

(9) If an insurer or any other duly authorized agent of the employer for such purpose, on record with the Director of the Department of Consumer and Business Services denies a claim for compensation, written notice of such denial, stating the reason for the denial, and informing the worker of the Expedited Claim Service and of hearing rights under ORS 656.283, shall be given to the claimant. The insurer shall issue a copy of the notice of denial to the employer. The insurer shall notify the director of the denial in the manner the director prescribes by rule. The worker may request a hearing pursuant to ORS 656.319.

(10) Merely paying or providing compensation shall not be considered acceptance of a claim or an admission of liability, nor shall mere acceptance of such compensation be considered a waiver of the right to question the amount thereof. Payment of permanent disability benefits pursuant to a notice of closure, reconsideration order or litigation order, or the failure to appeal or seek review of such an order or notice of closure, shall not preclude an insurer or self-insured employer from subsequently contesting the compensability of the condition rated therein, unless the condition has been formally accepted.

(11)(a) If the insurer or self-insured employer unreasonably delays or unreasonably refuses to pay compensation, attorney fees or costs, or unreasonably delays acceptance or denial of a claim, the insurer or self-insured employer shall be liable for an additional amount up to 25 percent of the amounts then due plus any attorney fees assessed under this section. The fees assessed by the director, an Administrative Law Judge, the board or the court under this section shall be reasonable attorney fees. In assessing fees, the director, an Administrative Law Judge, the board or the court shall consider the proportionate benefit to the injured worker. The board shall adopt rules for establishing the amount of the attorney fee, giving primary consideration to the results achieved and to the time devoted to the case. An attorney fee awarded pursuant to this subsection may not exceed $4,000 absent a showing of extraordinary circumstances. The maximum attorney fee awarded under this paragraph shall be adjusted annually on July 1 by the same percentage increase as made to the average weekly wage defined in ORS 656.211, if any. Notwithstanding any other provision of this chapter, the director shall have exclusive jurisdiction over proceedings regarding solely the assessment and payment of the additional amount and attorney fees described in this subsection. The action of the director and the review of the action taken by the director shall be subject to review under ORS 656.704.

(b) When the director does not have exclusive jurisdiction over proceedings regarding the assessment and payment of the additional amount and attorney fees described in this subsection, the provisions of this subsection shall apply in the other proceeding.

(12)(a) If payment is due on a disputed claim settlement authorized by ORS 656.289 and the insurer or self-insured employer has failed to make the payment in accordance with the requirements specified in the disputed claim settlement, the claimant or the claimant's attorney shall clearly notify the insurer or self-insured employer in writing that the payment is past due. If the required payment is not made within five business days after receipt of the notice by the insurer or self-insured employer, the director may assess a penalty and attorney fee in accordance with a matrix adopted by the director by rule.

(b) The director shall adopt by rule a matrix for the assessment of the penalties

and attorney fees authorized under this subsection. The matrix shall provide for penalties based on a percentage of the settlement proceeds allocated to the claimant and for attorney fees based on a percentage of the settlement proceeds allocated to the claimant's attorney as an attorney fee.

(13) The insurer may authorize an employer to pay compensation to injured workers and shall reimburse employers for compensation so paid.

(14)(a) Injured workers have the duty to cooperate and assist the insurer or self-insured employer in the investigation of claims for compensation. Injured workers shall submit to and shall fully cooperate with personal and telephonic interviews and other formal or informal information gathering techniques. Injured workers who are represented by an attorney shall have the right to have the attorney present during any personal or telephonic interview or deposition. If the injured worker is represented by an attorney, the insurer or self-insured employer shall pay the attorney a reasonable attorney fee based upon an hourly rate for actual time spent during the personal or telephonic interview or deposition. After consultation with the Board of Governors of the Oregon State Bar, the Workers' Compensation Board shall adopt rules for the establishment, assessment and enforcement of an hourly attorney fee rate specified in this subsection.

(b) If the attorney is not willing or available to participate in an interview at a time reasonably chosen by the insurer or self-insured employer within 14 days of the request for interview and the insurer or self-insured employer has cause to believe that the attorney's unwillingness or unavailability is unreasonable and is preventing the worker from complying within 14 days of the request for interview, the insurer or self-insured employer shall notify the director. If the director determines that the attorney's unwillingness or unavailability is unreasonable, the director shall assess a civil penalty against the attorney of not more than $1,000.

(15) If the director finds that a worker fails to reasonably cooperate with an investigation involving an initial claim to establish a compensable injury or an aggravation claim to reopen the claim for a worsened condition, the director shall suspend all or part of the payment of compensation after notice to the worker. If the worker does not cooperate for an additional 30 days after the notice, the insurer or self-insured employer may deny the claim because of the worker's failure to cooperate. The obligation of the insurer or self-insured employer to accept or deny the claim within 60 days is suspended during the time of the worker's noncooperation. After such a denial, the worker shall not be granted a hearing or other proceeding under this chapter on the merits of the claim unless the worker first requests and establishes at an expedited hearing under ORS 656.291 that the worker fully and completely cooperated with the investigation, that the worker failed to cooperate for reasons beyond the worker's control or that the investigative demands were unreasonable. If the Administrative Law Judge finds that the worker has not fully cooperated, the Administrative Law Judge shall affirm the denial, and the worker's claim for injury shall remain denied. If the Administrative Law Judge finds that the worker has cooperated, or that the investigative demands were unreasonable, the Administrative Law Judge shall set aside the denial, order the reinstatement of interim compensation if appropriate and remand the claim to the insurer or self-insured employer to accept or deny the claim.

(16) In accordance with ORS 656.283 (3), the Administrative Law Judge assigned a request for hearing for a claim for compensation involving more than one potentially responsible employer or insurer may specify what is required of an injured worker to reasonably cooperate with the investigation of the claim as required by subsection (14) of this section. [1965 c.285 §30; 1969 c.399 §1; 1973 c.620 §2; 1975 c.556 §41; 1981 c.535 §7; 1981 c.854 §16; 1981 c.874 §4; 1983 c.809 §1; 1983 c.816 §7; 1985 c.600 §7; 1987 c.884 §19; 1990 c.2 §15; 1995 c.332 §28; 1995 c.641 §4; 1997 c.605 §1; 1997 c.639 §7; 1999 c.313 §5; 2001 c.621 §83; 2001 c.865 §7; 2003 c.667 §1; 2003 c.756 §1; 2003 c.760 §2; 2003 c.811 §§9,10; 2005 c.26 §§9,10; 2005 c.511 §§1,2; 2005 c.588 §§2,3; 2007 c.252 §5; 2007 c.365 §5; 2007 c.518 §§1,2; 2009 c.35 §3; 2009 c.171 §3; 2009 c.526 §1; 2015 c.211 §1; 2015 c.521 §2; 2021 c.47 §1; 2022 c.73 §§1,2]

Note: Section 3, chapter 73, Oregon Laws 2022, provides:

Sec. 3. (1) The amendments to ORS 656.262 by sections 1 and 2 of this 2022 Act apply to all claims that exist on, or arise on or after, January 1, 2024, regardless of the date of injury or the date on which the claim is filed.

(2) Notwithstanding subsection (1) of this section, the amendments to ORS 656.262 by sections 1 and 2 of this 2022 Act do not apply to disputes in which a final determination is made prior to January 1, 2024. [2022 c.73 §3]

656.263 To whom notices sent under ORS 656.262, 656.265, 656.268 to 656.289, 656.295 to 656.325 and 656.382 to 656.388. All notices of proceedings required to be sent under ORS 656.262, 656.265, 656.268 to 656.289, 656.295 to 656.325, 656.382 to 656.388 and this section shall be sent to the employer and the insurer, if any. [1967 c.97 §2; 1975 c.556 §42]

656.264 Compensable injury, denied claim and other reports. (1) Insurers and self-insured employers shall report to the Director of the Department of Consumer and

Business Services compensable injuries, denied claims, claims disposition and payments made by them under this chapter.

(2) The director may require insurers and self-insured employers to report other information as required to carry out this chapter.

(3) The director may prescribe the interval and the form of such reports and establish sanctions for the enforcement of reporting requirements. [1975 c.556 §39; 1981 c.854 §17; 2003 c.760 §3]

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

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

(2) The notice need not be in any particular form. However, it shall be in writing and shall apprise the employer when and where and how an injury has occurred to a worker. A report or statement secured from a worker, or from the doctor of the worker and signed by the worker, concerning an accident which may involve a compensable injury shall be considered notice from the worker and the employer shall forthwith furnish the worker a copy of any such report or statement.

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

(4) Failure to give notice as required by this section bars a claim under this chapter unless the notice is given within one year after the date of the accident and:

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

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

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

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

(6) The director shall promulgate and prescribe uniform forms to be used by workers in reporting their injuries to their employers. These forms shall be supplied by all employers to injured workers upon request of the injured worker or some other person on behalf of the worker. The failure of the worker to use a specified form shall not, in itself, defeat the claim of the worker if the worker has complied with the requirement that the claim be presented in writing. [1965 c.285 §30a; 1971 c.386 §2; 1981 c.854 §18; 1995 c.332 §29; 2003 c.707 §1; 2015 c.259 §1]

656.266 Burden of proving compensability and nature and extent of disability. (1) The burden of proving that an injury or occupational disease is compensable and of proving the nature and extent of any disability resulting therefrom is upon the worker. The worker cannot carry the burden of proving that an injury or occupational disease is compensable merely by disproving other possible explanations of how the injury or disease occurred.

(2) Notwithstanding subsection (1) of this section, for the purpose of combined condition injury claims under ORS 656.005 (7)(a)(B) only:

(a) Once the worker establishes an otherwise compensable injury, the employer shall bear the burden of proof to establish the otherwise compensable injury is not, or is no longer, the major contributing cause of the disability of the combined condition or the major contributing cause of the need for treatment of the combined condition.

(b) Notwithstanding ORS 656.804, paragraph (a) of this subsection does not apply to any occupational disease claim. [1987 c.713 §2; 2001 c.865 §2]

656.267 Claims for new and omitted medical conditions. (1) To initiate omitted medical condition claims under ORS 656.262 (6)(d) or new medical condition claims under this section, the worker must clearly request formal written acceptance of a new medical condition or an omitted medical condition from the insurer or self-insured employer. A claim for a new medical condition or an omitted condition is not made by the receipt

of medical billings, nor by requests for authorization to provide medical services for the new or omitted condition, nor by actually providing such medical services. The insurer or self-insured employer is not required to accept each and every diagnosis or medical condition with particularity, as long as the acceptance tendered reasonably apprises the claimant and the medical providers of the nature of the compensable conditions. Notwithstanding any other provision of this chapter, the worker may initiate a new medical or omitted condition claim at any time.

(2)(a) Claims properly initiated for new medical conditions and omitted medical conditions related to an initially accepted claim shall be processed pursuant to ORS 656.262.

(b) If an insurer or self-insured employer denies a claim for a new medical or omitted medical condition, the claimant may request a hearing on the denial pursuant to ORS 656.283.

(3) Notwithstanding subsection (2) of this section, claims for new medical or omitted medical conditions related to an initially accepted claim that have been determined to be compensable and that were initiated after the rights under ORS 656.273 expired shall be processed as requests for relief under the Workers' Compensation Board's own motion jurisdiction pursuant to ORS 656.278 (1)(b). [2001 c.865 §10; 2005 c.188 §1]

656.268 Claim closure; termination of temporary total disability benefits; reconsideration of closure; medical arbiter to make findings of impairment for reconsideration; credit or offset for fraudulently obtained or overpaid benefits; rules. (1) One purpose of this chapter is to restore the injured worker as soon as possible and as near as possible to a condition of self support and maintenance as an able-bodied worker. The insurer or self-insured employer shall close the worker's claim, as prescribed by the Director of the Department of Consumer and Business Services, and determine the extent of the worker's permanent disability, provided the worker is not enrolled and actively engaged in training according to rules adopted by the director pursuant to ORS 656.340 and 656.726, when one of the following conditions is met:

(a) The worker has become medically stationary and there is sufficient information to determine permanent disability. Notwithstanding any other provision of this chapter, a physician or nurse practitioner may not retroactively determine a worker to be medically stationary more than 60 days prior to the date of the determination except in the case of claims that are subject to subsection (13) of this section. An insurer or self-insured employer must mail or deliver written notice to a worker and to the worker's attorney, if the worker is represented, within seven days following receipt of information that the worker is medically stationary.

(b) The accepted injury is no longer the major contributing cause of the worker's combined or consequential condition or conditions pursuant to ORS 656.005 (7). When the claim is closed because the accepted injury is no longer the major contributing cause of the worker's combined or consequential condition or conditions, and there is sufficient information to determine permanent disability, the likely permanent disability that would have been due to the current accepted condition shall be estimated.

(c) Without the approval of the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245, the worker fails to seek medical treatment for a period of 30 days or the worker fails to attend a closing examination, unless the worker affirmatively establishes that such failure is attributable to reasons beyond the worker's control.

(d) An insurer or self-insured employer finds that a worker who has been receiving permanent total disability benefits has materially improved and is capable of regularly performing work at a gainful and suitable occupation.

(2) If the worker is enrolled and actively engaged in training according to rules adopted pursuant to ORS 656.340 and 656.726, the temporary disability compensation shall be proportionately reduced by any sums earned during the training.

(3) A copy of all medical reports and reports of vocational rehabilitation agencies or counselors shall be furnished to the worker, if requested by the worker.

(4) Temporary total disability benefits shall continue until whichever of the following events first occurs:

(a) The worker returns to regular or modified employment;

(b) The attending physician or nurse practitioner who has authorized temporary disability benefits for the worker under ORS 656.245 advises the worker and documents in writing that the worker is released to return to regular employment;

(c) The attending physician or nurse practitioner who has authorized temporary disability benefits for the worker under ORS 656.245 advises the worker and documents in writing that the worker is released to return to modified employment, such employment is offered in writing to the worker and the worker fails to begin such employment. However, an offer of modified employment

may be refused by the worker without the termination of temporary total disability benefits if the offer:

(A) Requires a commute that is beyond the physical capacity of the worker according to the worker's attending physician or the nurse practitioner who may authorize temporary disability under ORS 656.245;

(B) Is at a work site more than 50 miles one way from where the worker was injured unless the site is less than 50 miles from the worker's residence or the intent of the parties at the time of hire or as established by the pattern of employment prior to the injury was that the employer had multiple or mobile work sites and the worker could be assigned to any such site;

(C) Is not with the employer at injury;

(D) Is not at a work site of the employer at injury;

(E) Is not consistent with the existing written shift change policy or is not consistent with common practice of the employer at injury or aggravation; or

(F) Is not consistent with an existing shift change provision of an applicable collective bargaining agreement;

(d) Any other event that causes temporary disability benefits to be lawfully suspended, withheld or terminated under ORS 656.262 (4) or other provisions of this chapter; or

(e) Notwithstanding paragraph (c)(C), (D), (E) and (F) of this subsection, the attending physician or nurse practitioner who has authorized temporary disability benefits under ORS 656.245 for a home care worker or a personal support worker who has been made a subject worker pursuant to ORS 656.039 advises the home care worker or personal support worker and documents in writing that the home care worker or personal support worker is released to return to modified employment, appropriate modified employment is offered in writing by the Home Care Commission or a designee of the commission to the home care worker or personal support worker for any client of the Department of Human Services who employs a home care worker or personal support worker and the worker fails to begin the employment.

(5)(a) Findings by the insurer or self-insured employer regarding the extent of the worker's disability in closure of the claim shall be pursuant to the standards prescribed by the director.

(b) The insurer or self-insured employer shall issue a notice of closure of the claim to the worker and to the worker's attorney if the worker is represented. The insurer or self-insured employer shall notify the director of the closure in the manner the director prescribes by rule. If the worker is deceased at the time the notice of closure is issued, the insurer or self-insured employer shall mail the worker's copy of the notice of closure, addressed to the estate of the worker, to the worker's last known address and may mail copies of the notice of closure to any known or potential beneficiaries to the estate of the deceased worker.

(c) The notice of closure must inform:

(A) The parties, in boldfaced type, of the proper manner in which to proceed if they are dissatisfied with the terms of the notice of closure;

(B) The worker of:

(i) The amount of any further compensation, including permanent disability compensation to be awarded;

(ii) The duration of temporary total or temporary partial disability compensation;

(iii) The right of the worker or beneficiaries of the worker who were mailed a copy of the notice of closure under paragraph (b) of this subsection to request reconsideration by the director under this section within 60 days of the date of the notice of closure;

(iv) The right of beneficiaries who were not mailed a copy of the notice of closure under paragraph (b) of this subsection to request reconsideration by the director under this section within one year of the date the notice of closure was mailed to the estate of the worker under paragraph (b) of this subsection;

(v) The right of the insurer or self-insured employer to request reconsideration by the director under this section within seven days of the date of the notice of closure;

(vi) The aggravation rights; and

(vii) Any other information as the director may require; and

(C) Any beneficiaries of death benefits to which they may be entitled pursuant to ORS 656.204 and 656.208.

(d) If the insurer or self-insured employer has not issued a notice of closure, the worker may request closure. Within 10 days of receipt of a written request from the worker, the insurer or self-insured employer shall issue a notice of closure if the requirements of this section have been met or a notice of refusal to close if the requirements of this section have not been met. A notice of refusal to close shall advise the worker of:

(A) The decision not to close;

(B) The right of the worker to request a hearing pursuant to ORS 656.283 within 60

days of the date of the notice of refusal to close;

(C) The right to be represented by an attorney; and

(D) Any other information as the director may require.

(e) If a worker, a worker's beneficiary, an insurer or a self-insured employer objects to the notice of closure, the objecting party first must request reconsideration by the director under this section. A worker's request for reconsideration must be made within 60 days of the date of the notice of closure. If the worker is deceased at the time the notice of closure is issued, a request for reconsideration by a beneficiary of the worker who was mailed a copy of the notice of closure under paragraph (b) of this subsection must be made within 60 days of the date of the notice of closure. A request for reconsideration by a beneficiary to the estate of a deceased worker who was not mailed a copy of the notice of closure under paragraph (b) of this subsection must be made within one year of the date the notice of closure was mailed to the estate of the worker under paragraph (b) of this subsection. A request for reconsideration by an insurer or self-insured employer may be based only on disagreement with the findings used to rate impairment and must be made within seven days of the date of the notice of closure.

(f) If an insurer or self-insured employer has closed a claim or refused to close a claim pursuant to this section, if the correctness of that notice of closure or refusal to close is at issue in a hearing on the claim and if a finding is made at the hearing that the notice of closure or refusal to close was not reasonable, a penalty shall be assessed against the insurer or self-insured employer and paid to the worker in an amount equal to 25 percent of all compensation determined to be then due the claimant.

(g) If, upon reconsideration of a claim closed by an insurer or self-insured employer, the director orders an increase by 25 percent or more of the amount of compensation to be paid to the worker for permanent disability and the worker is found upon reconsideration to be at least 20 percent permanently disabled, a penalty shall be assessed against the insurer or self-insured employer and paid to the worker in an amount equal to 25 percent of all compensation determined to be then due the claimant. If the increase in compensation results from information that the insurer or self-insured employer demonstrates the insurer or self-insured employer could not reasonably have known at the time of claim closure, from new information obtained through a medical arbiter examination or from a determination order issued by the director that addresses the extent of the worker's permanent disability that is not based on the standards adopted pursuant to ORS 656.726 (4)(f), the penalty shall not be assessed.

(6)(a) Notwithstanding any other provision of law, only one reconsideration proceeding may be held on each notice of closure. At the reconsideration proceeding:

(A) A deposition arranged by the worker, limited to the testimony and cross-examination of the worker about the worker's condition at the time of claim closure, shall become part of the reconsideration record. The deposition must be conducted subject to the opportunity for cross-examination by the insurer or self-insured employer and in accordance with rules adopted by the director. The cost of the court reporter, interpreter services, if necessary, and one original of the transcript of the deposition for the Department of Consumer and Business Services and one copy of the transcript of the deposition for each party shall be paid by the insurer or self-insured employer. The reconsideration proceeding may not be postponed to receive a deposition taken under this subparagraph. A deposition taken in accordance with this subparagraph may be received as evidence at a hearing even if the deposition is not prepared in time for use in the reconsideration proceeding.

(B) Pursuant to rules adopted by the director, the worker or the insurer or self-insured employer may correct information in the record that is erroneous and may submit any medical evidence that should have been but was not submitted by the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 at the time of claim closure.

(C) If the director determines that a claim was not closed in accordance with subsection (1) of this section, the director may rescind the closure.

(b) If necessary, the director may require additional medical or other information with respect to the claims and may postpone the reconsideration for not more than 60 additional calendar days.

(c) In any reconsideration proceeding under this section in which the worker was represented by an attorney, the director shall order the insurer or self-insured employer to pay to the attorney, out of the additional compensation awarded, an amount equal to 10 percent of any additional compensation awarded to the worker.

(d) Except as provided in subsection (7) of this section, the reconsideration proceeding shall be completed within 18 working days from the date the reconsideration pro-

ceeding begins, and shall be performed by a special evaluation appellate unit within the department. The deadline of 18 working days may be postponed by an additional 60 calendar days if within the 18 working days the department mails notice of review by a medical arbiter. If an order on reconsideration has not been mailed on or before 18 working days from the date the reconsideration proceeding begins, or within 18 working days plus the additional 60 calendar days where a notice for medical arbiter review was timely mailed or the director postponed the reconsideration pursuant to paragraph (b) of this subsection, or within such additional time as provided in subsection (8) of this section when reconsideration is postponed further because the worker has failed to cooperate in the medical arbiter examination, reconsideration shall be deemed denied and any further proceedings shall occur as though an order on reconsideration affirming the notice of closure was mailed on the date the order was due to issue.

(e) The period for completing the reconsideration proceeding described in paragraph (d) of this subsection begins upon receipt by the director of a worker's or a beneficiary's request for reconsideration pursuant to subsection (5)(e) of this section. If the insurer or self-insured employer requests reconsideration, the period for reconsideration begins upon the earlier of the date of the request for reconsideration by the worker or beneficiary, the date of receipt of a waiver from the worker or beneficiary of the right to request reconsideration or the date of expiration of the right of the worker or beneficiary to request reconsideration. If a party elects not to file a separate request for reconsideration, the party does not waive the right to fully participate in the reconsideration proceeding, including the right to proceed with the reconsideration if the initiating party withdraws the request for reconsideration.

(f) Any medical arbiter report may be received as evidence at a hearing even if the report is not prepared in time for use in the reconsideration proceeding.

(g) If any party objects to the reconsideration order, the party may request a hearing under ORS 656.283 within 30 days from the date of the reconsideration order.

(7)(a) The director may delay the reconsideration proceeding and toll the reconsideration timeline established under subsection (6) of this section for up to 45 calendar days if:

(A) A request for reconsideration of a notice of closure has been made to the director within 60 days of the date of the notice of closure;

(B) The parties are actively engaged in settlement negotiations that include issues in dispute at reconsideration;

(C) The parties agree to the delay; and

(D) Both parties notify the director before the 18th working day after the reconsideration proceeding has begun that they request a delay under this subsection.

(b) A delay of the reconsideration proceeding granted by the director under this subsection expires:

(A) If a party requests the director to resume the reconsideration proceeding before the expiration of the delay period;

(B) If the parties reach a settlement and the director receives a copy of the approved settlement documents before the expiration of the delay period; or

(C) On the next calendar day following the expiration of the delay period authorized by the director.

(c) Upon expiration of a delay granted under this subsection, the timeline for the completion of the reconsideration proceeding shall resume as if the delay had never been granted.

(d) Compensation due the worker shall continue to be paid during the period of delay authorized under this subsection.

(e) The director may authorize only one delay period for each reconsideration proceeding.

(8)(a) If the basis for objection to a notice of closure issued under this section is disagreement with the impairment used in rating of the worker's disability, the director shall refer the claim to a medical arbiter appointed by the director.

(b) If the director determines that insufficient medical information is available to determine disability, the director may appoint, and refer the claim to, a medical arbiter.

(c) At the request of either of the parties, the director shall appoint a panel of as many as three medical arbiters in accordance with criteria that the director sets by rule.

(d) The arbiter, or panel of medical arbiters, must be chosen from among a list of physicians qualified to be attending physicians referred to in ORS 656.005 (12)(b)(A) whom the director selected in consultation with the Oregon Medical Board and the committee referred to in ORS 656.790.

(e)(A) The medical arbiter or panel of medical arbiters may examine the worker and perform such tests as may be reasonable and necessary to establish the worker's impairment.

(B) If the director determines that the worker failed to attend the examination without good cause or failed to cooperate with the medical arbiter, or panel of medical arbiters, the director shall postpone the reconsideration proceedings for up to 60 days from the date of the determination that the worker failed to attend or cooperate, and shall suspend all disability benefits resulting from this or any prior opening of the claim until such time as the worker attends and cooperates with the examination or the request for reconsideration is withdrawn. Any additional evidence regarding good cause must be submitted prior to the conclusion of the 60-day postponement period.

(C) At the conclusion of the 60-day postponement period, if the worker has not attended and cooperated with a medical arbiter examination or established good cause, the worker may not attend a medical arbiter examination for this claim closure. The reconsideration record must be closed, and the director shall issue an order on reconsideration based upon the existing record.

(D) All disability benefits suspended under this subsection, including all disability benefits awarded in the order on reconsideration, or by an Administrative Law Judge, the Workers' Compensation Board or upon court review, are not due and payable to the worker.

(f) The insurer or self-insured employer shall pay the costs of examination and review by the medical arbiter or panel of medical arbiters.

(g) The findings of the medical arbiter or panel of medical arbiters must be submitted to the director for reconsideration of the notice of closure.

(h) After reconsideration, no subsequent medical evidence of the worker's impairment is admissible before the director, the Workers' Compensation Board or the courts for purposes of making findings of impairment on the claim closure.

(i)(A) If the basis for objection to a notice of closure issued under this section is a disagreement with the impairment used in rating the worker's disability, and the director determines that the worker is not medically stationary at the time of the reconsideration or that the closure was not made pursuant to this section, the director is not required to appoint a medical arbiter before completing the reconsideration proceeding.

(B) If the worker's condition has substantially changed since the notice of closure, upon the consent of all the parties to the claim, the director shall postpone the proceeding until the worker's condition is appropriate for claim closure under subsection (1) of this section.

(9) No hearing shall be held on any issue that was not raised and preserved before the director at reconsideration. However, issues arising out of the reconsideration order may be addressed and resolved at hearing.

(10) If, after the notice of closure issued pursuant to this section, the worker becomes enrolled and actively engaged in training according to rules adopted pursuant to ORS 656.340 and 656.726, any permanent disability payments due for work disability under the closure shall be suspended, and the worker shall receive temporary disability compensation and any permanent disability payments due for impairment while the worker is enrolled and actively engaged in the training. When the worker ceases to be enrolled and actively engaged in the training, the insurer or self-insured employer shall again close the claim pursuant to this section if the worker is medically stationary or if the worker's accepted injury is no longer the major contributing cause of the worker's combined or consequential condition or conditions pursuant to ORS 656.005 (7). The closure shall include the duration of temporary total or temporary partial disability compensation. Permanent disability compensation shall be redetermined for work disability only. If the worker has returned to work or the worker's attending physician has released the worker to return to regular or modified employment, the insurer or self-insured employer shall again close the claim. This notice of closure may be appealed only in the same manner as are other notices of closure under this section.

(11) If the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 has approved the worker's return to work and there is a labor dispute in progress at the place of employment, the worker may refuse to return to that employment without loss of reemployment rights or any vocational assistance provided by this chapter.

(12) Any notice of closure made under this section may include necessary adjustments in compensation paid or payable prior to the notice of closure, including disallowance of permanent disability payments prematurely made, crediting temporary disability payments against current or future permanent or temporary disability awards or payments and requiring the payment of temporary disability payments which were payable but not paid.

(13) An insurer or self-insured employer may take a credit or offset of previously paid workers' compensation benefits or payments against any further workers' compensation

benefits or payments due a worker from that insurer or self-insured employer when the worker admits to having obtained the previously paid benefits or payments through fraud, or a civil judgment or criminal conviction is entered against the worker for having obtained the previously paid benefits through fraud. Benefits or payments obtained through fraud by a worker may not be included in any data used for ratemaking or individual employer rating or dividend calculations by an insurer, a rating organization licensed pursuant to ORS chapter 737, the State Accident Insurance Fund Corporation or the director.

(14)(a) An insurer or self-insured employer may offset any compensation payable to the worker to recover an overpayment from a claim with the same insurer or self-insured employer. When overpayments are recovered from temporary disability or permanent total disability benefits, the amount recovered from each payment shall not exceed 25 percent of the payment, without prior authorization from the worker.

(b) An insurer or self-insured employer may suspend and offset any compensation payable to the beneficiary of the worker, and recover an overpayment of permanent total disability benefits caused by the failure of the worker's beneficiaries to notify the insurer or self-insured employer about the death of the worker.

(15) Conditions that are direct medical sequelae to the original accepted condition shall be included in rating permanent disability of the claim unless they have been specifically denied.

(16)(a) Except as provided under subsection (13) of this section, an insurer or self-insured employer may not recover an overpayment from a worker's permanent partial disability compensation for overpayments, offsets or credits of wage loss in an amount that exceeds 50 percent of the total compensation awarded to the worker.

(b) An insurer or self-insured employer may not declare an overpayment of any compensation that was paid more than two years prior to the date of the declaration. [1965 c.285 §31; 1973 c.620 §3; 1973 c.634 §2; 1977 c.804 §5; 1977 c.862 §1; 1979 c.839 §4; 1981 c.535 §7a; 1981 c.854 §19; 1981 c.874 §13; 1985 c.425 §1; 1985 c.600 §8; 1987 c.884 §10; 1990 c.2 §16; 1991 c.502 §1; 1995 c.332 §30; 1997 c.111 §1; 1997 c.382 §1; 1999 c.313 §1; 1999 c.1020 §3; 2001 c.349 §1; 2001 c.377 §63; 2001 c.865 §12; 2003 c.429 §1; 2003 c.657 §§7,8; 2003 c.811 §§11,12; 2005 c.221 §§1,2; 2005 c.461 §§3,4; 2005 c.569 §§1,2; 2007 c.241 §§11,12; 2007 c.270 §§4,5; 2007 c.274 §4; 2007 c.365 §6; 2007 c.835 §§2,3; 2011 c.99 §1; 2015 c.144 §1; 2017 c.68 §1; 2018 c.75 §29; 2021 c.47 §2; 2022 c.73 §§4,5]

Note: Section 6, chapter 73, Oregon Laws 2022, provides:

Sec. 6. (1) The amendments to ORS 656.268 by sections 4 and 5 of this 2022 Act apply to all claims that exist on, or arise on or after, January 1, 2024, regardless of the date of injury or the date on which the claim is filed.

(2) Notwithstanding subsection (1) of this section, the amendments to ORS 656.268 by sections 4 and 5 of this 2022 Act do not apply to disputes in which a final determination is made prior to January 1, 2024. [2022 c.73 §6]

656.270 [1971 c.155 §2; 1977 c.804 §6; 1979 c.839 §5; 1990 c.2 §17; 1999 c.313 §6; repealed by 2009 c.36 §5]

656.271 [1965 c.285 §32; 1969 c.171 §1; repealed by 1973 c.620 §4 (656.273 enacted in lieu of 656.271)]

656.272 [Repealed by 1965 c.285 §95]

656.273 Aggravation for worsened conditions; procedure; limitations; additional compensation. (1) After the last award or arrangement of compensation, an injured worker is entitled to additional compensation for worsened conditions resulting from the original injury. A worsened condition resulting from the original injury is established by medical evidence of an actual worsening of the compensable condition supported by objective findings. However, if the major contributing cause of the worsened condition is an injury not occurring within the course and scope of employment, the worsening is not compensable. A worsened condition is not established by either or both of the following:

(a) The worker's absence from work for any given amount of time as a result of the worker's condition from the original injury; or

(b) Inpatient treatment of the worker at a hospital for the worker's condition from the original injury.

(2) To obtain additional medical services or disability compensation, the injured worker must file a claim for aggravation with the insurer or self-insured employer. In the event the insurer or self-insured employer cannot be located, is unknown, or has ceased to exist, the claim shall be filed with the Director of the Department of Consumer and Business Services.

(3) A claim for aggravation must be in writing in a form and format prescribed by the director and signed by the worker or the worker's representative and the worker's attending physician. When an insurer or self-insured employer receives a completed aggravation form, the insurer or self-insured employer shall process the claim.

(4) The claim for aggravation must be filed within five years:

(a) After the first notice of closure made under ORS 656.268 for a disabling claim; or

(b) After the date of injury, provided the claim has been classified as nondisabling for at least one year after the date of acceptance.

(5) The director may order the claimant, the insurer or self-insured employer to pay for such medical opinion.

(6) A claim submitted in accordance with this section shall be processed by the insurer or self-insured employer in accordance with the provisions of ORS 656.262. The first installment of compensation due under ORS 656.262 shall be paid no later than the 14th day after the subject employer or paying agent of the subject employer receives a written report that verifies the worker's inability to work resulting from a compensable worsening under subsection (1) of this section and that establishes by medical evidence supported by objective findings that the claimant has suffered a worsened condition attributable to the compensable injury.

(7) A request for hearing on any issue involving a claim for aggravation must be made to the Workers' Compensation Board in accordance with ORS 656.283.

(8) If the worker submits a claim for aggravation of an injury or disease for which permanent disability has been previously awarded, the worker must establish that the worsening is more than waxing and waning of symptoms of the condition contemplated by the previous permanent disability award. [1973 c.620 §5 (enacted in lieu of 656.271); 1975 c.497 §1; 1977 c.804 §7; 1979 c.839 §6; 1981 c.854 §20; 1987 c.884 §23; 1989 c.171 §76; 1990 c.2 §18; 1995 c.332 §31; 1999 c.313 §2; 2001 c.350 §1; 2005 c.50 §1]

656.274 [Repealed by 1965 c.285 §95]

656.275 [1963 c.20 §2; repealed by 1965 c.285 §95]

656.276 [Repealed by 1965 c.285 §95]

656.277 Request for reclassification of nondisabling claim; nondisabling claim procedure; attorney fees. (1)(a) A request for reclassification by the worker of an accepted nondisabling injury that the worker believes was or has become disabling must be submitted to the insurer or self-insured employer. The insurer or self-insured employer shall classify the claim as disabling or nondisabling within 14 days of the request. A notice of such classification shall be mailed to the worker and the worker's attorney if the worker is represented. The worker may ask the Director of the Department of Consumer and Business Services to review the classification by the insurer or self-insured employer by submitting a request for review within 60 days of the mailing of the classification notice by the insurer or self-insured employer. If any party objects to the classification of the director, the party may request a hearing under ORS 656.283 within 30 days from the date of the director's order.

(b) If the worker is represented by an attorney and the attorney is instrumental in obtaining an order from the director that reclassifies the claim from nondisabling to disabling, the director may award the attorney a reasonable assessed attorney fee.

(2) A request by the worker that an accepted nondisabling injury was or has become disabling shall be made pursuant to ORS 656.273 as a claim for aggravation, provided the claim has been classified as nondisabling for at least one year after the date of acceptance.

(3) An insurer or a self-insured employer shall report a claim for a nondisabling injury to the director in the manner the director prescribes by rule. [1990 c.2 §48; 1995 c.332 §32; 1999 c.313 §3; 2001 c.350 §2; 2015 c.521 §3; 2021 c.47 §3]

Note: 656.277 was added to and made a part of ORS chapter 656 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

656.278 Board has continuing authority to alter earlier action on claim; limitations. (1) Except as provided in subsection (7) of this section, the power and jurisdiction of the Workers' Compensation Board shall be continuing, and it may, upon its own motion, from time to time modify, change or terminate former findings, orders or awards if in its opinion such action is justified in those cases in which:

(a) There is a worsening of a compensable injury that results in the inability of the worker to work and requires hospitalization or inpatient or outpatient surgery, or other curative treatment prescribed in lieu of hospitalization that is necessary to enable the injured worker to return to work. In such cases, the payment of temporary disability compensation in accordance with ORS 656.210, 656.212 (2) and 656.262 (4) may be provided from the time the attending physician authorizes temporary disability compensation for the hospitalization, surgery or other curative treatment until the worker's condition becomes medically stationary;

(b) The worker submits and obtains acceptance of a claim for a compensable new medical condition or an omitted medical condition pursuant to ORS 656.267 and the claim is initiated after the rights under ORS 656.273 have expired. In such cases, the payment of temporary disability compensation in accordance with the provisions of ORS 656.210, 656.212 (2) and 656.262 (4) may be provided from the time the attending physician authorizes temporary disability compensation for the hospitalization, surgery or other curative treatment until the worker's condition becomes medically stationary, and the payment of permanent disability benefits may be provided after application of the standards for the evaluation and determination of disability as may be adopted by the Director of the Department of Consumer and

Business Services pursuant to ORS 656.726; or

(c) The date of injury is earlier than January 1, 1966. In such cases, in addition to the payment of temporary disability compensation, the payment of medical benefits may be provided.

(2) Benefits provided under subsection (1) of this section:

(a) Do not include vocational assistance benefits under ORS 656.340;

(b) Do not include temporary disability compensation for periods of time during which the claimant did not qualify as a "worker" pursuant to ORS 656.005 (28);

(c) Do not include medical services provided pursuant to ORS 656.245 except as provided under subsection (1)(c) of this section; and

(d) May include permanent disability benefits for additional impairment to an injured body part that has previously been the basis of a permanent partial disability award, but only to the extent that the permanent partial disability rating exceeds the permanent partial disability rated by the prior award or awards.

(3) An order or award made by the board during the time within which the claimant has the right to request a hearing on aggravation under ORS 656.273 is not an order or award, as the case may be, made by the board on its own motion.

(4) Pursuant to ORS 656.298, any party may appeal an order or award made by the board on its own motion.

(5) The insurer or self-insured employer may voluntarily reopen any claim to provide benefits allowable under this section or to grant additional medical or hospital care to the claimant. The board shall establish procedures for the resolution of disputes arising out of a voluntary reopening of a claim under this section.

(6) Any claim reopened under this section shall be closed by the insurer or self-insured employer in a manner prescribed by the board, including, when appropriate, an award of permanent disability benefits as determined under subsections (1)(b) and (2)(d) of this section. The board shall also prescribe a process to be followed if the worker objects to the claim closure.

(7) The provisions of this section do not authorize the board, on its own motion, to modify, change or terminate former findings or orders:

(a) That a claimant incurred no injury or incurred a noncompensable injury; or

(b) Approving disposition of a claim under ORS 656.236 or 656.289 (4). [Amended by 1955 c.718 §1; 1957 c.559 §1; 1965 c.285 §33; 1981 c.535 §32; 1985 c.212 §6; 1987 c.884 §37; 1990 c.2 §19; 1995 c.332 §33; 2001 c.865 §11; 2005 c.188 §2; 2021 c.257 §3]

656.280 [Amended by 1965 c.285 §41b; renumbered 656.325]

656.282 [Amended by 1957 c.455 §1; repealed by 1965 c.285 §95]

656.283 Hearing rights and procedure; rules; impeachment evidence; use of standards for evaluation of disability. (1) Subject to ORS 656.319, any party or the Director of the Department of Consumer and Business Services may at any time request a hearing on any matter concerning a claim, except matters for which a procedure for resolving the dispute is provided in another statute, including ORS 656.704.

(2) A request for hearing may be made by any writing, signed by or on behalf of the party and including the address of the party, requesting the hearing, stating that a hearing is desired, and mailed to the Workers' Compensation Board.

(3)(a) The board shall refer the request for hearing to an Administrative Law Judge for determination as expeditiously as possible. The hearing shall be scheduled for a date not more than 90 days after receipt by the board of the request for hearing. The hearing may not be postponed:

(A) Except in extraordinary circumstances beyond the control of the requesting party; and

(B) For more than 120 days after the date of the postponed hearing.

(b) When a hearing set pursuant to paragraph (a) of this subsection is postponed because of the need to join one or more potentially responsible employers or insurers, the assigned Administrative Law Judge shall reschedule the hearing as expeditiously as possible after all potentially responsible employers and insurers have been joined in the proceeding and the medical record has been fully developed. The board shall adopt rules for hearings on claims involving one or more potentially responsible employers and insurers that:

(A) Require the parties to participate in any prehearing conferences required to expedite the hearing; and

(B) Authorize the Administrative Law Judge conducting the hearing to:

(i) Establish a prehearing schedule for investigation of the claim, including but not limited to the interviewing of the claimant;

(ii) Make prehearing rulings necessary to promote full discovery and completion of the medical record required for determination of the issues arising from the claim; and

(iii) Specify what is required of the claimant to meet the obligation to reasonably cooperate with the investigation of claims.

(c) Nothing in paragraph (b) of this subsection alters the obligation of an insurer or self-insured employer to accept or deny a claim for compensation as required under this chapter.

(d) If a hearing has been postponed in accordance with paragraph (b) of this subsection:

(A) The director may not consider the timeliness of a denial issued in the claim that is the subject of the hearing for the purpose of imposing a penalty against an insurer or self-insured employer that is potentially responsible for the claim; and

(B) The 120-day maximum postponement established under paragraph (a) of this subsection for rescheduling a hearing does not apply.

(4)(a) At least 60 days' prior notice of the time and place of hearing shall be given to all parties in interest by mail. Hearings shall be held in the county where the worker resided at the time of the injury or such other place selected by the Administrative Law Judge.

(b) The 60-day prior notice required by paragraph (a) of this subsection:

(A) May be waived by agreement of the parties and the board if waiver of the notice will result in an earlier date for the hearing.

(B) Does not apply to hearings in cases assigned to the Expedited Claim Service under ORS 656.291, cases involving stayed compensation under ORS 656.313 (1)(b) and requests for hearing that are consolidated with an existing case with an existing hearing date.

(5) A record of all proceedings at the hearing shall be kept but need not be transcribed unless a party requests a review of the order of the Administrative Law Judge. Transcription shall be in written form as provided by ORS 656.295 (3).

(6) Except as otherwise provided in this section and rules of procedure established by the board, the Administrative Law Judge is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure, and may conduct the hearing in any manner that will achieve substantial justice. Neither the board nor an Administrative Law Judge may prevent a party from withholding impeachment evidence until the opposing party's case in chief has been presented, at which time the impeachment evidence may be used. Impeachment evidence consisting of medical or vocational reports not used during the course of a hearing must be provided to any opposing party at the conclusion of the presentation of evidence and before closing arguments are presented. Impeachment evidence other than medical or vocational reports that is not presented as evidence at hearing is not subject to disclosure. Evaluation of the worker's disability by the Administrative Law Judge shall be as of the date of issuance of the reconsideration order pursuant to ORS 656.268. Any finding of fact regarding the worker's impairment must be established by medical evidence that is supported by objective findings. The Administrative Law Judge shall apply to the hearing of the claim such standards for evaluation of disability as may be adopted by the director pursuant to ORS 656.726. Evidence on an issue regarding a notice of closure that was not submitted at the reconsideration required by ORS 656.268 is not admissible at hearing, and issues that were not raised by a party to the reconsideration may not be raised at hearing unless the issue arises out of the reconsideration order itself. However, nothing in this section shall be construed to prevent or limit the right of a worker, insurer or self-insured employer to present the reconsideration record at hearing to establish by a preponderance of that evidence that the standards adopted pursuant to ORS 656.726 for evaluation of the worker's permanent disability were incorrectly applied in the reconsideration order pursuant to ORS 656.268. If the Administrative Law Judge finds that the claim has been closed prematurely, the Administrative Law Judge shall issue an order rescinding the notice of closure.

(7) Any party shall be entitled to issuance and service of subpoenas under the provisions of ORS 656.726 (2)(c). Any party or representative of the party may serve such subpoenas.

(8) After a party requests a hearing and before the hearing commences, the board, by rule, may require the requesting party, if represented by an attorney, to notify the Administrative Law Judge in writing that the attorney has conferred with the other party and that settlement has been achieved, subject to board approval, or that settlement cannot be achieved. [1965 c.285 §34; 1979 c.839 §7; 1981 c.535 §33; 1981 c.860 §§1,5; 1985 c.600 §9; 1987 c.884 §11; 1990 c.2 §20; 1995 c.332 §34; 1999 c.313 §7; 2003 c.667 §2; 2005 c.26 §11; 2005 c.624 §1; 2009 c.35 §2]

656.284 [Amended by 1953 c.671 §2; 1955 c.718 §2; 1959 c.450 §4; repealed by 1965 c.285 §95]

656.285 Protection of witnesses at hearings. ORCP 36 C shall apply to workers' compensation cases, except that the Administrative Law Judge shall make the determinations and orders required of the court in ORCP 36 C, and in addition attorney fees shall not be declared as a matter of course

but only in cases of harassment or hardship. [1973 c.652 §1; 1977 c.358 §11; 1979 c.284 §187]

656.287 Use of vocational reports in determining loss of earning capacity at hearing; rules. (1) Where there is an issue regarding loss of earning capacity, reports from vocational consultants employed by governmental agencies, insurers or self-insured employers, or from private vocational consultants, regarding job opportunities, the fitness of claimant to perform certain jobs, wage levels, or other information relating to claimant's employability shall be admitted into evidence at compensation hearings, provided such information is submitted to claimant 10 days prior to hearing and that upon demand from the adverse party the person preparing such report shall be made available for testimony and cross-examination.

(2) The Workers' Compensation Board shall establish rules to govern the admissibility of reports from vocational experts, including guidelines to establish the competency of vocational experts. [1973 c.581 §§1,2; 1985 c.600 §10]

656.288 [Amended by 1957 c.288 §1; repealed by 1965 c.285 §95]

656.289 Orders of Administrative Law Judge; review; disposition of claim when compensability disputed; approval of director required for reimbursement of certain expenditures. (1) Upon the conclusion of any hearing, or prior thereto with concurrence of the parties, the Administrative Law Judge shall promptly and not later than 30 days after the hearing determine the matter and make an order in accordance with the Administrative Law Judge's determination.

(2) A copy of the order shall be sent forthwith by mail to the Director of the Department of Consumer and Business Services and to all parties in interest.

(3) The order is final unless, within 30 days after the date on which a copy of the order is mailed to the parties, one of the parties requests a review by the Workers' Compensation Board under ORS 656.295. When one party requests a review by the board, the other party or parties shall have the remainder of the 30-day period and in no case less than 10 days in which to request board review in the same manner. The 10-day requirement may carry the period of time allowed for requests for board reviews beyond the 30th day. The order shall contain a statement explaining the rights of the parties under this subsection and ORS 656.295.

(4)(a) Notwithstanding ORS 656.236, in any case where there is a bona fide dispute over compensability of a claim, the parties may, with the approval of an Administrative Law Judge, the board or the court, by agreement make such disposition of the claim as is considered reasonable.

(b) Insurers or self-insured employers who are parties to an approved disputed claim settlement under this subsection shall not be joined as parties in subsequent proceedings under this chapter to determine responsibility for payment for claim conditions for which settlement has been made.

(c) Notwithstanding ORS 656.005 (21), as used in this subsection, "party" does not include a noncomplying employer, except where a noncomplying employer has submitted a disputed claim settlement with a claimant for approval before the claim has been referred to an assigned claims agent by the director. Upon approval of the disputed claim settlement, the Administrative Law Judge, the board or the court shall mail to the director a copy of the disputed claim settlement.

(5) Any claim in which the parties enter into a disposition under subsection (4) of this section shall not be eligible for reimbursement of expenditures from the Workers' Benefit Fund without the prior approval of the director. [1965 c.285 §35; 1969 c.212 §1; 1977 c.804 §9; 1983 c.809 §3; 1990 c.2 §21; 1995 c.332 §35; 1995 c.641 §19]

656.290 [Amended by 1955 c.718 §3; repealed by 1965 c.285 §95]

656.291 Expedited Claim Service; jurisdiction; procedure; representation; rules. (1) The Workers' Compensation Board, by rule, shall establish an Expedited Claim Service to provide for prompt, informal disposition of claims.

(2) The board shall assign to the service those claims:

(a) For which a hearing has been requested when the only matters unresolved do not include compensability of the claim and the amount in controversy is $1,000 or less; or

(b) For which the only matters unresolved are attorney fees or penalties.

(3)(a) The amount in controversy shall be deemed less than $1,000 if the party requesting hearing so indicates, the other party does not disagree and the Administrative Law Judge does not conclude, based on the evidence, that the amount in controversy exceeds $1,000. In a case assigned pursuant to subsection (2)(a) of this section, if the Administrative Law Judge finds that the amount in controversy exceeds $1,000, the Administrative Law Judge shall refer the case for disposition under the ordinary hearing process.

(b) Cases assigned to the Expedited Claim Service pursuant to subsection (2)(a) of this

section shall be heard within 30 days of the request for hearing, and an order shall be issued within 10 days of the close of the hearing.

(c) No hearing shall be held in cases assigned to the Expedited Claim Service pursuant to subsection (2)(b) of this section unless the Administrative Law Judge finds that the dispute cannot be decided on stipulated facts.

(4) The board, by rule, shall establish the procedures for disposition of claims by the Expedited Claim Service to insure fair and just treatment of workers in all such proceedings.

(5) Notwithstanding ORS 9.320 or any provision of this chapter, an individual who is not an attorney may represent oneself or other persons who consent to such representation at any proceeding before the Expedited Claim Service.

(6) Any compromises, agreements, admissions, stipulations, statements of fact that are made or other such action taken by the representative is binding on those represented to the same extent as if done by an attorney. A person so represented may not thereafter claim that any such proceeding or meeting was legally defective because the person was not represented by an attorney.

(7) An individual who is not an attorney may not represent a claimant for a fee at any proceeding under this chapter.

(8) As used in this subsection, "attorney" has the meaning for that term provided in ORS 9.005. [1987 c.884 §18]

656.292 [Amended by 1965 c.285 §38; renumbered 656.301]

656.294 [Amended by 1965 c.285 §37; renumbered 656.304]

656.295 Board review of Administrative Law Judge orders; application of standards for evaluation of disability. (1) The request for review by the Workers' Compensation Board of an order of an Administrative Law Judge need only state that the party requests a review of the order.

(2) The requests for review shall be mailed to the board and copies of the request shall be mailed to all parties to the proceeding before the Administrative Law Judge.

(3) When review has been requested, the record of such oral proceedings at the hearings before the Administrative Law Judge as may be necessary for purposes of the review shall be transcribed at the expense of the board. The original transcript shall be certified to be true, accurate and complete by the transcriber. A list of all exhibits received by the Administrative Law Judge shall be furnished to the parties in interest along with a copy of the transcribed record.

(4) Notice of the review shall be given to the parties by mail. The board shall set a date for review as expeditiously as possible. Review shall be scheduled for a date not later than 90 days after receipt by the board of the request for review. Review shall not be postponed except in extraordinary circumstances beyond the control of the requesting party.

(5) The review by the board shall be based upon the record submitted to it under subsection (3) of this section and such oral or written argument as it may receive. Evaluation of the worker's disability by the board shall be as of the date of issuance of the reconsideration order pursuant to ORS 656.268. Any finding of fact regarding the worker's impairment must be established by medical evidence that is supported by objective findings. If the board finds that the claim has been closed prematurely, the board shall issue an order rescinding the notice of closure. The board shall apply to the review of the claim such standards for the evaluation of disability as may be adopted by the Director of the Department of Consumer and Business Services pursuant to ORS 656.726. Nothing in this section shall be construed to prevent or limit the right of a worker, insurer or self-insured employer to present evidence to establish by a preponderance of the evidence that the standards adopted pursuant to ORS 656.726 for evaluation of the worker's permanent disability were incorrectly applied in the reconsideration order pursuant to ORS 656.268. However, if the board determines that a case has been improperly, incompletely or otherwise insufficiently developed or heard by the Administrative Law Judge, it may remand the case to the Administrative Law Judge for further evidence taking, correction or other necessary action.

(6) The board may affirm, reverse, modify or supplement the order of the Administrative Law Judge and make such disposition of the case as it determines to be appropriate. It shall make its decision within 30 days after the review.

(7) The order of the board shall be filed and a copy thereof sent by mail to the director and to the parties.

(8) An order of the board is final unless within 30 days after the date of mailing of copies of such order to the parties, one of the parties appeals to the Court of Appeals for judicial review pursuant to ORS 656.298. The order shall contain a statement explaining the rights of the parties under this subsection and ORS 656.298. [1965 c.285 §35a; 1977 c.804 §10; 1987 c.884 §12; 1990 c.2 §22; 1991 c.293 §1; 1999 c.313 §8]

656.298 Judicial review of board orders; settlement during pendency of petition for review. (1) Within the time limit specified in ORS 656.295, any party affected by an order of the Workers' Compensation Board, including orders issued pursuant to ORS 656.278, may request judicial review of the order by the Court of Appeals.

(2) The name and style of the proceedings shall be "In the Matter of the Compensation of (name of the worker)."

(3) The judicial review shall be commenced by serving a copy of a petition for judicial review on the board and on the parties who appeared in the review proceedings, and by filing with the clerk of the Court of Appeals the original petition for judicial review with proof of service indorsed thereon. The petition for judicial review shall state:

(a) The name of the person requesting judicial review and of all other parties.

(b) The date of the filing of the order for which judicial review is requested.

(c) A statement that the person is requesting judicial review by the Court of Appeals.

(d) A brief statement of the relief requested and the reasons the relief should be granted.

(4) Within 10 days after service of a petition for judicial review on a party under subsection (3) of this section, such party may also request judicial review in the same manner.

(5) The following requirements of subsection (3) of this section are jurisdictional and may not be waived or extended:

(a) Service of the petition for judicial review on all parties identified in the petition for judicial review as adverse parties or, if the petition for judicial review does not identify adverse parties, on all parties who have appeared in the proceeding before the board, within the time limits imposed by ORS 656.295 (8) and by subsection (4) of this section.

(b) Filing of the original petition for judicial review with the Court of Appeals within the time limits imposed by ORS 656.295 (8) and by subsection (4) of this section.

(6) Within 30 days after service of a petition for judicial review on the board, the board shall forward to the clerk of the Court of Appeals:

(a) The original copy of the transcribed record prepared under ORS 656.295.

(b) All exhibits.

(c) Copies of all decisions and orders entered during the hearing and review proceedings.

(7) The review by the Court of Appeals shall be on the entire record forwarded by the board. Review shall be as provided in ORS 183.482 (7) and (8).

(8) Review under this section shall be given precedence on the docket over all other cases, except those given equal status by statute.

(9)(a) If the parties to a petition for judicial review of an order of the board settle all or part of the matter during the pendency of the petition for judicial review, the board has jurisdiction to enter any orders that may be necessary to implement the settlement.

(b) If the settlement disposes of all issues during the pendency of the petition for judicial review, the appellate court may dismiss the petition for judicial review.

(c) If the settlement disposes of part of the issues during the pendency of the petition for judicial review, the appellate court may limit judicial review to the issues not disposed of by the settlement. [1965 c.285 §36; 1977 c.804 §11; 1987 c.884 §12a; 1997 c.389 §1; 2005 c.188 §3; 2007 c.17 §1]

656.301 [Formerly 656.292; repealed by 1977 c.804 §55]

656.304 When acceptance of compensation precludes hearing. A claimant may accept and cash any check given in payment of any award or compensation without affecting the right to a hearing, except that the right of hearing on any award shall be waived by acceptance of a lump sum award by a claimant where such lump sum award was granted as a result of the claimant's own request under ORS 656.230. This section shall not be construed as a waiver of the necessity of complying with ORS 656.283 to 656.298. [Formerly 656.294; 2007 c.270 §6]

656.307 Determination of issues regarding responsibility for compensation payment; mediation or arbitration procedure; rules. (1)(a) Where there is an issue regarding:

(A) Which of several subject employers is the true employer of a claimant worker;

(B) Which of more than one insurer of a certain employer is responsible for payment of compensation to a worker;

(C) Responsibility between two or more employers or their insurers involving payment of compensation for one or more accidental injuries; or

(D) Joint employment by two or more employers,

the Director of the Department of Consumer and Business Services shall, by order, desig-

nate who shall pay the claim, if the employers and insurers admit that the claim is otherwise compensable. Payments shall begin in any event as provided in ORS 656.262 (4).

(b) At the time of claim closure, all parties to an order issued pursuant to paragraph (a) of this subsection shall have reconsideration and appeal rights.

(2) The director then shall request the Workers' Compensation Board chairperson to appoint an Administrative Law Judge to determine the responsible paying party. The proceedings shall be conducted in the same manner as any other hearing and any further appeal shall be conducted pursuant to ORS 656.295 and 656.298.

(3) When a determination of the responsible paying party has been made, the director shall direct any necessary monetary adjustment between the parties involved. Any monetary adjustment not reimbursed by an insurer or self-insured employer shall be recovered from the Consumer and Business Services Fund. Any stipulation or agreement under subsection (6) of this section shall not obligate the Consumer and Business Services Fund for reimbursement without prior approval of the Director of the Department of Consumer and Business Services.

(4) No self-insured employer or an insurer shall be joined in any proceeding under this section regarding its responsibility for any claim subject to ORS 656.273 unless the issue is entitled to hearing on application of the worker.

(5) The claimant shall be joined in any proceeding under this section as a necessary party, but may elect to be treated as a nominal party. If the claimant appears at any such proceeding and actively and meaningfully participates through an attorney, the Administrative Law Judge may require that a reasonable fee for the claimant's attorney be paid by the employer or insurer determined by the Administrative Law Judge to be the party responsible for paying the claim.

(6)(a) Notwithstanding subsection (2) of this section, parties to a responsibility proceeding under this section may agree to resolution of the dispute by mediation or arbitration by a private party. Any settlement stipulation, arbitration decision or other resolution of matters in dispute resulting from mediation or arbitration proceedings shall be filed with the Hearings Division and shall be given the same force and effect as an order of an Administrative Law Judge made pursuant to subsection (2) of this section. However, any such settlement stipulation, arbitration decision or other resolution is binding on the parties and is not subject to review by the director, an Administrative Law Judge, the board or any court or other administrative body, unless required pursuant to paragraph (d) of this subsection or subsection (3) of this section.

(b) For purposes of this subsection, mediation is a process of discussion and negotiation, with the mediator playing a central role in seeking a consensus among the parties. Such consensus may be reflected in a final mediation settlement stipulation, signed by all the parties and fully binding upon the parties with the same effect as a final order of an Administrative Law Judge, when the signed mediation settlement stipulation is filed with the Hearings Division of the Workers' Compensation Board.

(c) For purposes of this subsection, arbitration is an agreement to submit the matter to a binding decision by an arbitrator, through a process mutually agreed upon in advance. Once all the parties have agreed in writing to proceed with arbitration, no party may withdraw from the arbitration process except as provided in the written arbitration agreement.

(d) A mediation settlement stipulation may include matters beyond the responsibility issues. If other matters are included, the settlement agreement shall be submitted to the Hearings Division of the Workers' Compensation Board for review and approval, under this chapter, as to such additional matters beyond the responsibility issues.

(e) Any arbitration decision shall be limited to a decision as to responsibility and, where appropriate, the payment of associated costs and attorney fees. The arbitrator's decision shall have the same effect as a final order of an Administrative Law Judge when the signed decision is filed with the Hearings Division.

(f) When the parties have reported to the Hearings Division that they have agreed upon a mediation or arbitration process, the hearing shall be deferred for 90 days to allow the mediation or arbitration process to occur. Once 90 days have passed, the matter shall again be docketed for hearing unless the parties advise the Hearings Division in writing that progress has been made and request an extension of time of up to 90 days, which extension of time shall be granted as a matter of right. Once the second 90 days have passed, the matter shall again be docketed for hearing, and the hearing shall proceed before an Administrative Law Judge as though there had been no mediation or arbitration process, unless the parties present a mediation settlement stipulation or signed arbitration decision before the hearing begins.

(g) All parties must agree in writing to pursue mediation or arbitration and must agree upon the selection of the mediator or

arbitrator. The mediator or arbitrator shall not be an employee of any insurer or self-insured employer that is a party to the proceedings. The mediator or arbitrator must be an attorney admitted to practice law in the State of Oregon. The mediator or arbitrator may serve as a mediator or arbitrator, even if the mediator or arbitrator separately represents any insurer or self-insured employer in other proceedings, provided that all parties are advised of such representation and consent in writing that the mediator or arbitrator may so serve despite such other representation. Such written consent supersedes any legal ethics restrictions otherwise provided for in law or regulation.

(h) If the claimant is represented by an attorney, the other parties must arrange for payment of a reasonable attorney fee for the claimant's attorney's services during the mediation or arbitration. Any mediation or arbitration agreement shall specify the terms of the fee arrangement.

(i) If the claimant is not represented by an attorney, the mediation process cannot include any issue other than responsibility. A nonrepresented claimant must be advised in writing of the following before the mediation or arbitration proceeds:

(A) The claimant's right to refuse to participate in mediation or arbitration proceedings and to, instead, proceed to a hearing before an Administrative Law Judge;

(B) The present rate of temporary total disability benefits for each alleged date of injury;

(C) The present rate of permanent partial disability benefits for each alleged date of injury;

(D) The estimated date of expiration of aggravation rights for each alleged date of injury; and

(E) The claimant's right to be represented by counsel of the claimant's choice at no expense to the claimant.

(j) Notwithstanding any other provision of law, any insurer or self-insured employer may be represented by a certified claims examiner rather than by an attorney in any mediation or arbitration hereunder. Any separate insured for the same insurer shall be represented by a separate claims examiner, if the insured has a continuing financial exposure as to the claim; where no continuing financial exposure exists, a single certified claims examiner may represent more than one insured for the same insurer in the mediation or arbitration proceeding.

(k) Any other procedures as to mediation or arbitration shall be subject to agreement among the parties. The Workers' Compensation Board may adopt rules as to the process for deferral and docketing of hearings where mediation or arbitration occurs, the filing of arbitration decisions as orders of the Hearings Division, the filing of mediation settlement stipulations regarding responsibility as orders of the Hearings Division, and review and approval of mediation settlement stipulations that extend beyond the issues of responsibility and associated attorney fees and costs. The Workers' Compensation Board shall not enact rules that restrict the mediation or arbitration process except to the extent provided within this section. [1965 c.285 §39; 1971 c.70 §1; 1979 c.839 §8; 1987 c.713 §5; 1995 c.332 §36; 1997 c.43 §1; 1999 c.313 §9; 1999 c.876 §3; 2003 c.657 §§9,10; 2007 c.274 §5]

656.308 Responsibility for payment of claims; effect of new injury; denial of responsibility; procedure for joining employers and insurers; attorney fees; limitation on filing claims subject to settlement agreement. (1) When a worker sustains a compensable injury, the responsible employer shall remain responsible for future compensable medical services and disability relating to the compensable condition unless the worker sustains a new compensable injury involving the same condition. If a new compensable injury occurs, all further compensable medical services and disability involving the same condition shall be processed as a new injury claim by the subsequent employer. The standards for determining the compensability of a combined condition under ORS 656.005 (7) shall also be used to determine the occurrence of a new compensable injury or disease under this section.

(2)(a) Any insurer or self-insured employer who disputes responsibility for a claim shall so indicate in or as part of a denial otherwise meeting the requirements of ORS 656.262 issued in the 60 days allowed for processing of the claim. The denial shall advise the worker to file separate, timely claims against other potentially responsible insurers or self-insured employers, including other insurers for the same employer, in order to protect the right to obtain benefits on the claim. The denial may list the names and addresses of other insurers or self-insured employers. Such denials shall be final unless the worker files a timely request for hearing pursuant to ORS 656.319. All such requests for hearing shall be consolidated into one proceeding.

(b) No insurer or self-insured employer, including other insurers for the same employer, shall be joined to any workers' compensation hearing unless the worker has first filed a timely, written claim against that insurer or self-insured employer, or the insurer or self-insured employer has consented to issuance of an order designating a paying

agent pursuant to ORS 656.307. An insurer or self-insured employer against whom a claim is filed may contend that responsibility lies with another insurer or self-insured employer, including another insurer for the same employer, regardless of whether the worker has filed a claim against that insurer or self-insured employer.

(c) Upon written notice by an insurer or self-insured employer filed not more than 28 days or less than 14 days before the hearing, the Administrative Law Judge shall dismiss that party from the proceeding if the record does not contain substantial evidence to support a finding of responsibility against that party. The Administrative Law Judge shall decide such motions and inform the parties not less than seven days prior to the hearing, or postpone the hearing.

(d) Notwithstanding ORS 656.382 (2), 656.386 and 656.388, a reasonable attorney fee shall be awarded to the attorney for the injured worker for the attorney's appearance and active and meaningful participation in finally prevailing against a responsibility denial. The fee shall not exceed $2,500 absent a showing of extraordinary circumstances. The maximum attorney fee awarded under this paragraph shall be adjusted annually on July 1 by the same percentage increase as made to the average weekly wage defined in ORS 656.211, if any.

(3) A worker who is a party to an approved disputed claim settlement agreement under ORS 656.289 (4) may not subsequently file a claim against an insurer or a self-insured employer who is a party to the agreement with regard to claim conditions settled in the agreement even if other insurers or employers disclaim responsibility for those claim conditions. A worker who is a party to an approved claim disposition agreement under ORS 656.236 (1) may not subsequently file a claim against an insurer or a self-insured employer who is a party to the agreement with regard to any matter settled in the agreement even if other insurers or employers disclaim responsibility for those claim conditions, unless the claim in the subsequent proceeding is limited to a claim for medical services for claim conditions settled in the agreement. [1990 c.2 §49; 1995 c.332 §37; 2001 c.865 §8; 2009 c.526 §2]

656.310 Presumption concerning notice of injury and self-inflicted injuries; reports as evidence. (1) In any proceeding for the enforcement of a claim for compensation under this chapter, there is a rebuttable presumption that:

(a) Sufficient notice of injury was given and timely filed; and

(b) The injury was not occasioned by the willful intention of the injured worker to commit self-injury or suicide.

(2) The contents of medical, surgical and hospital reports presented by claimants for compensation shall constitute prima facie evidence as to the matter contained therein; so, also, shall such reports presented by the insurer or self-insured employer, provided that the doctor rendering medical and surgical reports consents to submit to cross-examination. This subsection shall also apply to medical or surgical reports from any treating or examining doctor who is not a resident of Oregon, provided that the claimant, self-insured employer or the insurer shall have a reasonable time, but no less than 30 days after receipt of notice that the report will be offered in evidence at a hearing, to cross-examine such doctor by deposition or by written interrogatories to be settled by the Administrative Law Judge. [1965 c.285 §40; 1969 c.447 §1; 1981 c.854 §21]

656.312 [Amended by 1953 c.428 §2; 1965 c.285 §44; renumbered 656.578]

656.313 Stay of compensation pending request for hearing or review; procedure for denial of claim for medical services; reimbursement. (1)(a) Filing by an employer or the insurer of a request for hearing on a reconsideration order before the Hearings Division, a request for Workers' Compensation Board review or court appeal or request for review of an order of the Director of the Department of Consumer and Business Services regarding vocational assistance stays payment of the compensation appealed, except for:

(A) Temporary disability benefits that accrue from the date of the order appealed from until closure under ORS 656.268, or until the order appealed from is itself reversed, whichever event first occurs;

(B) Permanent total disability benefits that accrue from the date of the order appealed from until the order appealed from is reversed;

(C) Death benefits payable to a surviving spouse prior to remarriage, to children or dependents that accrue from the date of the order appealed from until the order appealed from is reversed; and

(D) Vocational benefits ordered by the director pursuant to ORS 656.340 (16). If a denial of vocational benefits is upheld by a final order, the insurer or self-insured employer shall be reimbursed from the Workers' Benefit Fund pursuant to ORS 656.605 for all costs incurred in providing vocational benefits as a result of the order that was appealed.

(b) If ultimately found payable under a final order, benefits withheld under this subsection, and attorney fees and costs, shall accrue interest at the rate provided in ORS 82.010 from the date of the order appealed from through the date of payment. The board shall expedite review of appeals in which payment of compensation has been stayed under this section.

(2) If the board or court subsequently orders that compensation to the claimant should not have been allowed or should have been awarded in a lesser amount than awarded, the claimant shall not be obligated to repay any such compensation which was paid pending the review or appeal.

(3) If an insurer or self-insured employer denies the compensability of all or any portion of a claim submitted for medical services, the insurer or self-insured employer shall send notice of the denial to each provider of such medical services and to any provider of health insurance for the injured worker. Except for medical services payable in accordance with ORS 656.247, after receiving notice of the denial, a medical service provider may submit medical reports and bills for the disputed medical services to the provider of health insurance for the injured worker. The health insurance provider shall pay all such bills in accordance with the limits, terms and conditions of the policy. If the injured worker has no health insurance, such bills may be submitted to the injured worker. A provider of disputed medical services shall make no further effort to collect disputed medical service bills from the injured worker until the issue of compensability of the medical services has been finally determined.

(4) Except for medical services payable in accordance with ORS 656.247:

(a) When the compensability issue has been finally determined or when disposition or settlement of the claim has been made pursuant to ORS 656.236 or 656.289 (4), the insurer or self-insured employer shall notify each affected service provider and health insurance provider of the results of the disposition or settlement.

(b) If the services are determined to be compensable, the insurer or self-insured employer shall reimburse each health insurance provider for the amount of claims paid by the health insurance provider pursuant to this section. Such reimbursement shall be in addition to compensation or medical benefits the worker receives. Medical service reimbursement shall be paid directly to the health insurance provider.

(c) If the services are settled pursuant to ORS 656.289 (4), the insurer or self-insured employer shall reimburse, out of the settlement proceeds, each medical service provider for billings received by the insurer or self-insured employer on and before the date on which the terms of settlement are agreed as specified in the settlement document that are not otherwise partially or fully reimbursed.

(d) Reimbursement under this section shall be made only for medical services related to the claim that would be compensable under this chapter if the claim were compensable and shall be made at one-half the amount provided under ORS 656.248. In no event shall reimbursement made to medical service providers exceed 40 percent of the total present value of the settlement amount, except with the consent of the worker. If the settlement proceeds are insufficient to allow each medical service provider the reimbursement amount authorized under this subsection, the insurer or self-insured employer shall reduce each provider's reimbursement by the same proportional amount. Reimbursement under this section shall not prevent a medical service provider or health insurance provider from recovering the balance of amounts owing for such services directly from the worker, unless the worker agrees to pay all medical service providers directly from the settlement proceeds the amount provided under ORS 656.248.

(5) As used in this section, "health insurance" has the meaning for that term provided in ORS 731.162. [1965 c.285 §41; 1979 c.673 §1; 1981 c.535 §8; 1981 c.854 §22; 1983 c.809 §2; 1990 c.2 §23; 1993 c.521 §1; 1995 c.332 §38; amendments by 1995 c.332 §38a repealed by 1999 c.6 §1; 1999 c.6 §11; 2001 c.865 §13a; 2005 c.588 §4; 2009 c.35 §4; 2011 c.80 §1; 2015 c.521 §4]

656.314 [Amended by 1965 c.285 §45; renumbered 656.580]

656.316 [Amended by 1953 c.428 §2; 1965 c.285 §46; renumbered 656.583]

656.318 [Amended by 1965 c.285 §47; renumbered 656.587]

656.319 Time within which hearing must be requested. (1) With respect to objection by a claimant to denial of a claim for compensation under ORS 656.262, a hearing thereon shall not be granted and the claim shall not be enforceable unless:

(a) A request for hearing is filed not later than the 60th day after the mailing of the denial to the claimant; or

(b) The request is filed not later than the 180th day after mailing of the denial and the claimant establishes at a hearing that there was good cause for failure to file the request by the 60th day after mailing of the denial.

(2) Notwithstanding subsection (1) of this section, a hearing shall be granted even if a request therefor is filed after the time specified in subsection (1) of this section if the claimant can show lack of mental competency to file the request within that time.

The period for filing under this subsection shall not be extended more than five years by lack of mental competency, nor shall it extend in any case longer than one year after the claimant regains mental competency.

(3) With respect to subsection (2) of this section, lack of mental competency shall apply only to an individual suffering from such mental disorder, mental illness or nervous disorder as is required for commitment or voluntary admission to a treatment facility pursuant to ORS 426.005 to 426.223 and 426.273 to 426.380 and the rules of the Oregon Health Authority.

(4) With respect to objections to a reconsideration order under ORS 656.268, a hearing on such objections shall not be granted unless a request for hearing is filed within 30 days after the copies of the reconsideration order were mailed to the parties.

(5) With respect to objection by a claimant to a notice of refusal to close a claim under ORS 656.268, a hearing on the objection shall not be granted unless the request for hearing is filed within 60 days after copies of the notice of refusal to close were mailed to the parties.

(6) A hearing for failure to process or an allegation that the claim was processed incorrectly shall not be granted unless the request for hearing is filed within two years after the alleged action or inaction occurred.

(7) With respect to objection by a claimant to a notice of closure issued under ORS 656.206, a hearing on the objection shall not be granted unless the request for hearing is filed within 60 days after the notice of closure was mailed to the claimant. [1965 c.285 §41a; 1969 c.206 §1; 1975 c.497 §4; 1983 c.819 §1; 1987 c.884 §14; 1990 c.2 §24; 1995 c.332 §39; 2005 c.461 §6; 2009 c.595 §1041]

656.320 [Amended by 1953 c.428 §2; 1965 c.285 §48; renumbered 656.591]

656.322 [Amended by 1953 c.428 §2; 1955 c.656 §1; 1959 c.644 §1; 1965 c.285 §49; renumbered 656.593]

656.324 [Amended by 1965 c.285 §50; renumbered 656.595]

656.325 Required medical examination; worker-requested examination; qualified physicians; claimant's duty to reduce disability; suspension or reduction of benefits; cessation or reduction of temporary total disability benefits; rules; penalties. (1)(a) Any worker entitled to receive compensation under this chapter is required, if requested by the Director of the Department of Consumer and Business Services, the insurer or self-insured employer, to submit to a medical examination at a time reasonably convenient for the worker as may be provided by the rules of the director. No more than three independent medical examinations may be requested except after notification to and authorization by the director. If the worker refuses to submit to any such examination, or obstructs the same, the rights of the worker to compensation shall be suspended with the consent of the director until the examination has taken place, and no compensation shall be payable during or for account of such period. The provisions of this paragraph are subject to the limitations on medical examinations provided in ORS 656.268.

(b) When a worker is requested by the director, the insurer or self-insured employer to attend an independent medical examination, the examination must be conducted by a physician selected from a list of qualified physicians established by the director under ORS 656.328.

(c) The director shall adopt rules applicable to independent medical examinations conducted pursuant to paragraph (a) of this subsection that:

(A) Provide a worker the opportunity to request review by the director of the reasonableness of the location selected for an independent medical examination. Upon receipt of the request for review, the director shall conduct an expedited review of the location selected for the independent medical examination and issue an order on the reasonableness of the location of the examination. The director shall determine if there is substantial evidence for the objection to the location for the independent medical examination based on a conclusion that the required travel is medically contraindicated or other good cause establishing that the required travel is unreasonable. The determinations of the director about the location of independent medical examinations are not subject to review.

(B) Impose a monetary penalty against a worker who fails to attend an independent medical examination without prior notification or without justification for not attending the examination. A penalty imposed under this subparagraph may be imposed only on a worker who is not receiving temporary disability benefits under ORS 656.210 or 656.212. An insurer or self-insured employer may offset any future compensation payable to the worker to recover any penalty imposed under this subparagraph from a claim with the same insurer or self-insured employer. When a penalty is recovered from temporary disability or permanent total disability benefits, the amount recovered from each payment may not exceed 25 percent of the benefit payment without prior authorization from the worker.

(C) Impose a sanction against a medical service provider that unreasonably fails to provide in a timely manner diagnostic re-

cords required for an independent medical examination.

(d) Notwithstanding ORS 656.262 (6), if the director determines that the location selected for an independent medical examination is unreasonable, the insurer or self-insured employer shall accept or deny the claim within 90 days after the employer has notice or knowledge of the claim.

(e) If the worker has made a timely request for a hearing on a denial of compensability as required by ORS 656.319 (1)(a) that is based on one or more reports of examinations conducted pursuant to paragraph (a) of this subsection and the worker's attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 does not concur with the report or reports, the worker may request an examination to be conducted by a physician selected by the director from the list described in ORS 656.328. The cost of the examination and the examination report shall be paid by the insurer or self-insured employer.

(f) The insurer or self-insured employer shall pay the costs of the medical examination and related services which are reasonably necessary to allow the worker to submit to any examination requested under this section. As used in this paragraph, "related services" includes, but is not limited to, child care, travel, meals, lodging and an amount equivalent to the worker's net lost wages for the period during which the worker is absent if the worker does not receive benefits pursuant to ORS 656.210 (4) during the period of absence. A claim for "related services" described in this paragraph shall be made in the manner prescribed by the director.

(g) A worker who objects to the location of an independent medical examination must request review by the director under paragraph (c)(A) of this subsection within six business days of the date the notice of the independent medical examination was mailed.

(2) For any period of time during which any worker commits insanitary or injurious practices which tend to either imperil or retard recovery of the worker, or refuses to submit to such medical or surgical treatment as is reasonably essential to promote recovery, or fails to participate in a program of physical rehabilitation, the right of the worker to compensation shall be suspended with the consent of the director and no payment shall be made for such period. The period during which such worker would otherwise be entitled to compensation may be reduced with the consent of the director to such an extent as the disability has been increased by such refusal.

(3) A worker who has received an award for permanent total or permanent partial disability should be encouraged to make a reasonable effort to reduce the disability; and the award shall be subject to periodic examination and adjustment in conformity with ORS 656.268.

(4) When the employer of an injured worker, or the employer's insurer determines that the injured worker has failed to follow medical advice from the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 or has failed to participate in or complete physical restoration or vocational rehabilitation programs prescribed for the worker pursuant to this chapter, the employer or insurer may petition the director for reduction of any benefits awarded the worker. Notwithstanding any other provision of this chapter, if the director finds that the worker has failed to accept treatment as provided in this subsection, the director may reduce any benefits awarded the worker by such amount as the director considers appropriate.

(5)(a) Except as provided by ORS 656.268 (4)(c) and (11), an insurer or self-insured employer shall cease making payments pursuant to ORS 656.210 and shall commence making payment of such amounts as are due pursuant to ORS 656.212 when an injured worker refuses wage earning employment prior to claim determination and the worker's attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245, after being notified by the employer of the specific duties to be performed by the injured worker, agrees that the injured worker is capable of performing the employment offered.

(b) If the worker has been terminated for violation of work rules or other disciplinary reasons, the insurer or self-insured employer shall cease payments pursuant to ORS 656.210 and commence payments pursuant to ORS 656.212 when the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 approves employment in a modified job that would have been offered to the worker if the worker had remained employed, provided that the employer has a written policy of offering modified work to injured workers.

(c) If the worker is a person present in the United States in violation of federal immigration laws, the insurer or self-insured employer shall cease payments pursuant to ORS 656.210 and commence payments pursuant to ORS 656.212 when the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 approves employment in a mod-

ified job whether or not such a job is available.

(6) Any party may request a hearing on any dispute under this section pursuant to ORS 656.283. [Formerly 656.280; 1977 c.804 §12; 1977 c.868 §4; 1979 c.839 §29; 1981 c.535 §10; 1981 c.723 §4; 1981 c.854 §23; 1983 c.816 §8; 1985 c.770 §7; 1987 c.884 §43; 1989 c.598 §1; 1990 c.2 §25; 1995 c.332 §40; 2001 c.865 §13; 2003 c.657 §§11,12; 2003 c.811 §§13,14; 2005 c.675 §§1,2; 2007 c.274 §6; 2007 c.365 §7; 2011 c.99 §4]

656.326 [Amended by 1965 c.285 §51; renumbered 656.597]

656.327 Review of medical treatment of worker; findings; review; costs. (1)(a) If an injured worker, an insurer or self-insured employer or the Director of the Department of Consumer and Business Services believes that the medical treatment, not subject to ORS 656.260, that the injured worker has received, is receiving, will receive or is proposed to receive is excessive, inappropriate, ineffectual or in violation of rules regarding the performance of medical services, the injured worker, insurer or self-insured employer must request administrative review of the treatment by the director prior to requesting a hearing on the issue and so notify the parties.

(b) Unless the director issues an order finding that no bona fide medical services dispute exists, the director shall review the matter as provided in this section. Appeal of an order finding that no bona fide medical services dispute exists shall be made directly to the Workers' Compensation Board within 30 days after issuance of the order. The board shall set aside or remand the order only if the board finds that the order is not supported by substantial evidence in the record. Substantial evidence exists to support a finding in the order when the record, reviewed as a whole, would permit a reasonable person to make that finding. The decision of the board is not subject to review by any other court or administrative agency.

(c) The insurer or self-insured employer shall not deny the claim for medical services nor shall the worker request a hearing on any issue under this section until the director issues an order under subsection (2) of this section.

(2) The director shall review medical information and records regarding the treatment. The director may cause an appropriate medical service provider to perform reasonable and appropriate tests, other than invasive tests, upon the worker and may examine the worker. Notwithstanding ORS 656.325 (1), the worker may refuse a test without sanction. Review of the medical treatment shall be completed and the director shall issue an order within 60 days of the request for review. The director shall create a documentary record sufficient for purposes of judicial review. If the worker, insurer, self-insured employer or medical service provider is dissatisfied with that order, the dissatisfied party may request review under ORS 656.704. The administrative order may be modified at hearing only if it is not supported by substantial evidence in the record or if it reflects an error of law. No new medical evidence or issues shall be admitted. The worker is not obligated to pay for medical treatment determined not to be compensable under this subsection.

(3) Upon request of either party, the director may delegate to a physician or a panel of physicians the review of medical treatment under this section. At least one member of any such panel shall be a practitioner of the healing art of the medical service provider whose treatment is being reviewed. No member of any such panel shall be a physician whose treatment is the subject of review. The panel shall be chosen in such manner as the director may prescribe, in consultation with the committee referred to in ORS 656.790. The physician or panel shall submit findings to the director within the time limits as prescribed by the director.

(4) The physician or the panel of physicians and the medical arbiter or panel of medical arbiters appointed pursuant to ORS 656.268 acting pursuant to the authority of the director are agents of the Department of Consumer and Business Services and are subject to the provisions of ORS 30.260 to 30.300. The findings of the physician or panel of physicians, the medical arbiter or panel of medical arbiters, all of the records and all communications to or before a panel or arbiter are privileged and are not discoverable or admissible in any proceeding other than those proceedings under this chapter. No member of a panel or a medical arbiter shall be examined or subject to administrative or civil liability regarding participation in or the findings of the panel or medical arbiter or any matter before the panel or medical arbiter other than in proceedings under this chapter.

(5) The costs of review of medical treatment by the physician or panel of physicians pursuant to this section and costs incurred by the worker in attending any examination required under this section, including child care, transportation, lodging and meals, shall be paid by the insurer or self-insured employer. [1987 c.884 §29; 1990 c.2 §26; 1995 c.332 §41; 2005 c.26 §12]

656.328 List of authorized providers and standards of professional conduct for providers of independent medical examinations; exclusion; complaints; rules. (1) The Director of the Department of Consumer and Business Services shall maintain a list

of providers that are authorized to perform independent medical examinations.

(2) A provider on the list maintained by the director under subsection (1) of this section may be excluded from the list by the director after a finding of a violation of standards of professional conduct for conducting independent medical examinations adopted by the appropriate health professional regulatory board. The director shall adopt by rule standards of professional conduct for providers performing independent medical examinations if the appropriate health professional regulatory board has not adopted standards pertaining to independent medical examinations. The rules adopted by the director under this subsection may be consistent with the guidelines of conduct published by the Independent Medical Examination Association in effect on June 4, 2007. The decision of the director to exclude a provider from the list maintained under subsection (1) of this section is subject to review under ORS 656.704.

(3) The director, in consultation with the advisory committee on medical care of the Workers' Compensation Division of the Department of Consumer and Business Services, the Workers' Compensation Management-Labor Advisory Committee and affected interest groups shall develop, and the director shall adopt by rule:

(a) Professional licensing training requirements and educational materials for physicians participating in the workers' compensation system and conducting independent medical examinations required under ORS 656.325 (1); and

(b) A process for investigating and reviewing complaints about independent medical examinations conducted under the requirements of ORS 656.325 (1) that includes, but is not limited to, standards for referring complaints to the appropriate health professional regulatory board and an appeals process for a physician who disagrees with an action taken by the director under subsection (2) of this section. [2005 c.675 §5; 2007 c.300 §1]

656.329 [1987 c.884 §33; repealed by 1995 c.94 §1]

656.330 [1977 c.868 §2; repealed by 1985 c.660 §2 and 1985 c.770 §5]

656.331 Contact, medical examination of worker represented by attorney prohibited without written notice; rules. (1) Notwithstanding any other provision of this chapter, if an injured worker is represented by an attorney and the attorney has given written notice of such representation:

(a) The Director of the Department of Consumer and Business Services, the insurer or self-insured employer shall not request the worker to submit to an independent medical examination without giving prior or simultaneous written notice to the worker's attorney.

(b) An insurer or self-insured employer shall not contact the worker without giving prior or simultaneous written notice to the worker's attorney if the contact affects the denial, reduction or termination of the worker's benefits.

(2) The director shall adopt rules necessary to carry out the provisions of subsection (1)(b) of this section. [1985 c.706 §8]

656.335 [1981 c.723 §7; 1985 c.600 §3; 1985 c.770 §7a; repealed by 1995 c.332 §68]

656.340 Vocational assistance procedure; eligibility criteria; service providers; resolution of vocational assistance disputes; rules. (1)(a) The insurer or self-insured employer shall cause vocational assistance to be provided to an injured worker who is eligible for assistance in returning to work.

(b) For this purpose the insurer or self-insured employer shall contact a worker with a claim for a disabling compensable injury or claim for aggravation for evaluation of the worker's eligibility for vocational assistance within five days of:

(A) Having knowledge of the worker's likely eligibility for vocational assistance, from a medical or investigation report, notification from the worker, or otherwise; or

(B) The time the worker is medically stationary, if the worker has not returned to or been released for the worker's regular employment or has not returned to other suitable employment with the employer at the time of injury or aggravation and the worker is not receiving vocational assistance.

(c) Eligibility may be redetermined by the insurer or self-insured employer upon receipt of new information that would change the eligibility determination.

(2) Contact under subsection (1) of this section shall include informing the worker about reemployment rights, the responsibility of the worker to request reemployment, and wage subsidy and job site modification assistance and the provisions of the preferred worker program pursuant to rules adopted by the Director of the Department of Consumer and Business Services.

(3) Within five days after notification that the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 has released a worker to return to work, the insurer or self-insured employer shall inform the worker about the opportunity to seek reemployment or reinstatement under ORS 659A.043 and 659A.046. The insurer shall in-

form the employer of the worker's reemployment rights, wage subsidy and the job site modification assistance and the provisions of the preferred worker program.

(4) As soon as possible, and not more than 30 days after the contact required by subsection (1) of this section, the insurer or self-insured employer shall cause an individual certified by the director to provide vocational assistance to determine whether the worker is eligible for vocational assistance. The insurer or self-insured employer shall notify the worker of the decision regarding the worker's eligibility for vocational assistance. If the insurer or self-insured employer decides that the worker is not eligible, the worker may apply to the director for review of the decision as provided in subsection (16) of this section. A worker determined ineligible upon evaluation under subsection (1)(b)(B) of this section, or because the worker's eligibility has fully and finally expired under standards prescribed by the director, may not be found eligible thereafter unless that eligibility determination is rejected by the director under subsection (16) of this section or the worker's condition worsens so as to constitute an aggravation claim under ORS 656.273. A worker is not entitled to vocational assistance benefits when possible eligibility for such benefits arises from a worsening of the worker's condition that occurs after the expiration of the worker's aggravation rights under ORS 656.273.

(5) The objectives of vocational assistance are to return the worker to employment which is as close as possible to the worker's regular employment at a wage as close as possible to the weekly wage currently being paid for employment which was the worker's regular employment even though the wage available following employment may be less than the wage prescribed by subsection (6) of this section. As used in this subsection and subsection (6) of this section, "regular employment" means the employment the worker held at the time of the injury or the claim for aggravation under ORS 656.273, whichever gave rise to the potential eligibility for vocational assistance; or, for a worker not employed at the time of the aggravation, the employment the worker held on the last day of work prior to the aggravation.

(6)(a) A worker is eligible for vocational assistance if the worker will not be able to return to the previous employment or to any other available and suitable employment with the employer at the time of injury or aggravation, and the worker has a substantial handicap to employment.

(b) As used in this subsection:

(A) A "substantial handicap to employment" exists when the worker, because of the injury or aggravation, lacks the necessary physical capacities, knowledge, skills and abilities to be employed in suitable employment.

(B) "Suitable employment" means:

(i) Employment of the kind for which the worker has the necessary physical capacity, knowledge, skills and abilities;

(ii) Employment that is located where the worker customarily worked or is within reasonable commuting distance of the worker's residence; and

(iii) Employment that produces a weekly wage within 20 percent of that currently being paid for employment that was the worker's regular employment as defined in subsection (5) of this section. The director shall adopt rules providing methods of calculating the weekly wage currently being paid for the worker's regular employment for use in determining eligibility and for providing assistance to eligible workers. If the worker's regular employment was seasonal or temporary, the worker's wage shall be averaged based on a combination of the worker's earned income and any unemployment insurance payments. Only earned income evidenced by verifiable documentation such as federal or state tax returns shall be used in the calculation. Earned income does not include fringe benefits or reimbursement of the worker's employment expenses.

(7) Vocational evaluation, help in directly obtaining employment and training shall be available under conditions prescribed by the director. The director may establish other conditions for providing vocational assistance, including those relating to the worker's availability for assistance, participation in previous assistance programs connected with the same claim and the nature and extent of assistance that may be provided. Such conditions shall give preference to direct employment assistance over training.

(8) An insurer or self-insured employer may utilize its own staff or may engage any other individual certified by the director to perform the vocational evaluation required by subsection (4) of this section.

(9) The director shall adopt rules providing:

(a) Standards for and methods of certifying individuals qualified by education, training and experience to provide vocational assistance to injured workers;

(b) Standards for registration of vocational assistance providers;

(c) Conditions and procedures under which the certification of an individual to provide vocational assistance services or the registration of a vocational assistance provider may be suspended or revoked for failure to maintain compliance with the certification or registration standards;

(d) Standards for the nature and extent of services a worker may receive, for plans for return to work and for determining when the worker has returned to work; and

(e) Procedures, schedules and conditions relating to the payment for services performed by a vocational assistance provider, that are based on payment for specific services performed and not fees for services performed on an hourly basis. Fee schedules shall reflect a reasonable rate for direct worker purchases and for all vocational assistance providers and shall be the same within suitable geographic areas.

(10) Insurers and self-insured employers shall maintain records and make reports to the director of vocational assistance actions at times and in the manner as the director may prescribe. The requirements prescribed shall be for the purpose of assisting the Department of Consumer and Business Services in monitoring compliance with this section to insure that workers receive timely and appropriate vocational assistance. The director shall minimize to the greatest extent possible the number, extent and kinds of reports required. The director shall compile a list of organizations or agencies registered to provide vocational assistance. A current list shall be distributed by the director to all insurers and self-insured employers. The insurer shall send the list to each worker with the notice of eligibility.

(11) When a worker is eligible to receive vocational assistance, the worker and the insurer or self-insured employer shall attempt to agree on the choice of a vocational assistance provider. If the worker agrees, the insurer or self-insured employer may utilize its own staff to provide vocational assistance. If they are unable to agree on a vocational assistance provider, the insurer or self-insured employer shall notify the director and the director shall select a provider. Any change in the choice of vocational assistance provider is subject to the approval of the director.

(12) Notwithstanding ORS 656.268, a worker actively engaged in training may receive temporary disability compensation for a maximum of 16 months. The insurer or self-insured employer may voluntarily extend the payment of temporary disability compensation to a maximum of 21 months. The director may order the payment of temporary disability compensation for up to 21 months upon good cause shown by the injured worker. The costs related to vocational assistance training programs may be paid for periods longer than 21 months, but in no event may temporary disability benefits be paid for a period longer than 21 months.

(13) As used in this section, "vocational assistance provider" means a public or private organization or agency that provides vocational assistance to injured workers.

(14)(a) Determination of eligibility for vocational assistance does not entitle all workers to the same type or extent of assistance.

(b) Training shall not be provided to an eligible worker solely because the worker cannot obtain employment, otherwise suitable, that will produce the wage prescribed in subsection (6) of this section unless such training will enable the worker to find employment which will produce a wage significantly closer to that prescribed in subsection (6) of this section.

(c) Nothing in this section shall be interpreted to expand the availability of training under this section.

(15) A physical capacities evaluation shall be performed in conjunction with vocational assistance or determination of eligibility for such assistance at the request of the insurer or self-insured employer or worker. The request shall be made to the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245. The attending physician or nurse practitioner, within 20 days of the request, shall perform a physical capacities evaluation or refer the worker for such evaluation or advise the insurer or self-insured employer and the worker in writing that the injured worker is incapable of participating in a physical capacities evaluation.

(16)(a) The Legislative Assembly finds that vocational rehabilitation of injured workers requires a high degree of cooperation between all of the participants in the vocational assistance process. Based on this finding, the Legislative Assembly concludes that disputes regarding eligibility for and extent of vocational assistance services should be resolved through nonadversarial procedures to the greatest extent possible consistent with constitutional principles. The director shall adopt by rule a procedure for resolving vocational assistance disputes in the manner provided in this subsection.

(b) If a worker is dissatisfied with an action of the insurer or self-insured employer regarding vocational assistance, the worker must apply to the director for administrative review of the matter. Application for review must be made not later than the 60th day

after the date the worker was notified of the action. The director shall complete the review within a reasonable time.

(c) If the worker's dissatisfaction is resolved by agreement of the parties, the agreement shall be reduced to writing, and the director and the parties shall review the agreement and either approve or disapprove it. The agreement is subject to reconsideration by the director under limitations prescribed by the director, but is not subject to review by any other forum.

(d) If the worker's dissatisfaction is not resolved by agreement of the parties, the director shall resolve the matter in a written order based on a record sufficient to permit review. The order is subject to review under ORS 656.704. The request for a hearing must be filed within 60 days of the date the order was issued. At the hearing, the order of the director shall be modified only if it:

(A) Violates a statute or rule;

(B) Exceeds the statutory authority of the agency;

(C) Was made upon unlawful procedure; or

(D) Was characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(e) For purposes of this subsection, the term "parties" does not include a noncomplying employer. [1981 c.535 §2; 1985 c.600 §11; 1987 c.884 §15; 1990 c.2 §27; 1995 c.332 §42; amendments by 1995 c.332 §42a repealed by 1999 c.6 §1; 2003 c.811 §§15,16; 2007 c.365 §8; 2009 c.35 §1; 2009 c.312 §1; 2013 c.103 §1]

DISCLOSURE OF WORKER MEDICAL AND VOCATIONAL CLAIM RECORDS

656.360 Confidentiality of worker medical and vocational claim records. Insurers and their assigned claims agents shall maintain the confidentiality of worker medical and vocational claim records. Worker medical and vocational claim records may not be disclosed to persons other than the worker unless the disclosure is:

(1) Made with the consent of the worker or the worker's beneficiary;

(2) Reasonably necessary for the insurer or its assigned claims agent to manage, defend or adjust claims, suits or actions or to perform any other function required by or arising out of ORS chapter 654, 655 or 656 or the insurance contract;

(3) To detect or prevent criminal activity, fraud, material misrepresentation or nondisclosure;

(4) Pursuant to a written agreement that requires the receiving party to maintain the confidentiality of the records; or

(5) Otherwise required or permitted by law. [2001 c.377 §61]

656.362 Liability for disclosure of worker medical and vocational claim records. (1) A cause of action in the nature of defamation, invasion of privacy or negligence may not arise against:

(a) Any insurer or assigned claims agent for disclosing worker medical and vocational claim records in accordance with ORS 656.360; or

(b) Any person for furnishing worker medical and vocational claim records to an insurer or assigned claims agent in accordance with ORS 656.360.

(2) Subsection (1) of this section does not apply to the disclosure or furnishing of false information with malice or willful intent to injure any person. [2001 c.377 §62]

LEGAL REPRESENTATION

656.382 Penalties and attorney fees payable by insurer or employer in processing claim. (1) If an insurer or self-insured employer refuses to pay compensation, costs or attorney fees due under an order of an Administrative Law Judge, the board or the court, or otherwise unreasonably resists the payment of compensation, costs or attorney fees, except as provided in ORS 656.385, the employer or insurer shall pay to the attorney of the claimant a reasonable attorney fee as provided in subsection (2) of this section. To the extent an employer has caused the insurer to be charged such fees, such employer may be charged with those fees.

(2) If a request for hearing, request for review, appeal or cross-appeal to the Court of Appeals or petition for review to the Supreme Court is initiated by an employer or insurer, and the Administrative Law Judge, board or court finds that all or part of the compensation awarded to a claimant should not be disallowed or reduced, or, through the assistance of an attorney, that an order rescinding a notice of closure should not be reversed or all or part of the compensation awarded by a reconsideration order issued under ORS 656.268 should not be reduced or disallowed, the employer or insurer shall be required to pay to the attorney of the claimant a reasonable attorney fee in an amount set by the Administrative Law Judge, board or court for legal representation by an attorney for the claimant at and prior to the hearing, review on appeal or cross-appeal.

(3) If an employer or insurer raises attorney fees, penalties or costs as a separate issue in a request for hearing, request for review, appeal or cross-appeal to the Court of Appeals or petition for review to the Su-

preme Court initiated by the employer or insurer under this section, and the Administrative Law Judge, board or court finds that the attorney fees, penalties or costs awarded to the claimant should not be disallowed or reduced, the Administrative Law Judge, board or court shall award reasonable additional attorney fees to the attorney for the claimant for efforts in defending the fee, penalty or costs.

(4) If an employer or insurer initiates an appeal to the board or Court of Appeals and the matter is briefed, but the employer or insurer withdraws the appeal prior to a decision by the board or court, resulting in the claimant's prevailing in the matter, the claimant's attorney is entitled to a reasonable attorney fee for efforts in briefing the matter to the board or court.

(5) If upon reaching a decision on a request for hearing initiated by an employer it is found by the Administrative Law Judge that the employer initiated the hearing for the purpose of delay or other vexatious reason or without reasonable ground, the Administrative Law Judge may order the employer to pay to the claimant such penalty not exceeding $750 and not less than $100 as may be reasonable in the circumstances. [1965 c.285 §42; 1981 c.854 §24; 1983 c.568 §1; 1987 c.884 §34; 1990 c.2 §28; 1995 c.332 §42b; 2009 c.526 §3; 2015 c.521 §5]

656.383 Attorney fees in cases prior to decision or after request for hearing. The claimant's attorney shall be allowed a reasonable assessed attorney fee if:

(1) The claimant's attorney is instrumental in obtaining temporary disability compensation benefits pursuant to ORS 656.210, 656.212, 656.262, 656.268 or 656.325 prior to a decision by an Administrative Law Judge; or

(2) The claimant finally prevails in a dispute over temporary disability compensation benefits pursuant to ORS 656.210, 656.212, 656.262, 656.268 or 656.325 after a request for hearing has been filed. [2015 c.521 §10]

Note: 656.383 was added to and made a part of ORS chapter 656 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

656.384 [Formerly 656.582; 1977 c.290 §4; 1977 c.804 §13; repealed by 1987 c.250 §1]

656.385 Attorney fees in cases regarding certain medical service or vocational rehabilitation matters; rules; limitation; penalties. (1) In all cases involving a dispute over compensation benefits pursuant to ORS 656.245, 656.247, 656.260, 656.327 or 656.340, where a claimant finally prevails after a proceeding has commenced, the Director of the Department of Consumer and Business Services, the Administrative Law Judge or the court shall require the insurer or self-insured employer to pay a reasonable attorney fee to the claimant's attorney. In such cases, where an attorney is instrumental in obtaining a settlement of the dispute prior to a decision by the director, an Administrative Law Judge or the court, the director, Administrative Law Judge or court shall require the insurer or self-insured employer to pay a reasonable attorney fee to the claimant's attorney. The attorney fee must be based on all work the claimant's attorney has done relative to the proceeding at all levels before the department or court. The attorney fee assessed under this section must be proportionate to the benefit to the injured worker. The director shall adopt rules for establishing the amount of the attorney fee, giving primary consideration to the results achieved and to the time devoted to the case. An attorney fee awarded pursuant to this subsection may not exceed $4,000 absent a showing of extraordinary circumstances. The maximum attorney fee awarded under this subsection shall be adjusted annually on July 1 by the same percentage increase as made to the average weekly wage defined in ORS 656.211, if any.

(2) If an insurer or self-insured employer refuses to pay compensation due under, or attorney fees related to, ORS 656.245, 656.247, 656.260, 656.327 or 656.340 pursuant to an order of the director, an Administrative Law Judge or the court or otherwise unreasonably resists the payment of such compensation or attorney fees, the insurer or self-insured employer shall pay to the attorney of the claimant a reasonable attorney fee as provided in subsection (3) of this section. To the extent an employer has caused the insurer to be charged such fees, such employer may be charged with those fees.

(3) If a request for a contested case hearing, review on appeal or cross-appeal to the Court of Appeals or petition for review to the Supreme Court is initiated by an insurer or self-insured employer, and the director, Administrative Law Judge or court finds that all or part of the compensation awarded under ORS 656.245, 656.247, 656.260, 656.327 or 656.340 to a claimant, or attorney fees under this section, should not be disallowed or reduced, the insurer or self-insured employer shall be required to pay to the attorney of the claimant a reasonable attorney fee in an amount set by the director, Administrative Law Judge or court for legal representation by an attorney for the claimant at the contested case hearing, review on appeal or cross-appeal.

(4) If upon reaching a final contested case decision where such contested case was initiated by an insurer or self-insured employer it is found that the insurer or self-

insured employer initiated the contested case hearing for the purpose of delay or other vexatious reason or without reasonable ground, the director, Administrative Law Judge or court may order the insurer or self-insured employer to pay to the claimant such penalty not exceeding $750 and not less than $100 as may be reasonable in the circumstances.

(5) Penalties and attorney fees awarded pursuant to this section by the director, an Administrative Law Judge or the courts shall be paid for by the employer or insurer in addition to compensation found to be due to the claimant. [1995 c.332 §42d; 2003 c.756 §2; 2005 c.26 §13; 2009 c.526 §4; 2015 c.521 §6]

656.386 Recovery of attorney fees, expenses and costs in appeal on denied claim; attorney fees in other cases. (1)(a) In all cases involving denied claims where a claimant finally prevails against the denial in an appeal to the Court of Appeals or petition for review to the Supreme Court, the court shall allow a reasonable attorney fee to the claimant's attorney. In such cases involving denied claims where the claimant prevails finally in a hearing before an Administrative Law Judge or in a review by the Workers' Compensation Board, then the Administrative Law Judge or board shall allow a reasonable attorney fee. In such cases involving denied claims where an attorney is instrumental in obtaining a rescission of the denial prior to a decision by the Administrative Law Judge, a reasonable attorney fee shall be allowed.

(b) For purposes of this section, a "denied claim" is:

(A) A claim for compensation which an insurer or self-insured employer refuses to pay on the express ground that the injury or condition for which compensation is claimed is not compensable or otherwise does not give rise to an entitlement to any compensation;

(B) A claim for compensation for a condition omitted from a notice of acceptance, made pursuant to ORS 656.262 (6)(d), which the insurer or self-insured employer does not respond to within 60 days;

(C) A claim for an aggravation made pursuant to ORS 656.273 (2) or for a new medical condition made pursuant to ORS 656.267, which the insurer or self-insured employer does not respond to within 60 days; or

(D) A claim for an initial injury or occupational disease to which the insurer or self-insured employer does not respond within 60 days.

(c) A denied claim shall not be presumed or implied from an insurer's or self-insured employer's failure to pay compensation for a previously accepted injury or condition in timely fashion. Attorney fees provided for in this subsection shall be paid by the insurer or self-insured employer.

(2)(a) If a claimant finally prevails against a denial as provided in subsection (1) of this section, the court, board or Administrative Law Judge may order payment of the claimant's reasonable expenses and costs for records, expert opinions and witness fees.

(b) The court, board or Administrative Law Judge shall determine the reasonableness of witness fees, expenses and costs for the purpose of paragraph (a) of this subsection.

(c) Payments for witness fees, expenses and costs ordered under this subsection shall be made by the insurer or self-insured employer and are in addition to compensation payable to the claimant.

(d)(A) Payments for witness fees, expenses and costs ordered under this subsection may not exceed $3,500 unless the claimant demonstrates extraordinary circumstances justifying payment of a greater amount.

(B) The amount that may not be exceeded under this paragraph without demonstrating extraordinary circumstances shall be adjusted annually on July 1 by the percentage increase, if any, in the average weekly wage as most recently computed by the Employment Department under ORS 656.211 and rounded to the nearest multiple of $100.

(3) If a claimant requests claim reclassification as provided in ORS 656.277 and the insurer or self-insured employer does not respond within 14 days of the request, or if the claimant, insurer or self-insured employer requests a hearing, review, appeal or cross-appeal to the Court of Appeals or petition for review to the Supreme Court and the Director of the Department of Consumer and Business Services, Administrative Law Judge, board or court finally determines that the claim should be classified as disabling, the director, Administrative Law Judge, board or court may assess a reasonable attorney fee.

(4) In disputes involving a claim for costs, if the claimant prevails on the claim for any increase of costs, the Administrative Law Judge, board, Court of Appeals or Supreme Court shall award a reasonable assessed attorney fee to the claimant's attorney.

(5) In all other cases, attorney fees shall be paid from the increase in the claimant's compensation, if any, except as otherwise expressly provided in this chapter. [Formerly 656.588; 1977 c.804 §14; 1981 c.854 §25; 1983 c.568 §2; 1990

c.2 §29; 1991 c.312 §1; 1995 c.332 §43; 1997 c.605 §3; 2001 c.865 §9; 2007 c.908 §1; 2009 c.526 §5; 2015 c.521 §7; 2025 c.152 §1]

656.388 Approval of attorney fees required; lien for fees; fee schedule; adjustment; report of legal service costs. (1) No claim or payment for legal services by an attorney representing the worker or for any other services rendered before an Administrative Law Judge or the Workers' Compensation Board, as the case may be, in respect to any claim or award for compensation to or on account of any person, shall be valid unless approved by the Administrative Law Judge or board, or if proceedings on appeal from the order of the board with respect to such claim or award are had before any court, unless approved by such court. In cases in which a claimant finally prevails after remand from the Supreme Court, Court of Appeals or board, then the Administrative Law Judge, board or appellate court shall approve or allow a reasonable attorney fee for services before every prior forum as authorized under ORS 656.307 (5), 656.308 (2), 656.382 or 656.386. No attorney fees shall be approved or allowed for representation of the claimant before the managed care organization.

(2) Any claim for payment to a claimant's attorney by the claimant so approved shall, in the manner and to the extent fixed by the Administrative Law Judge, board or such court, be a lien upon compensation.

(3) If an injured worker signs an attorney fee agreement with an attorney for representation on a claim made pursuant to this chapter and additional compensation is awarded to the worker or a settlement agreement is consummated on the claim after the fee agreement is signed and it is shown that the attorney with whom the fee agreement was signed was instrumental in obtaining the additional compensation or settling the claim, the Administrative Law Judge or the board shall grant the attorney a lien for attorney fees out of the additional compensation awarded or proceeds of the settlement in accordance with rules adopted by the board governing the payment of attorney fees.

(4) The board shall, after consultation with the Board of Governors of the Oregon State Bar, establish a schedule of fees for attorneys representing a worker and representing an insurer or self-insured employer, under this chapter. The Workers' Compensation Board shall review all attorney fee schedules biennially for adjustment.

(5) The board shall, in establishing the schedule of attorney fees awarded under this chapter, consider the contingent nature of the practice of workers' compensation law and the necessity of allowing the broadest access to attorneys by injured workers and shall give consideration to fees earned by attorneys for insurers and self-insured employers.

(6) The board shall approve no claim for legal services by an attorney representing a claimant to be paid by the claimant if fees have been awarded to the claimant or the attorney of the claimant in connection with the same proceeding under ORS 656.268.

(7) Insurers and self-insured employers shall make an annual report to the Director of the Department of Consumer and Business Services reporting attorney salaries and other costs of legal services incurred pursuant to this chapter. The report shall be in such form and shall contain such information as the director prescribes. [Formerly 656.590; 1983 c.568 §3; 1987 c.884 §35; 1990 c.2 §30; 1995 c.332 §44; 2007 c.908 §3; 2015 c.521 §8]

656.390 Frivolous appeals, hearing requests or motions; expenses and attorney fee. (1) Notwithstanding ORS 656.236, if either party requests a hearing before the Hearings Division, requests review of an Administrative Law Judge's decision before the Workers' Compensation Board, appeals for review of the claim to the Court of Appeals or to the Supreme Court, or files a motion for reconsideration of the decision of the Court of Appeals or the Supreme Court, and the Administrative Law Judge, board or court finds that the appeal or motion for reconsideration was frivolous or was filed in bad faith or for the purpose of harassment, the Administrative Law Judge, board or court may impose an appropriate sanction upon the attorney who filed the request for hearing, request for review, appeal or motion. The sanction may include an order to pay to the other party the amount of the reasonable expenses incurred by reason of the request for hearing, request for review, appeal or motion, including a reasonable attorney fee.

(2) As used in this section, "frivolous" means the matter is not supported by substantial evidence or the matter is initiated without reasonable prospect of prevailing. [1987 c.884 §31; 1995 c.332 §45]

656.401 [1965 c.285 §74; 1967 c.359 §699; repealed by 1975 c.556 §25 (656.403 enacted in lieu of 656.401)]

656.402 [Renumbered 656.712]

SELF-INSURED AND CARRIER-INSURED EMPLOYERS; INSURERS

656.403 Obligations of self-insured employer. (1) A self-insured employer directly assumes the responsibility for providing compensation due subject workers and their beneficiaries under this chapter.

(2) The claims of subject workers and their beneficiaries resulting from injuries while employed by a self-insured employer shall be handled in the manner provided by this chapter. A self-insured employer is subject to the rules of the Director of the Department of Consumer and Business Services with respect to such claims.

(3) Security deposited by a self-insured employer shall not relieve any such employer from full and primary responsibility for claims administration and payment of compensation under this chapter. This subsection applies to a self-insured employer even though the self-insured employer insures or reinsures all or any portion of risks under this chapter with an insurance company authorized to do business in this state or with any other insurer with whom insurance can be placed or secured pursuant to ORS 744.305 to 744.405 (1985 Replacement Part).

(4) When a self-insured employer is a worker leasing company required to be licensed pursuant to ORS 656.850 and 656.855, the company also shall comply with the worker leasing company regulatory provisions of ORS chapters 656 and 737 and with such rules as may be adopted pursuant to ORS 656.726 and 731.244 for the supervision and regulation of worker leasing companies. [1975 c.556 §26 (enacted in lieu of 656.401); 1981 c.854 §26; 1993 c.628 §7]

Note: The amendments to 656.403 by section 6, chapter 78, Oregon Laws 2025, become operative July 1, 2027. See section 23, chapter 78, Oregon Laws 2025. The text that is operative on and after July 1, 2027, is set forth for the user's convenience.

656.403. (1) A self-insured employer directly assumes the responsibility for providing compensation due subject workers and their beneficiaries under this chapter.

(2) The claims of subject workers and their beneficiaries resulting from injuries while employed by a self-insured employer shall be handled in the manner provided by this chapter. A self-insured employer is subject to the rules of the Director of the Department of Consumer and Business Services with respect to such claims.

(3) Security deposited by a self-insured employer shall not relieve any such employer from full and primary responsibility for claims administration and payment of compensation under this chapter. This subsection applies to a self-insured employer even though the self-insured employer insures or reinsures all or any portion of risks under this chapter with an insurance company authorized to do business in this state or with any other insurer with whom insurance can be placed or secured pursuant to ORS 744.305 to 744.405 (1985 Replacement Part).

(4) When a self-insured employer is a professional employer organization required to be licensed by ORS 656.850 and 656.855, the professional employer organization shall also comply with the regulatory provisions of ORS chapters 656 and 737 pertaining to professional employer organizations and with such rules as may be adopted pursuant to ORS 656.726 and 731.244 for the supervision and regulation of professional employer organizations.

656.404 [Repealed by 1959 c.449 §5]

656.405 [1965 c.285 §75(1); 1967 c.359 §700; repealed by 1975 c.556 §54]

656.406 [Renumbered 656.714]

656.407 Qualifications of insured employers. (1) An employer shall establish proof with the Director of the Department of Consumer and Business Services that the employer is qualified either:

(a) As a carrier-insured employer by causing proof of coverage provided by an insurer to be filed with the director; or

(b) As a self-insured employer by establishing proof that the employer has:

(A) An adequate staff qualified to process claims promptly; and

(B) The financial ability to make certain the prompt payment of all compensation and other payments that may become due to the director under this chapter.

(2) Except as provided in subsection (4) of this section, a self-insured employer shall establish proof of financial ability required under subsection (1)(b) of this section by:

(a) Demonstrating acceptable financial viability based on information required by the director by rule; and

(b) Providing security that the director determines acceptable by rule.

(3)(a) Security provided under subsection (2)(b) of this section must be in an amount reasonably sufficient to ensure payment of compensation and other payments that may become due to the director but not less than the employer's normal expected annual claim liabilities and in no event less than $100,000.

(b) In arriving at the amount of security required under this subsection, the director may take into consideration the financial ability of the employer to pay compensation and other payments and probable continuity of operation.

(c) The security shall be held by the director to secure the payment of compensation for injuries to subject workers of the employer and to secure other payments that may become due from the employer to the director under this chapter.

(d) Moneys received as security under this subsection shall be deposited with the State Treasurer in an account separate and distinct from the General Fund. Interest earned by the account shall be credited to the account.

(e) The amount of security may be increased or decreased from time to time by the director.

(4)(a) A city, county, school district or qualified self-insured employer group that wishes to be exempt from subsection (2) of

this section may make written application for the exemption to the director.

(b) The application shall include:

(A) A copy of the most recent annual audit of the city, county, school district or qualified self-insured employer group filed with the Secretary of State under ORS 297.405 to 297.740;

(B) Information regarding the establishment of a loss reserve account for the payment of compensation to injured workers; and

(C) Such other information as the director may require.

(c) The director shall approve the application and the city, county, school district or qualified self-insured employer group shall be exempt from subsection (2) of this section if the director finds that:

(A) The city, county, school district or qualified self-insured employer group has been self-insured in compliance with subsection (2) of this section for more than three consecutive years prior to making the application referred to in this subsection.

(B) The city, county, school district or qualified self-insured employer group has in effect a loss reserve account:

(i) That is actuarially sound and that is adequately funded as determined by an annual audit under ORS 297.405 to 297.740 to pay all compensation to injured workers and amounts due the director pursuant to this chapter. A copy of the annual audit shall be filed with the director. Upon a finding that there is probable cause to believe that the loss reserve account is not actuarially sound, the director may require a city, county, school district or qualified self-insured employer group to obtain an independent actuarial audit of the loss reserve account. The requirements of this subsection are in addition to and not in lieu of any other audit or reporting requirement otherwise prescribed by or pursuant to law.

(ii) That is dedicated to and may be expended only for the payment of compensation and amounts due the director by the city, county, school district or qualified self-insured employer group under this chapter.

(d) The director shall have the first lien and priority right to the full amount of the loss reserve account required to pay the present discounted value of all present and future claims under this chapter.

(e)(A) The city, county, school district or qualified self-insured employer group shall notify the director no later than 60 days prior to any action to discontinue the loss reserve account.

(B) The city, county, school district or qualified self-insured employer group shall advise the director of its plans to submit the security required under subsection (2)(b) of this section, or obtain coverage as a carrier-insured employer prior to the date the loss reserve account ceases to exist.

(C) If the city, county, school district or qualified self-insured employer group elects to discontinue self-insurance, it shall submit such security as the director may require to ensure payment of all compensation and amounts due the director for the period the city, county, school district or qualified self-insured employer group was self-insured.

(f) In order to requalify as a self-insured employer, the city, county, school district or qualified self-insured employer group must deposit the security required under subsection (2)(b) of this section prior to discontinuance of the loss reserve account.

(g) Notwithstanding ORS 656.440, if the director has not received the security required under subsection (2)(b) of this section prior to the date of discontinuance of the loss reserve account, the certificate of self-insurance of the city, county, school district or qualified self-insured employer group is automatically revoked as of that date.

(5) As used in this section:

(a) "Qualified self-insured employer group" means a self-insured employer group that is a municipal corporation or a public corporation, as those terms are defined in ORS 297.405.

(b) "School district" has the meaning given that term in ORS 255.005. [1975 c.556 §27; 1979 c.839 §28; 1981 c.854 §27; 1985 c.212 §7; 1989 c.966 §67; 1991 c.648 §1; 1993 c.18 §140; 2003 c.170 §2; 2007 c.241 §13; 2013 c.471 §1; 2014 c.48 §3; 2025 c.234 §1]

656.408 [Renumbered 656.716]

656.409 [1965 c.285 §75(2),(3); repealed by 1975 c.556 §54]

656.410 [Amended by 1965 c.285 §54; renumbered 656.726]

656.411 [1975 c.556 §28; 1979 c.348 §1; repealed by 1981 c.854 §1]

656.412 [Amended by 1965 c.285 §52; renumbered 656.732]

656.413 [1965 c.285 §76(1),(2); repealed by 1975 c.556 §54]

656.414 [Renumbered 656.718]

656.415 [1975 c.556 §30; repealed by 1981 c.854 §1]

656.416 [Amended by 1965 c.285 §53; renumbered 656.722]

656.417 [1965 c.285 §76 (3),(8); 1967 c.341 §6; repealed by 1975 c.556 §54]

656.418 [Repealed by 1965 c.285 §95]

656.419 Workers' compensation insurance contracts. (1) A workers' compensation insurance policy issued by an insurer under this section shall provide that the insurer agrees to assume, without monetary

limit, the liability of the employer, arising during the period the policy is in effect, for prompt payment of all compensation for compensable injuries that may become due under this chapter to subject workers and their beneficiaries.

(2)(a) The insurer issuing the workers' compensation insurance policy shall file proof of coverage with the Director of the Department of Consumer and Business Services within 30 days after workers' compensation coverage of the employer is effective. The filing shall be in the form and manner and shall include any information that the director may prescribe by rule.

(b) An insurer shall file the proof of coverage required under this section for each new or renewed policy issued by the insurer.

(3) Workers' compensation coverage is effective when the application of the subject employer for coverage together with any required fees or premium are received and accepted by an authorized representative of an insurer or on the date specified in writing by the employer and the insurer.

(4) Coverage of an employer under a workers' compensation insurance policy continues until:

(a) The expiration of the term of the policy;

(b) The coverage is canceled prior to the expiration date of the policy as provided by ORS 656.423 or 656.427;

(c) Another insurer files proof of coverage on behalf of the employer; or

(d) The employer becomes self-insured under ORS 656.430. [1975 c.556 §29; 1977 c.405 §7; 1981 c.854 §28; 1987 c.237 §1; 1995 c.93 §35; 1995 c.332 §46; 2003 c.170 §3; 2007 c.241 §1]

656.420 [Renumbered 656.758]

656.421 [1965 c.285 §76(4),(5),(6),(7); repealed by 1975 c.556 §54]

656.422 [Amended by 1959 c.450 §5; repealed by 1965 c.285 §95]

656.423 Cancellation of coverage by employer; notice required. (1) An insured employer may cancel coverage with the insurer by giving the insurer at least 30 days' written notice, unless a shorter period is permitted by subsection (3) of this section.

(2) Cancellation of coverage is effective at 12 midnight 30 days after the date the cancellation notice is received by an authorized representative of the insurer, unless a later date is specified.

(3) An employer may cancel coverage effective less than 30 days after written notice is received by an authorized representative of the insurer by providing other coverage, by becoming a self-insured employer or by agreement of the employer and the insurer. A cancellation under this subsection is effective immediately upon the effective date of the other coverage, on the effective date of certification as a self-insured employer or on a date agreed upon in writing by the employer and insurer.

(4) The insurer shall file a notice of cancellation with the Director of the Department of Consumer and Business Services within 10 calendar days after the effective date of the cancellation or the date on which the insurer receives the notice required under subsection (1) of this section, whichever is later. The notice required under this subsection shall be in the form and manner and shall contain any information that the director may prescribe by rule. [1975 c.556 §31; 1981 c.854 §29; 2003 c.170 §4; 2007 c.241 §2]

656.424 [Renumbered 656.734]

656.425 [1965 c.285 §76a; repealed by 1975 c.556 §54]

656.426 [Amended by 1965 c.285 §68b; renumbered 656.702]

656.427 Termination of workers' compensation insurance contract or surety bond liability by insurer. (1) An insurer that issues a workers' compensation insurance policy or surety bond to an employer under this chapter may cancel the policy or surety bond prior to the expiration date of the policy or surety bond by giving the employer and the Director of the Department of Consumer and Business Services notice of cancellation in accordance with rules adopted by the director. Notice required under this section must be provided to the director within 10 calendar days after the effective date of the cancellation provided in the notice given to the employer.

(2) An insurer may cancel a workers' compensation insurance policy or surety bond under this section as follows:

(a) If the cancellation of a workers' compensation insurance policy is for reasons other than those set forth in paragraphs (b) and (c) of this subsection, it is effective at 12 midnight not less than 45 days after the date the notice is mailed to the employer.

(b) If the cancellation of a workers' compensation insurance policy is based on the insurer's decision not to offer insurance to employers within a specific premium category, it is effective not sooner than 90 days after the date the notice is mailed to the employer.

(c) If the cancellation of a workers' compensation insurance policy is based on nonpayment of premium, the cancellation is effective not sooner than 10 days after the date the notice is mailed to the employer.

(d) The cancellation of a surety bond is effective at 12 midnight not less than 30 days

after the date the notice is received by the director.

(3) An insurer may nonrenew a workers' compensation insurance policy by providing notice in the manner provided for in subsection (2) of this section.

(4) Notice to the employer under this section shall be given by mail, addressed to the employer at the last-known address of the employer. If the employer is a partnership, notice may be given to any of the partners. If the employer is a limited liability company, notice may be given to any manager, or in a member managed limited liability company, to any of the members. If the employer is a corporation, notice may be given to any agent or officer of the corporation under whom legal process may be served.

(5) Cancellation of a workers' compensation insurance policy or surety bond shall in no way limit liability that was incurred under the policy or surety bond prior to the effective date of the cancellation.

(6) If, before the effective date of a cancellation under this section, the employer gives notice to the insurer that it has not obtained coverage from another insurer and intends to become insured under the assigned risk plan established under ORS 656.730, the insurer shall ensure that continuing coverage is provided to the employer under the plan without further application by the employer, transferring the risk to the plan as of the effective date of cancellation. If the insurer is a servicing carrier under the plan, it shall continue to provide coverage for the employer as a servicing carrier, at least until another servicing carrier is provided for the employer in the normal course of administering the plan. If the insurer is not a servicing carrier, it shall apply to the plan for coverage on the employer's behalf. Nothing in this section is intended to limit the authority of administrators of the plan to require the employer to provide deposits or to make payments consistent with plan requirements. However, the rules of the plan shall allow any deposit requirements imposed by the plan to be deferred for as long as one year.

(7) The cancellation of a workers' compensation insurance policy under this section is effective on the earliest of:

(a) The expiration of the term of the policy;

(b) The effective date of a cancellation under subsection (2) of this section; or

(c) The effective date of a policy for which another insurer makes a proof of coverage filing on behalf of the employer. [1975 c.556 §32; 1981 c.854 §30; 1981 c.874 §5; 1981 c.876 §6; 1985 c.212 §8; 1990 c.1 §1; 1995 c.93 §36; 1995 c.332 §46a; 2003 c.170 §5; 2007 c.241 §3; 2007 c.656 §§1,2,3]

656.428 [Amended by 1957 c.440 §3; repealed by 1965 c.285 §95]

656.429 [1965 c.285 §77; repealed by 1975 c.556 §54]

656.430 Certification of self-insured employer; employer groups; insurance policy requirements; revocation of certification; rules. (1) Upon determining that an employer has qualified as a self-insured employer under ORS 656.407, the Director of the Department of Consumer and Business Services shall issue a certificate to that effect to the employer.

(2) Coverage of a self-insured employer is effective on the date of certification unless a later date is specified in the certificate.

(3) Two or more entities may not be included in the certification of one employer unless in each entity the same person, or group of persons, or corporation owns a majority interest. If an entity owns a majority interest in another entity which in turn owns the majority interest in another entity, all entities so related may be combined regardless of the number of entities in succession. If more than one entity is included in the certification of one employer, each entity included is jointly and severally liable for any compensation and other amounts due the Department of Consumer and Business Services under this chapter by any entity included in the certification.

(4) In the term "majority interest," as used in this section, "majority" means more than 50 percent.

(5) If an entity other than a partnership:

(a) Has issued voting stock, "majority interest" means a majority of the issued voting stock;

(b) Has not issued voting stock, "majority interest" means a majority of the members; or

(c) Has not issued voting stock and has no members, "majority interest" means a majority of the board of directors or comparable governing body.

(6) If the entity is a partnership, majority interest must be determined in accordance with the participation of each general partner in the profits of the partnership.

(7)(a) Notwithstanding any other provision of this section, the director may certify five or more subject employers as a self-insured employer group, which is an employer for purposes of this chapter, if:

(A) The director finds that the employers as a group meet the requirements of ORS 656.407 (1)(b), (2) and (3);

(B) The director determines that the employers as a group meet the insurance cov-

erage retention and combined net worth requirements adopted by the director by rule;

(C) The director finds that the grouping is likely to improve accident prevention and claims handling for the employer;

(D) Each employer executes and files with the designated entity a written agreement, in such form as the director may prescribe, in which:

(i) The employer agrees to be jointly and severally liable for the payment of any compensation and other amounts due to the Department of Consumer and Business Services under this chapter incurred by a member of the group; or

(ii) The employer, if a city, county, special district described and listed in ORS 198.010 or 198.180, translator district formed under ORS 354.605 to 354.715, weed control district organized under ORS 569.350 to 569.445, intergovernmental agency created under ORS 225.050, school district as defined in ORS 255.005, public housing authority created under ORS chapter 456 or regional council of governments created under ORS chapter 190, agrees to be individually liable for the payment of any compensation and other amounts due to the department under this chapter incurred by the employer during the period of group self-insurance;

(E) The director finds that the employer group is organized as a corporation or cooperative pursuant to ORS chapter 60, 62 or 65, is an intergovernmental entity created under ORS 190.003 to 190.130 or is a self-insurance program under ORS 30.282 (3), and the bylaws of the employer group require the employer group to obtain fidelity bonds;

(F) The director finds that the employer group has designated an entity responsible for:

(i) Centralized claims processing in accordance with paragraph (b) of this subsection; and

(ii) Payroll records, safety requirements, recording and submitting assessments and contributions and making such other reports as the director may require; and

(G) The employer has presented a method approved by the director to notify the department of:

(i) The commencement or termination of membership by employers in the group, and the effect thereof on the net worth of the employers in the group; and

(ii) Whether an employer who terminates membership in the group continues to be a subject employer; and

(b) Except for employer groups composed of cities, counties, special districts created under ORS 198.010, intergovernmental agencies created under ORS 225.050, school districts as defined in ORS 255.005, public housing authorities created under ORS chapter 456 and regional councils of governments created under ORS chapter 190, a group administrator may not be a group member or a member of the board of the group.

(8) A self-insured employer must have excess insurance coverage appropriate for the employer's potential liability under this chapter with an insurer authorized to do business in this state. A self-insured employer certified prior to November 1, 1981, must have excess insurance coverage appropriate for the employer's potential liability under this chapter either with an insurer authorized to do business in this state or with any other insurer from whom such insurance can be obtained pursuant to ORS 744.305 to 744.405 (1985 Replacement Part). Evidence of such coverage must be submitted at the time application is made for self-insured certification in the form of an insurance binder providing the appropriate coverage effective the date of certification. The policy providing such coverage must be filed with the director not later than 30 days after the date the coverage is effective. Any changes in the insurer or the coverage must be filed with the department not later than 30 days after the effective date of the change. With respect to such coverage:

(a) The policy must include a provision, approved by the director, for reimbursement to the department of all expenses paid by the department on behalf of the employer pursuant to ORS 656.614 (1) and 656.443 in the same manner as if the department were the insured employer, subject to the policy limitations on amounts and limits of liability to the insured employer; and

(b) The period of coverage must be continuous and remain in effect until the certification is revoked or canceled.

(9) Notwithstanding ORS 656.440, the director may revoke the certification of any self-insured employer after giving 30 days' written notice if the employer:

(a) Fails to comply with subsection (8) of this section;

(b) In the case of an employer described in subsection (7) of this section, fails to comply with that subsection; or

(c) Fails to comply with rules adopted by the director as required by subsection (11) of this section.

(10) A self-insured employer must have an occupational safety and health loss control program as required by ORS 654.097.

(11) The director, by rule shall:

(a) Prescribe methods for determining and approving net worth.

(b) Prescribe the types and approve the retention and limitation levels of excess insurance policies.

(c) Establish reporting requirements.

(d) Prescribe information to be submitted in applications for self-insured employer certifications.

(e) Prescribe the form and manner of reporting commencement or termination in a self-insured employer group.

(f) Prescribe the form, amount and manner for establishing and operating a common claims fund.

(g) Prescribe such other requirements as the director considers necessary so that employers certified as self-insured employers will meet the financial responsibilities under this chapter.

(12) For the purpose of certification as a self-insured employer group, cities, counties, special districts created under ORS 198.010, intergovernmental agencies created under ORS 225.050, school districts as defined in ORS 255.005, public housing authorities created under ORS chapter 456 and regional councils of governments created under ORS chapter 190 shall be considered by the director to be of the same industry.

(13) Notwithstanding subsection (8) of this section, a public utility with assets of more than $500 million may obtain excess insurance coverage from an eligible surplus lines insurer. As used in this subsection, "public utility" has the meaning given that term in ORS 757.005. [1975 c.556 §33; 1979 c.845 §1; 1981 c.535 §38; 1983 c.816 §9; 1985 c.739 §6; 1987 c.94 §107; 1987 c.800 §1; 1987 c.884 §58; 1989 c.602 §1; 1993 c.817 §2; 1999 c.280 §1; 2003 c.170 §6; 2005 c.189 §1; 2014 c.48 §4; 2017 c.118 §1; 2025 c.234 §2]

656.431 [1965 c.285 §78; 1973 c.620 §6; repealed by 1975 c.556 §54]

656.432 [1977 c.659 §2; 1979 c.815 §8; repealed by 1981 c.854 §1]

656.434 Certification effective until canceled or revoked; revocation of certificate. (1) A certification issued under ORS 656.430 remains in effect until:

(a) Revoked by the Director of the Department of Consumer and Business Services as provided by this section and ORS 656.440; or

(b) Canceled by the employer with the approval of the director.

(2) The director may revoke the certification of a self-insured employer if:

(a) The employer fails to comply with ORS 656.407 or 656.430 or is in default as described in ORS 656.443; or

(b) The employer commits any violation for which a civil penalty could be assessed under ORS 656.745.

(3) When the certification of a self-insured employer is revoked, or when an employer terminates in a self-insured employer group, that employer must immediately comply with ORS 656.017 (1). If the employer fails to so comply, notwithstanding ORS 656.052 (3), the director immediately may file suit in the circuit court of the county in which the employer resides or employs workers. Upon filing of such a suit, the court shall set a date for hearing and shall cause notice thereof to be served on the employer. The hearing shall be not less than five nor more than 15 days from the date of service of the notice. Upon commencement of the suit, the circuit court shall enjoin the employer from further employing workers until the employer complies with ORS 656.017 (1). [1975 c.556 §34; 1979 c.845 §2; 1981 c.535 §39; 2014 c.48 §5]

656.440 Notice of certificate revocation; appeal; effective date. (1) Before revocation of certification under ORS 656.434 becomes effective, the Director of the Department of Consumer and Business Services shall give the employer notice that the certification will be revoked stating the grounds for the revocation. The notice shall be served on the employer in the manner provided by ORS 656.427 (4). The revocation shall become effective within 10 days after receipt of such notice by the employer unless within such period of time the employer corrects the grounds for the revocation or appeals in writing to the director. The director shall refer the request for hearing to the Workers' Compensation Board for a hearing before an Administrative Law Judge.

(2) If the employer appeals, the Hearings Division of the Workers' Compensation Board under ORS 656.283 shall set a date for a hearing, which date shall be within 30 days after receiving the appeal request, and shall give the employer at least five days' notice of the time and place of the hearing. A record of the hearing shall be kept but it need not be transcribed unless requested by the employer. The cost of transcription shall be charged to the employer. Within 10 days after the hearing, the Administrative Law Judge shall either affirm or disaffirm the revocation and give the employer written notice thereof by registered or certified mail.

(3) If revocation is affirmed on review by the Administrative Law Judge, the revocation is effective five days after the employer receives notice of the affirmance unless within such period of time the employer corrects the grounds for the revocation or pe-

titions for judicial review of the affirmance pursuant to ORS 183.480 to 183.497.

(4) If the revocation is affirmed following judicial review, the revocation is effective five days after entry of the final judgment of affirmance, unless within such period the employer corrects the grounds for the revocation. [1975 c.556 §35; 1977 c.804 §15; 2003 c.576 §530; 2005 c.26 §14; 2007 c.241 §30]

656.441 Advancement of funds from Workers' Benefit Fund for compensation due workers insured by certain decertified self-insured employer groups. (1) Notwithstanding ORS 656.605, if a self-insured employer group is decertified no later than September 15, 2014, the Director of the Department of Consumer and Business Services may advance funds from the Workers' Benefit Fund to injured workers who have not received payment of compensation due after the common claims fund and securities deposited with the director are exhausted.

(2) Expenditures authorized under this section may exceed the amount of surety bonds and any other security on deposit with the director for the decertified self-insured employer group. [2014 c.48 §1]

656.442 [1967 c.341 §7; repealed by 1975 c.556 §54]

656.443 Procedure upon default by employer or self-insured employer group; rules. (1) If an employer or self-insured employer group defaults in payment of compensation or other payments due to the Director of the Department of Consumer and Business Services under this chapter, the director may, on notice to the employer or self-insured employer group and any insurer providing workers' compensation insurance coverage, a surety bond or other security to the employer or self-insured employer group, use money or interest and dividends on securities, sell securities or institute legal proceedings on any insurance policy, surety bond or other security for which a notice of coverage has been filed with the director to the extent necessary to make such payments.

(2) Before any default by the employer or self-insured employer group, the employer or group is entitled to all interest and dividends on securities on deposit and to exercise all voting rights, stock options and other similar incidents of ownership of the securities.

(3)(a) If for any reason the certification of a self-insured employer or self-insured employer group is canceled or terminated, the surety bond or other security deposited with the director must remain on deposit or in effect, as the case may be, for a period of at least 62 months after the employer ceases to be a self-insured employer, unless the director accepts in lieu of the surety bond or other security a policy of paid-up insurance approved by the director. A surety bond or other security that remains on deposit or in effect must be maintained in an amount necessary to secure the outstanding and contingent liability arising from the accidental injuries secured by the surety bond or other security and to ensure the payment of claims for aggravation and claims arising under ORS 656.278 based on those accidental injuries. If the surety bond or other security remains on deposit or in effect at the expiration of the 62-month period, or of another period the director may consider proper, the director may accept in lieu of the surety bond or other security deposited with the director a policy of paid-up insurance in a form approved by the director.

(b) The director may adopt rules necessary to implement the provisions of this subsection.

(4) If a self-insured employer or self-insured employer group is in default, is decertified by the director or cancels the employer's or the group's certification under ORS 656.434, the director may:

(a) Order members of the group to pay an assessment for the continuing claim liabilities as specified in ORS 656.430 (7)(a)(D)(i); and

(b) Determine the claims processing agent that processes claims of the self-insured employer or self-insured employer group. The claims processing agent may be the assigned claims agent selected under ORS 656.054.

(5) Member assessments collected under subsection (4) of this section must be deposited in the Consumer and Business Services Fund created in ORS 705.145.

(6) Failure to pay an assessment ordered under subsection (4) of this section subjects members of the self-insured employer group to civil penalties as provided in ORS 656.745.

(7) A claims processing agent that the director designates under subsection (4) of this section, other than the State Accident Insurance Fund Corporation, may choose the legal counsel the claims processing agent employs for representation under this section. [1975 c.556 §36; 1981 c.854 §31; 1987 c.373 §32; 2007 c.241 §14; 2014 c.48 §6; 2017 c.69 §1; 2019 c.74 §1]

656.444 [1967 c.341 §9; repealed by 1975 c.556 §54]

656.445 Advancement of funds from Workers' Benefit Fund for compensation due workers insured by insurer in default; limitations; rules. (1) If an insurer defaults in payment of compensation due an injured worker, the Director of the Department of Consumer and Business Services may advance funds from the Workers' Benefit Fund to injured workers who have not

received payment of compensation due from the insurer in default.

(2) The maximum expenditures that may be made under this section may not exceed the amount of securities on deposit for the insurer pursuant to ORS 731.628.

(3) The director shall adopt rules to regulate, manage and disburse moneys in the Workers' Benefit Fund for the purposes of subsection (1) of this section. The rules shall include but not be limited to eligibility criteria, procedures for distributing funds, accounting procedures and a maximum expenditure limitation on payments made under subsection (1) of this section from the fund. [2001 c.974 §6]

656.446 [1967 c.341 §10; repealed by 1975 c.556 §54]

656.447 Sanctions against insurer for failure to comply with contracts, orders or rules. (1) The Director of the Department of Consumer and Business Services may suspend or revoke the authorization of an insurer to issue workers' compensation insurance policies if the director, after notice to the company and giving the company an opportunity to be heard and present evidence, finds that:

(a) The company has failed to comply with its obligations under any such policy; or

(b) The company has failed to comply with the orders of the director or the provisions of this chapter or any rule promulgated pursuant thereto.

(2) A suspension or revocation shall not affect the liability of any such company on any workers' compensation insurance policy in force prior to the suspension or revocation. [1975 c.556 §37; 1977 c.430 §2; 1987 c.373 §33; 2007 c.241 §15]

656.451 [1975 c.585 §6; 1981 c.854 §32; 1987 c.373 §34; 1987 c.884 §59; 1989 c.654 §1; 1991 c.640 §1; renumbered 654.097]

656.452 [Amended by 1965 c.285 §54a; renumbered 656.632]

656.454 [Renumbered 656.634]

656.455 Self-insured employers to process claims and make records available at authorized locations; disposal of records; expenses for out-of-state audits; rules. (1)(a) Except as provided in paragraph (c) of this subsection, every self-insured employer shall maintain a place of business in this state where the employer shall process claims and make available complete records of all claims for compensation made to the employer under this chapter. In lieu of maintaining a place of business in this state for the purpose of complying with this section, a self-insured employer may, under the conditions prescribed by ORS 731.475 (3), make such records available at places of business in this state operated by service companies.

(b) The self-insured employer may dispose of the records described in paragraph (a) of this subsection only in accordance with rules the Director of the Department of Consumer and Business Services adopted under ORS 731.475. Such records must be available to the director for examination and audit at all reasonable times upon notice by the director to the employer.

(c) A self-insured employer may process claims remotely from a place of business in this state in accordance with rules adopted under ORS 731.475.

(2) With the permission of the director, a self-insured employer may process claims and make available claims records from a location outside of this state. The director shall by rule prescribe the conditions and procedure for obtaining permission of the director. The director may revoke permission for failure of the employer to comply with the rules. If the permission of an employer is revoked by the director, the employer has 60 days after the order of revocation becomes final to comply with subsection (1) of this section. The self-insured employer shall pay any expenses the director incurs to examine and audit the records outside of this state.

(3) Notwithstanding subsection (1) of this section, a self-insured employer may not process claims or maintain claims records at more than three locations at any one time. [1975 c.585 §8; 1989 c.630 §2; 2021 c.21 §2]

656.456 [Amended by 1955 c.323 §2; 1957 c.63 §1; 1959 c.178 §1; 1961 c.697 §1; 1965 c.285 §62; renumbered 656.636]

656.458 [Repealed by 1965 c.285 §95]

656.460 [Amended by 1953 c.674 §13; 1959 c.517 §3; 1963 c.323 §1; 1965 c.285 §64; renumbered 656.638]

656.462 [Amended by 1953 c.674 §13; repealed by 1965 c.285 §95]

656.464 [Amended by 1953 c.674 §13; 1957 c.574 §5; 1959 c.449 §2; 1965 c.285 §66b; renumbered 656.642]

656.466 [Amended by 1953 c.674 §13; 1959 c.449 §3; 1965 c.285 §67g; renumbered 656.644]

656.468 [Amended by 1953 c.674 §13; 1965 c.285 §66; renumbered 656.640]

656.470 [Repealed by 1953 c.674 §13]

656.472 [Amended by 1953 c.674 §13; 1957 c.574 §6; 1959 c.449 §4; 1965 c.285 §68a; renumbered 656.602]

656.474 [Amended by 1953 c.674 §13; 1965 c.285 §68c; renumbered 656.604]

CHARGES AGAINST EMPLOYERS AND WORKERS

656.502 "Fiscal year" defined. As used in ORS 656.502 to 656.526, "fiscal year" means the period of time commencing on July 1 and ending on the succeeding June 30.

656.504 Rates, charges, fees and reports by employers insured by State Accident Insurance Fund Corporation. (1) Every employer insured by the State Accident Insurance Fund Corporation shall pay to the State Accident Insurance Fund Corporation on or before the 15th day of each month, for insurance coverage, a percentage of the employer's total payroll for the preceding calendar month of subject workers according to and at the rates promulgated by the State Accident Insurance Fund Corporation under ORS 656.508 and shall forward to the State Accident Insurance Fund Corporation on or before the 15th day of each month a signed statement showing the employer's total payroll for the preceding calendar month, the kind of work performed, the number of workers and the number of days worked. The State Accident Insurance Fund Corporation may establish other reporting periods and payment-due dates and in lieu of payment based upon a percentage of total payroll may promulgate rates to be paid by employers insured with the State Accident Insurance Fund Corporation utilizing a certain number of cents for each work-hour worked by workers in such employer's employ. Each such employer shall also pay an annual fee, deposit and minimum premium in such amount and at such time as the State Accident Insurance Fund Corporation shall prescribe, to the Industrial Accident Fund for each calendar year. Each such employer may be required to pay a registration fee in such amount and at such time as the State Accident Insurance Fund Corporation shall prescribe. The State Accident Insurance Fund Corporation may vary the amount of these fees and minimum premium by employer groupings, accept them in lieu of the other premiums which are based on the employer's payroll, and may adjust the period of application from a calendar year to a fiscal year.

(2) The State Accident Insurance Fund Corporation may provide for a short rate premium applicable to employers who cancel their coverage with the State Accident Insurance Fund Corporation prior to the expiration of the coverage period using a standard short rate table. [Amended by 1957 c.441 §3; 1959 c.450 §6; 1965 c.285 §69; 1967 c.341 §8; 1979 c.348 §2; 1981 c.535 §11; 1981 c.854 §33]

656.505 Estimate of payroll when employer fails to file payroll report; demand for and recovery of premiums and assessments. (1) In every case where an employer fails or refuses to file any report of payroll required by ORS 656.504 and fails or refuses to pay the premiums and assessments due on such unreported payroll the State Accident Insurance Fund Corporation shall have authority to estimate such payroll and make a demand for premiums and assessments due thereon.

(2) If the report required and the premiums and assessments due thereon are not made within 30 days from the mailing of such demand the employer shall be in default as provided in ORS 656.560, and the corporation may have and recover judgment or file liens for such estimated premiums and assessments or the actual premium and assessment, whichever is greater. [1953 c.679 §2; 1979 c.348 §3; 1981 c.854 §34]

656.506 Assessments for programs; setting assessment amount; determination by director of benefit level. (1) As used in this section:

(a) "Employee" means a subject worker as defined in ORS 656.005 (28).

(b) "Employer" means a subject employer as defined in ORS 656.005 (13).

(2) Every employer shall retain from the moneys earned by all employees an amount determined by the Director of the Department of Consumer and Business Services for each hour or part of an hour the employee is employed and pay the money retained in the manner and at such intervals as the director shall specify.

(3) In addition to all moneys retained under subsection (2) of this section, the director shall assess each employer an amount equal to that assessed pursuant to subsection (2) of this section. The assessment must be paid in such manner and at such intervals as the director may specify.

(4) The Department of Consumer and Business Services shall deposit moneys collected pursuant to subsections (2) and (3) of this section, and any accrued cash balances, into the Workers' Benefit Fund. Subject to the limitations in subsections (2) and (3) of this section, the amount of the hourly assessments provided in subsections (2) and (3) of this section annually may be adjusted to meet the needs of the Workers' Benefit Fund for the expenditures of the department in carrying out the department's functions and duties pursuant to subsection (7) of this section and ORS 656.445, 656.622, 656.625, 656.628 and 656.630. Factors to be considered in making such adjustment of the assessments must include, but not be limited to, the cash balance as determined by the director and estimated expenditures and revenues of the Workers' Benefit Fund.

(5) The Legislative Assembly intends that the department set rates for the collection of assessments pursuant to subsections (2) and (3) of this section in a manner so that at the end of the period for which the rates are effective, the balance of the Workers' Benefit Fund is an amount of not less than

12 months of projected expenditures from the fund in regard to the department's functions and duties under subsection (7) of this section and ORS 656.445, 656.622, 656.625, 656.628 and 656.630, in a manner that minimizes the volatility of the rates assessed. If the department determines that the balance of the fund will fall below the balance required under this subsection, the department shall devise and report to the Workers' Compensation Management-Labor Advisory Committee a plan to increase the balance to the required amount. The department may set the assessment rate at a higher level if the department determines that a higher rate is necessary to avoid unintentional program or benefit reductions in the time period immediately following the period for which the rate is being set.

(6) Every employer required to pay the assessments referred to in this section shall make and file a report of employee hours worked and amounts due under this section upon a combined report form prescribed by the Department of Revenue. The report must be filed with the Department of Revenue:

(a) At the times and in the manner prescribed in ORS 316.168 and 316.171; or

(b) Annually as required or allowed pursuant to ORS 316.197, 657.571 or 657B.150.

(7) There is established a Retroactive Program for the purpose of providing increased benefits to claimants or beneficiaries eligible to receive compensation under the benefit schedules of ORS 656.204, 656.206, 656.208 and 656.210 that are lower than currently being paid for like injuries. However, benefits payable under ORS 656.210 may not be increased by the Retroactive Program for claimants whose injury occurred on or after April 1, 1974. Notwithstanding the formulas for computing benefits provided in ORS 656.204, 656.206, 656.208 and 656.210, the increased benefits payable under this subsection must be in such amount as the director considers appropriate. The director annually shall compute the amount which may be available during the succeeding year for payment of such increased benefits and determine the level of benefits to be paid during such year. If, during such year, it is determined by the director that there are insufficient funds to increase benefits to the level fixed by the director, the director may reduce the level of benefits payable under this subsection. The increase in benefits to workers is payable in the first instance by the insurer or self-insured employer subject to reimbursement from the Workers' Benefit Fund by the director. If the insurer is a member of the Oregon Insurance Guaranty Association and becomes insolvent and the Oregon Insurance Guaranty Association assumes the insurer's obligations to pay covered claims of subject workers, including Retroactive Program benefits, the benefits are payable in the first instance by the Oregon Insurance Guaranty Association, subject to reimbursement from the Workers' Benefit Fund by the director. [Amended by 1955 c.323 §1; 1965 c.285 §70; 1971 c.768 §1; 1973 c.55 §1; 1974 c.41 §8; 1977 c.143 §2; 1979 c.845 §5; 1983 c.391 §1; 1985 c.739 §1; 1990 c.2 §31; 1993 c.760 §1; 1995 c.332 §63; 1995 c.527 §1; 1995 c.641 §20; 1999 c.118 §1; 2001 c.591 §1; 2001 c.974 §7; 2014 c.48 §7; 2019 c.494 §1; 2021 c.257 §4; 2025 c.27 §3]

656.507 [1953 c.679 §1; 1959 c.450 §7; repealed by 1965 c.285 §95]

656.508 Authority to fix premium rates for employers. (1) The State Accident Insurance Fund Corporation shall classify occupations or industries with respect to their degree of hazard and fix premium rates upon each of the occupations or industries sufficient to provide adequate funds to carry out the purposes of this chapter and the duties of the State Accident Insurance Fund Corporation.

(2) The State Accident Insurance Fund Corporation may annually, and at such other times as it deems necessary, readjust, increase or decrease the premium rates of employers insured with the State Accident Insurance Fund Corporation. Any such readjustment, increase or decrease shall be made and become effective on such dates as the State Accident Insurance Fund Corporation may determine. The State Accident Insurance Fund Corporation shall notify the employer of the rate.

(3) The State Accident Insurance Fund Corporation may establish a uniform system of rate modification conforming to recognized insurance principles including schedule rating and experience rating, premium discount and retrospective rating. [Amended by 1957 c.41 §1; 1957 c.386 §1; 1963 c.587 §1; 1965 c.285 §71; 1977 c.405 §8; 1981 c.854 §35]

656.509 [1973 c.614 §6; 1974 c.41 §9; repealed by 1974 c.41 §9]

656.510 [Amended by 1957 c.440 §4; 1963 c.214 §1; 1965 c.546 §1; repealed by 1965 c.285 §95 and 1965 c.546 §4]

656.512 [Amended by 1957 c.440 §5; repealed by 1965 c.285 §95]

656.514 [Amended by 1965 c.546 §2; repealed by 1965 c.285 §95 and 1965 c.546 §4]

656.516 [Amended by 1953 c.674 §13; 1957 c.453 §3; 1959 c.517 §4; 1963 c.323 §2; 1965 c.546 §3; repealed by 1965 c.285 §95 and 1965 c.546 §4]

656.518 [Amended by 1957 c.440 §6; repealed by 1965 c.285 §95]

656.520 [Amended by 1957 c.574 §7; repealed by 1965 c.285 §95]

656.522 [Amended by 1965 c.285 §71a; repealed by 1981 c.854 §1 and 1981 c.876 §1]

656.524 [Amended by 1979 c.562 §29; repealed by 1981 c.854 §1 and 1981 c.876 §1]

656.526 Distribution of dividends from surplus in Industrial Accident Fund. (1) Periodically, the State Accident Insurance Fund Corporation shall determine the total liability existing against the Industrial Accident Fund.

(2) If, after the determination required by subsection (1) of this section, the State Accident Insurance Fund Corporation finds the Industrial Accident Fund, aside from the reserves deemed actuarially necessary according to recognized insurance principles, contains a surplus, the State Accident Insurance Fund Corporation in its discretion may, after providing for any payments to the state, taxes or other dispositions of surplus provided by law, declare a dividend to be paid to, or credited to the accounts of, employers who were insured by the State Accident Insurance Fund Corporation during all or part of the period for which the dividend is declared. Any dividend so declared shall give due consideration to the solvency of the Industrial Accident Fund, not be unfairly discriminatory and not be promised in advance of such declaration.

(3) An employer in default when the dividend is declared shall not be eligible to receive payment or the credit provided by subsection (2) of this section. [Amended by 1953 c.674 §13; 1955 c.323 §3; 1957 c.574 §8; 1965 c.285 §72; 1967 c.252 §1; 1969 c.589 §1; 1971 c.385 §3; 1971 c.725 §1; 1981 c.854 §36; 1982 s.s.3 c.2 §3; 1999 c.424 §1]

656.530 [1969 c.536 §2; 1971 c.768 §2; 1975 c.556 §43; 1981 c.535 §23; 1990 c.2 §32; 1991 c.93 §10; 1995 c.641 §7; repealed by 1999 c.273 §1]

656.532 [1987 c.884 §40; repealed by 1993 c.760 §4]

656.535 [1973 c.669 §2; repealed by 1973 c.669 §4]

656.536 Premium charges for coverage of reforestation cooperative workers based on prevailing wage; manner of determining prevailing wage. (1) The premiums charged by an insurer for coverage under this chapter for members of a workers' cooperative engaged primarily in reforestation work and all computations for benefits payable to such individuals under this chapter shall be based on the prevailing rate of wage paid to individuals performing the same work in the same locality as members of the workers' cooperative.

(2) Each time a cooperative contracts for services, the cooperative shall determine the prevailing rate of wage of each job category involved in performance of the contract. The determination of the prevailing rate of wage shall be filed with the insurer and used during the term of the contract. If a dispute arises between the workers' cooperative and the insurer concerning the propriety of the prevailing rate of wage determination by the workers' cooperative, the Director of the Department of Consumer and Business Services shall determine the appropriate prevailing rate of wage.

(3) The determination of the prevailing rate of wage shall be based on the best evidence available concerning wages paid to employees who do not have an ownership interest in the contracting enterprise performing the same work under similar conditions in the same locality as the cooperative. If no such work is being performed in the same locality at the time the workers' cooperative engages in a contract for services, the best evidence available from the latest such contract for services for the same work under similar conditions in the nearest locality shall be used by the workers' cooperative to determine the prevailing rate of wage.

(4) Notwithstanding any other provision of this section, in no case shall the prevailing rate of wage used for the purpose of this section be less than the rate of wage specified in the contract for services as the minimum wage to be paid for services performed under the contract. If no such minimum wage requirement is specified in the contract for services, the most recent such contract for services for the same work under similar conditions in the nearest locality which specifies minimum wages shall be used to determine the prevailing rate of wage.

(5) As used in this section:

(a) "Prevailing rate of wage" means the average wage paid to employees who do not have an ownership interest in the contracting enterprise performing the same work under similar conditions in the same locality as the cooperative.

(b) "Workers' cooperative" means an enterprise:

(A) Formed pursuant to ORS chapter 62.

(B) The membership of which is limited to individuals who maintain and operate the enterprise.

(C) The members of which each have equal voting power in the control of the enterprise.

(D) The profits of which are distributed to each member on the basis of the quantity or value of the services performed by that individual as a member of the cooperative.

(E) Which makes no dividend or financial or monetary return or any other payment based on capital investment except as provided in subparagraph (D) of this paragraph or at a strictly limited rate of interest agreed upon at the time the capital is invested.

(F) Receives not less than 80 percent of its gross income from engaging in reforestation work and related activity, including but not limited to tree planting, brush clearing, precommercial thinning, trail building, trail

maintenance, fire fighting, timber stand examinations, cone picking, tubing, conifer release and roadside brush clearing. [1981 c.279 §2]

656.538 [1983 c.816 §11; 1987 c.373 §§35,35a; 1987 c.884 §21; 1990 c.2 §33; repealed by 1993 c.760 §4]

ENFORCEMENT OF PREMIUM PAYMENTS

656.552 Deposit of cash, bond or letter of credit to secure payment of employer's premiums. (1) If the State Accident Insurance Fund Corporation finds it necessary for the protection of the Industrial Accident Fund, it may require any employer insured with the State Accident Insurance Fund Corporation, except political subdivisions of the state, to deposit and keep on deposit with the State Accident Insurance Fund Corporation a sum equal to the premiums due the State Accident Insurance Fund Corporation upon the estimated payroll of the employer for a period of not to exceed six months.

(2) The State Accident Insurance Fund Corporation may, in its discretion and in lieu of such deposit, accept a bond, letter of credit or similar instrument to secure payment of premiums to become due the Industrial Accident Fund. The deposit or posting of the bond, letter of credit or similar instrument shall not relieve the employer from making premium payments to the Industrial Accident Fund based on the actual payroll of the employer, as provided by ORS 656.504.

(3) If an employer ceases to be insured by the State Accident Insurance Fund Corporation, the State Accident Insurance Fund Corporation shall, upon receipt of all payments due the Industrial Accident Fund, refund to the employer all deposits remaining to the employer's credit and shall cancel any bond, letter of credit or similar instrument given under this section. [Amended by 1959 c.450 §8; 1965 c.285 §81; 1981 c.854 §37; 2009 c.145 §1]

656.554 Injunction against employer failing to comply with deposit requirements. (1) If an employer fails to comply with ORS 656.552, the circuit court of the county in which the employer resides or in which the employer employs workers shall, upon the commencement of a suit by the State Accident Insurance Fund Corporation for that purpose, enjoin the employer from further employing workers under this chapter until the employer has complied with ORS 656.552.

(2) Upon filing of a suit for such purpose by the State Accident Insurance Fund Corporation, the court shall set a day for hearing and shall cause notice thereof to be served upon the employer. The hearing shall be not less than five nor more than 15 days from the service of the notice.

656.556 Liability of person letting a contract for amounts due from contractor. If any person lets a contract and the person to whom the contract was let, while performing the contract, engages as an employer subject to this chapter at the plant of the person letting the contract, upon premises owned, leased or controlled by such person or upon premises where such person is conducting business, the person letting the contract shall be liable to the Industrial Accident Fund for the payment of all premiums, fees and assessments which may be due such fund on account of the performance of the contract or any subcontract thereunder. [Amended by 1965 c.285 §73; 1981 c.854 §38]

656.558 [Amended by 1965 c.285 §66a; renumbered 656.646]

656.560 Default in payment of premiums, fees, assessments or deposit; remedies. (1) When any payment of premiums, fees and assessments required by this chapter to be made by an employer insured with the State Accident Insurance Fund Corporation on the account of the employer or on account of workers employed by that employer becomes due, interest at the rate of one percent per month or fraction thereof shall be added to the amount of such payment commencing with the first day of the month following the date upon which such payment became due.

(2) If any employer insured with the State Accident Insurance Fund Corporation fails to make and maintain the deposit provided in ORS 656.552 or fails to make payment of premiums, fees and assessments required within 30 days after a written demand by the State Accident Insurance Fund Corporation, such employer is in default and is also subject to a penalty of 10 percent of the amount then due. The written demand shall be mailed to the employer at the last-known address of the employer by registered or certified mail. A copy of the demand shall at the same time be sent to the Director of the Department of Consumer and Business Services.

(3) The amount at any time due, together with interest thereon, and penalty for nonpayment thereof, may be collected by the State Accident Insurance Fund Corporation in the same action.

(4) Every employer in default, as provided in this section, upon receipt of notice thereof, shall display such notice of default by posting it in a place accessible to the workers in such manner as to inform the workers of such default. [Amended by 1965 c.285 §73a; 1969 c.248 §1; 1971 c.73 §1; 1975 c.556 §44; 1981 c.854 §39]

656.562 Moneys due Industrial Accident Fund as preferred claims; moneys due department as taxes due state. (1) All premiums, fees, assessments, interest charges, penalties or amounts due the Industrial Accident Fund from any employer under this chapter and all judgments recovered by the State Accident Insurance Fund Corporation against any employer under this chapter shall be deemed preferred to all general claims in all bankruptcy proceedings, trustee proceedings, proceedings for the administration of estates and receiverships involving the employer liable therefor or the property of such employer.

(2) All assessments, interest charges, penalties or amounts due the Department of Consumer and Business Services shall be considered taxes due the State of Oregon. [Amended by 1979 c.839 §11; 1981 c.854 §40]

656.564 Lien for amounts due from employer on real property, improvements and equipment on or with which labor is performed by workers of employer. (1) A lien hereby is created in favor of the insurer upon all real property within this state and any structure or improvement thereon and upon any mine, lode, deposit, mining claim, or any road, tramway, trail, flume, ditch, pipeline, building, or other structure or equipment on or pertaining thereto, upon which labor is performed by the workers of any employer subject to this chapter in a sum equal to the amount at any time due from such employer to the insurer on account of labor performed thereon by the workers of such employer, together with interest and penalty.

(2) The insurer shall also have a lien on all lumber, sawlogs, spars, piles, ties or other timber, and upon all other manufactured articles of whatsoever kind or nature, and upon all machinery, tools and equipment of the employer used in connection with the employment on which contributions, premiums or assessments are due, in a sum equal to the amount at any time due from any employer subject to this chapter on account of labor performed by the workers of such employer, together with interest and penalty.

(3) In order to avail itself of the lien created by this section, the insurer shall, within 60 days after the employer is in default, as provided in ORS 656.560, file with the county clerk of the county within which such property is then situated a statement in writing describing the property upon which a lien is claimed and stating the amount of the lien claimed by the insurer. If a lien is claimed on real property not then owned by the employer, the statement must be filed within 60 days from the completion of the work.

(4) The insurer shall, within six months from the filing of the statement, commence a suit to cause such lien to be foreclosed in the manner provided by law for the foreclosure of other liens on real or personal property.

(5) The lien created by this section shall be prior to all other liens and encumbrances, except labor liens and liens for taxes and other amounts due the State of Oregon. [Amended by 1979 c.815 §6; 1981 c.535 §40]

656.566 Lien on property of employer for amounts due. (1) If any employer liable for the payment of premiums, fees and assessments to the Industrial Accident Fund is placed in default as provided by ORS 656.560, the amount due the fund, including interest and penalty, is a lien in favor of the State Accident Insurance Fund Corporation upon all property, whether real or personal, belonging to such employer.

(2) The lien attaches upon the filing of a notice of claim of lien with the county clerk of the county in which the property is located. The notice of lien claim shall contain a true statement of the demand, after deducting all just credits and offsets, and the default of such employer. The county clerk shall record the claim of lien in the County Clerk Lien Record and shall receive the fee provided in ORS 205.320.

(3) The employer against whose property the lien has been filed may cause the property to be released by filing with the county clerk of the county wherein the lien is recorded a bond in a sum double the amount claimed in the lien, executed by a surety company licensed to do business in Oregon or by two freeholders of this state, having the qualifications of bail upon arrest, to be approved by the circuit judge of the district in which the lien is filed, or in the event of absence from the county in which the lien is filed, then by the county judge of said county, running to the State Accident Insurance Fund Corporation and conditioned for the payment of all damages, costs, charges and disbursements that may be recovered by the State Accident Insurance Fund Corporation against the employer or that may be found to be a lien upon or against the property of such employer. The clerk shall record evidence that the bond is substituted in lieu of the property of the employer and that the lien on the property is forever released and discharged. If the State Accident Insurance Fund Corporation establishes the validity of its lien by a suit to foreclose the lien, it shall be entitled to judgment against the sureties upon the bond.

(4) The lien created by this section may be foreclosed by a suit in the circuit court in the manner provided by law for the foreclo-

sure of other liens on real or personal property. Unless a suit is instituted by the State Accident Insurance Fund Corporation to foreclose such lien within two years from the date of filing, the lien shall expire.

(5) The lien created by this section is prior to all liens and encumbrances recorded subsequent to the filing of notice of claim of lien, except taxes and labor liens. [Amended by 1981 c.854 §41; 2001 c.577 §5; 2003 c.576 §531]

RECOVERY AGAINST THIRD PERSONS AND NONCOMPLYING EMPLOYERS

656.576 "Paying agency" defined. As used in ORS 656.578 to 656.595, "paying agency" means the self-insured employer or insurer paying benefits to the worker or beneficiaries. [1965 c.285 §44a; 1981 c.854 §42]

656.578 Workers' election whether to sue third person or noncomplying employer for damages. If a worker of a noncomplying employer receives a compensable injury in the course of employment, or if a worker receives a compensable injury due to the negligence or wrong of a third person (other than those exempt from liability under ORS 656.018), entitling the worker under ORS 656.154 to seek a remedy against such third person, such worker or, if death results from the injury, the other beneficiaries shall elect whether to recover damages from such employer or third person. If a worker leaves beneficiaries who are minors, the right of election shall be exercised by their surviving parent, if any; otherwise, such election shall be exercised by the guardian. [Formerly 656.312]

656.580 Payment of compensation notwithstanding cause of action for damages; lien on cause of action for compensation paid. (1) The worker or beneficiaries of the worker, as the case may be, shall be paid the benefits provided by this chapter in the same manner and to the same extent as if no right of action existed against the employer or third party, until damages are recovered from such employer or third party.

(2) The paying agency has a lien against the cause of action as provided by ORS 656.591 or 656.593, which lien shall be preferred to all claims except the cost of recovering such damages. [Formerly 656.314]

656.582 [Renumbered 656.384]

656.583 Paying agency may compel election and prompt action. (1) The paying agency may require the worker or other beneficiaries or the legal representative of a deceased worker to exercise the right of election provided in ORS 656.578 by serving a written demand by registered or certified mail or by personal service upon such worker, beneficiaries or legal representative.

(2) Unless such election is made within 60 days from the receipt or service of such demand and unless, after making such election, an action against such third person is instituted within such time as is granted by the paying agency, the worker, beneficiaries or legal representative is deemed to have assigned the cause of action to the paying agency. The paying agency shall allow the worker, the beneficiaries or legal representative of the worker at least 90 days from the making of such election to institute such action. In any case where an insurer of a third person is also the insurer of the employer, notice of this fact must be given in writing by the insurer to the injured worker and to the Director of the Department of Consumer and Business Services within 10 days after the occurrence of any accident which may result in the assertion of the claim against the third person by the injured worker. [Formerly 656.316; 1981 c.854 §43]

656.584 [Amended by 1965 c.285 §68d; renumbered 656.624]

656.586 [Renumbered 656.720]

656.587 Paying agency must join in any compromise. Any compromise by the worker or other beneficiaries or the legal representative of the deceased worker of any right of action against an employer or third party is void unless made with the written approval of the paying agency or, in the event of a dispute between the parties, by order of the Workers' Compensation Board. [Formerly 656.318; 1990 c.2 §34]

656.588 [Amended by 1957 c.558 §1; 1965 c.285 §42a; renumbered 656.386]

656.590 [Amended by 1965 c.285 §42b; renumbered 656.388]

656.591 Election not to bring action operates as assignment of cause of action; repayments to department by paying agency. (1) An election made pursuant to ORS 656.578 not to proceed against an employer or third person operates as an assignment to the paying agency of the cause of action, if any, of a worker or the beneficiaries or legal representative of a deceased worker against the employer or third person, and the paying agency may bring action against the employer or third person in the name of the worker or other beneficiaries.

(2) Any sum the paying agency recovers in excess of the expenses the paying agency incurred in making the recovery and the amount the paying agency expended for compensation, first aid or other medical, surgical or hospital service, together with the present value of the monthly payments of compensation to which the worker or other beneficiaries may be entitled under this chapter, must be paid to the worker or other beneficiaries.

(3) A paying agency shall repay the Department of Consumer and Business Services for any expenditures from the Consumer and Business Services Fund, the Self-Insured Employer Adjustment Reserve, the Self-Insured Employer Group Adjustment Reserve or the Workers' Benefit Fund that the department makes, together with the present value of any reasonably expected future expenditures from the funds or reserves that the department may make, to reimburse the paying agency for the paying agency's costs and to compensate or pay other costs of a worker's claim because of a self-insured employer's or self-insured employer group's insolvency, default or decertification. [Formerly 656.320; 2017 c.69 §2]

656.593 Procedure when worker or beneficiary elects to bring action; release of liability and lien of paying agency in certain cases. (1) If a worker or the beneficiaries of the worker elect to recover damages from an employer or third person, the worker or beneficiaries shall give notice of the election to the paying agency by personal service or by registered or certified mail. The paying agency likewise must be given notice of the name of the court in which the action is brought, and a return showing service of the notice on the paying agency must be filed with the clerk of the court but is not a part of the record except to give notice to the defendant of the lien of the paying agency, as provided in this section. The proceeds of any damages the worker or beneficiaries recover from an employer or third person are subject to a lien of the paying agency for the paying agency's share of the proceeds as set forth in this section. If the proceeds are paid in a series of payments, each payment must be distributed proportionately to each recipient according to the formula provided in this section, unless the parties otherwise agree. The total proceeds must be distributed as follows:

(a) Costs and attorney fees incurred must be paid, and the attorney fees may not exceed the advisory schedule of fees established by the Workers' Compensation Board for such actions.

(b) The worker or the beneficiaries of the worker must receive at least 33-1/3 percent of the balance of the recovery.

(c) The paying agency must be paid and retain the balance of the recovery, but only to the extent that the paying agency is compensated for the paying agency's expenditures for compensation, first aid or other medical, surgical or hospital service, and for the present value of reasonably expected future expenditures the paying agency makes for compensation and other costs of the worker's claim under this chapter. Other costs include expenditures that the Department of Consumer and Business Services makes from the Consumer and Business Services Fund, the Self-Insured Employer Adjustment Reserve, the Self-Insured Employer Group Adjustment Reserve and the Workers' Benefit Fund to reimburse the costs of the paying agency. Other costs also include assessments for the Workers' Benefit Fund and any compensation that may become payable under ORS 656.273 or 656.278.

(d) The balance of the recovery must be paid to the worker or the beneficiaries of the worker forthwith. The board shall resolve any conflict as to the amount of the balance that the paying agency may retain.

(2) The amount the worker or the beneficiaries of the worker retain must be in addition to the compensation or other benefits to which the worker or beneficiaries are entitled under this chapter.

(3) A claimant may settle any third party case with the approval of the paying agency, in which event the paying agency may accept a share of the proceeds that is just and proper and the worker or the beneficiaries of the worker must receive the amount to which the worker would be entitled for a recovery under subsections (1) and (2) of this section. The board shall resolve any conflict as to what may be a just and proper distribution.

(4) As used in this section, "paying agency" includes the Department of Consumer and Business Services with respect to expenditures from the Consumer and Business Services Fund, the Self-Insured Employer Adjustment Reserve, the Self-Insured Employer Group Adjustment Reserve and the Workers' Benefit Fund the department makes, together with the present value of any reasonably expected future expenditures from the funds or reserves that the department may make, to reimburse the costs of another paying agency and to compensate or pay other costs of a worker's claim because of a self-insured employer's or self-insured employer group's insolvency, default or decertification.

(5) The department must be repaid for the department's expenditures from the proceeds the paying agency recovered in an amount proportional to the amount of the department's reimbursement of the paying agency's costs. The department shall deposit all moneys the department receives under this section in the same fund from which the department's expenditures originated.

(6) Before, and instead of, the distribution of proceeds described in subsection (1) of this section, if a worker or the beneficiaries of a worker are entitled to receive payment pursuant to a judgment or a settle-

ment in a third party action in the amount of $1 million or more, the worker or the beneficiaries of the worker may elect to release the paying agency from all further liability on the workers' compensation claim, thereby canceling the lien of the paying agency as to the present value of the paying agency's reasonably expected future expenditures for workers' compensation and other costs of the worker's claim, if all of the following conditions are met as part of the claim release:

(a) The worker or the beneficiaries of the worker are represented by an attorney.

(b) The release of the claim is presented in writing and is filed with the Workers' Compensation Board, with a copy served on the paying agency, including the Department of Consumer and Business Services with respect to the department's expenditures from the Consumer and Business Services Fund, the Self-Insured Employer Adjustment Reserve, the Self-Insured Employer Group Adjustment Reserve and the Workers' Benefit Fund.

(c) The claim release specifies that the worker or the beneficiaries of the worker understand that the claim release means that no further benefits of any nature whatsoever will be paid to the worker or the beneficiaries of the worker.

(d) The release of the claim is accompanied by a settlement stipulation with the paying agency, outlining terms of reimbursement to the paying agency, covering the paying agency's incurred expenditures for compensation, first aid or other medical, surgical or hospital service and for expenditures from the Consumer and Business Services Fund, the Self-Insured Employer Adjustment Reserve, the Self-Insured Employer Group Adjustment Reserve and the Workers' Benefit Fund to the date the release becomes final or the order of the board becomes final. If the payment of such incurred expenditures is in dispute, the release of the claim must be accompanied by a written submission of the dispute by the worker or the beneficiaries of the worker to the board for resolution of the dispute by order of the board under procedures allowing for board resolution under ORS 656.587, in which case the release of the claim is not final until such time as the order of the board becomes final. In such a case, the only issue to be decided by the board is the amount of incurred expenses by the paying agency.

(e) If a service, item or benefit has been provided but a bill for that service, item or benefit has not been received by the paying agency before the release or order becomes final, the reimbursement payment must cover the bill in accordance with the following process:

(A) The paying agency may maintain a contingency fund in an amount reasonably sufficient to cover reimbursement for the billing.

(B) If a dispute arises as to reimbursement for any bill first received by the paying agency not later than 180 days after the date the release or order became final, the dispute must be resolved by order of the board.

(C) Any amount remaining in the contingency fund after the 180-day period must be paid to the worker or the beneficiaries of the worker.

(D) Any billing for a service, item or benefit that is first received by the paying agency more than 180 days after the date the release or order became final is unenforceable by the person who issued the bill.

(f) The settlement or judgment proceeds are available for payment or actually have been paid out and are available in a trust fund or similar account, or are available through a legally enforceable structured settlement agreement if sufficient funds are available to make payment to the paying agency.

(g) The agreed-upon payment to the paying agency, or the payment to the paying agency ordered by the board, is made within 30 days of the filing of the withdrawal of the claim with the board or within 30 days after the board has entered a final order resolving any dispute with the paying agency.

(7) If a release of further liability on a claim, as provided in subsection (6) of this section, has been filed, and if payment to the paying agency has been made, the effect of the release is that the worker or the beneficiaries of the worker have no further right to seek benefits under the original claim, or any independent workers' compensation claim regarding the same circumstances, and the claim may not be reasserted, refiled or reestablished through any legal proceeding. [Formerly 656.322; 1977 c.804 §16; 1979 c.839 §12; 1981 c.540 §1; 1985 c.600 §12; 1987 c.373 §35b; 1993 c.445 §1; 1995 c.332 §47; 1995 c.641 §8; 1997 c.639 §4; 2017 c.69 §3]

656.595 Precedence of cause of action; compensation paid or payable not to be an issue. (1) Any action brought against a third party or employer, as provided in this chapter, shall have precedence over all other civil cases.

(2) In any third party action brought pursuant to this chapter, the fact that the injured worker or the beneficiaries of the injured worker are entitled to or have received benefits under this chapter shall not be pleaded or admissible in evidence.

(3) A challenge of the right to bring such third party action shall be made by supplemental pleadings only and such challenge shall be determined by the court as a matter of law. [Formerly 656.324]

656.596 Damage recovery as offset against compensation; recovery procedure; notice to paying agency. (1) If no workers' compensation claim has been filed or accepted at the time a worker or the beneficiaries of a worker recover damages from a third person or noncomplying employer pursuant to ORS 656.576 to 656.596, the amount of the damages shall constitute an offset against compensation due the worker or beneficiaries of the worker for the injuries for which the recovery is made to the extent of any lien that would have been authorized by ORS 656.576 to 656.596 if a workers' compensation claim had been filed and accepted at the time of recovery of damages.

(2) The offset created by subsection (1) of this section shall be recoverable from compensation payable to the worker, the worker's beneficiaries and the worker's attorney. No compensation payments shall be made to the worker, the worker's beneficiaries or the worker's attorney until the offset has been fully recovered.

(3) The worker or the beneficiaries of the worker shall notify the paying agency or potential paying agency of the amount of any damages recovered from a third person or noncomplying employer at the time of recovery or when the worker or the beneficiaries of a worker file a workers' compensation claim that is subject to ORS 656.576 to 656.596. [1993 c.644 §2; 1995 c.332 §48]

656.597 [Formerly 656.326; repealed by 1971 c.70 §2]

FUNDS; SOURCE; INVESTMENT; DISBURSEMENT

(General Provisions)

656.602 Disbursement procedures. All disbursements for administrative expenses from the Industrial Accident Fund, except as provided by ORS 656.642, shall be made only upon warrants drawn by the Oregon Department of Administrative Services upon vouchers duly approved by the State Accident Insurance Fund Corporation. [Formerly 656.472; 1977 c.804 §17; 1983 c.740 §243; 1985 c.212 §9; 1987 c.373 §36]

656.604 [Formerly 656.474; repealed by 1987 c.373 §85]

656.605 Workers' Benefit Fund; uses and limitations. (1) The Workers' Benefit Fund is created in the State Treasury, separate and distinct from the General Fund. Moneys in the fund shall be invested in the same manner as other state moneys and investment earnings shall be credited to the fund. The fund shall consist of the following:

(a) Moneys received pursuant to ORS 656.506.

(b) Moneys recovered under ORS 656.054.

(c) Penalties recovered under ORS 656.735.

(d) All moneys received by the Director of the Department of Consumer and Business Services pursuant to law or from any other source for purposes for which the fund may be expended.

(2) Moneys in the Workers' Benefit Fund may be expended for the following purposes:

(a) Expenses of programs under ORS 656.445, 656.506, 656.622, 656.625, 656.628 and 656.630.

(b) Proceedings against noncomplying employers pursuant to ORS 656.054 and 656.735.

(c) Expenses of vocational assistance on claims, the cost of which was imposed pursuant to section 15, chapter 600, Oregon Laws 1985.

(d) Payment of supplemental temporary disability benefits for workers employed in more than one job at the time of injury and reimbursement of the costs of administering payments resulting from elections by insurers and self-insured employers as provided by ORS 656.210 (5).

(e) Payments made to injured workers pursuant to section 6a, chapter 865, Oregon Laws 2001.

(f) Expenses of the Bureau of Labor and Industries for enforcing ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052, subject to an agreement between the Director of the Department of Consumer and Business Services and the Commissioner of the Bureau of Labor and Industries. The agreement must include, but is not limited to, the amount of funds to be transferred to the bureau for enforcing ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052 and the information relating to the enforcement of ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052 that the bureau must report to the director.

(g) Reimbursement to the insurer or self-insured employer for the amount of permanent total disability benefits paid after the date of the notice of closure that was upheld pursuant to ORS 656.206.

(h) Reimbursement of vocational benefit expenses as provided in ORS 656.313.

(3) Subject to the following provisions, all moneys in the fund are appropriated continuously to the Director of the Department of Consumer and Business Services to carry out

the activities for which the fund may be expended:

(a) Moneys received pursuant to ORS 656.054 and 656.735 and transfers made pursuant to ORS 705.148 may be expended only to carry out the provisions of ORS 656.054 and 656.735 and section 15, chapter 600, Oregon Laws 1985.

(b) Moneys received pursuant to ORS 656.506 and the transfers of unexpended and unobligated moneys in the Retroactive Reserve, Reemployment Assistance Reserve, Reopened Claims Reserve and Handicapped Workers Reserve referred to in ORS 656.506, 656.622, 656.625 and 656.628 (All 1993 Edition) may be expended only to carry out the programs referred to in ORS 656.506, 656.622, 656.625, 656.628 and 656.630.

(4) Notwithstanding any other provision of this chapter, if the director determines at any time that there are insufficient moneys in the Workers' Benefit Fund to pay the expenses of programs for which expenditure of the fund is authorized, the director may reduce the level of benefits payable accordingly. [1995 c.641 §15; 1999 c.273 §3; 2001 c.865 §5; 2001 c.974 §8; 2002 s.s.2 c.4 §4; 2005 c.461 §5; 2005 c.588 §5; 2011 c.597 §267]

656.612 Assessments for department activities; amount; collection procedure. (1) The Director of the Department of Consumer and Business Services shall impose and collect assessments from all insurers, self-insured employers and self-insured employer groups in an amount sufficient to pay the expenses of the Department of Consumer and Business Services under this chapter and ORS chapter 654 and under the Insurance Code. The assessments shall be paid in the manner and at intervals as the director may direct and when collected shall be deposited in the Consumer and Business Services Fund. The receipts in the account are continuously appropriated to the department for the purpose described in this subsection.

(2) The assessments shall be levied against the insurers' direct earned premium and the direct earned premium self-insured employers and self-insured employer groups would have paid had they been insured employers.

(3) The director may impose and collect an additional assessment from self-insured employer groups in an amount sufficient to pay the additional expenses involved in administering the group self-insured program.

(4) The director may establish a minimum assessment applicable to all insurers, self-insured employers and self-insured employer groups and shall establish the time, manner and method of imposing and collecting assessments subject to applicable budgeting and fiscal laws.

(5) The assessments required under this section shall be developed pursuant to ORS 183.310 to 183.410 and in such a manner that will reasonably and substantially accomplish the objective of subsection (2) of this section at the least possible administrative cost to everyone.

(6) Assessments developed by the department under this section shall be reported to the Joint Committee on Ways and Means or, during the interim between sessions of the Legislative Assembly, to the Emergency Board or to the Joint Interim Committee on Ways and Means. [1965 c.285 §69a; 1973 c.353 §2; 1975 c.556 §45; 1977 c.804 §18; 1979 c.839 §13; 1981 c.535 §41; 1981 c.854 §44; 1985 c.506 §1; 1987 c.373 §37; 1987 c.884 §22; 1989 c.413 §21; 1990 c.2 §35; 1999 c.409 §1; 2012 c.107 §17]

656.614 Self-Insured Employer Adjustment Reserve; Self-Insured Employer Group Adjustment Reserve. (1) The Self-Insured Employer Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve shall be established within the Consumer and Business Services Fund. These reserves shall be used to pay the claims of workers of self-insured employers or of employers that are members of a self-insured employer group when the Director of the Department of Consumer and Business Services finds that the worker cannot obtain payment from the employer or self-insured employer group responsible for payment of the claim because of insolvency, default or decertification of the employer, the self-insured employer group or the excess insurer of the employer or group, and exhaustion of the excess insurance and security deposited to secure such payment.

(2) If at any time the director finds that the amount of moneys in the reserves is not sufficient to carry out the purposes stated in subsection (1) of this section, the director may impose and collect from self-insured employers and self-insured employer groups assessments sufficient to raise the amount of moneys in the reserves to the point where it can carry out such purposes. If at any time the director finds that there is a surplus in the reserves beyond an amount that can reasonably be anticipated as sufficient to carry out the purposes stated in subsection (1) of this section, the director may transfer the surplus to the Consumer and Business Services Fund and reduce the total amount of assessment by the amount so transferred.

(3) Notwithstanding the provisions of this section, the director may impose a differential assessment between the two employers adjustment reserves in order to collect suffi-

cient moneys in the reserves as provided in subsection (2) of this section.

(4) Assessments imposed under this section shall be paid to the director in the manner and at such times as the director may direct.

(5) Assessments paid by self-insured employer groups shall be deposited in the Consumer and Business Services Fund in separate accounts for public employers that are members of a self-insured employer group and for private employers that are members of a self-insured employer group. Moneys deposited in each account may be used only to pay claims expenses of employees of each category of self-insured employer group.

(6) Notwithstanding subsection (1) of this section, the director may use the reserves to assure timely payment of compensation pending payment from the excess insurance or security deposit. The director shall recover these costs from the excess insurance or the security deposit, up to their limits. [1965 c.285 §67a; 1975 c.556 §46; 1979 c.845 §3; 1981 c.535 §42; 1983 c.816 §12; 2014 c.48 §8]

656.616 [Formerly 344.810; repealed by 1985 c.600 §15]

656.618 [1965 c.285 §67e; 1977 c.804 §19; repealed by 1987 c.373 §85]

656.620 [1965 c.285 §67f; 1977 c.804 §20; 1979 c.839 §14; repealed by 1987 c.373 §85]

656.622 Reemployment Assistance Program; claim data not to be used for insurance rating; rules. (1) There is established a Reemployment Assistance Program for the benefit of employers and workers and for the purpose of:

(a) Giving employers and workers the benefits provided in this section.

(b) Providing reimbursement of reasonable program administration costs of self-insured employers and of insurers of employers who participate in any program funded through the Reemployment Assistance Program.

(2) In order to preclude or reduce nondisabling claims from becoming disabling claims, preclude on-the-job injuries from recurring, reduce disability by returning injured workers to work sooner and to help injured workers remain employed, the Director of the Department of Consumer and Business Services may provide assistance to employers from the Reemployment Assistance Program in such manner and amount as the director considers appropriate. Assistance may include, but need not be limited to, modification of work sites. For purposes of this subsection, work site modification may include engineering design work and occupational health consulting services. Factors to be considered by the director in determining the extent of assistance must include but need not be limited to the employer's record of returning injured workers to the workplace and the cost-effectiveness of modifications. Assistance may be provided in the form of grants and matching contributions from employers for funds.

(3) In order to encourage the employment of individuals who have incurred compensable injuries that result in disability which may be a substantial obstacle to employment, the director may provide, to eligible injured workers and to employers who employ them, assistance from the Workers' Benefit Fund in such manner and amount as the director considers appropriate.

(4)(a) In addition to such assistance as the director may provide under this section, the director shall provide reimbursement to self-insured employers or to the insurers of employers who hire preferred workers for the claim costs incurred for injuries to those workers during the first three years from the date of hire, as follows:

(A) The claim costs of injuries incurred by those workers.

(B) Reasonable claims administration costs.

(b) A worker may not waive eligibility for preferred worker status in the claim by agreement pursuant to ORS 656.236.

(5)(a) In addition to such assistance as the Director of the Department of Consumer and Business Services may provide under subsection (3) of this section, the director shall provide to participating self-insured employers and the insurers of participating employers reimbursement of reasonable program administration costs.

(b) As used in this subsection, "participating employer" or "participating self-insured employer" means an employer participating in any program funded through the Reemployment Assistance Program.

(6) Notwithstanding any other provision of law, determinations by the director regarding assistance pursuant to this section are not subject to review by any court or other administrative body.

(7) The Reemployment Assistance Program shall be funded with moneys collected as provided in ORS 656.506.

(8) Any assistance from the Reemployment Assistance Program shall be to the extent of the moneys available in the Workers' Benefit Fund, for the purpose of the program as determined by the director.

(9) The director may make such rules as may be required to establish, regulate, manage and disburse moneys in the Workers' Benefit Fund in accordance with the intent

of this section. Such rules shall include, but are not limited to, the eligibility criteria to receive assistance under this section and the issuance of identity cards to preferred workers to assist employers in the administration of the program.

(10) If claim cost reimbursement is requested under subsection (4) of this section, claims costs incurred as a result of an injury sustained by a preferred worker during the three years after that worker is hired shall not be included in any data used for ratemaking or individual employer rating or dividend calculations by an insurer, a rating organization licensed pursuant to ORS chapter 737, the State Accident Insurance Fund Corporation or the Department of Consumer and Business Services. Neither insurance premiums nor premium assessments under this chapter are payable for preferred workers during the first three years from the date of hire.

(11) Any moneys from the Workers' Benefit Fund reimbursed to an agency for costs incurred in reemploying injured state workers in the manner described in ORS 659A.052 or in providing wage subsidies for the reemployment of injured state workers shall be outside the biennial expenditure limitation imposed on the agency by the Legislative Assembly and shall be available for expenditure by the agency as a continuous appropriation.

(12) As used in this section, "preferred worker" means a worker who, because of a permanent disability resulting from a compensable injury or occupational disease, is unable to return to the worker's regular employment, whether or not an order has been issued awarding permanent disability. [1965 c.285 §68; 1969 c.536 §3; 1971 c.768 §3; 1977 c.557 §2; 1981 c.854 §60; 1983 c.391 §4; 1983 c.816 §13; 1985 c.600 §13; 1985 c.770 §2; 1987 c.884 §20; 1990 c.2 §36; 1991 c.93 §11; 1991 c.496 §1; 1991 c.694 §1; 1993 c.760 §3; 1995 c.332 §49; 1995 c.641 §21; 1999 c.273 §4; 2005 c.588 §1; 2007 c.241 §16; 2009 c.36 §§3,4]

656.624 [Formerly 656.584; 1983 c.740 §244; repealed by 1987 c.250 §1]

656.625 Reopened Claims Program; rules. (1) There is established a Reopened Claims Program for the purpose of reimbursing the additional amounts of compensation payable to injured workers that results from any award made by the Workers' Compensation Board or voluntary claim reopening pursuant to ORS 656.278 after January 1, 1988.

(2) Notwithstanding any other provision of law, any reimbursement from the Workers' Benefit Fund for the purposes of the Reopened Claims Program shall be in such amounts payable to an injured worker pursuant to ORS 656.278 and only to the extent that moneys are available in the fund as determined by the Director of the Department of Consumer and Business Services.

(3) The director, by rule, shall prescribe the form and manner of requesting reimbursement under this section, the amount payable and such other matters as may be necessary for the administration of this section. [1987 c.884 §39; 1995 c.332 §49a; 1995 c.641 §22; 2001 c.865 §11a]

656.628 Workers with Disabilities Program; use of funds; conditions and limitations; rules. (1) There is established a Workers with Disabilities Program for the benefit of complying employers and their workers. The purpose of the program is to encourage the employment or reemployment of workers with disabilities.

(2) As used in this section, "worker with a disability" means a worker who has or is subject to any permanent physical or mental impairment, whether congenital or due to an injury or disease, including periodic impairment of consciousness or muscular control of such character that the impairment would prevent the worker from obtaining or retaining employment.

(3) Any employer of a worker who claims or has received compensation under this chapter, or whose dependents have claimed or received such compensation, may file an application with the Director of the Department of Consumer and Business Services requesting the director to make the determinations referred to in subsection (4) of this section.

(4) When the director receives a request referred to in subsection (3) of this section, the director shall determine:

(a) Whether the injured worker was a worker with a disability and whether the injury, disease or death sustained by the worker would not have been sustained except for the disability; or

(b) Whether the injured worker was a worker with a disability and whether the injury, disease or death sustained by the worker would have been sustained without regard to the disability but that:

(A) Any resulting disability was substantially greater by reason of the disability; or

(B) The disability contributed substantially to the worker's death; and

(C) Whether the injury, disease or death of the worker would not have occurred except for the act or omission of a worker with a disability employed by the same employer and that the act or omission of the worker with a disability would not have occurred except for the impairment of the worker with a disability.

(5) If the director determines that any of the conditions described in subsection (4) of this section exist, the director may reimburse the paying agency for compensation amounts in excess of $1,000 per claimant for all subsequent injuries throughout the claimant's working career, paid as the result of the condition.

(6) The reimbursement paid from the Workers' Benefit Fund may not be included in any data used for rate making or individual employer rating or dividend calculations by an insurer, a rating organization licensed pursuant to ORS chapter 737, the State Accident Insurance Fund Corporation or the Department of Consumer and Business Services.

(7) Notwithstanding any other provision of law:

(a) Any reimbursement to employers under the Workers with Disabilities Program shall be in such amounts as the director prescribes and only to the extent of moneys available in the Workers' Benefit Fund as determined by the director.

(b) Determinations made by the director regarding reimbursement from the Workers' Benefit Fund for the purposes of this section are not subject to review by any court or administrative body.

(c) After a determination has been made by the director that an employer will receive reimbursement from the Workers' Benefit Fund, any settlement of the claim by the parties is void unless made with the written approval of the director.

(8) The director by rule shall prescribe the form and manner of requesting determinations under this section, the amount of reimbursement payable and such other matters as may be necessary for the administration of this section. [1981 c.535 §14; 1995 c.332 §49b; 1995 c.641 §23; 2007 c.70 §286; 2007 c.241 §17]

656.630 Oregon Institute of Occupational Health Sciences funding; report of activities. (1) There is transferred to and continuously appropriated to the Oregon Institute of Occupational Health Sciences of the Oregon Health and Science University, the following amounts from the following sources:

(a) The amount of revenue equivalent to one-sixteenth of one cent of the money deductible from workers' wages pursuant to ORS 656.506 (2).

(b) An amount equal to the amount raised by paragraph (a) of this subsection from those assessments made pursuant to ORS 656.612 (2).

(2) The moneys referred to in subsection (1) of this section may only be used for paying the expenses of the Oregon Institute of Occupational Health Sciences. If the Director of the Department of Consumer and Business Services determines adequate funds are available and the director reduces or suspends for a period of time the assessments made pursuant to ORS 656.506 (2) and 656.612 (2), the reduction or suspension of the assessments does not terminate the transfers to the Oregon Institute of Occupational Health Sciences authorized in subsection (1) of this section.

(3) Annually, the Oregon Institute of Occupational Health Sciences shall file a report with the Oregon Health and Science University, with a copy to the Director of the Department of Consumer and Business Services, describing the activities in sufficient detail for which moneys received under this section during the year have been obligated or expended. [1993 c.760 §6; 1995 c.162 §85; 1995 c.641 §11a; 2013 c.111 §4]

(Industrial Accident Fund and Reserves)

656.632 Industrial Accident Fund. (1) The Industrial Accident Fund is continued. This fund shall be held by the State Treasurer and by the State Treasurer deposited in such banks as are authorized to receive deposits of general funds of the state.

(2) All moneys received by the State Accident Insurance Fund Corporation under this chapter, shall be paid forthwith to the State Treasurer and shall become a part of the Industrial Accident Fund. However, any assessments collected for the Director of the Department of Consumer and Business Services under this chapter and deposited in the Industrial Accident Fund may thereafter be transferred to the director and deposited in the Consumer and Business Services Fund.

(3) All payments authorized to be made by the State Accident Insurance Fund Corporation by this chapter, including all salaries, clerk hire and all other expenses, shall be made from the Industrial Accident Fund. [Formerly 656.452; 1975 c.556 §47; 2003 c.781 §§9,13]

656.634 Trust fund status of Industrial Accident Fund. (1) The Industrial Accident Fund is a trust fund exclusively for the uses and purposes declared in this chapter, except that this provision shall not be deemed to amend or impair the force or effect of any law of this state specifically authorizing the investment of moneys from the fund.

(2) Subject to the right of the State of Oregon to direct legislatively the disposition of any surplus in excess of reserves and surplus deemed actuarially necessary according to recognized insurance principles, and necessary in addition thereto to assure continued fiscal soundness of the State Accident Insurance Fund Corporation both for current

operations and for future capital needs, the State of Oregon declares that it has no proprietary interest in the Industrial Accident Fund or in the contributions made to the fund by the state prior to June 4, 1929. The state disclaims any right to reclaim those contributions and waives any right of reclamation it may have had in that fund. [Formerly 656.454; 1967 c.335 §55; 1982 s.s.3 c.2 §4]

656.635 Reserve accounts in Industrial Accident Fund. (1) The State Accident Insurance Fund Corporation may set aside, out of interest and other income received through investment of the Industrial Accident Fund, such part of the income as the State Accident Insurance Fund Corporation considers necessary, which moneys so segregated shall remain in the fund and constitute one or more reserve accounts. Such reserve accounts shall be maintained and used by the State Accident Insurance Fund Corporation to offset gains and losses of invested capital.

(2) The State Accident Insurance Fund Corporation may provide for amortizing gains and losses of invested capital in such instances as the State Accident Insurance Fund Corporation determines that amortization is preferable to a reserve account provided for in subsection (1) of this section. [1967 c.335 §57]

656.636 Reserves in Industrial Accident Fund for awards for permanent disability or death. For every case where the State Accident Insurance Fund Corporation must pay an award or benefits for death or permanent total disability or permanent partial disability, the State Accident Insurance Fund Corporation forthwith shall set aside in the Industrial Accident Fund in a reserve account the amount required to equal, together with the anticipated interest increment, the present worth of the installments payable on account of that injury. The number of installments shall be computed in case of permanent total disability or death according to the ages of the beneficiaries, and according to the actuarial practices in the insurance field as recommended by the Director of the Department of Consumer and Business Services and, in the case of permanent partial disability, according to the schedule in ORS 656.214 and 656.216. [Formerly 656.456; 1971 c.768 §4; 1973 c.614 §7; 1974 c.41 §10; 1977 c.200 §1; 1977 c.804 §21; 1979 c.839 §15; 1979 c.845 §4; 1981 c.854 §45; 1983 c.391 §2; 1985 c.739 §2]

656.637 [1979 c.334 §2; 1983 c.391 §3; repealed by 1985 c.739 §3]

656.638 [Formerly 656.460; 1969 c.536 §4; 1971 c.768 §5; 1977 c.804 §22; repealed by 1981 c.854 §1]

656.640 Creation of reserves. The State Accident Insurance Fund Corporation may set aside such other reserves within the Industrial Accident Fund as are deemed necessary. [Formerly 656.468; 1981 c.854 §46]

(Other Funds)

656.642 Emergency Fund. (1) There is created a revolving fund known as the Emergency Fund, which shall be deposited and maintained with the State Treasurer in the sum of $200,000.

(2) The Emergency Fund shall be disbursed by checks or orders issued by the State Accident Insurance Fund Corporation and drawn upon the State Treasurer:

(a) To pay compensation benefits.

(b) To refund to employers amounts paid to the Industrial Accident Fund in excess of the amounts required by this chapter.

(c) To distribute any surplus to employers as required by ORS 656.526.

(d) To distribute any moneys recovered from an employer or third party in which the State Accident Insurance Fund Corporation has no equity.

(e) To pay administrative expenses. [Formerly 656.464; 1971 c.357 §1; 1983 c.740 §245]

656.644 Petty cash funds. The State Accident Insurance Fund Corporation may, at its discretion, establish and maintain petty cash funds, not exceeding a total of $20,000 for the purpose of making change, refunding fees and premiums and assessments paid in error, the advance of traveling expense to employees and claimants, and paying miscellaneous legal fees and other petty incidental expenses in the administration of the Workers' Compensation Law. [Formerly 656.466; 1981 c.854 §47]

656.646 [Formerly 656.558; repealed by 1981 c.876 §1]

656.648 [1974 c.41 §12; repealed by 1981 c.854 §1 and 1981 c.876 §1]

ADMINISTRATION

(General Provisions)

656.702 Disclosure of records of corporation, department and insurers. (1)(a) The records of the State Accident Insurance Fund Corporation are subject to ORS 192.311 to 192.478.

(b) Notwithstanding ORS 192.355, the State Accident Insurance Fund Corporation shall make the accident experience records of the corporation available to a bona fide rating organization to assist in making workers' compensation rates. Costs involved in making the records available shall be borne by the rating organization. Accident experience records of carrier-insured employers shall also be available on the same terms to assist in making such rates.

(2) Disclosure of workers' compensation claim records of the Department of Consumer and Business Services is governed by

ORS 192.355 (20). [Formerly 656.426; 1973 c.794 §33a; 1975 c.556 §48; 1987 c.884 §47; 1993 c.817 §3; 1997 c.825 §3; 2007 c.152 §5; 2009 c.57 §1]

Note: The amendments to 656.702 by section 4, chapter 78, Oregon Laws 2025, become operative July 1, 2027. See section 23, chapter 78, Oregon Laws 2025. The text that is operative on and after July 1, 2027, is set forth for the user's convenience.

656.702. (1) The records of the State Accident Insurance Fund Corporation are subject to ORS 192.311 to 192.478.

(2)(a) Notwithstanding ORS 192.355, the State Accident Insurance Fund Corporation shall make the accident experience records of the corporation available to a bona fide rating organization to assist in making workers' compensation rates. Costs involved in making the records available shall be borne by the rating organization.

(b) Accident experience records of carrier-insured employers shall also be available on the same terms to assist in making such rates.

(3) Disclosure of workers' compensation claim records of the Department of Consumer and Business Services is governed by ORS 192.355 (20).

(4)(a) When records obtained by the Director of the Department of Consumer and Business Services indicate that a professional employer organization's responsibility to provide workers' compensation coverage to a client has been terminated under ORS 656.850 (5)(a)(A), the director may disclose the name of the client and the date of termination to the professional employer organization's insurer.

(b) Information disclosed to an insurer under this subsection may be used only to validate the accuracy of the insurer's coverage records and may not be disclosed to any other party.

656.704 Actions and orders regarding matters concerning claim and matters other than matters concerning claim; authority of director and board; administrative and judicial review; rules. (1) Actions and orders of the Director of the Department of Consumer and Business Services regarding matters concerning a claim under this chapter, and administrative and judicial review of those matters, are subject to the procedural provisions of this chapter and such procedural rules as the Workers' Compensation Board may prescribe.

(2)(a) A party dissatisfied with an action or order regarding a matter other than a matter concerning a claim under this chapter may request a hearing on the matter in writing to the director. The director shall refer the request for hearing to the Workers' Compensation Board for a hearing before an Administrative Law Judge. Review of an order issued by the Administrative Law Judge shall be by the director and the director shall issue a final order that is subject to judicial review as provided by ORS 183.480 to 183.497.

(b) The director shall prescribe the classes of orders issued under this subsection by Administrative Law Judges and other personnel that are final, appealable orders and those orders that are preliminary orders subject to revision by the director.

(3)(a) For the purpose of determining the respective authority of the director and the board to conduct hearings, investigations and other proceedings under this chapter, and for determining the procedure for the conduct and review thereof, matters concerning a claim under this chapter are those matters in which a worker's right to receive compensation, or the amount thereof, are directly in issue. However, subject to paragraph (b) of this subsection, such matters do not include any disputes arising under ORS 656.245, 656.247, 656.248, 656.260 or 656.327, any other provisions directly relating to the provision of medical services to workers or any disputes arising under ORS 656.340 except as those provisions may otherwise provide.

(b) The respective authority of the board and the director to resolve medical service disputes shall be determined according to the following principles:

(A) Any dispute that requires a determination of the compensability of the medical condition for which medical services are proposed is a matter concerning a claim.

(B) Any dispute that requires a determination of whether medical services are excessive, inappropriate, ineffectual or in violation of the rules regarding the performance of medical services, or a determination of whether medical services for an accepted condition qualify as compensable medical services among those listed in ORS 656.245 (1)(c), is not a matter concerning a claim.

(C) Any dispute that requires a determination of whether a sufficient causal relationship exists between medical services and an accepted claim to establish compensability is a matter concerning a claim.

(c) Notwithstanding ORS 656.283 (3), if parties to a hearing scheduled before an Administrative Law Judge are involved in a dispute regarding both matters concerning a claim and matters not concerning a claim, the Administrative Law Judge may defer any action on the matter concerning a claim until the director has completed an administrative review of the matters other than those concerning a claim. The director shall mail a copy of the administrative order to the parties and to the Administrative Law Judge. A party may request a hearing on the order of the director. At the request of a party or by the own motion of the Administrative Law Judge, the hearings on the separate matters may be consolidated. The Administrative Law Judge shall issue an order for those matters concerning a claim and a separate order for matters other than those concerning a claim.

(4) Hearings under ORS 656.740 shall be conducted by an Administrative Law Judge from the board's Hearings Division.

(5) If a request for hearing or administrative review is filed with either the director or the board and it is determined that the request should have been filed with the other, the dispute shall be transferred. Filing a request will be timely filed if the original filing was completed within the prescribed time. [1965 c.285 §54b; 1977 c.804 §23; 1979 c.839 §16; 1981 c.874 §11; 1985 c.770 §8; 1987 c.373 §38a; 1990 c.2 §37; 1995 c.332 §50; 1999 c.849 §§121a,121c,121e; 1999 c.876 §4; 1999 c.926 §2; 2003 c.75 §48; 2005 c.26 §15; 2009 c.35 §5]

656.708 Hearings Division; duties. The Hearings Division is continued within the Workers' Compensation Board. The division has the responsibility for providing an impartial forum for deciding all cases, disputes and controversies arising under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, all cases, disputes and controversies regarding matters concerning a claim under this chapter, and for conducting such other hearings and proceedings as may be prescribed by law. [1977 c.804 §25; 1979 c.839 §17; 1987 c.373 §39]

656.709 Ombudsman for injured workers; ombudsman for small business; duties. (1)(a) The Director of the Department of Consumer and Business Services, with the concurrence of the Governor, shall appoint an ombudsman for injured workers. The ombudsman is under the supervision and control of the director and, with the concurrence of the Governor, the director may terminate the ombudsman.

(b) The ombudsman for injured workers shall:

(A) Act as an advocate for injured workers by accepting, investigating and attempting to resolve complaints concerning matters related to workers' compensation;

(B) Provide information to injured workers to enable them to protect their rights in the workers' compensation system; and

(C) Report to the Governor in writing at least once each quarter. A report shall include a summary of the services that the ombudsman provided during the quarter and the ombudsman's recommendations for improving ombudsman services and for protecting workers' rights in the workers' compensation system.

(2)(a) The Director of the Department of Consumer and Business Services, with the concurrence of the Governor, shall appoint an ombudsman for small business. The ombudsman is under the supervision and control of the director and, with the concurrence of the Governor, the director may terminate the ombudsman.

(b) The ombudsman for small business shall:

(A) Provide information and assistance to small businesses with regard to workers' compensation insurance and claims processing matters; and

(B) Report to the Governor in writing at least once each quarter. A report shall include a summary of the services that the ombudsman provided during the quarter and the ombudsman's recommendations for improving ombudsman services and for providing information and assistance to small businesses with regard to workers' compensation insurance and claims processing matters. [1987 c.884 §60b; 1990 c.2 §38; 2003 c.591 §16]

656.710 [1977 c.699 §2; 1979 c.839 §18; repealed by 1981 c.535 §26]

656.712 Workers' Compensation Board; members; qualifications; chairperson; confirmation; term; vacancies. (1) The Workers' Compensation Board, composed of five members appointed by the Governor, is created within the Department of Consumer and Business Services. Not more than three members shall belong to one political party and inasmuch as the duties to be performed by the members vitally concern the employers, the employees, as well as the whole people, of the state, persons shall be appointed as members who fairly represent the interests of all concerned. All board members shall impartially apply the law in each case and shall not represent any special interest. However, at least two members shall be selected from among persons with background and understanding as to the concerns of employers and at least two members of the board shall be selected from among persons with background and understanding as to the concerns of employees. One member shall represent the interests of the public and shall serve as the board chairperson.

(2) A member of the board shall be appointed for a term of four years from the date of appointment and qualification. Each member shall hold office until a successor is appointed and qualified. However, all board members serve at the pleasure of the Governor and may be removed in accordance with the provisions of ORS 656.714.

(3) Any vacancy on the board shall be filled by appointment by the Governor.

(4) All appointments of members of the board by the Governor are subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution. [Formerly 656.402; 1973 c.792 §28; 1977 c.109 §3; 1977 c.804 §26; 1981 c.535 §43; 1987 c.373 §40; 1993 c.462 §1; 1995 c.332 §64; 1999 c.876 §5]

656.714 Removal of board member. (1) The Governor may at any time remove any member of the Workers' Compensation Board for inefficiency, neglect of duty or malfeasance in office. Before such removal the Governor shall give the member a copy of the charges against the member and shall fix the time when the member can be heard in defense, which shall not be less than 10 days thereafter. Such hearing shall be open to the public.

(2) If the member is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against such member and the findings thereon, with a record of the proceedings.

(3) The power of removal is absolute and there is no right of review in any court whatsoever. [Formerly 656.406; 1989 c.1094 §3]

656.716 Board members not to engage in political or business activity that interferes with duties as board member; oath and bond required. (1) No member of the Workers' Compensation Board shall hold any other office or position of profit or pursue any other business or vocation or serve on or under any committee of any political party, but shall devote the entire time to the duties of the office of the member.

(2) Before entering on the duties of office, each member shall take and subscribe to an oath or affirmation:

(a) That the member will support the Constitutions of the United States and of this state and faithfully and honestly discharge the duties of the office.

(b) That the member does not hold any other office or position of profit that will interfere with the ability of the member to fully perform the duties of the member's position with the board.

(c) That the member is not pursuing and will not pursue, while a member, any other calling or vocation that will interfere with the ability of the member to fully perform the duties of the member's position with the board.

(d) That the member does not hold and while a member will not hold a position under any political party.

(3) The oath or affirmation shall be filed in the office of the Secretary of State.

(4) Each of the members of the board shall also, before entering upon the duties of office, execute a bond payable to the State of Oregon, in the penal sum of $10,000, with sureties to be approved by the Governor, conditioned for the faithful discharge of the duties of office. The bond, when so executed and approved, shall be filed in the office of the Secretary of State. [Formerly 656.408; 1977 c.804 §27; 1987 c.373 §41; 1999 c.1020 §4]

656.718 Chairperson; quorum; panels. (1) The board chairperson shall supervise and manage the Workers' Compensation Board and the Hearings Division. The chairperson serves at the pleasure of the Governor and may be removed in accordance with the provisions of ORS 656.714.

(2) A majority of the board's members shall constitute a quorum to transact the board's business. No vacancy shall impair the right of the remaining members to exercise all the powers of the board.

(3)(a) In exercise of authority to decide individual cases, members of the board may sit together or in panels.

(b) When sitting en banc, the concurrence of a majority of the members participating is necessary for a decision.

(c) A panel must consist of two members with different backgrounds and understanding. One of the members of a panel may be the board member that represents the interests of the public if either a member with background and understanding as to the concerns of employers or a member with background and understanding as to the concerns of employees is unavailable. If the members of a panel cannot agree on a decision in an individual case, the case shall be decided by a panel of three members, two of whom have different backgrounds and understanding and one who represents the interests of the public.

(d) A board member may not review any case in which the member acted as an Administrative Law Judge in the case. [Formerly 656.414; 1967 c.2 §4; 1993 c.462 §2; 1999 c.876 §6; 2003 c.365 §1]

656.720 Prosecution and defense of actions by Attorney General and district attorneys. Upon request of the Director of the Department of Consumer and Business Services the Attorney General or, under direction of the Attorney General, the district attorney of any county, shall institute or prosecute actions or proceedings for the enforcement of this chapter, when such actions or proceedings are within the county in which such district attorney was elected, and shall defend in like manner all suits, actions and proceedings brought against the Department of Consumer and Business Services or its employees in their official capacity. [Formerly 656.586; 1971 c.418 §18; 1977 c.804 §28]

656.722 Authority to employ subordinates. The Workers' Compensation Board chairperson may employ and terminate the employment of such assistants, experts, field personnel and clerks as may be required in the administration of ORS chapter 654 and

this chapter and other duties assigned to the board or the board chairperson by statute. [Formerly 656.416; 1977 c.804 §29; 1981 c.860 §§2,6; 1987 c.373 §42; 1999 c.876 §7]

656.724 Administrative Law Judges; appointment; qualifications; term; performance survey; removal procedure. (1) The Workers' Compensation Board chairperson, after consultation with the board, shall employ Administrative Law Judges to hold such hearings as may be prescribed by law. An Administrative Law Judge must be a licensee in good standing of the Oregon State Bar, or the bar of the highest court of record in any other state or currently admitted to practice before the federal courts in the District of Columbia. Administrative Law Judges shall qualify in the same manner as members of the board under ORS 656.716 (2). The board chairperson, after consultation with the board, may appoint Administrative Law Judges to serve for a probationary period of 18 months or less prior to regular employment.

(2) Administrative Law Judges are in the unclassified service under ORS chapter 240, and the board shall fix their salaries in accordance with ORS 240.245.

(3)(a) The board chairperson, after consultation with the board, shall establish criteria whereby each Administrative Law Judge shall receive an annual performance evaluation. Such criteria shall include, but not be limited to, work quality and productivity.

(b) The employment of each Administrative Law Judge shall be subject to formal review by the board chairperson every four years. Complaints and comments filed with the board chairperson regarding the official conduct, competence or fitness of an Administrative Law Judge, as well as the board's records, shall be reviewed by the board chairperson. Not less than 90 days prior to the expiration of the probationary period, or within 180 days but not less than 90 days prior to each four-year review, the board chairperson shall solicit comments from attorneys practicing in the field of workers' compensation. These comments and all complaints and other records filed with the board chairperson regarding the official conduct, competence or fitness of an Administrative Law Judge shall be reviewed by the board. The board chairperson shall conduct an annual survey of all attorneys regularly participating in workers' compensation cases, in such manner as to allow the attorneys to remain anonymous while rating the Administrative Law Judges as to knowledge of workers' compensation law, judicial temperament, capability to handle hearings, diligence, efficiency and other similar factors. The results of the survey shall be published by the board chairperson, listing each Administrative Law Judge by name.

(c) Notwithstanding ORS 240.240 and in accordance with ORS 240.555 and 240.560, an Administrative Law Judge may be removed at any time, for official misconduct, incompetence, inefficiency, indolence, malfeasance or other unfitness to render effective service.

(4) Administrative Law Judges have the same powers granted to board members or assistants under ORS 656.726 (2)(a), (b), (c) and (d).

(5) A presiding Administrative Law Judge shall be appointed by the board chairperson and shall serve as presiding Administrative Law Judge at the pleasure of the board chairperson. The presiding Administrative Law Judge shall perform such administrative duties as the board chairperson may delegate. The board chairperson may designate another Administrative Law Judge to serve as acting presiding Administrative Law Judge during any period when the presiding Administrative Law Judge is absent or disabled.

(6) Notwithstanding subsections (1) to (5) of this section, the board chairperson, after consultation with the board, may employ any licensee of the Oregon State Bar to serve as an Administrative Law Judge on a temporary basis, not to exceed one year, when the board chairperson determines that such employment is necessary in the conduct of the business of the Hearings Division. Criteria and procedures for selecting and employing such Administrative Law Judges shall be identical to those established for regularly employed Administrative Law Judges.

(7) It is the declared purpose of this section to foster and protect the Administrative Law Judges' ability to provide full, fair and speedy hearings and decisions. [1965 c.285 §53a; 1965 c.564 §6; 1967 c.180 §1; 1971 c.695 §9; 1973 c.774 §1; 1979 c.677 §1; 1979 c.839 §19; 1981 c.535 §44; 1985 c.212 §11; 1987 c.884 §13; 1989 c.1094 §4; 1990 c.2 §39; 1995 c.332 §51; 1999 c.876 §8; 2025 c.32 §111]

656.725 Duties and status of Administrative Law Judges. (1) Individuals holding the position of Administrative Law Judge created by the amendments to ORS 656.724 by section 51, chapter 332, Oregon Laws 1995, have the authority to perform only those duties, functions and powers provided in ORS chapters 654, 655 and 656, and such other duties, functions and powers as may be prescribed by the Workers' Compensation Board pursuant to ORS 656.726.

(2) Administrative Law Judges are not judges for the purposes of any provision of the Oregon Constitution and are not judges for the purposes of judges' retirement under

ORS chapters 238 and 238A. [1995 c.332 §53; 2003 c.733 §80]

656.726 Duties and powers to carry out workers' compensation and occupational safety laws; rules. (1) The Workers' Compensation Board in its name and the Director of the Department of Consumer and Business Services in the director's name as director may sue and be sued, and each shall have a seal.

(2) The board hereby is charged with reviewing appealed orders of Administrative Law Judges in controversies concerning a claim arising under this chapter, exercising own motion jurisdiction under this chapter and providing such policy advice as the director may request, and providing such other review functions as may be prescribed by law. To that end any of its members or assistants authorized thereto by the members shall have power to:

(a) Hold sessions at any place within the state.

(b) Administer oaths.

(c) Issue and serve by the board's representatives, or by any sheriff, subpoenas for the attendance of witnesses and the production of papers, contracts, books, accounts, documents and testimony before any hearing under ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and this chapter.

(d) Generally provide for the taking of testimony and for the recording of proceedings.

(3) The board chairperson is hereby charged with the administration of and responsibility for the Hearings Division.

(4) The director hereby is charged with duties of administration, regulation and enforcement of ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and this chapter. To that end the director may:

(a) Make and declare all rules and issue orders which are reasonably required in the performance of the director's duties. Unless otherwise specified by law, all reports, claims or other documents shall be deemed timely provided to the director or board if mailed by regular mail or delivered within the time required by law. Notwithstanding any other provision of this chapter, the director may adopt rules to allow for the electronic transmission and filing of reports, claims or other documents required to be filed under this chapter and to require the electronic transmission and filing of proof of coverage required under ORS 656.419, 656.423 and 656.427. Notwithstanding ORS 183.310 to 183.410, if a matter comes before the director that is not addressed by rule and the director finds that adoption of a rule to accommodate the matter would be inefficient, unreasonable or unnecessarily burdensome to the public, the director may resolve the matter by issuing an order, subject to review under ORS 656.704. Such order shall not have precedential effect as to any other situation.

(b) Hold sessions at any place within the state.

(c) Administer oaths.

(d) Issue and serve by representatives of the director, or by any sheriff, subpoenas for the attendance of witnesses and the production of papers, contracts, books, accounts, documents and testimony in any inquiry, investigation, proceeding or rulemaking hearing conducted by the director or the director's representatives. The director may require the attendance and testimony of employers, their officers and representatives in any inquiry under this chapter, and the production by employers of books, records, papers and documents without the payment or tender of witness fees on account of such attendance.

(e) Generally provide for the taking of testimony and for the recording of such proceedings.

(f) Provide standards for the evaluation of disabilities. The following provisions apply to the standards:

(A) The criterion for evaluation of permanent impairment under ORS 656.214 is the loss of use or function of a body part or system due to the compensable industrial injury or occupational disease. Permanent impairment is expressed as a percentage of the whole person. The impairment value may not exceed 100 percent of the whole person.

(B) Impairment is established by a preponderance of medical evidence based upon objective findings.

(C) The criterion for evaluation of work disability under ORS 656.214 is permanent impairment as modified by the factors of age, education and adaptability to perform a given job.

(D) When, upon reconsideration of a notice of closure pursuant to ORS 656.268, it is found that the worker's disability is not addressed by the standards adopted pursuant to this paragraph, notwithstanding ORS 656.268, the director shall, in the order on reconsideration, determine the extent of permanent disability that addresses the worker's impairment.

(E) Notwithstanding any other provision of this section, only impairment benefits shall be awarded under ORS 656.214 if the worker has been released to regular work by the attending physician or nurse practitioner authorized to provide compensable medical services under ORS 656.245 or has returned

to regular work at the job held at the time of injury.

(g) Prescribe procedural rules for and conduct hearings, investigations and other proceedings pursuant to ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and this chapter regarding all matters other than those specifically allocated to the board or the Hearings Division.

(h) Participate fully in any proceeding before the Hearings Division, board or Court of Appeals in which the director determines that the proceeding involves a matter that affects or could affect the discharge of the director's duties of administration, regulation and enforcement of ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and this chapter.

(5)(a) The board may make and declare all rules which are reasonably required in the performance of its duties, including but not limited to rules of practice and procedure in connection with hearing and review proceedings and exercising its authority under ORS 656.278. The board shall adopt standards governing the format and timing of the evidence. The standards shall be uniformly followed by all Administrative Law Judges and practitioners. The rules may provide for informal prehearing conferences in order to expedite claim adjudication, amicably dispose of controversies, if possible, narrow issues and simplify the method of proof at hearings. The rules shall specify who may appear with parties at prehearing conferences and hearings.

(b) Notwithstanding any other provision of this chapter, the board may adopt rules to allow for the electronic transmission of filings, reports, notices and other documents required to be filed under the board's authority.

(6) The director and the board chairperson may incur such expenses as they respectively determine are reasonably necessary to perform their authorized functions.

(7) The director, the board chairperson and the State Accident Insurance Fund Corporation shall have the right, not subject to review, to contract for the exchange of, or payment for, such services between them as will reduce the overall cost of administering this chapter.

(8) The director shall have lien and enforcement powers regarding assessments to be paid by subject employers in the same manner and to the same extent as is provided for lien and enforcement of collection of premiums and assessments by the corporation under ORS 656.552 to 656.566.

(9) The director shall have the same powers regarding inspection of books, records and payrolls of employers as are granted the corporation under ORS 656.758. The director may disclose information obtained from such inspections to the Director of the Department of Revenue to the extent the Director of the Department of Revenue requires such information to determine that a person complies with the revenue and tax laws of this state and to the Director of the Employment Department to the extent the Director of the Employment Department requires such information to determine that a person complies with ORS chapter 657.

(10) The director shall collect hours-worked data information in addition to total payroll for workers engaged in various jobs in the construction industry classifications described in the job classification portion of the Workers' Compensation and Employers Liability Manual and the Oregon Special Rules Section published by the National Council on Compensation Insurance. The information shall be collected in the form and format necessary for the National Council on Compensation Insurance to analyze premium equity. [Formerly 656.410; 1977 c.804 §30; 1979 c.677 §2; 1979 c.839 §20; 1981 c.535 §45; 1981 c.723 §5; 1981 c.854 §49a; 1981 c.876 §9; 1985 c.600 §16; 1985 c.706 §4; 1985 c.770 §4; 1987 c.884 §2; 1990 c.2 §40; 1995 c.332 §55; amendments by 1995 c.332 §55a repealed by 1999 c.6 §1; 1999 c.313 §10; 1999 c.876 §9; 2003 c.170 §7; 2003 c.171 §1; 2003 c.657 §§3,4; 2003 c.811 §§17,18; 2005 c.26 §§16,17; 2005 c.653 §§1,2a; 2007 c.241 §§4,5; 2007 c.270 §§7,8; 2007 c.274 §2; 2013 c.162 §1]

656.727 Rules for administration of benefit offset. In carrying out the provisions of ORS 656.209, the Department of Consumer and Business Services shall promulgate rules that include, but are not limited to:

(1) Requiring injured workers to make application for federal Social Security disability benefits.

(2) Requiring injured workers to file with the appropriate agency that administers the federal Social Security program a release authorizing the federal agency to make disclosure to the department of such information regarding the injured worker as will enable the department to carry out the provisions of ORS 656.209.

(3) A procedure for ordering reduction of benefits or such other sanctions as the department considers appropriate to insure that injured workers comply with rules promulgated pursuant to this section. [1977 c.430 §7; 1979 c.117 §4]

656.728 [Subsection (1) formerly 344.820; subsection (2) formerly 344.830; 1973 c.634 §3; 1977 c.862 §2; 1981 c.854 §50; 1981 c.874 §6; 1981 c.535 §12; repealed by 1985 c.600 §2]

656.729 [1981 c.723 §2; repealed by 1985 c.770 §5]

656.730 Assigned risk plan. (1) The Director of the Department of Consumer and Business Services shall promulgate a plan for the equitable apportionment among the State Accident Insurance Fund Corporation and all members of workers' compensation rating organizations in the state coverage required by ORS 656.017 for subject employers whose coverage the fund, or any members of such rating organizations, object to providing. The plan shall include provisions authorized pursuant to ORS 737.265 (2), except that:

(a) Regardless of the rating plans adopted by any rating organization, the plan shall provide a rating structure with differing rate tiers for insureds too small to qualify for experience rating and for insureds large enough to be experience rated; and

(b) The plan shall seek and be entitled to receive approval for all classification exceptions approved by the director for any insurer.

(2) If any insurer issuing workers' compensation insurance policies under this chapter refuses to accept its equitable apportionment under such plan, the director shall revoke the insurer's authority to issue workers' compensation insurance policies. [1965 c.285 §94a; 1979 c.673 §2; 1990 c.1 §2; 2007 c.241 §18]

656.732 Power to compel obedience to subpoenas and punish for misconduct. The circuit court for any county, or the judge of such court, on application of the Director of the Department of Consumer and Business Services, the Workers' Compensation Board, or any of the board members, their Administrative Law Judges or assistants, shall compel obedience to subpoenas issued and served pursuant to ORS 656.726 and shall punish disobedience of any such subpoena or any refusal to testify at any authorized session or hearing or to answer any lawful inquiry of the director or any of the board members, Administrative Law Judges or assistants, in the same manner as a refusal to testify in the circuit court or the disobedience of the requirements of a subpoena issued from the court is punished. [Formerly 656.412; 1979 c.839 §21]

656.734 [Formerly 656.424; repealed by 1973 c.833 §48]

656.735 Civil penalty for noncomplying employers; amount; liability of partners and of corporate and limited liability company officers; effect of final order; penalty as preferred claim; disposition of moneys collected. (1) The Director of the Department of Consumer and Business Services shall assess any person who violates ORS 656.052 (1) a civil penalty of not more than $1,000 or twice the premium that would have been due for the period of noncompliance, whichever is the greater.

(2) The director shall assess any person who continues to violate ORS 656.052 (1), after an order issued pursuant to ORS 656.052 (2) has become final, a civil penalty, in addition to any penalty assessed under subsection (1) of this section, of not more than $250 for each day such violation continues.

(3)(a) When a noncomplying employer is a corporation, such corporation and the officers and directors thereof shall be jointly and severally liable for any civil penalties assessed under this section and any claim costs incurred under ORS 656.054.

(b) When a noncomplying employer is a limited liability company, the company and its members and managers shall be jointly and severally liable for any civil penalties assessed by the director under this section and any claim costs incurred under ORS 656.054. As used in this paragraph, "limited liability company," "manager" and "member" have the meanings for those terms provided in ORS 63.001.

(c) When a noncomplying employer is a limited liability partnership or foreign limited liability partnership, the partnership and its limited liability partners shall be jointly and severally liable for any civil penalties assessed by the director under this section and any claim costs incurred under ORS 656.054. As used in this paragraph, "limited liability partnership" and "foreign limited liability partnership" have the meanings for those terms provided in ORS 67.005.

(d) When a noncomplying employer is a partnership, the partnership and its partners shall be jointly and severally liable for any civil penalties assessed by the director under this section and any claim costs incurred under ORS 656.054. As used in this paragraph, "partnership" has the meaning for that term provided in ORS 67.005.

(4) When an order assessing a civil penalty becomes final by operation of law or on appeal, unless the amount of penalty is paid within 10 days after the order becomes final, it constitutes a judgment and may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record. The penalty provided in the order so recorded shall become a lien upon the title to any interest in property owned by the person against whom the order is entered, and execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(5) Civil penalties, and judgments entered thereon, due to the director under this section from any person shall be deemed preferred to all general claims in all bankruptcy

proceedings, trustee proceedings, and proceedings for the administration of estates and receiverships involving the person liable therefor or the property of such person.

(6) All moneys collected under this section shall be paid into the Workers' Benefit Fund. [1973 c.447 §4; 1977 c.73 §1; 1983 c.696 §23; 1995 c.332 §65; 1995 c.641 §12; 1995 c.689 §37; 1997 c.775 §91; 2003 c.170 §8]

656.740 Review of proposed order declaring noncomplying employer or nonsubjectivity determination; review of proposed assessment or civil penalty; insurer as party; hearing. (1) A person may contest a proposed order of the Director of the Department of Consumer and Business Services declaring that person to be a noncomplying employer, or a proposed assessment of civil penalty, by filing with the Department of Consumer and Business Services, within 60 days after the mailing of the order, a written request for a hearing. Such a request need not be in any particular form, but shall specify the grounds upon which the person contests the proposed order or assessment. An order by the director under this subsection is prima facie correct and the burden is upon the employer to prove that the order is incorrect.

(2) A person may contest a nonsubjectivity determination of the director by filing a written request for hearing with the department within 60 days after the mailing of the determination.

(3) When any insurance carrier, including the State Accident Insurance Fund Corporation, is alleged by an employer to have contracted to provide the employer with workers' compensation coverage for the period in question, the Workers' Compensation Board shall join such insurance carrier as a necessary party to any hearing relating to such employer's alleged noncompliance or to any hearing relating to a nonsubjectivity determination and shall serve the carrier, at least 30 days prior to such hearing, with notice thereof.

(4) A hearing relating to a nonsubjectivity determination, to a proposed order declaring a person to be a noncomplying employer, or to a proposed assessment of civil penalty under ORS 656.735, shall be held by an Administrative Law Judge of the board's Hearings Division. However, a hearing shall not be granted unless a request for hearing is filed within the period specified in subsection (1) or (2) of this section, and if a request for hearing is not so filed, the nonsubjectivity determination, order or penalty, as proposed, shall be a final order of the department and shall not be subject to review by any agency or court.

(5) Notwithstanding ORS 183.315 (1), the issuance of nonsubjectivity determinations, orders declaring a person to be a noncomplying employer or the assessment of civil penalties pursuant to this chapter, the conduct of hearings and the judicial review thereof shall be as provided in ORS chapter 183, except that:

(a) The order of an Administrative Law Judge in a contested case shall be deemed to be a final order of the director.

(b) The director shall have the same right to judicial review of the order of an Administrative Law Judge as any person who is adversely affected or aggrieved by such final order.

(c) When a nonsubjectivity determination or an order declaring a person to be a noncomplying employer is contested at the same hearing as a matter concerning a claim pursuant to ORS 656.283 and 656.704, the review thereof shall be as provided for a matter concerning a claim.

(6)(a) If a person against whom an order is issued pursuant to this section prevails at hearing or on appeal, the person is entitled to reasonable attorney fees to be paid by the director from the Workers' Benefit Fund.

(b) If a person against whom an order is issued is found to be a noncomplying employer by the director, but the person proves coverage pursuant to subsection (3) of this section and the insurer failed to file timely proof of coverage as required by ORS 656.419 or improperly canceled the person's coverage, the employer is entitled to reasonable attorney fees paid by the insurer.

(c) If a worker prevails at hearing or on appeal from a nonsubjectivity determination, the worker is entitled to reasonable attorney fees to be paid by the director from the Workers' Benefit Fund and reimbursed by the employer. [1973 c.447 §5; 1975 c.341 §1; 1975 c.759 §19; 1977 c.804 §31; 1979 c.839 §22; 1983 c.816 §14; 1987 c.234 §3; 1995 c.332 §65a; 1995 c.641 §13; 1999 c.246 §1; 1999 c.1020 §2; 2003 c.170 §9; 2007 c.241 §19]

656.745 Civil penalty for inducing failure to report claims; limits on penalty amounts; failure to pay assessments; failure to comply with statutes, rules or orders; amount; procedure. (1)(a) The Director of the Department of Consumer and Business Services shall assess a civil penalty against an employer or insurer that intentionally or repeatedly induces claimants for compensation to fail to report accidental injuries, causes employees to collect accidental injury claims as off-the-job injury claims, persuades claimants to accept less than the compensation due or makes it necessary for claimants to resort to proceedings against the employer to secure compensation due.

(b) The director may not assess under this subsection more than $2,000 for each violation or more than $40,000 in the aggregate for violations during a calendar year. Each violation, or each day during which a violation continues, constitutes a separate violation.

(2)(a) The director may assess a civil penalty against an employer, self-insured employer, insurer, managed care organization or service company that:

(A) Fails to pay assessments or other payments due to the director under this chapter and is in default; or

(B) Fails to comply with statutes, rules or orders of the director regarding reports or other requirements necessary to carry out the purposes of this chapter.

(b) The director may not assess under this subsection a civil penalty against a self-insured employer, insurer or service company that exceeds $4,000 for each violation or $180,000 in the aggregate for violations during a calendar year. Each violation, or each day during which a violation continues, constitutes a separate violation.

(c) The director may not assess under this subsection a civil penalty against an employer, except a self-insured employer, or managed care organization that exceeds $2,000 for each violation or $40,000 in the aggregate for violations during a calendar year. Each violation, or each day during which a violation continues, constitutes a separate violation.

(3) Except as specified in ORS 656.780, the director may assess a penalty under subsection (2) of this section against a service company only for claims processing performance deficiencies revealed in annual audits associated with claims processing performance. The director may assess only one penalty for each separate violation by an employer, insurer or service company for deficiencies revealed in annual audits associated with claims processing performance.

(4) ORS 656.735 (4) to (6) and 656.740 also apply to orders and penalties assessed under this section. [1975 c.556 §38; 1979 c.839 §31; 1987 c.233 §2; 1987 c.884 §46; 2003 c.170 §13; 2005 c.221 §3; 2007 c.270 §9; 2015 c.194 §1; 2019 c.7 §1]

656.750 [1975 c.585 §9; 1983 c.696 §24; 1987 c.233 §3; 1987 c.884 §60; 1991 c.640 §3; 2003 c.170 §14; repealed by 2021 c.21 §4]

(State Accident Insurance Fund Corporation)

656.751 State Accident Insurance Fund Corporation created; board; members' qualifications; terms; compensation; expenses; function; report. (1) The State Accident Insurance Fund Corporation is created as an independent public corporation. The corporation shall be governed by a board of five directors appointed by the Governor. Two members shall be chosen to represent the public. Of the remaining three members, a board member must be insured by the State Accident Insurance Fund Corporation at the time of appointment and for one year prior to appointment, or an employee of such an employer. Members of the board are subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution.

(2) No member of the board of directors shall have any pecuniary interest, other than an incidental interest which is disclosed and made a matter of public record at the time of appointment to the board, in any corporation or other business entity doing business in the workers' compensation insurance industry.

(3) The term of office of a member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the board of directors is entitled to compensation and expenses as provided in ORS 292.495.

(5) The board of directors shall select one of its members as chairperson and another as vice chairperson, for such terms and with such duties and powers as the board of directors considers necessary for performance of the functions of those offices. A majority of the members of the board of directors constitutes a quorum for the transaction of business.

(6) The board of directors shall meet at least once every three months at a time and place determined by the board of directors. The board of directors shall meet at such other times and places specified by the call of the chairperson or of a majority of the members of the board of directors.

(7) It is the function of the board of directors to establish the policies for the operation of the State Accident Insurance Fund Corporation, consistent with all applicable provisions of law.

(8) The board shall file with the Legislative Assembly and the Governor, not later than April 15 of each year, a report covering the activities and operations of the State Accident Insurance Fund Corporation for the preceding year. [1979 c.829 §2; 1981 c.854 §51]

656.752 State Accident Insurance Fund Corporation; purpose and functions. (1) The State Accident Insurance Fund Corporation is created for the purpose of transacting workers' compensation insurance and reinsurance business. The State Accident Insurance Fund Corporation also may insure an Oregon employer against any liability such employer may have on account of bodily injury to a worker of the employer arising out of and in the course of employment as fully as any private insurance carrier.

(2) The functions of the State Accident Insurance Fund Corporation shall be:

(a) To confer with and solicit employers and to determine, handle, audit and enforce collection of premiums, assessments and fees of insured employers insured with the State Accident Insurance Fund Corporation;

(b) To make insurance available to as many Oregon employers as inexpensively as may be consistent with the overall integrity of the Industrial Accident Fund, in accordance with ORS 656.634 and sound principles of insurance;

(c) To receive and handle and process the claims of workers and beneficiaries of workers injured in the employ of insured employers insured with the State Accident Insurance Fund Corporation; and

(d) To perform all other functions which the laws of this state specifically authorize or which are necessary or appropriate to carry out the functions expressly authorized.

(3) The State Accident Insurance Fund Corporation in its name may sue and be sued.

(4) The State Accident Insurance Fund Corporation may authorize self-insured employers or other insurers to use any physical rehabilitation center operated by the State Accident Insurance Fund Corporation on such terms as the State Accident Insurance Fund Corporation deems reasonable.

(5) The State Accident Insurance Fund Corporation in its own name, may acquire, lease, rent, own and manage real property. It may construct, equip and furnish buildings or other structures as are necessary to accommodate its needs. It may purchase, rent, lease or otherwise acquire for its use all supplies, materials, equipment and services necessary to carry out its functions. It may sell or otherwise dispose of any property acquired under this subsection.

(6) Any real property acquired and owned by the State Accident Insurance Fund Corporation under this section shall be subject to ad valorem taxation.

(7) The State Accident Insurance Fund Corporation may furnish advice, services and excess workers' compensation and employer liability insurance to any employer qualified as a self-insured employer under the provisions of ORS 656.407, on such terms and conditions as the State Accident Insurance Fund Corporation deems reasonable.

(8) With the approval of the Director of the Department of Consumer and Business Services, the State Accident Insurance Fund Corporation may provide reinsurance coverage to Oregon employers on such terms and conditions as the State Accident Insurance Fund Corporation deems reasonable.

(9) The State Accident Insurance Fund Corporation may contract with the Oregon Department of Administrative Services to provide claim management services for claims filed under ORS 655.505 to 655.555 by adults in custody of institutions of the Department of Corrections. [1965 c.285 §55; 1965 c.564 §7; 1967 c.253 §1; 1969 c.247 §2; 1971 c.262 §1; 1977 c.659 §3; 1979 c.815 §10; 1979 c.829 §5a; 1981 c.854 §52; 1981 c.876 §7; 1990 c.1 §3; 2007 c.326 §1; 2019 c.213 §150]

656.753 State Accident Insurance Fund Corporation exempt from certain financial administration laws; contracts with state agencies for services. (1) Except as otherwise provided by law, the provisions of ORS 279.835 to 279.855 and 283.085 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the State Accident Insurance Fund Corporation.

(2) In carrying out the duties, functions and powers imposed by law upon the State Accident Insurance Fund Corporation, the board of directors or the manager of the State Accident Insurance Fund Corporation may contract with any state agency for the performance of such duties, functions and powers as the corporation considers appropriate.

(3) Notwithstanding subsection (1) or (2) of this section, ORS 293.240 except for appeals pursuant to ORS 737.318, ORS 293.260, 293.262 and 293.505 (2) shall apply to the directors, manager, assistants and accounts of the State Accident Insurance Fund Corporation and any subsidiary corporation formed or acquired by the State Accident Insurance Fund Corporation.

(4) Notwithstanding subsection (1) or (2) of this section, ORS 243.305, 279A.100 and 659A.012 apply to the directors, manager and employees of the State Accident Insurance Fund Corporation. [1979 c.829 §4; 1981 c.876 §8; subsection (3) enacted as 1983 c.412 §2; subsection (4) enacted as 1983 c.808 §4; 1987 c.884 §5; 2003 c.794 §310; 2012 c.107 §67]

656.754 Manager; appointment; functions. (1) The State Accident Insurance Fund Corporation is under the direct supervision of a manager appointed by the board of directors of the State Accident Insurance

Fund Corporation. The manager serves at the pleasure of the board of directors. The manager shall qualify in the manner provided for board members in ORS 656.716 except that no bond shall be required.

(2) The manager has such powers as are necessary to carry out the functions of the State Accident Insurance Fund Corporation, subject to policy direction by the board of directors.

(3) The manager may employ, terminate and supervise the employment of such assistants, experts, field personnel and clerks as may be required in the administration of the State Accident Insurance Fund Corporation. [1965 c.285 §56; 1973 c.792 §29; 1979 c.829 §6]

656.756 [1965 c.285 §56a; repealed by 1967 c.7 §40]

656.758 Inspection of books, records and payrolls; statement of employment data; civil penalty for misrepresentation; failure to submit books for inspection and refusal to keep correct payroll. (1) The books, records and payrolls of any employer pertinent to the administration of this chapter shall always be open to inspection by the State Accident Insurance Fund Corporation or its agent for the purpose of ascertaining the correctness of the payroll, the persons employed, and such other information as may be necessary in the administration of said statutes.

(2) Every employer subject to this chapter shall keep a true and accurate record of the number of workers and the wages paid by the employer, the occupations at which and the number of days or parts of days any of the workers are employed, and shall furnish to the State Accident Insurance Fund Corporation, upon request, a sworn statement of the same.

(3) Any employer who willfully misrepresents to the State Accident Insurance Fund Corporation the amount of the payroll upon which the amount of premium is based shall be liable to the State Accident Insurance Fund Corporation in a sum equal to 10 times the amount of the difference between the amount of such premium computed according to the representation thereof by such employer and the amount for which the employer is liable under this chapter according to a correct computation of the payroll. Such liability shall be enforced in a civil action in the name of the State Accident Insurance Fund Corporation and any amount so collected shall become a part of the Industrial Accident Fund.

(4) Failure on the part of the employer to submit such books, records and payrolls for inspection to any member of the State Accident Insurance Fund Corporation or any of its representatives presenting written authority from the State Accident Insurance Fund Corporation, or a refusal on the part of an employer to keep a payroll in accordance with this section, when demanded by the State Accident Insurance Fund Corporation, subjects the offending employer to a penalty of $100 for each offense, to be collected by a civil action in the name of the State Accident Insurance Fund Corporation and paid into the Industrial Accident Fund. [Amended by 1981 c.854 §53]

656.760 [1983 c.412 §3; renumbered 656.776 in 2001]

656.772 Annual audit of State Accident Insurance Fund Corporation by Secretary of State; scope of review; report of audit. (1)(a) The Secretary of State shall conduct an annual audit of the State Accident Insurance Fund Corporation and the Industrial Accident Fund pursuant to ORS 297.210. As part of this audit, the Secretary of State shall contract with a firm qualified to perform an independent actuarial review.

(b) The firm conducting the review required by paragraph (a) of this subsection shall be familiar with the accounting standards applicable to the reserves under review, shall meet all appropriate standards of practice established by the Casualty Actuarial Society, shall employ a staff that includes no fewer than three people who have attained fellowship in the Casualty Actuarial Society and shall maintain limits of errors and omission insurance as prescribed by the Secretary of State.

(c) The Secretary of State shall determine the scope of the review required by paragraph (a) of this subsection, which shall include, but is not limited to:

(A) A review of the sources and uses of the moneys in the Industrial Accident Fund;

(B) A reconciliation of changes in actuarial assumptions and reserve values from the prior year;

(C) An examination of the development of claim reserve inadequacies or redundancies over time;

(D) An assessment of the future financial viability of the Industrial Accident Fund; and

(E) An evaluation of losses and loss adjustment expense reserves discounted by a rate determined by the Director of the Department of Consumer and Business Services that is consistent with discount rates generally applied by insurers authorized to underwrite workers' compensation insurance in Oregon.

(d) The State Accident Insurance Fund Corporation shall cooperate with the actuarial firm in all respects and shall permit the firm full access to all information the firm deems necessary for a true and complete review. Information provided to the actuarial

firm conducting the annual review is subject to the same limitations on public inspections as required for the records of the State Accident Insurance Fund Corporation.

(e) The audit required by paragraph (a) of this subsection shall be conducted using both generally accepted accounting principles and the statutory accounting principles published by the National Association of Insurance Commissioners.

(f) The cost of the audit required by paragraph (a) of this subsection shall be paid by the State Accident Insurance Fund Corporation.

(2) The Secretary of State shall issue an annual report to the Governor, the President of the Senate and the Speaker of the House of Representatives on the results of the audit and review. The audit and the report of the review performed by the independent actuarial firm shall be available for public inspection, in accordance with the Secretary of State's established rules and procedures governing public disclosure of audit documents. [2001 c.724 §1]

Note: 656.772 and 656.774 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 656 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

656.774 Annual report by State Accident Insurance Fund Corporation to Secretary of State; contents. The board of directors of the State Accident Insurance Fund Corporation shall report to the Secretary of State by March 15 of each year:

(1) The total amount of assets in the Industrial Accident Fund as of December 31 of the prior year;

(2) The reserves and surplus that are actuarially necessary according to recognized insurance principles as described in ORS 656.634 (2) and statutory accounting principles published by the National Association of Insurance Commissioners, excluding any allowance for undeclared dividends;

(3) Any funds in addition to those described in subsection (2) of this section; and

(4) The total amount of investment gain generated by the Industrial Accident Fund during the prior year ending on December 31. [2001 c.724 §2]

Note: See note under 656.772.

656.776 Notice to Secretary of State regarding action on audit report. Not later than the 90th day after the Secretary of State completes and delivers to the appropriate authority an audit under ORS 297.210, the State Accident Insurance Fund Corporation or any subsidiary corporation formed or acquired by the State Accident Insurance Fund Corporation shall notify the Secretary of State in writing of the measures taken and proposed to be taken, if any, to respond to the recommendations of the audit report. The Secretary of State may extend the 90-day period for good cause. [Formerly 656.760]

(Claims Examiner Certification)

656.780 Certification and training of claims examiners; records of certification and training of examiners; department inspection of records; penalties; rules. (1) The Director of the Department of Consumer and Business Services shall:

(a) Adopt by rule standards for certification of workers' compensation claims examiners that shall be administered by workers' compensation insurers, self-insured employers and service companies; and

(b) Develop or approve any training curriculum used by insurers, self-insured employers and service companies that is related to interactions with independent medical examination providers required under ORS 656.325.

(2)(a) Each insurer, self-insured employer and service company shall maintain records of the certification and training of their workers' compensation claims examiners. These records are subject to inspection and review by the director.

(b) The director may impose a civil penalty against any insurer, self-insured employer or service company that fails to:

(A) Maintain or produce certification and training records as required by the rules of the director; or

(B) Provide training based on a curriculum approved by the director related to interactions with independent medical examination providers required under ORS 656.325.

(3) Insurers, self-insured employers and service companies may employ only certified workers' compensation claims examiners to process workers' compensation claims. The director may impose a civil penalty against any insurer, self-insured employer or service company that violates this subsection. [1990 c.2 §52; 1999 c.418 §1; 2005 c.675 §3; 2015 c.194 §2]

(Advisory Committees)

656.790 Workers' Compensation Management-Labor Advisory Committee; membership; duties; expenses. (1)(a) The Governor shall appoint a Workers' Compensation Management-Labor Advisory Committee composed of 10 appointed members.

(b) Five members from organized labor shall represent subject workers and five members shall represent subject employers.

(c) In addition to the appointed members, the Director of the Department of Consumer and Business Services shall serve ex officio as a member of the committee.

(d) The appointment of members of the committee is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(2)(a) The director may recommend areas of the law that the director desires to have studied or the committee may study such aspects of the law as the committee shall determine require their consideration.

(b) The committee shall biennially review the standards for evaluation of permanent disability adopted under ORS 656.726 and shall recommend to the director factors to be included or such other modification of application of the standards as the committee considers appropriate.

(c) The committee shall biennially review and make recommendations about permanent partial disability benefits.

(d) The committee shall review and consider reports, findings and analysis made public by the National Institute for Occupational Safety and Health that are related to cancers associated with nonvolunteer firefighters as set forth in ORS 656.802 (5).

(e) The committee shall advise the director regarding any proposed changes in the operation of programs funded by the Workers' Benefit Fund and shall review any plan the Department of Consumer and Business Services devises to increase the balance of the fund to meet the requirement set forth in ORS 656.506 (5).

(f) The committee shall report the committee's findings to the director for such action as the director deems appropriate.

(3) The committee shall report to the Legislative Assembly such findings and recommendations as the committee considers appropriate, including a report on the following matters:

(a) Decisions of the Supreme Court and Court of Appeals that have significant impact on the workers' compensation system.

(b) Adequacy of workers' compensation benefits.

(c) Medical and legal system costs.

(d) Adequacy of assessments for reserve programs and administrative costs.

(e) The operation of programs funded by the Workers' Benefit Fund.

(4)(a) The members of the committee are appointed for a term of three years and shall serve without compensation, but are entitled to travel expenses.

(b) The committee may hire, subject to approval of the director, such experts as the committee may require to discharge the committee's duties.

(c) All expenses of the committee must be paid out of the Consumer and Business Services Fund. [1969 c.448 §2; 1975 c.556 §49; 1977 c.804 §32; 1990 c.2 §41; 1995 c.332 §55b; 1995 c.641 §25; 2007 c.274 §7; 2017 c.63 §1; 2019 c.494 §2; 2022 c.8 §2]

656.792 [1965 c.285 §29; 1969 c.314 §69; repealed by 1969 c.448 §3]

656.794 Advisory committee on medical care; rules. There shall be created an advisory committee on medical care. This committee shall consist of members appointed by and serving at the pleasure of the Director of the Department of Consumer and Business Services to advise the director on matters relating to the provision of medical care to workers. The director by rule shall determine the composition of the committee. Membership of the committee shall include representatives of the types of health care providers that are most representative of health care providers providing medical care services to injured workers. The committee shall also include one representative of insurers, one representative of employers, one representative of workers, one representative of managed care organizations and other persons as the director may determine are necessary to carry out the purpose of the committee. Members of the committee shall be paid travel and other necessary expenses for service as a member. Such payments shall be made from the Consumer and Business Services Fund. [1965 c.285 §27; 1981 c.535 §46; 1981 c.854 §54; 1987 c.884 §26; 1999 c.879 §1]

INFORMATIONAL MATERIALS ABOUT WORKERS' COMPENSATION SYSTEM

656.795 Informational materials for nurse practitioners. The Director of the Department of Consumer and Business Services shall develop and make available to nurse practitioners informational materials about the workers' compensation system, including, but not limited to, the management of indemnity claims, standards for authorization of temporary disability benefits, return to work responsibilities and programs, and general workers' compensation rules and procedures for medical service providers. [2003 c.811 §29]

Note: 656.795 to 656.798 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 656 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

656.796 [1981 c.535 §50; repealed by 1997 c.82 §11]

656.797 Certification by nurse practitioner of review of required materials. On or after October 1, 2004, a nurse practitioner licensed under ORS 678.375 to 678.390, prior

to providing compensable medical services or authorizing temporary disability benefits under ORS 656.245, must certify in a form acceptable to the Director of the Department of Consumer and Business Services that the nurse practitioner has reviewed the materials developed under ORS 656.795. [2003 c.811 §30]

Note: See note under 656.795.

656.798 Duty of insurer, self-insured employer and self-insured employer group to provide information to director. Every workers' compensation insurer, self-insured employer and self-insured employer group shall provide to the Director of the Department of Consumer and Business Services all information requested by the director for the purpose of assessing the impact of ORS 656.795 and 656.797 and the amendments to ORS 656.005, 656.245, 656.250, 656.252, 656.262, 656.268, 656.325, 656.340, 656.726, 657.170, 659A.043, 659A.046, 659A.049 and 659A.063 by sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25 and 27, chapter 811, Oregon Laws 2003. [2003 c.811 §31]

Note: See note under 656.795.

656.799 Informational materials for other health care professionals; certification of review of materials. (1) The Director of the Department of Consumer and Business Services shall develop and make available to medical service providers informational materials about the workers' compensation system including, but not limited to, the management of indemnity claims, standards for the authorization of temporary disability benefits, return to work responsibilities and programs, and workers' compensation rules and procedures for medical service providers.

(2) Prior to providing compensable medical services or authorizing temporary disability benefits under ORS 656.245, a medical service provider must certify, in a form acceptable to the director, that the medical service provider has reviewed the materials developed under this section.

(3) As used in this section, "medical service provider" means a:

(a) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States;

(b) Physician associate licensed by the Oregon Medical Board in accordance with ORS 677.505 to 677.525 or a similarly licensed physician associate in any country or in any state, territory or possession of the United States; or

(c) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any country or in any state, territory or possession of the United States. [2007 c.252 §7; 2009 c.43 §8; 2011 c.117 §2; 2024 c.73 §113]

OCCUPATIONAL DISEASE LAW

656.802 Occupational disease; mental disorder; presumptions as to stress disorders; proof. (1)(a) As used in this chapter, "occupational disease" means any disease or infection arising out of and in the course of employment caused by substances or activities to which an employee is not ordinarily subjected or exposed other than during a period of regular actual employment therein, and which requires medical services or results in disability or death, including:

(A) Any disease or infection caused by ingestion of, absorption of, inhalation of or contact with dust, fumes, vapors, gases, radiation or other substances.

(B) Any mental disorder, whether sudden or gradual in onset, which requires medical services or results in physical or mental disability or death.

(C) Any series of traumatic events or occurrences which requires medical services or results in physical disability or death.

(b) As used in this chapter, "mental disorder" includes any physical disorder caused or worsened by mental stress.

(2)(a) The worker must prove that employment conditions were the major contributing cause of the disease.

(b) If the occupational disease claim is based on the worsening of a preexisting disease or condition pursuant to ORS 656.005 (7), the worker must prove that employment conditions were the major contributing cause of the combined condition and pathological worsening of the disease.

(c) Occupational diseases shall be subject to all of the same limitations and exclusions as accidental injuries under ORS 656.005 (7).

(d) Existence of an occupational disease or worsening of a preexisting disease must be established by medical evidence supported by objective findings.

(e) Preexisting conditions shall be deemed causes in determining major contributing cause under this section.

(3) Notwithstanding any other provision of this chapter, a mental disorder is not compensable under this chapter unless the worker establishes all of the following:

(a) The employment conditions producing the mental disorder exist in a real and objective sense.

(b) The employment conditions producing the mental disorder are conditions other than conditions generally inherent in every working situation or reasonable disciplinary, corrective or job performance evaluation actions by the employer, or cessation of employment or employment decisions attendant upon ordinary business or financial cycles.

(c) There is a diagnosis of a mental or emotional disorder which is generally recognized in the medical or psychological community.

(d) There is clear and convincing evidence that the mental disorder arose out of and in the course of employment.

(4)(a) Death, disability or impairment of health of firefighters of any political division who have completed five or more years of employment as firefighters, caused by any disease of the lungs or respiratory tract, hypertension or cardiovascular-renal disease, and resulting from their employment as firefighters is an "occupational disease." Any condition or impairment of health arising under this subsection shall be presumed to result from a firefighter's employment. However, any such firefighter must have taken a physical examination upon becoming a firefighter, or subsequently thereto, which failed to reveal any evidence of such condition or impairment of health which preexisted employment. Denial of a claim for any condition or impairment of health arising under this subsection must be on the basis of clear and convincing medical evidence that the cause of the condition or impairment is unrelated to the firefighter's employment.

(b) Notwithstanding ORS 656.027 (6), a city that provides a disability or retirement system for firefighters by ordinance or charter that is not subject to this chapter, when accepting and processing claims for death, disability or impairment of health from firefighters covered by the disability or retirement system, shall apply:

(A) The provisions of this subsection; and

(B) For claims filed under this subsection, the time limitations for filing claims that are set forth in ORS 656.807 (1) and (2).

(5)(a) Death, disability or impairment of health of a nonvolunteer firefighter employed by a political division or subdivision who has completed five or more years of employment as a nonvolunteer firefighter is an occupational disease if the death, disability or impairment of health:

(A) Is caused by brain cancer, colon cancer, stomach cancer, testicular cancer, prostate cancer, multiple myeloma, non-Hodgkin's lymphoma, cancer of the throat or mouth, rectal cancer, breast cancer, leukemia, bladder cancer or gynecologic cancer of the uterus, fallopian tubes, ovaries, cervix, vagina or vulva;

(B) Results from the firefighter's employment as a nonvolunteer firefighter; and

(C) Is first diagnosed by a physician after July 1, 2009.

(b) Any condition or impairment of health arising under this subsection is presumed to result from the firefighter's employment. Denial of a claim for any condition or impairment of health arising under this subsection must be on the basis of clear and convincing medical evidence that the condition or impairment was not caused or contributed to in material part by the firefighter's employment.

(c) Notwithstanding paragraph (b) of this subsection, the presumption established under paragraph (b) of this subsection may be rebutted by clear and convincing evidence that the use of tobacco by the nonvolunteer firefighter is the major contributing cause of the cancer.

(d) The presumption established under paragraph (b) of this subsection does not apply to prostate cancer if the cancer is first diagnosed by a physician after the firefighter has reached the age of 55. However, nothing in this paragraph affects the right of a firefighter to establish the compensability of prostate cancer without benefit of the presumption.

(e) The presumption established under paragraph (b) of this subsection does not apply to claims filed more than 84 months following the termination of the nonvolunteer firefighter's employment as a nonvolunteer firefighter. However, nothing in this paragraph affects the right of a firefighter to establish the compensability of the cancer without benefit of the presumption.

(f) The presumption established under paragraph (b) of this subsection does not apply to volunteer firefighters.

(g) Nothing in this subsection affects the provisions of subsection (4) of this section.

(h) For purposes of this subsection, "nonvolunteer firefighter" means a firefighter who performs firefighting services and receives salary, hourly wages equal to or greater than the state minimum wage, or other compensation except for room, board, lodging, housing, meals, stipends, reimbursement for expenses or nominal payments for time and travel, regardless of whether any such compensation is subject to federal, state or local taxation. "Nominal payments for time and travel" includes, but is not limited to, payments for on-call time or time spent responding to a call or similar noncash benefits.

(6) Notwithstanding ORS 656.027 (6), any city providing a disability and retirement system by ordinance or charter for firefighters and police officers not subject to this chapter shall apply the presumptions established under subsection (5) of this section when processing claims for firefighters covered by the system.

(7)(a) As used in this subsection:

(A) "Acute stress disorder" has the meaning given that term in the DSM-5.

(B) "Covered employee" means an individual who, on the date a claim is filed under this chapter:

(i) Was employed for at least five years by, or experienced a single traumatic event that satisfies the criteria set forth in the DSM-5 as Criterion A for diagnosing post-traumatic stress disorder while employed by, the state, a political subdivision of the state, a special government body, as defined in ORS 174.117, or a public agency in any of these occupations:

(I) A full-time paid firefighter;

(II) A full-time paid emergency medical services provider;

(III) A full-time paid police officer;

(IV) A full-time paid corrections officer or youth correction officer;

(V) A full-time paid parole and probation officer; or

(VI) A full-time paid emergency dispatcher or 9-1-1 emergency operator; and

(ii) Remains employed in an occupation listed in sub-subparagraph (i) of this subparagraph or separated from employment in the occupation not more than seven years previously.

(C) "DSM-5" means the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(D) "Post-traumatic stress disorder" has the meaning given that term in the DSM-5.

(E) "Psychiatrist" means a psychiatrist whom the Oregon Medical Board has licensed and certified as eligible to diagnose the conditions described in this subsection.

(F) "Psychologist" means a licensed psychologist, as defined in ORS 675.010, whom the Oregon Board of Psychology has certified as eligible to diagnose the conditions described in this subsection.

(b) Notwithstanding subsections (2) and (3) of this section, if a covered employee establishes through a preponderance of persuasive medical evidence from a psychiatrist or psychologist that the covered employee has more likely than not satisfied the diagnostic criteria in the DSM-5 for post-traumatic stress disorder or acute stress disorder, any resulting death, disability or impairment of health of the covered employee shall be presumed to be compensable as an occupational disease. An insurer or self-insured employer may rebut the presumption only by establishing through clear and convincing medical evidence that duties as a covered employee were not of real importance or great consequence in causing the diagnosed condition.

(c) An insurer's or self-insured employer's acceptance of a claim of post-traumatic stress disorder or acute stress disorder under this subsection, whether the acceptance was voluntary or was a result of a judgment or order, does not preclude the insurer or the self-insured employer from later denying the current compensability of the claim if exposure as a covered employee to trauma that meets the diagnostic criteria set forth as Criterion A in the DSM-5 for post-traumatic stress disorder or acute stress disorder ceases being of real importance or great consequence in causing the disability, impairment of health or a need for treatment.

(d) An insurer or self-insured employer may deny a claim under paragraph (c) of this subsection only on the basis of clear and convincing medical evidence.

(e) Notwithstanding ORS 656.027 (6), a city that provides a disability or retirement system for firefighters and police officers by ordinance or charter that is not subject to this chapter, when accepting and processing claims for death, disability or impairment of health from firefighters and police officers covered by the disability or retirement system, shall apply:

(A) The provisions of this subsection; and

(B) For claims filed under this subsection, the time limitations for filing claims that are set forth in ORS 656.807 (1) and (2). [Amended by 1959 c.351 §1; 1961 c.583 §1; 1973 c.543 §1; 1977 c.734 §1; 1983 c.236 §1; 1987 c.713 §4; 1990 c.2 §43; 1995 c.332 §56; 2009 c.24 §1; 2019 c.372 §1; 2021 c.124 §1; 2022 c.8 §1]

656.804 Occupational disease as an injury under Workers' Compensation Law. Subject to ORS 656.005 (24) and 656.266 (2), an occupational disease, as defined in ORS 656.802, is considered an injury for employees of employers who have come under this chapter, except as otherwise provided in ORS 656.802 to 656.807. [Amended by 1965 c.285 §87; 1973 c.543 §2; 2001 c.865 §4]

656.806 [Repealed by 2005 c.221 §4]

656.807 Time for filing of claims for occupational disease; procedure. (1) All occupational disease claims shall be void unless a claim is filed with the insurer or self-insured employer by whichever is the later of the following dates:

(a) One year from the date the worker first discovered, or in the exercise of reasonable care should have discovered, the occupational disease; or

(b) One year from the date the claimant becomes disabled or is informed by a physician that the claimant is suffering from an occupational disease.

(2) If the occupational disease results in death, a claim may be filed within one year from the date that the worker's beneficiary first discovered, or in the exercise of reasonable care should have discovered, that the cause of the worker's death was due to an occupational disease.

(3) The procedure for processing occupational disease claims shall be the same as provided for accidental injuries under this chapter. [Amended by 1953 c.440 §2; 1959 c.351 §2; 1965 c.285 §87a; 1973 c.543 §3; 1981 c.535 §47; 1981 c.854 §55; 1985 c.212 §10; 1987 c.713 §6]

656.808 [Amended by 1957 c.559 §2; 1965 c.285 §88; repealed by 1973 c.543 §4]

656.810 [Amended by 1959 c.351 §3; 1965 c.285 §89; repealed by 1973 c.543 §4]

656.812 [Amended by 1959 c.351 §4; repealed by 1973 c.543 §4]

656.814 [Amended by 1965 c.285 §90; repealed by 1973 c.543 §4]

656.816 [Amended by 1959 c.351 §5; 1965 c.285 §91; repealed by 1973 c.543 §4]

656.818 [Amended by 1959 c.351 §6; 1965 c.285 §92; repealed by 1973 c.543 §4]

656.820 [Repealed by 1973 c.543 §4]

656.822 [Amended by 1965 c.285 §92a; repealed by 1973 c.543 §4]

656.824 [Repealed by 1981 c.854 §1]

PROFESSIONAL EMPLOYER ORGANIZATIONS AND WORKER LEASING COMPANIES

656.849 Definitions for PEOs. As used in ORS 656.018, 656.403, 656.702, 656.850, 656.855 and 737.270 and this section:

(1) "Client worker" means an individual who performs services for compensation for the client of a professional employer organization.

(2) "Covered employee" means a client worker for whom a PEO has assumed employer responsibilities under a PEO relationship.

(3) "Direct hire employee" means a client worker for whom a PEO has not assumed employer responsibilities under a PEO relationship.

(4) "Multiple coordinated policy basis" means an arrangement under which a separate policy for workers' compensation coverage is issued to or on behalf of each client or group of affiliated clients of a PEO, which coordinates the premium obligations and stated policy communications with respect to the policy.

(5) "PEO relationship" means an agreement between a PEO and a client employer under which certain employer responsibilities for some or all of the client employer's workers are allocated.

(6)(a) "Professional employer organization" or "PEO" means a person that enters into a PEO relationship with a client employer.

(b) "Professional employer organization" or "PEO" does not mean a person that solely provides workers to a client on a temporary basis or a person that provides payroll processing or similar administrative services without assuming employer responsibilities for client workers.

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

(a) For special situations, including but not limited to employee absences, employee leaves, professional skill shortages, seasonal workloads and special assignments and projects with the expectation that the position will be terminated when the special situation ends.

(b) As probationary new hires with a reasonable expectation of transitioning to permanent employment with the client, if the client uses a preestablished probationary period in its overall employment selection program.

(8) "Temporary service provider" means a person that:

(a) Regardless of the terminology the parties use to describe the relationship, enters into contracts with clients under which:

(A) The person provides workers to the client on a temporary basis;

(B) The worker's contract of employment is with the person rather than the person's client; and

(C) The person retains all employer responsibilities for the worker, except to the extent necessary to allow the person's client to direct and control the services provided by the worker for the client; and

(b) Customarily attempts to reassign the person's workers to other clients when the workers finish each assignment, except for workers provided as described in subsection (7)(b) of this section. [2025 c.78 §2]

Note: 656.849 becomes operative July 1, 2027. See section 23, chapter 78, Oregon Laws 2025.

656.850 License; compliance with workers' compensation and safety laws. (1) As used in this section and ORS 656.018, 656.403, 656.855 and 737.270:

(a) "Worker leasing company" means a person who provides workers, by contract and for a fee, to work for a client but does not include a person who provides workers to a client on a temporary basis.

(b) "Temporary basis" means providing workers to a client for special situations such as to cover employee absences, employee leaves, professional skill shortages, seasonal workloads and special assignments and projects with the expectation that the position or positions will be terminated upon completion of the special situation. Workers also are provided on a temporary basis if they are provided as probationary new hires with a reasonable expectation of transitioning to permanent employment with the client and the client uses a preestablished probationary period in its overall employment selection program.

(c) "Temporary service provider" means a person who provides workers, by contract and for a fee, to a client on a temporary basis.

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

(3) When a worker leasing company provides workers to a client, the worker leasing company shall satisfy the requirements of ORS 656.017 and 656.407 and provide workers' compensation coverage for those workers and any subject workers employed by the client unless during the term of the lease arrangement the client has proof of coverage on file with the director that extends coverage to subject workers employed by the client and any workers leased by the client. If the client allows the coverage to expire and continues to employ subject workers or has leased workers, the client shall be considered a noncomplying employer unless the worker leasing company has complied with subsection (5) of this section.

(4) When a worker leasing company provides workers for a client, the worker leasing company shall assure that the client provides adequate training, supervision and instruction for those workers to meet the requirements of ORS chapter 654.

(5) When a worker leasing company provides subject workers to work for a client and also provides workers' compensation coverage for those workers, the worker leasing company shall notify the director in writing. The notification shall be given in such manner as the director may prescribe. A worker leasing company may terminate its obligation to provide workers' compensation coverage for workers provided to a client by giving to the client and the director written notice of the termination. A notice of termination shall state the effective date and hour of the termination, but the termination shall be effective not less than 30 days after the notice is received by the director. Notice to the client under this section shall be given by mail, addressed to the client at the client's last-known address. If the client is a partnership, notice may be given to any of the partners. If the client is a corporation, notice may be given to any agent or officer of the corporation upon whom legal process may be served. [1993 c.628 §2; 1997 c.491 §4; 2007 c.241 §20]

Note: The amendments to 656.850 by section 3, chapter 78, Oregon Laws 2025, become operative July 1, 2027. See section 23, chapter 78, Oregon Laws 2025. The text that is operative on and after July 1, 2027, is set forth for the user's convenience.

656.850. (1)(a) A person may not provide services as a professional employer organization (PEO) in this state without first having obtained a license from the Director of the Department of Consumer and Business Services.

(b) No person required to obtain a license under this section shall fail to comply with this section or ORS 656.855 or any rule adopted pursuant to such sections.

(2)(a) When a PEO enters into a PEO relationship, the PEO shall satisfy the requirements of ORS 656.017 and 656.407 and provide workers' compensation coverage for all of the client's covered employees and direct hire employees unless, during the term of the PEO's agreement with the client, the client has proof of coverage on file with the director.

(b) If the client has proof of coverage on file with the director, the client's coverage shall extend to all of the client's covered employees and direct hire employees.

(c) If the client allows the coverage to expire and continues to employ covered employees or direct hire employees, the client shall be considered a noncomplying employer unless the PEO has complied with subsection (4) of this section.

(3) When a PEO enters into a PEO relationship, the PEO shall ensure that the client provides adequate training, supervision and instruction for the client's covered employees to meet the requirements of ORS chapter 654.

(4) If a PEO enters into a PEO relationship and the PEO is responsible for providing workers' compensation coverage to the client under subsection (2) of this section, the PEO shall:

(a) If the PEO is a carrier-insured employer, notify the insurer in writing. The insurer shall file proof of coverage with the director within 30 days after workers' compensation coverage of the client becomes effective.

(b) If the PEO is a self-insured employer, notify the director in writing.

(5)(a) A PEO's responsibility to provide workers' compensation coverage under subsection (2) of this section shall continue until the earlier of the date on which:

(A) The client obtains alternate coverage; or

(B) The PEO terminates its responsibility to provide coverage.

(b) For purposes of paragraph (a)(A) of this subsection, if a client obtains alternate workers' compensation coverage, the PEO's responsibility to provide coverage ends on:

(A) The effective date of a policy for which an insurer makes a proof of coverage filing on behalf of the employer;

(B) The date on which another PEO becomes responsible for providing coverage to the client; or

(C) The date on which the client becomes a self-insured employer.

(c) For purposes of paragraph (a)(B) of this subsection:

(A) A PEO may terminate its responsibility to provide coverage by giving written notice of the termination to:

(i) If the PEO is a carrier-insured employer, the client, the director and the insurer. The insurer shall file notice of termination with the director within 10 calendar days after the effective date of the termination or the date on which the insurer receives notice from the PEO, whichever is later.

(ii) If the PEO is a self-insured employer, the client and the director.

(B) Unless a later date is specified, the termination shall become effective at 12 midnight on the 30th day after the date on which the notice is received by:

(i) An authorized representative of the insurer; or

(ii) If the PEO is a self-insured employer, the director.

(6) When a PEO satisfies its responsibility to provide workers' compensation coverage to a client under subsection (2) of this section by obtaining a workers' compensation insurance policy, coverage of the client under the policy shall continue until:

(a) The PEO's coverage under the policy ends under ORS 656.419 (4); or

(b) The PEO's responsibility to provide workers' compensation coverage ends under subsection (5) of this section.

(7)(a) A PEO shall submit reports to the director that list:

(A) All clients with which the PEO has entered into a PEO relationship;

(B) Each client to which the PEO provides workers' compensation coverage; and

(C) The date on which the coverage begins.

(b) The director shall prescribe the interval and form of these reports by rule.

(8) The director may adopt any rules necessary for the implementation of this section, including but not limited to:

(a) Prescribing the form and content of notices required under this section, including requiring electronic transmission and filing; and

(b) Requiring insurers that provide coverage to PEOs to do so on a multiple coordinated policy or other basis.

(9)(a) Notice to the client under this section shall be given by mail, addressed to the client at the client's last-known address.

(b) If the client is a partnership, notice may be given to any of the partners.

(c) If the client is a corporation, notice may be given to any agent or officer of the corporation upon whom legal process may be served.

(d) If the client is a limited liability company, notice may be given to any manager.

(e) If the client is a member-managed limited liability company, notice may be given to any member.

656.855 Licensing system for worker leasing companies; rules; fees; dedication of moneys received. (1) In accordance with any applicable provision of ORS chapter 183, the Director of the Department of Consumer and Business Services, by rule, shall establish a licensing system for worker leasing companies. Such system shall include, but not be limited to:

(a) Prescribing the form and content of and the times and procedures for submitting applications for license issuance or renewal.

(b) Prescribing the term of the license and the fee for original issuance and renewal of the license. The fees shall be set in an amount necessary to support the administration of this section and ORS 656.850.

(c) Prescribing those violations of this section or of ORS 656.850 for which the director may refuse to issue or renew or may suspend or revoke a license.

(d) Prescribing the form and contents of records a licensee is required to maintain and specifying the times, places and manner of audit by the director of those records.

(2) All moneys received by the director pursuant to this section shall be credited to the Consumer and Business Services Fund and are appropriated continuously to the director to carry out the provisions of this section and ORS 656.850. [1993 c.628 §3]

Note: The amendments to 656.855 by section 7, chapter 78, Oregon Laws 2025, become operative July 1, 2027. See section 23, chapter 78, Oregon Laws 2025. The text that is operative on and after July 1, 2027, is set forth for the user's convenience.

656.855. (1) In accordance with any applicable provision of ORS chapter 183, the Director of the Department of Consumer and Business Services, by rule, shall establish a licensing system for professional employer organizations.

(2) The system established by the director shall include, but not be limited to:

(a) Prescribing the form and content of and the times and procedures for submitting applications for license issuance or renewal.

(b) Prescribing the term of the license and the fee for original issuance and renewal of the license. The fees shall be set in an amount necessary to support the administration of this section and ORS 656.850.

(c) Prescribing those violations of this section or of ORS 656.850 for which the director may refuse to issue or renew or may suspend or revoke a license.

(d) Prescribing the form and contents of records a licensee is required to maintain and specifying the times, places and manner of audit by the director of those records.

(3) All moneys received by the director pursuant to this section shall be credited to the Consumer and Business Services Fund and are appropriated continuously to the director to carry out the provisions of this section and ORS 656.850.

PENALTIES

656.990 Penalties. (1) Any person who knowingly makes any false statement or representation to the Workers' Compensation Board or its employees, the Workers' Compensation Board chairperson, the Director of the Department of Consumer and Business Services or employees of the director, the insurer or self-insured employer for the purpose of obtaining any benefit or payment under this chapter, either for self or any other person, commits a Class A misdemeanor.

(2) An employer commits a Class A misdemeanor if the employer, with the intent to decrease the employer's premium for coverage under this chapter, knowingly submits a false payroll report to the Workers' Compensation Board, the Workers' Compensation Board chairperson, the Director of the Department of Consumer and Business Services, the corporation or an insurer.

(3) Violation of ORS 656.052 is a Class D violation. Each day during which an employer engages in any subject occupation in violation of ORS 656.052 constitutes a separate offense.

(4) Violation of ORS 656.056 is a Class D violation.

(5) The individual refusing to keep the payroll in accordance with ORS 656.726 or 656.758 when demanded by the director or corporation commits a Class C misdemeanor.

(6) Failure on the part of an employer to send the signed payroll statement required by ORS 656.504 within 30 days after receipt of notice by the director or corporation is a Class A misdemeanor.

(7) Violation of ORS 656.560 (4) is a Class D violation. [Amended by 1959 c.450 §9; 1965 c.285 §93; 1977 c.804 §33; 1981 c.535 §48; 1981 c.854 §56; 1985 c.770 §9; 1990 c.2 §44; 1999 c.876 §10; 1999 c.1051 §216; 2011 c.597 §268; 2024 c.66 §1]

Chapter 654

2025 EDITION

Occupational Safety and Health

SAFETY AND HEALTH CONDITIONS IN PLACES OF EMPLOYMENT

654.001 Short title
654.003 Purpose
654.005 Definitions
654.010 Employers to furnish safe place of employment
654.015 Unsafe or unhealthy place of employment prohibited
654.020 Interference with safety devices or methods prohibited; civil penalty
654.022 Duty to comply with safety and health orders, decisions and rules
654.025 Jurisdiction and supervision of Workers' Compensation Board, director and other state agencies over employment and places of employment; rules
654.031 Citation and order to correct unsafe or unhealthy conditions
654.035 Scope of rules and orders
654.056 Variance from safety or health standards; effect of variance on citations
654.062 Notice of violation to employer by worker; complaint by worker to director; inspection; employee protections; rebuttable presumption; rules
654.067 Inspection of places of employment; comprehensive inspections; denial of access; warrants; safety and health consultation with employees
654.071 Citation for safety or health standard violations; effect of failure to correct violation; posting of citations and notices by employer
654.078 Contesting violations; hearing; admissibility in criminal or civil proceedings of stipulations involving violations
654.082 Prohibiting use of equipment involved in violation; red warning notice
654.086 Civil penalty for violations; classification of violations; penalty adjustments; payment and disposition of penalty moneys; reporting
654.090 Occupational safety and health activities; voluntary compliance; rules; consultative services
654.097 Consultative services required; program standards; rules
654.101 Voluntary safety and health consultation; refusal to disclose report
654.120 Records of proceedings; confidentiality of certain information; federal reporting requirements; rules
654.130 Proceedings against unwilling witnesses
654.150 Sanitary facilities at construction projects; standards; exemptions
654.160 Applicability of ORS 654.150 to be included in construction contracts; liability for cost of compliance
654.165 Employees not required to work barehanded or rubber-gloved on high voltage lines
654.170 Stairway railings and guards not required for certain public and historic buildings
654.172 Exemption from inspection or investigation for certain agricultural activities
654.174 Sanitation facilities for workers harvesting food crops; employer to post notice; rules

WORKPLACE SAFETY COMMITTEES

654.176 Safety committee or safety meeting required
654.182 Rules for ORS 654.176; contents
654.189 Safe Employment Education and Training Advisory Committee; members; terms; expenses; duties; meetings
654.191 Occupational Safety and Health Grant program; rules
654.192 Labor organization not liable for injury resulting from absence of safety or health provision

HAZARD COMMUNICATION AND HAZARDOUS SUBSTANCES

654.196 Rules on contents of piping systems; posting notice on right to be informed of hazardous substances; withholding of information under certain circumstances

INJURED WORKERS' MEMORIAL SCHOLARSHIP

654.200 Scholarship account; use; standards for eligibility

HEALTH AND SANITATION INSPECTIONS

654.202 Issuance of warrants for safety and health inspections
654.206 Grounds for issuance of inspection warrants; requirements of affidavit
654.212 Procedure for issuance of inspection warrant by magistrate
654.216 Execution of inspection warrants
654.251 Assistance to director from other state agencies; inspection of farm labor camps and facilities
654.285 Admissibility of rules and orders of department in evidence in proceedings under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780
654.290 Applicability of Administrative Procedures Act; Administrative Law Judge qualifications
654.293 Representation of employer by attorney permitted
654.295 Application of Oregon Safe Employment Act

EMPLOYER LIABILITY LAW

654.305 Protection and safety of persons in hazardous employment generally

654.310 Places of employment; compliance with applicable orders, rules

654.315 Persons in charge of work to see that ORS 654.305 to 654.336 are complied with

654.320 Who considered agent of owner

654.325 Who may prosecute damage action for death; damages unlimited

654.330 Fellow servant negligence as defense

654.336 Comparative negligence

UTILITY VEHICLES

654.345 Safety standards for utility vehicle rentals

SAFETY AND HEALTH PROFESSIONALS

654.400 Use of title of industrial hygienist, occupational health and safety technologist, construction health and safety technician or safety professional; cause of action

654.402 Activities permitted under other designation, certification or license

SAFETY OF HEALTH CARE EMPLOYEES

654.412 Definitions for ORS 654.412 to 654.423

654.413 Required policies regarding surgical smoke

654.414 Duties of health care employer; security and safety assessment; workplace violence prevention and protection program; requirements

654.416 Required records of assaults against employees; contents; summary report; rules

654.417 Duty of Department of Consumer and Business Services to submit consolidated report of assault records and incidents of workplace violence occurring on premises of health care provider; requirements

654.418 Protection of employee of health care employer after assault by patient

654.421 Refusal to treat certain patients by home health care employee

654.423 Use of physical force by health care employee in self-defense against assault

REPORTS OF ACCIDENTS TO PUBLIC UTILITY COMMISSION

654.715 Report of accidents to Public Utility Commission; investigation; supplemental reports; rules

654.720 Public inspection or use of reports as evidence prohibited

HAZARDOUS CHEMICALS USED IN AGRICULTURE

654.750 Definitions for ORS 654.750 to 654.780

654.760 Rules on hazardous chemicals, safety equipment and training

654.770 Basic information available to agricultural employers for employees; content; language

654.780 Providing basic information to employees

PENALTIES

654.991 Penalties

SAFETY AND HEALTH CONDITIONS IN PLACES OF EMPLOYMENT

654.001 Short title. ORS 654.001 to 654.295, 654.412 to 654.423, 654.750 to 654.780 and 654.991 may be cited as the Oregon Safe Employment Act. [1973 c.833 §2]

654.003 Purpose. The purpose of the Oregon Safe Employment Act is to ensure as far as possible safe and healthful working conditions for every working person in Oregon, to preserve our human resources and to reduce the substantial burden, in terms of lost production, wage loss, medical expenses, disability compensation payments and human suffering, that is created by occupational injury and disease. To accomplish this purpose the Legislative Assembly intends to provide a procedure that will:

(1) Encourage employers and employees to reduce the number of occupational safety and health hazards and to institute new programs and improve existing programs for providing safe and healthful working conditions.

(2) Establish a coordinated program of worker and employer education, health and safety consultative services, demonstration projects and research to assist workers and their employers in preventing occupational injury and disease, whatever the cause.

(3) Authorize the Director of the Department of Consumer and Business Services and the designees of the director to set reasonable, mandatory, occupational safety and health standards for all employments and places of employment.

(4) Provide an effective program, under the director, to enforce all laws, regulations, rules and standards adopted for the protection of the life, safety and health of employees, and in so doing, predominantly prioritize inspections of places of employment to first focus enforcement activities upon places of employment that the director reasonably believes to be the most unsafe.

(5) Establish appropriate reporting and research procedures that will help achieve the objectives of the Oregon Safe Employment Act, identify occupational hazards and unsafe and unhealthy working conditions, and describe the nature of the occupational safety and health problem.

(6) Assure that Oregon assumes fullest responsibility, in accord with the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), for the development, administration and enforcement of safety and health laws and standards. [1973 c.833 §3; 1987 c.884 §55; 1999 c.1017 §1; 2017 c.238 §1]

654.005 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Workers' Compensation Board created by ORS 656.712.

(2) "Department" means the Department of Consumer and Business Services.

(3) "Director" means the Director of the Department of Consumer and Business Services.

(4) "Employee" includes:

(a) Any individual, including a minor whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, financial or otherwise, subject to the direction and control of an employer.

(b) Salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts and other public corporations.

(c) Any individual who is provided with workers' compensation coverage as a subject worker pursuant to ORS chapter 656, whether by operation of law or by election.

(5) "Employer" includes:

(a) Any person who has one or more employees.

(b) Any sole proprietor or member of a partnership who elects workers' compensation coverage as a subject worker pursuant to ORS 656.128.

(c) Any successor or assignee of an employer. As used in this paragraph, "successor" means a business or enterprise that is substantially the same entity as the predecessor employer according to criteria adopted by the department by rule.

(6) "Owner" means every person having ownership, control or custody of any place of employment or of the construction, repair or maintenance of any place of employment.

(7) "Person" means one or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, any organized group of persons, the state, state agencies, counties, municipal corporations, school districts and other public corporations or subdivisions.

(8)(a) "Place of employment" includes:

(A) Every place, whether fixed or movable or moving, whether indoors or out or underground, and the premises and structures appurtenant thereto, where either temporarily or permanently an employee works or is intended to work; and

(B) Every place where there is carried on any process, operation or activity related, either directly or indirectly, to an employer's

industry, trade, business or occupation, including a labor camp, wherever located, provided by an employer for employees or by another person engaged in providing living quarters or shelters for employees.

(b) "Place of employment" does not include:

(A) Any place where the only employment involves nonsubject workers employed in or about a private home; and

(B) Any corporate farm where the only employment involves the farm's family members, including parents, spouses, sisters, brothers, daughters, sons, daughters-in-law, sons-in-law, nieces, nephews or grandchildren. [Amended by 1973 c.833 §4; 1975 c.102 §2; 1977 c.804 §34; 1987 c.373 §30; 1993 c.744 §17; 1999 c.433 §1; 2007 c.612 §1]

654.010 Employers to furnish safe place of employment. Every employer shall furnish employment and a place of employment which are safe and healthful for employees therein, and shall furnish and use such devices and safeguards, and shall adopt and use such practices, means, methods, operations and processes as are reasonably necessary to render such employment and place of employment safe and healthful, and shall do every other thing reasonably necessary to protect the life, safety and health of such employees. [Amended by 1973 c.833 §5]

654.015 Unsafe or unhealthy place of employment prohibited. No employer or owner shall construct or cause to be constructed or maintained any place of employment that is unsafe or detrimental to health. [Amended by 1973 c.833 §6]

654.020 Interference with safety devices or methods prohibited; civil penalty. (1) No person shall remove, displace, damage, destroy or carry off any safety device or safeguard furnished and provided for use in any employment or place of employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employee in such employment or place of employment.

(2) If an employee is injured as a result of an employer's violation of the provisions of subsection (1) of this section, the employer shall be assessed a civil penalty under ORS 654.086 (1)(c).

(3) If removal or the rendering inoperative of a safety device or safeguard is necessary for repair or maintenance work, injuries sustained while the repair or maintenance work is being performed are exempted from this section. [Amended by 1973 c.833 §7; 1977 c.869 §1]

654.022 Duty to comply with safety and health orders, decisions and rules. Every employer, owner, employee and other person shall obey and comply with every requirement of every order, decision, direction, standard, rule or regulation made or prescribed by the Department of Consumer and Business Services in connection with the matters specified in ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, or in any way relating to or affecting safety and health in employments or places of employment, or to protect the life, safety and health of employees in such employments or places of employment, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, standard, rule or regulation. [Formerly 654.060; 1977 c.804 §35]

654.025 Jurisdiction and supervision of Workers' Compensation Board, director and other state agencies over employment and places of employment; rules. (1) The Director of the Department of Consumer and Business Services is vested with full power and jurisdiction over, and shall have such supervision of, every employment and place of employment in this state as may be necessary to enforce and administer all laws, regulations, rules, standards and lawful orders requiring such employment and place of employment to be safe and healthful, and requiring the protection of the life, safety and health of every employee in such employment or place of employment.

(2) The director and the Workers' Compensation Board may make, establish, promulgate and enforce all necessary and reasonable regulations, rules, standards, orders and other provisions for the purpose of carrying out their respective functions under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, notwithstanding any other statutory provisions which may be to the contrary. Nothing in ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, however, shall authorize or require medical examination, immunization or treatment for those who object thereto on religious grounds, except where such is necessary to protect the health or safety of others.

(3)(a) The director may enforce all regulations, rules and standards duly adopted by any other state agency for the safety and health of employees.

(b) This grant of concurrent jurisdiction and authority to the director shall not be construed, however, as repealing or amending, or as derogating in any respect from, the statutory jurisdiction and authority of any other state agency to promulgate and enforce

regulations, rules and standards and to conduct inspections and investigations, except that no other state agency shall issue the citations or assess the civil penalties provided in ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780.

(c) In the event a state of facts or condition constitutes a violation of more than one rule, regulation, standard or order of the director or any other agency pertaining to occupational safety or health, the state of facts or condition shall be the basis for the issuance of only one citation and proceeding or the assessment of only one penalty unless the statute specifically provides that a continuation of a state of facts or a condition constitutes a new violation.

(d) Where another state agency, pursuant to its statutory authority, proposes to adopt a regulation, rule or standard relating to occupational safety or health, such agency shall accord the director an opportunity to review such regulation, rule or standard prior to its adoption for the purpose of assuring that employers will not be asked to comply with contradictory or inconsistent requirements or be burdened with an unnecessary duplication of occupational safety and health codes, inspections or reports.

(4) The board and the director may subpoena witnesses, administer oaths, take depositions and fix the fees and mileage of witnesses and compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state, and the board and the director shall provide for defraying the expenses thereof.

(5) The director and the board may do and perform all things, whether specifically designated in ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction conferred upon them by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780. The director's authority under this section shall include but is not limited to:

(a) Designating by order or rule any named state employee or category of state employees who shall have authority to exercise any of the duties and powers imposed upon the director by law and whose act as authorized by the order or rule shall be considered to be an official act of the director. The director may designate local government employees with public health administration or enforcement duties to exercise duties and powers imposed upon the director with respect to ORS 654.174 (1) and (2).

(b) Instituting any legal or equitable proceeding which would assist in the enforcement of any state occupational safety or health law or any regulation, rule, standard or order promulgated thereunder, including but not limited to seeking injunctive relief to enjoin an employer from operating the place of employment until the employer has complied with the provisions of such law, regulation, rule, standard or order. Upon the filing of a suit for an injunction by the director, the court shall set a day for hearing and shall cause notice thereof to be served upon the employer. The hearing shall be not less than five nor more than 15 days from the service of such notice. [Amended by 1973 c.833 §9; 1977 c.804 §36; 1979 c.839 §23; 1985 c.423 §6]

654.030 [Amended by 1973 c.833 §24; renumbered 654.130]

654.031 Citation and order to correct unsafe or unhealthy conditions. Whenever the Director of the Department of Consumer and Business Services has reason to believe, after an inspection or investigation, that any employment or place of employment is unsafe or detrimental to health or that the practices, means, methods, operations or processes employed or used in connection therewith are unsafe or detrimental to health, or do not afford adequate protection to the life, safety and health of the employees therein, the director shall issue such citation and order relative thereto as may be necessary to render such employment or place of employment safe and protect the life, safety and health of employees therein. The director may in the order direct that such additions, repairs, improvements or changes be made, and such devices and safeguards be furnished, provided and used, as are reasonably required to render such employment or place of employment safe and healthful, in the manner and within the time specified in the order. [Formerly 654.045]

654.035 Scope of rules and orders. (1) The Director of the Department of Consumer and Business Services may, by general or special orders, or by regulations, rules, codes or otherwise:

(a) Declare and prescribe what devices, safeguards or other means of protection and what methods, processes or work practices are well adapted to render every employment and place of employment safe and healthful.

(b) Fix reasonable standards and prescribe and enforce reasonable orders for the adoption, installation, use and maintenance of devices, safeguards and other means of protection, and of methods, processes and work practices, including, but not limited to, work practices qualifications for equipment, materials and activities requiring special competence, to be as nearly uniform as pos-

sible, as may be necessary to carry out all laws relative to the protection of the life, safety and health of employees.

(c) Fix and order reasonable standards for the construction, repair and maintenance of places of employment and equipment that will render them safe and healthful.

(d) Fix standards for routine, periodic or area inspections of places of employment that are reasonably necessary in order to determine compliance with all occupational safety and health laws and the regulations, rules and standards adopted under occupational safety and health laws. Except for complaint inspections, follow-up inspections, imminent danger inspections, referral inspections and inspections to determine the cause of an occupational death, injury or illness, all inspections shall be based on written neutral administrative standards. The standards shall include a prioritized scheduling system for inspections that predominantly focuses enforcement activities upon places of employment that the director reasonably believes to be the most unsafe. The standards shall be accessible to employers under ORS 192.311 to 192.478 for at least 36 months from the last date the standards are in effect. The director shall notify in writing each employer whose place of employment is rated by the director as one of the most unsafe places of employment in the state of the increased likelihood of inspection of the employer's place of employment and of the availability of consultative services. The director may by rule offer incentives to employers that elect consultative services before an inspection is conducted. Nothing in this paragraph prevents the director from conducting a random inspection of a place of employment as long as the inspection is scheduled and conducted pursuant to written neutral administrative standards.

(e) Require the performance of any other act that the protection of the life, safety and health of employees in employments and places of employment may demand.

(2) The director may not require the use of fall protection by workers engaged in steel erection at heights lower than the heights at which fall protection relating to steel erection is required by federal regulation. [Amended by 1973 c.833 §11; 1987 c.884 §9; 1999 c.1017 §2; 2003 c.595 §§1,2; 2005 c.27 §§1,2; 2007 c.686 §1]

654.040 [Repealed by 1973 c.833 §34 (654.290 enacted in lieu of 654.040, 654.065, 654.070, 654.075 and 654.080)]

654.045 [Amended by 1973 c.833 §10; renumbered 654.031]

654.047 [Formerly 654.225; 1965 c.285 §82; repealed by 1973 c.833 §15 (654.067 enacted in lieu of 654.047, 654.222 and 654.232)]

654.050 [Amended by 1953 c.387 §2; 1957 c.436 §1; 1965 c.285 §69d; 1969 c.534 §1; 1971 c.251 §1; repealed by 1973 c.833 §19 (654.082 and 654.086 enacted in lieu of 654.050)]

654.055 [Repealed by 1973 c.833 §12 (654.056 and 654.078 enacted in lieu of 654.055)]

654.056 Variance from safety or health standards; effect of variance on citations. (1) Any employer may apply to the Director of the Department of Consumer and Business Services, pursuant to regulations and procedures adopted by the director, for an order granting the employer a variance from a particular safety or health regulation, rule or standard.

(2) The director may grant a temporary variance only if the employer demonstrates by a preponderance of the evidence that:

(a) The employer is unable to comply with a new regulation, rule or standard by its effective date;

(b) The employer has an effective program for complying with the law as quickly as practicable; and

(c) The employer is taking all available steps in the interim to safeguard the employees of the employer against the hazards covered by the regulation, rule or standard.

(3) The director may grant a permanent variance only if the employer demonstrates by a preponderance of the evidence that the conditions, practices, means, methods, operations or processes used or proposed to be used by the employer will provide employment and a place of employment which are as safe and healthful as those which would prevail if the employer complied with the regulation, rule or standard.

(4) Where the director proposes to deny a request for a variance, the employer shall be given an opportunity for a hearing before the Workers' Compensation Board in which the employer may contest the proposed denial.

(5) Where the director proposes to grant a variance, the affected employees shall be given an opportunity for a hearing before the board in which they may contest the proposed variance.

(6) A request for a variance which is filed after an inspection or investigation by the director will not act to stay or dismiss any citation which may result from such inspection or investigation, and an order granting the requested variance shall have no retroactive effect.

(7) An order granting a variance may be modified or revoked by the director upon the director's own motion or upon the application of the employer or an affected employee or representative of the employee, in the manner prescribed for its issuance at any time after six months from its issuance. [1973 c.833 §13 (enacted in lieu of 654.055); 1977 c.804 §37]

654.060 [Amended by 1973 c.833 §8; renumbered 654.022]

654.062 Notice of violation to employer by worker; complaint by worker to director; inspection; employee protections; rebuttable presumption; rules. (1) Every employee should notify the employer of any violation of law, regulation or standard pertaining to safety and health in the place of employment when the violation comes to the knowledge of the employee.

(2) However, any employee or representative of the employee may complain to the Director of the Department of Consumer and Business Services or any authorized representatives of the director of any violation of law, regulation or standard pertaining to safety and health in the place of employment, whether or not the employee also notifies the employer.

(3) Upon receiving any employee complaint, the director shall make inquiries, inspections and investigations that the director considers reasonable and appropriate. When an employee or representative of the employee has complained in writing of an alleged violation and no resulting citation is issued to the employer, the director shall furnish to the employee or representative of the employee, upon written request, a statement of reasons for the decision.

(4) The director shall establish procedures for keeping confidential the identity of any employee who requests protection in writing. When a request has been made, neither a written complaint from an employee, or representative of the employee, nor a memorandum containing the identity of a complainant may be disclosed under ORS 192.311 to 192.478.

(5) It is an unlawful employment practice for any person to bar or discharge from employment or otherwise discriminate against any employee or prospective employee because the employee or prospective employee has:

(a) Opposed any practice forbidden by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780;

(b) Made any complaint or instituted or caused to be instituted any proceeding under or related to ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, or has testified or is about to testify in any such proceeding;

(c) Exercised on behalf of the employee, prospective employee or others any right afforded by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780;

(d) In good faith reported an assault or other incident of workplace violence that occurred on the premises of a health care employer as defined in ORS 654.412 or in the home of a patient receiving home health care services; or

(e) With no reasonable alternative and in good faith, refused to expose the employee or prospective employee to serious injury or death arising from a hazardous condition at a place of employment.

(6)(a) Any employee or prospective employee alleging to have been barred or discharged from employment or otherwise discriminated against in compensation, or in terms, conditions or privileges of employment, in violation of subsection (5) of this section may, within one year after the employee or prospective employee has reasonable cause to believe that the violation has occurred, file a complaint with the Commissioner of the Bureau of Labor and Industries alleging discrimination under the provisions of ORS 659A.820. Upon receipt of the complaint the commissioner shall process the complaint under the procedures, policies and remedies established by ORS chapter 659A and the policies established by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 in the same way and to the same extent that the complaint would be processed if the complaint involved allegations of unlawful employment practices under ORS 659A.030 (1)(g).

(b) Within 90 days after receipt of a complaint filed under this subsection, the commissioner shall notify the complainant of the commissioner's determination.

(c) The affected employee or prospective employee may bring a civil action in any circuit court of the State of Oregon against any person alleged to have violated subsection (5) of this section. The civil action must be commenced within one year after the employee or prospective employee has reasonable cause to believe a violation has occurred, unless a complaint has been timely filed under ORS 659A.820.

(d) Subject to paragraph (e) of this subsection, the commissioner or the circuit court may order all appropriate relief including rehiring or reinstatement to the employee's former position with back pay.

(e) If the commissioner or the circuit court finds that a behavioral health employer discharged an employee in violation of subsection (5) of this section, the employee shall have the right to be reinstated to the employee's former position with back pay.

(7)(a) In any action brought under subsection (6) of this section, there is a rebuttable presumption that a violation of subsection (5) of this section has occurred if a person bars or discharges an employee or prospective employee from employment or

otherwise discriminates against an employee or prospective employee within 60 days after the employee or prospective employee has engaged in any of the protected activities described in subsection (5)(a) to (e) of this section. The person may rebut the presumption that a violation of subsection (5) of this section has occurred by a demonstration of a preponderance of the evidence.

(b) If a person bars or discharges an employee or prospective employee from employment or otherwise discriminates against the employee or prospective employee more than 60 days after the employee or prospective employee has engaged in any of the protected activities described under subsection (5)(a) to (e) of this section, such action does not create a presumption in favor of or against finding that a violation of subsection (5) of this section has occurred. Where such action has occurred more than 60 days after the protected activity, this subsection does not modify any existing rule of case law relating to the proximity of time between a protected activity and an adverse employment action. The burden of proof shall be on the employee or prospective employee to demonstrate by a preponderance of the evidence that a violation occurred.

(8) The director shall adopt rules necessary for the administration of subsection (5)(e) of this section that are in accordance with the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(9) As used in this section, "behavioral health employer" means:

(a) A residential treatment facility, as defined in ORS 443.400;

(b) A residential treatment home, as defined in ORS 443.400;

(c) A secure residential treatment facility, as described in ORS 443.465, unless the facility is located on an Oregon State Hospital campus or otherwise operated by the state;

(d) A secure residential treatment home, as described in ORS 443.465;

(e) A sobering facility, as defined in ORS 430.306;

(f) A detoxification center, as defined in ORS 430.306;

(g) A halfway house, as defined in ORS 430.306;

(h) A mobile crisis intervention team, as defined in ORS 430.626; or

(i) An emergency shelter. [Formerly 654.235; 1973 c.833 §14; 1983 c.275 §1; 1999 c.55 §3; 2001 c.621 §82; 2005 c.198 §1; 2007 c.279 §1; 2019 c.350 §3; 2021 c.293 §1; 2021 c.336 §1; 2023 c.196 §1; 2025 c.125 §2; 2025 c.535 §6; 2025 c.561 §3]

654.065 [Repealed by 1973 c.833 §34 (654.290 enacted in lieu of 654.040, 654.065, 654.070, 654.075 and 654.080)]

654.067 Inspection of places of employment; comprehensive inspections; denial of access; warrants; safety and health consultation with employees. (1) In order to carry out the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, the Director of the Department of Consumer and Business Services, upon presenting appropriate credentials to the owner, employer or agent in charge, is authorized:

(a) To enter without delay and at reasonable times any place of employment;

(b) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein, and to question privately the owner, employer, agents or employees; and

(c) To conduct a comprehensive inspection of any place of employment as deemed necessary by the department based upon the prior violation history of the place of employment regarding any state occupational safety or health law, regulation, standard, rule or order.

(2) Whenever an accident investigation reveals that a violation has caused or contributed to a work-related fatality at a place of employment, the director shall conduct a comprehensive inspection of the place of employment within one year following the date on which the closing conference associated with the work-related fatality was held.

(3) Whenever three or more willful or repeated violations occur at a place of employment within a one-year period, the director shall conduct a comprehensive inspection of the place of employment within one year following the date on which the closing conference associated with the most recent willful or repeated violation was held.

(4) No person shall give an owner, employer, agent or employee advance notice of any inspection to be conducted under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 of any place of employment without authority from the director.

(5) Except in the case of an emergency, or of a place of employment open to the public, if the director is denied access to any place of employment for the purpose of an inspection or investigation, such inspection or investigation shall not be conducted without an inspection warrant obtained pursuant to ORS 654.202 to 654.216, or without such other authority as a court may grant in an

appropriate civil proceeding. Nothing contained herein, however, is intended to affect the validity of a constitutionally authorized inspection conducted without an inspection warrant.

(6) A representative of the employer and a representative authorized by the employees of the employer shall be given an opportunity to accompany the director during the inspection of any place of employment for the purpose of aiding such inspection. When there is no employee representative, or the employee representative is not an employee of the employer, the director should consult with a reasonable number of employees concerning matters of safety and health in the place of employment.

(7) The representative of the employer may, at the employer's option, be an attorney retained by the employer.

(8) As used in this section:

(a) "Accident investigation" means an official examination of a place of employment conducted by a compliance officer who is responsible for carrying out inspections and investigations on behalf of the department, that includes a systematic appraisal of an accident sequence to determine causal factors, corrective actions and preventative measures.

(b) "Closing conference" means a process that informs the employer and the employee representatives, if any, of the findings resulting from an inspection of a place of employment and any other pertinent issues related to the inspection.

(c) "Comprehensive inspection" means a substantially complete inspection of a place of employment that, in the professional judgment of the inspector who conducts the inspection, may be deemed comprehensive although not all potentially hazardous conditions, operations and practices within the place of employment are inspected. [1973 c.833 §16 (enacted in lieu of 654.047, 654.222 and 654.232); 1999 c.1017 §3; 2023 c.126 §1]

654.070 [Repealed by 1973 c.833 §34 (654.290 enacted in lieu of 654.040, 654.065, 654.070, 654.075 and 654.080)]

654.071 Citation for safety or health standard violations; effect of failure to correct violation; posting of citations and notices by employer. (1) If the Director of the Department of Consumer and Business Services or an authorized representative of the director has reason to believe, after inspection or investigation of a place of employment, that an employer has violated any state occupational safety or health law, regulation, standard, rule or order, the director or the authorized representative shall with reasonable promptness issue to such employer a citation, and notice of proposed civil penalty, if any, to be assessed under this chapter, and fix a reasonable time for correction of the alleged violation.

(2) Each citation and notice required by subsection (1) of this section shall be in writing, shall be mailed to or served upon the employer or a registered agent of the employer, and shall contain:

(a) The date and place of the alleged violation;

(b) A plain statement of the facts upon which the citation is based;

(c) A reference to the law, regulation, rule, standard or order relied upon;

(d) The amount, if any, of the proposed civil penalty;

(e) The time, if any, fixed for the correction of the alleged violation;

(f) Notice of the employer's right to contest the citation, the proposed civil penalty and the period of time fixed for correction of the alleged violation; and

(g) Notice of any affected employee's right to contest the period of time fixed for correction of the alleged violation.

(3) No citation or notice of proposed civil penalty may be issued under this section after the expiration of 180 days following the start of the inspection or investigation, but this shall not prevent the issuance, at any time, of an order to correct that violation or the issuance of a citation for a subsequent violation.

(4) If the director has reason to believe that an employer has failed to correct a violation within the period of time fixed for correction, or within the time fixed in a subsequent order granting an extension of time to correct the violation, the director shall consider such failure as a separate and continuing violation and shall issue a citation and notice of proposed civil penalty, if any, to be assessed pursuant to ORS 654.086 (1)(d).

(5) The director may prescribe procedures for the issuance of a notice in lieu of citation to inform an employer and employees of a minimal violation that has no direct or immediate relationship to occupational safety or health.

(6) Each citation and notice, or copies thereof, issued under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 shall be posted by the employer, immediately upon receipt, in a conspicuous manner in a sufficient number of locations in the place or places of employment to reasonably inform employees of such citation and notice.

(7) Notwithstanding any other provision of this section, the director or authorized representative of the director shall deliver to

the operator of a farm labor camp a copy of any notice, evaluation report or citation resulting from the inspection. [1973 c.833 §17; 1981 c.696 §4; 1999 c.72 §1; 1999 c.1017 §4]

654.074 [1973 c.833 §17a; repealed by 1977 c.804 §55]

654.075 [Repealed by 1973 c.833 §34 (654.290 enacted in lieu of 654.040, 654.065, 654.070, 654.075 and 654.080)]

654.078 Contesting violations; hearing; admissibility in criminal or civil proceedings of stipulations involving violations. (1) An employer may contest a citation, a proposed assessment of civil penalty and the period of time fixed for correction of a violation, or any of these, by filing with the Department of Consumer and Business Services, within 30 days after receipt of the citation, notice or order, a written request for a hearing before the Workers' Compensation Board. Such a request need not be in any particular form, but shall specify the alleged violation that is contested and the grounds upon which the employer considers the citation or proposed penalty or correction period unjust or unlawful.

(2) An affected employee or representative of such employees may contest the time fixed for correction of a violation by filing with the department, within 30 days after the receipt by the employer of the citation, notice or order which fixes such time for correction, a written request for a hearing before the board. Such a request need not be in any particular form, but shall specify the violation in question and the grounds upon which the employee considers the correction period to be unreasonable.

(3) A hearing on any question relating to the validity of a citation or the proposed civil penalty to be assessed therefor shall not be granted unless a request for hearing is filed by the employer within the period specified in subsection (1) of this section. If a request for hearing is not so filed, the citation and the assessment of penalty as proposed shall be a final order of the department and shall not be subject to review by any agency or court.

(4) A hearing relating to the reasonableness of the time prescribed for the correction of a violation shall not be granted, except for good cause shown, unless a request for hearing is filed within the period specified in subsections (1) and (2) of this section. If a request for hearing is not so filed the time fixed for correction of the violation shall be a final order of the department and shall not be subject to review by any agency or court.

(5) Where an employer contests, in good faith and not solely for delay or avoidance of penalties, the period of time fixed for correction of a nonserious violation, such period of time shall not run between the date the request for hearing is filed and the date the order of the department becomes final by operation of law or on appeal.

(6) Where an employer or employee contests the period of time fixed for correction of a serious violation, any hearing on that issue shall be conducted as soon as possible and shall take precedence over other hearings conducted by the board under the provisions of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780.

(7) Where informal disposition of a contested case is made by stipulation, agreed settlement or a consent order, such stipulation, settlement or order shall not be pleaded or admissible in evidence as an admission or confession in any criminal prosecution or in any other civil proceeding that may be instituted against the employer, except in the case of a civil proceeding brought to enforce such stipulation, settlement or order. [1973 c.833 §18 (enacted in lieu of 654.055); 1977 c.804 §38; 2007 c.432 §1]

654.080 [Repealed by 1973 c.833 §34 (654.290 enacted in lieu of 654.040, 654.065, 654.070, 654.075 and 654.080)]

654.082 Prohibiting use of equipment involved in violation; red warning notice. (1) The Director of the Department of Consumer and Business Services, or an authorized representative of the director with the approval of the director or, pursuant to such rules and procedures as the director may prescribe, with the approval of the director, to preclude exposure to a condition which, if such exposure occurred would constitute a violation of any statute, or of any lawful regulation, rule, standard or order affecting employee safety or health at a place of employment, may preclude exposure by prohibiting use of the machine, equipment, apparatus or place of employment constituting such condition. When use is prohibited a red warning notice shall be posted in plain view of any person likely to use the same, calling attention to the condition, defect, lack of safeguard or unsafe or unhealthful place of employment and the fact that further use is prohibited.

(2) No person shall use or operate any place of employment, machine, device, apparatus or equipment, after the red warning notice required by this section is posted, before such place of employment, machine, device, apparatus or equipment is made safe and healthful, and the required safeguards or safety appliances or devices are provided, and authorization for the removal of such red warning notice has been obtained from the director. However, nothing in this subsection prohibits an employer from directing employees to use or operate any such place of employment, machine, device, apparatus or equipment exclusively for the purpose of remedying the violation as specifically desig-

nated by the director in the red warning notice.

(3) No person shall deface, destroy or remove any red warning notice posted pursuant to this section until authorization for the removal of such notice has been obtained from the director. [1973 c.833 §20 (enacted in lieu of 654.050); 1975 c.102 §3; 1977 c.804 §39; 1977 c.869 §2a]

654.085 [Amended by 1973 c.833 §33; renumbered 654.285]

654.086 Civil penalty for violations; classification of violations; penalty adjustments; payment and disposition of penalty moneys; reporting. (1) The Director of the Department of Consumer and Business Services or the authorized representative of the director has the authority to assess civil penalties as provided by this section for violation of the requirements of a state occupational safety or health statute or the lawful rules, standards or orders adopted under the statute, as follows:

(a)(A) Any employer who receives a citation for a serious violation of such requirements shall be assessed a civil penalty of not more than $15,625, but not less than $1,116, for each violation.

(B) If the serious violation caused or contributed to the death of an employee, the civil penalty amount shall be increased to not more than $50,000, but not less than $20,000, for each violation.

(b) Any employer who receives a citation for a violation of such requirements, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty, not to exceed $15,625, for each violation.

(c)(A) Any employer who willfully or repeatedly violates such requirements may be assessed a civil penalty of not more than $156,259, but not less than $11,162, for each willful or repeated violation.

(B) If an employer's willful or repeated violation caused or contributed to the death of an employee, the civil penalty amount shall be increased to not more than $250,000, but not less than $50,000, for each willful or repeated violation.

(C) In determining whether a violation is repeated for purposes of this subsection, the director shall consider the employer's history of violating the requirements of a state occupational safety or health statute or the lawful rules, standards or orders adopted under the statute.

(d) Any employer who receives a citation, as provided in ORS 654.071 (4), for failure to correct a violation may be assessed a civil penalty, not to exceed $15,625, for each day during which the violation continues.

(e) Any employer who knowingly makes any false statement, representation or certification regarding the correction of a violation shall be assessed a civil penalty of not less than $100.

(f) Any employer who violates any of the posting requirements, as prescribed under the provisions of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, may be assessed a civil penalty for each violation.

(g) Any person who violates the provisions of ORS 654.082 (2) or (3) shall be assessed a civil penalty of not less than $100 for each violation.

(h) Notwithstanding paragraph (b) of this subsection, an employer who substantially fails to comply with ORS 654.174 (1) shall be assessed a civil penalty of not less than $250 for each violation.

(i) Any insurer or self-insured employer who violates any provision of ORS 654.097, or any rule or order carrying out ORS 654.097, shall be assessed a civil penalty. Each violation, or each day a violation continues, shall be considered a separate offense.

(2) For the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 a serious violation exists in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(3) Civil penalties assessed by the Department of Consumer and Business Services against an employer for repeated violations of any of the following may not receive a penalty adjustment, based on employer size, that reduces the amount of the civil penalty assessed against the employer, unless the penalty adjustment is conditioned upon the employer agreeing to comply with additional abatement measures as determined by the department:

(a) A willful violation under subsection (1)(c) of this section; and

(b) A serious violation resulting in a work-related fatality.

(4) The director shall, not later than January 15 of each year, adjust the amount of civil penalties that may be imposed under this section to account for the percentage increase or decrease, if any, in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor or its successor.

(5) When an order assessing a civil penalty becomes final by operation of law or on appeal, unless the amount of penalty is paid within 20 days after the order becomes final, it constitutes a judgment and may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record. The penalty provided in the order so recorded shall become a lien upon the title to any interest in property owned by the person against whom the order is entered, and execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(6) Except as provided in subsection (7) of this section, civil penalties collected under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 shall be paid into the Consumer and Business Services Fund.

(7) Civil penalties assessed under this section for a violation of ORS 658.750 shall be credited to the Agricultural Worker Housing Development Account of the Oregon Housing Fund.

(8) The director shall submit a report at least annually to the interim committees of the Legislative Assembly related to business and labor that summarizes:

(a) The total number and total amount of penalties assessed by the department;

(b) The total number of appeals of citations, violations and penalty assessments filed with the department; and

(c) The total number of inspections completed by the department, along with the scope of the inspections and the circumstances that led to the inspections. [1973 c.833 §21 (enacted in lieu of 654.050); 1981 c.696 §5; 1983 c.696 §22; 1985 c.423 §4; 1987 c.884 §56; 1989 c.962 §20; 1991 c.67 §159; 1991 c.570 §1; 1991 c.640 §2; 1995 c.640 §1; 2001 c.310 §4; 2007 c.432 §2; 2017 c.238 §2; 2021 c.525 §25; 2023 c.126 §2]

654.090 Occupational safety and health activities; voluntary compliance; rules; consultative services. In order to carry out the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 and encourage voluntary compliance with occupational safety and health laws, regulations and standards and to promote more effective workplace health and safety programs, the Director of the Department of Consumer and Business Services shall:

(1) Develop greater knowledge and interest in the causes and prevention of industrial accidents, occupational diseases and related subjects through:

(a) Research, conferences, lectures and the use of public communications media;

(b) The collection and dissemination of accident statistics; and

(c) The publication and distribution of training and accident prevention materials, including audio and visual aids.

(2) Appoint advisers who shall, without compensation, assist the director in establishing standards of safety and health. The director may adopt and incorporate in its regulations, rules and standards such safety and health recommendations as it may receive from such advisers.

(3) Provide consultative services for employers on safety and health matters and prescribe procedures which will permit any employer to request a special inspection or investigation, focused on specific problems or hazards in the place of employment of the employer or to request assistance in developing a plan to correct such problems or hazards, which will not directly result in a citation and civil penalty.

(4) Place emphasis, in the research, education and consultation program, on development of a model for providing services to groups of small employers in particular industries and their employees.

(5) Separately administer the voluntary compliance and research, education and consultation activities described in this section and the enforcement activities described in ORS 654.025 to 654.086. [Amended by 1965 c.285 §69h; 1973 c.833 §22; 1987 c.884 §57; 1997 c.249 §198]

654.092 [Formerly 654.255; repealed by 1965 c.285 §95]

654.093 [Formerly 654.265; repealed by 1973 c.833 §48]

654.094 [Formerly 654.270; repealed by 1965 c.285 §95]

654.095 [Amended by 1965 c.285 §69e; repealed by 1973 c.833 §48]

654.096 [Formerly 654.275; repealed by 1967 c.92 §5]

654.097 Consultative services required; program standards; rules. (1)(a) An insurer that provides workers' compensation coverage to employers pursuant to ORS chapter 656 shall furnish occupational safety and health loss control consultative services to its insured employers in accordance with standards established by the Director of the Department of Consumer and Business Services.

(b) A self-insured employer shall establish and implement an occupational safety and health loss control program in accordance with standards established by the director.

(2) An insurer or self-insured employer may furnish any of the services required by this section through an independent contractor.

(3) The program of an insurer for furnishing loss control consultative services as

required by this section shall be adequate to meet the minimum standards prescribed by the director by rule from time to time. Such services shall include the conduct of workplace surveys to identify health and safety problems, review of employer injury records with appropriate persons and development of plans for improvement of employer health and safety loss records. At the time a workers' compensation insurance policy is issued and on an annual basis thereafter, the insurer shall notify its insured employers of the loss control consultative services that the insurer is required by rule to offer, without additional charge as provided in this section, and shall provide a written description of the services that the insurer does offer.

(4) The insurer shall not charge any fee in addition to the insurance premium for safety and health loss control consultative services.

(5) Each insurer shall make available, at the request of the director and in the form prescribed by the director, its annual expenditures for safety and health loss control activities for the prior year and its budget for safety and health loss control activities for the following year.

(6) As used in this section, "employer," "insurer" and "self-insured employer" have the meaning for those terms provided in ORS 656.005. [Formerly 656.451; 2007 c.241 §21]

Note: 654.097 was added to and made a part of 654.001 to 654.295 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

654.100 [Repealed by 1973 c.833 §31 (654.251 enacted in lieu of 654.100)]

654.101 Voluntary safety and health consultation; refusal to disclose report. (1) As used in this section, unless the context requires otherwise:

(a) "Safety and health consultation" means a voluntary review or inspection of a facility or equipment to improve workplace safety. "Safety and health consultation" does not include:

(A) An investigation of an occupational accident, illness or disease; or

(B) A discussion between employees of an employer or between employees of several employers in a multiemployer work setting.

(b) "Safety and health consultation report" means documentation of a safety and health consultation, including recommendations and supporting documents created by a consultant.

(2) In any inspection, investigation or administrative proceeding under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, an employer for which a safety and health consultation has occurred may refuse to disclose and may prevent any other person from disclosing a safety and health consultation report that results from the safety and health consultation. [1999 c.584 §2]

Note: 654.101 was added to and made a part of 654.001 to 654.295 and 654.750 to 654.780 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

654.105 [1957 c.156 §1; 1959 c.684 §1; repealed by 1973 c.833 §29 (654.241 enacted in lieu of 654.105 and 654.226)]

654.110 [1957 c.156 §2; 1959 c.684 §3; repealed by 1971 c.251 §2]

654.120 Records of proceedings; confidentiality of certain information; federal reporting requirements; rules. (1) The Department of Consumer and Business Services shall maintain, for a reasonable time, records of all inspections, investigations, employee complaints, employer reports, citations, hearings, proceedings and any other matters necessary for achieving the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780.

(2) Each employer shall keep records, in the manner prescribed by the Director of the Department of Consumer and Business Services, of work-related deaths and serious injuries and illnesses, and of such other relevant occupational safety and health matters as are reasonably necessary for achieving the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780. Each employer shall notify the director forthwith of the work-related death of any employee of the employer, and shall make such other reports as the director may reasonably prescribe by rule or order.

(3) All information reported to or otherwise obtained by the department in connection with any matter or proceeding under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 which contains or which might reveal a trade secret referred to in section 1905, title 18, United States Code, shall be considered confidential for the purposes of that section, except that such information may be disclosed to other officers or employees of the department or other agencies concerned with carrying out their duties under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 or when relevant in any proceeding under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 or under 654.991. In any such matter or proceeding the department, the other state agency, the Administrative Law Judge, the Workers' Compensation Board or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

(4) The director will make reports to the Secretary of Labor of the United States in such form and containing such information

as the Secretary of Labor shall from time to time require pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(5) Nothing contained in ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 shall relieve an employer from making such reports to the Secretary of Labor of the United States as may be required by federal law. [1973 c.833 §23; 1977 c.804 §40; 2017 c.238 §3]

654.130 Proceedings against unwilling witnesses. (1) The Director of the Department of Consumer and Business Services or the Workers' Compensation Board, or the authorized representative or designee of the director or the board before whom testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers as required by subpoena, may report to the circuit court in the county in which the inquiry, investigation, hearing or other proceeding is pending, by petition setting forth that due notice has been given of the time and place of attendance of the witness, or the production of the papers, and that the witness has been subpoenaed in the manner prescribed and that the witness has failed and refused to attend or produce the papers required by the subpoena or has refused to answer questions propounded to the witness in the course of such proceeding, and ask an order of the court to compel the witness to attend and testify or produce said papers.

(2) The court, upon receiving the petition, shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why the witness has not attended and testified or produced the papers.

(3) A copy of the order shall be served upon the witness.

(4) If it is apparent to the court that the subpoena was regularly issued, the court shall thereupon enter an order that the witness appear before the director or the board or the authorized representative or designee of the director or the board at a time and place to be fixed in such order, and testify and produce the required papers and upon failure to obey the order the witness shall be dealt with as for contempt of court. [Formerly 654.030; 1979 c.839 §24]

654.150 Sanitary facilities at construction projects; standards; exemptions. (1) At the site of every construction project estimated to cost $1 million or more the employer or owner of such place of employment shall provide toilet facilities and facilities for maintaining personal cleanliness for the use of employees on the construction project. Flush toilets shall be provided and the washing facilities shall consist of warm water, wash basins and soap. A building or a mobile, self-contained unit may be provided for such facilities. The number, types and maintenance of facilities shall conform to minimum standards set by the Director of the Department of Consumer and Business Services.

(2) Subsection (1) of this section does not apply to highway construction or maintenance projects or to electricity, water, sewer or gas transmission facility construction or maintenance projects.

(3) The director may, by order, exempt or partially exempt, individual or classes of construction projects from the requirements of subsection (1) of this section when conditions are such that compliance is impractical or impossible. [1975 c.751 §2; 1993 c.450 §1]

654.154 [1995 c.163 §2; renumbered 654.172 in 2005]

654.155 [Repealed by 1973 c.833 §48]

654.160 Applicability of ORS 654.150 to be included in construction contracts; liability for cost of compliance. (1) A statement as to whether or not ORS 654.150 applies at the construction site shall be included in the contract for a construction project. If the contract states that ORS 654.150 applies, the owner shall also include in the contract documents a provision designating which party to the contract is responsible for any costs that may be incurred in complying with ORS 654.150 and the rules adopted pursuant thereto.

(2) The owner of a construction site is liable to any contractor who is an employer at the site for costs incurred by the contractor if:

(a) Representatives of the Director of the Department of Consumer and Business Services decide that ORS 654.150 applies to the construction project, and the contract documents did not designate which party to the contract for the project was responsible for complying with ORS 654.150 and the rules adopted pursuant thereto; and

(b) The contractor incurs additional costs in complying with ORS 654.150.

(3) In addition to being liable for the amount of the additional costs incurred, as provided by subsection (2) of this section, the owner is liable for interest on the amount at the rate of one percent per month from the date such contractor makes demand upon the owner to reimburse the contractor for such costs until the contractor is paid. [1977 c.129 §2]

654.165 Employees not required to work bare-handed or rubber-gloved on high voltage lines. No employer shall require an employee to perform bare-handed or rubber-gloved work on a live electrical line with a voltage of 5,000 volts or greater. [1991 c.549 §2]

Note: 654.165 was added to and made a part of 654.001 to 654.295 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

654.170 Stairway railings and guards not required for certain public and historic buildings. Nothing in ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 requires the installation of railings or guards on exterior stairways providing access to and egress from the State Capitol Building or the grand staircases to the chambers of the Senate and House of Representatives in the rotunda of the State Capitol Building or any staircase in any public monument or memorial or building of historic significance. [1977 c.780 §2]

654.172 Exemption from inspection or investigation for certain agricultural activities. (1) Notwithstanding any other provision of the Oregon Safe Employment Act, an employer engaged in agricultural activities with 10 or fewer agricultural employees is exempt from inspection or investigation under ORS 654.067 under the following conditions:

(a) There has not been a complaint filed pursuant to ORS 654.062 or, within the preceding two-year period, an accident at the employer's agricultural place of employment resulting in death or serious disabling injury from violation of the Oregon Safe Employment Act or rules adopted pursuant thereto.

(b) The employer and principal supervisors of the agricultural employees annually attend four hours of instruction on agricultural safety rules and procedures at a course conducted or approved by the Director of the Department of Consumer and Business Services.

(c) The agricultural activities are inspected once every four years by an individual acting in a safety consultant capacity, and all violations found upon inspection are remedied within 90 days of the date of inspection.

(2) In order to promote communication and understanding between the director and agricultural interests, the director shall appoint an agricultural advisory committee of seven agricultural employers, each with 10 or fewer agricultural employees, to review and consult with the director on the administration of the Oregon Safe Employment Act with regard to agricultural activities. [Formerly 654.154]

654.174 Sanitation facilities for workers harvesting food crops; employer to post notice; rules. (1) Employers of workers who are engaged in field activities for the growing and harvesting of food crops intended for human consumption shall provide for such workers at convenient locations, and in accordance with such rules as the Director of the Department of Consumer and Business Services may prescribe:

(a) Toilet facilities that are maintained in clean and sanitary condition, of such design and construction as to provide privacy and to prevent crop contamination and, where practicable, one toilet for each sex.

(b) Handwashing facilities that provide clean water, soap or other suitable cleansing agent, paper towels and a method for disposal of used towels and wash water to avoid crop contamination.

(c) Clean, potable drinking water served in a sanitary manner, which may include but is not limited to containers with spigots and tight fitting lids and disposable cups sufficient in number for each worker.

(2) Every employer required to comply with subsection (1) of this section shall keep conspicuously posted a notice describing the requirements of that subsection and advising where complaints may be filed. The notice must be in the English language and in the language spoken by the majority of the employees.

(3) The director shall promulgate rules to implement subsections (1) and (2) of this section which shall not be less protective than the rules on those subjects that are operative on July 9, 1985. [1985 c.423 §§2,3,5]

654.175 [Repealed by 1969 c.534 §2]

WORKPLACE SAFETY COMMITTEES

654.176 Safety committee or safety meeting required. To promote health and safety in places of employment in this state, every public or private employer shall, in accordance with rules adopted pursuant to ORS 654.182, establish and administer a safety committee or hold safety meetings. [1981 c.488 §2; 1990 c.2 §1; 1995 c.83 §1; 2007 c.448 §1]

654.180 [Repealed by 1969 c.534 §2]

654.182 Rules for ORS 654.176; contents. (1) In carrying out ORS 654.176, the Director of the Department of Consumer and Business Services shall adopt rules that include, but are not limited to, provisions:

(a) Prescribing the membership of the committees to ensure equal numbers of employees, who are volunteers or are elected by their peers, and employer representatives and specifying the frequency of meetings.

(b) Requiring employers to make adequate written records of each meeting and to file and maintain the records subject to inspection by the director.

(c) Requiring employers to compensate employee representatives on safety committees at the regular hourly wage while the employees are engaged in safety committee training or are attending safety committee meetings.

(d) Prescribing the duties and functions of safety committees, which include, but are not limited to:

(A) Establishing procedures for workplace safety inspections by the committee.

(B) Establishing procedures for investigating all safety incidents, accidents, illnesses and deaths.

(C) Evaluating accident and illness prevention programs.

(e) Prescribing guidelines for the training of safety committee members.

(f) Prescribing alternate forms of safety committees and safety meetings to meet the special needs of small employers, agricultural employers and employers with mobile worksites.

(g) Prescribing procedures for health care employers for investigating, collecting and reporting on incidents of workplace violence.

(2) An employer that is a member of a multiemployer group operating under a collective bargaining agreement that contains provisions regulating the formation and operation of a safety committee that meets or exceeds the minimum requirements of this section and ORS 654.176 shall be considered to have met the requirements of this section and ORS 654.176.

(3) As used in this section, "health care employer" and "workplace violence" have the meanings given those terms in ORS 654.412. [1981 c.488 §3; 1990 c.2 §2; 1991 c.746 §2; 2007 c.448 §2; 2025 c.535 §1]

654.187 [1981 c.488 §4; repealed by 1991 c.746 §1]

654.189 Safe Employment Education and Training Advisory Committee; members; terms; expenses; duties; meetings. (1) The Director of the Department of Consumer and Business Services may appoint a Safe Employment Education and Training Advisory Committee composed of seven members: Three representing employees, three representing employers and one representing the Department of Consumer and Business Services. The committee shall elect its chairperson.

(2) The members of the committee shall be appointed for a term of three years and shall serve at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor. A member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective.

(3) The members shall serve without compensation, but shall be entitled to travel expenses pursuant to ORS 292.495.

(4) The duties of the committee shall be determined by the director and shall include, but not be limited to:

(a) Recommending to the director:

(A) Occupational Safety and Health Grant application procedures and criteria for grant approval;

(B) Occupational Safety and Health Grant recipients; and

(C) Revocation of grants to recipients failing to comply with grant criteria established by the director pursuant to ORS 654.191.

(b) Receiving and processing Occupational Safety and Health Grant applications.

(5) The committee shall meet at least once every three months at a place, day and hour determined by the committee. The committee shall also meet at other times and places specified by a majority of the members of the committee or the chairperson of the committee. A majority of the members of the committee constitutes a quorum for the transaction of business. [1989 c.857 §3]

654.191 Occupational Safety and Health Grant program; rules. (1) The Director of the Department of Consumer and Business Services, in consultation with the Safe Employment Education and Training Advisory Committee, shall establish an Occupational Safety and Health Grant program to fund the education and training of employees in safe employment practices and conduct and to promote the development of employer-sponsored health and safety programs.

(2) The director shall adopt rules establishing:

(a) Grant application procedures and criteria for grant approval; and

(b) Procedures for revocation of grants to recipients failing to comply with grant criteria established by the director pursuant to this section.

(3) The director, after reviewing the recommendation of the Safe Employment Education and Training Advisory Committee, shall approve or deny an application for an Occupational Safety and Health Grant. If the director approves a grant under this section, the director shall set the amount of the grant awarded to the grant recipient.

(4) The director shall monitor grant recipients for compliance with grant criteria and procedures established by the director.

(5) The grants awarded under this section shall be funded only from the civil penalties paid into the Consumer and Business Services Fund under ORS 654.086. [1989 c.857 §2]

654.192 Labor organization not liable for injury resulting from absence of safety or health provision. When an employee incurs an injury compensable under ORS chapter 656, the discussion or furnishing, or failure to discuss or furnish, or failure to enforce any safety or health provision to protect employees against work injuries, in any collective bargaining agreement or negotiations thereon, shall not subject a labor organization representing the injured employee to any civil liability for the injury. [1981 c.488 §5]

654.194 [1985 c.683 §2; repealed by 1999 c.232 §1]

HAZARD COMMUNICATION AND HAZARDOUS SUBSTANCES

654.196 Rules on contents of piping systems; posting notice on right to be informed of hazardous substances; withholding of information under certain circumstances. (1) The Director of the Department of Consumer and Business Services may by rule require employers to provide information to employees relating to the contents of piping systems. The rules shall include, but need not be limited to requirements for:

(a) Labeling piping systems to provide notice about hazardous chemicals contained in the system; and

(b) Labeling a piping system that uses asbestos as a pipe insulation material.

(2) Every employer shall post a sign in the location where notices to employees are normally posted to inform employees that they have a right under this section and ORS 453.317 (6) to information from the employer regarding hazardous substances found in the place of employment.

(3) The sign required under subsection (2) of this section shall include, but need not be limited to, the following information and shall be substantially in the following form:

NOTICE TO EMPLOYEES

You have a right under state law to information about hazardous substances found in your place of employment. For this information, contact your employer.

---

(4) Notwithstanding any other provision of this chapter or ORS 192.311 to 192.478, an employer may withhold the precise chemical name of a chemical only if the employer can substantiate that:

(a) The chemical name is a trade secret with commercial value that can be protected only by limiting disclosure; and

(b) The commercial value of the product cannot be preserved by withholding the processes, mixture percentages or other aspects of the production of the product instead of its chemical constituents.

(5) A trade secret designation claimed under subsection (4) of this section may be subject to yearly review.

(6) Notwithstanding any other provision of this chapter or ORS 192.311 to 192.478, if a treating physician or health professional concludes that the chemical identity of a hazardous chemical used in an employer's place of employment is necessary to prescribe necessary treatment for a patient, the employer may not require the physician or health professional to sign a confidentiality agreement as a condition to the release of the information by the employer, manufacturer or importer. [1985 c.683 §§3,4,5; 1999 c.232 §2; 2005 c.825 §18]

INJURED WORKERS' MEMORIAL SCHOLARSHIP

654.200 Scholarship account; use; standards for eligibility. (1) There is established in the Consumer and Business Services Fund the Workers' Memorial Scholarship Account. Only the interest earned on moneys in the account shall be used by the Director of the Department of Consumer and Business Services for the establishment and administration of a scholarship program to pay education related expenses of the spouses and children of workers who are killed or who have received a permanent total disability award from injury on the job. A maximum of $1 million to carry out the provisions of this section may be credited to the account from civil penalties recovered pursuant to ORS 654.086.

(2) The director shall consult with the Safe Employment Education and Training Advisory Committee established pursuant to ORS 654.189 in determining the appropriate scholarship standard and in selecting the recipients. [1991 c.395 §2; 1993 c.597 §1; 1999 c.1058 §1; 2017 c.635 §1]

HEALTH AND SANITATION INSPECTIONS

654.202 Issuance of warrants for safety and health inspections. Magistrates authorized to issue search warrants may, upon application of the Director of the De-

partment of Consumer and Business Services, or any public officer, agent or employee of the director acting in the course of official duties, issue an inspection warrant whenever an inspection or investigation of any place of employment is required or authorized by any state or local statute, ordinance or regulation relating to occupational safety or health. The inspection warrant is an order authorizing the safety or health inspection or investigation to be conducted at a designated place of employment. [1971 c.405 §1; 1973 c.833 §25; 1977 c.804 §41]

654.205 [Repealed by 1959 c.516 §6]

654.206 Grounds for issuance of inspection warrants; requirements of affidavit. (1) An inspection warrant shall be issued only upon cause, supported by affidavit, particularly describing the applicant's status in applying for the warrant hereunder, the statute, ordinance or regulation requiring or authorizing the inspection or investigation, the place of employment to be inspected or investigated and the purpose for which the inspection or investigation is to be made including the basis upon which cause exists to inspect. In addition, the affidavit shall contain either a statement that entry has been sought and refused or facts or circumstances reasonably showing that the purposes of the inspection or investigation might be frustrated if entry were sought without an inspection warrant.

(2) Cause shall be deemed to exist if reasonable legislative or administrative standards for conducting a routine, periodic or area inspection are satisfied with respect to the particular place of employment, or there is probable cause to believe that a condition of nonconformity with a safety or health statute, ordinance, regulation, rule, standard or order exists with respect to the particular place of employment, or an investigation is reasonably believed to be necessary in order to determine or verify the cause of an employee's death, injury or illness. [1971 c.405 §2; 1973 c.833 §26]

654.210 [Repealed by 1959 c.516 §6]

654.212 Procedure for issuance of inspection warrant by magistrate. (1) Before issuing an inspection warrant, the magistrate may examine under oath the applicant and any other witness and shall be satisfied of the existence of grounds for granting such application.

(2) If the magistrate is satisfied that cause for the inspection or investigation exists and that the other requirements for granting the application are satisfied, the magistrate shall issue the warrant, particularly describing the name and title of the person or persons authorized to execute the warrant, the place of employment to be entered and the purpose of the inspection or investigation. The warrant shall contain a direction that it be executed on any day of the week between the hours of 8:00 a.m. and 6:00 p.m., or where the magistrate has specially determined upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night. [1971 c.405 §3; 1973 c.833 §27; 1987 c.158 §126]

654.215 [Repealed by 1959 c.516 §6]

654.216 Execution of inspection warrants. (1) Except as provided in subsection (2) of this section, in executing an inspection warrant, the person authorized to execute the warrant shall, before entry, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the place of employment designated in the warrant and show the occupant or person in possession of the place of employment the warrant or a copy thereof upon request.

(2) In executing an inspection warrant, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection (1) of this section, but may promptly enter the designated place of employment if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition.

(3) A peace officer may be requested to assist in the execution of the inspection warrant.

(4) An inspection warrant must be executed and returned to the magistrate by whom it was issued within 10 days from its date, unless such magistrate before the expiration of such time, by indorsement thereon, extends the time for five days. After the expiration of the time prescribed by this subsection, the warrant unless executed is void. [1971 c.405 §4; 1973 c.833 §28]

654.220 [Repealed by 1959 c.516 §6]

654.222 [1971 c.405 §5; repealed by 1973 c.833 §15 (654.067 enacted in lieu of 654.047, 654.222 and 654.232)]

654.225 [Amended by 1959 c.516 §1; renumbered 654.047]

654.226 [1971 c.405 §6; repealed by 1973 c.833 §29 (654.241 enacted in lieu of 654.105 and 654.226)]

654.230 [Repealed by 1959 c.516 §6]

654.232 [1971 c.405 §7; repealed by 1973 c.833 §15 (654.067 enacted in lieu of 654.047, 654.222 and 654.232)]

654.235 [Amended by 1959 c.516 §2; renumbered 654.062]

654.240 [Repealed by 1959 c.516 §6]

654.241 [1973 c.833 §30 (enacted in lieu of 654.105 and 654.226); repealed by 1975 c.102 §4]

654.245 [Repealed by 1959 c.516 §6]

654.250 [Repealed by 1959 c.516 §6]

654.251 Assistance to director from other state agencies; inspection of farm labor camps and facilities. (1) The Bureau of Labor and Industries and any other state agency which is vested under separate statute with the authority to make inspections of places of employment, or to promulgate regulations, rules or standards relating to particular areas of occupational safety and health, shall render such advice and assistance to the Director of the Department of Consumer and Business Services as the director may reasonably request or prescribe in order to carry out the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780. When any state agency completes an inspection of a place of employment, it shall promptly notify the director and the affected employer of any condition that may violate any occupational safety or health law, regulation, rule or standard.

(2) In addition to the inspection authority granted to the director and the representatives and designees of the director by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, the Bureau of Labor and Industries may inspect farm labor camps, fields and facilities prior to occupancy and as reasonably necessary or appropriate thereafter, and shall report any violation of occupational safety or health laws, regulations, rules or standards to the director or the designees of the director. [1973 c.833 §32 (enacted in lieu of 654.100); 1987 c.414 §160]

654.255 [Amended by 1955 c.643 §1; 1957 c.492 §1; 1959 c.516 §3; renumbered 654.092]

654.260 [Amended by 1955 c.643 §2; repealed by 1959 c.516 §6]

654.265 [Amended by 1955 c.644 §1; renumbered 654.093]

654.270 [Renumbered 654.094]

654.275 [Amended by 1959 c.516 §4; renumbered 654.096]

654.285 Admissibility of rules and orders of department in evidence in proceedings under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780. Except as provided in ORS 654.078 (7), every regulation, rule, standard, finding, decision and order of the Department of Consumer and Business Services, general or special, made and entered under the provisions of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 and which has become final by operation of law or on appeal, shall be admissible as evidence in any hearing, civil proceeding or criminal prosecution conducted under the provisions of this chapter and shall, in every such hearing, proceeding or prosecution, be conclusively presumed to be reasonable and lawful and to fix a reasonable and proper standard and requirement of safety and health. [Formerly 654.085; 1977 c.804 §42]

654.290 Applicability of Administrative Procedures Act; Administrative Law Judge qualifications. (1) Promulgation by the Director of the Department of Consumer and Business Services or by the Workers' Compensation Board of regulations, rules and standards authorized by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, and any judicial review thereof, shall be as provided in ORS chapter 183.

(2) Notwithstanding ORS 183.315 (1), the issuance of orders pursuant to ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, the conduct of hearings in contested cases and the judicial review thereof shall be as provided in ORS chapter 183, except that:

(a) The chairperson of the Workers' Compensation Board or the designee of the chairperson shall employ Administrative Law Judges to hold hearings in contested cases.

(b) The order of an Administrative Law Judge in a contested case shall be deemed to be a final order of the board.

(c) The director shall have the same right to judicial review of the order of an Administrative Law Judge as any person who is adversely affected or aggrieved by such final order.

(d) Affected employees or their authorized representative shall be accorded an opportunity to participate as parties in hearings.

(3) Administrative Law Judges shall be licensees in good standing of the Oregon State Bar and possess such other qualifications as the board may prescribe, and shall be employed in accordance with ORS 656.724. [1973 c.833 §35 (enacted in lieu of 654.040, 654.065, 654.070, 654.075 and 654.080); 1975 c.759 §18; 1977 c.804 §43; 1999 c.876 §1; 2025 c.32 §110]

654.293 Representation of employer by attorney permitted. Neither ORS 9.320 nor any provision in the Oregon Safe Employment Act shall be construed to deny an employer the right to be represented by an attorney or any other authorized representative designated by the employer in any proceedings under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780. [1975 c.370 §2]

654.295 Application of Oregon Safe Employment Act. (1) Nothing contained in ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 shall invalidate any existing occupational safety or health regulation, rule, standard or order which is not clearly inconsistent with the purposes and provisions of ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780.

(2) Where any part of a law, regulation, rule, standard or order is found to be clearly inconsistent with ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 and declared to be invalid, it is the intent of the Legislative Assembly that the remaining provisions of such law, regulation, rule, standard or order remain in effect as fully as if the invalid part had not been adopted. [1973 c.833 §36]

EMPLOYER LIABILITY LAW

654.305 Protection and safety of persons in hazardous employment generally. Generally, all owners, contractors or subcontractors and other persons having charge of, or responsibility for, any work involving a risk or danger to the employees or the public shall use every device, care and precaution that is practicable to use for the protection and safety of life and limb, limited only by the necessity for preserving the efficiency of the structure, machine or other apparatus or device, and without regard to the additional cost of suitable material or safety appliance and devices. [Amended by 1997 c.249 §199]

654.310 Places of employment; compliance with applicable orders, rules. All owners, contractors, subcontractors, or persons whatsoever, engaged in the construction, repairing, alteration, removal or painting of any building, bridge, viaduct or other structure, or in the erection or operation of any machinery, or in the manufacture, transmission and use of electricity, or in the manufacture or use of any dangerous appliance or substance, shall see that all places of employment are in compliance with every applicable order, decision, direction, standard, rule or regulation made or prescribed by the Department of Consumer and Business Services pursuant to ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780. [Amended by 1975 c.148 §1; 1977 c.804 §44]

654.315 Persons in charge of work to see that ORS 654.305 to 654.336 are complied with. The owners, contractors, subcontractors, foremen, architects or other persons having charge of the particular work, shall see that the requirements of ORS 654.305 to 654.336 are complied with.

654.320 Who considered agent of owner. The manager, superintendent, foreman or other person in charge or control of all or part of the construction, works or operation shall be held to be the agent of the employer in all suits for damages for death or injury suffered by an employee.

654.325 Who may prosecute damage action for death; damages unlimited. If there is any loss of life by reason of violations of ORS 654.305 to 654.336 by any owner, contractor or subcontractor or any person liable under ORS 654.305 to 654.336, the surviving spouse and children and adopted children of the person so killed and, if none, then the lineal heirs of that person and, if none, then the mother or father, as the case may be, shall have a right of action without any limit as to the amount of damages which may be awarded. If none of the persons entitled to maintain such action reside within the state, the executor or administrator of the deceased person may maintain such action for their respective benefits and in the order above named.

654.330 Fellow servant negligence as defense. In all actions brought to recover from an employer for injuries suffered by an employee, the negligence of a fellow servant shall not be a defense where the injury was caused or contributed to by any of the following causes:

(1) Any defect in the structure, materials, works, plant or machinery of which the employer or the agent of the employer could have had knowledge by the exercise of ordinary care.

(2) The neglect of any person engaged as superintendent, manager, foreman or other person in charge or control of the works, plant, machinery or appliances.

(3) The incompetence or negligence of any person in charge of, or directing the particular work in which the employee was engaged at the time of the injury or death.

(4) The incompetence or negligence of any person to whose orders the employee was bound to conform and did conform and by reason of having conformed thereto the injury or death resulted.

(5) The act of any fellow servant done in obedience to the rules, instructions or orders given by the employer or any other person who has authority to direct the doing of said act.

654.335 [Repealed by 2001 c.865 §19]

654.336 Comparative negligence. The provisions of ORS 31.600 to 31.620 apply to an action under ORS 654.305 to 654.336. [2001 c.865 §17]

UTILITY VEHICLES

654.345 Safety standards for utility vehicle rentals. (1) As used in this section:

(a) "Contracting agency" has the meaning given that term in ORS 279A.010.

(b)(A) "Rent" means a transfer of, or the act of transferring, in return for consideration and under conditions set forth in a written agreement, the right to possess and use a utility vehicle for a term of less than

a year or for a period of time otherwise specified in the agreement.

(B) "Rent" does not include an arrangement under which consideration that a contracting agency pays for use of the utility vehicle results in a transfer of ownership of the utility vehicle to the contracting agency.

(c) "Utility vehicle" means a self-propelled vehicle with a gross vehicle weight of 5,000 pounds or more that a driver operates for agricultural, construction, industrial, maritime, mining or forestry uses.

(2) A person that rents a utility vehicle to a contracting agency shall, at the contracting agency's request, provide:

(a) Records that describe in detail the results of the most recent inspection that the person performed or had performed on the utility vehicle's traction, structure, power train, control components and related parts and equipment in compliance with applicable rules, regulations or standards of:

(A) The National Highway Traffic Safety Administration;

(B) The American National Standards Institute;

(C) The federal Mine Safety and Health Administration;

(D) The United States Department of Transportation;

(E) The Department of Transportation;

(F) The federal Occupational Safety and Health Administration; and

(G) The Department of Consumer and Business Services, with respect to occupational safety and health;

(b) Instructions about how to comply with recommendations from the utility vehicle's manufacturer for operating and maintaining the utility vehicle on and off the site where the contracting agency will use the utility vehicle and for safe work practices;

(c) Records of all incidents in which use of the utility vehicle during previous rentals resulted in injuries or deaths because of equipment failure; and

(d) A signed affidavit in which the person attests to compliance with applicable safety standards and to performing or having performed regular inspections of the utility vehicle.

(3) If a person delivers to a work site specified under a public contract or other agreement a utility vehicle for usage by an employee of the contracting agency and upon inspection the utility vehicle does not meet applicable standards specified under subsection (2) of this section:

(a) A contracting agency may delay paying any consideration due under an agreement to rent the utility vehicle until the person replaces the utility vehicle with a utility vehicle that meets the applicable standards or performs repairs or maintenance necessary to ensure that the utility vehicle meets the applicable standards; and

(b) A contracting agency may seek an offset of or reimbursement for labor costs that the contracting agency incurs as a result of delays in work that are a consequence of the person's initial delivery of a utility vehicle that does not meet applicable standards. The contracting agency may not seek reimbursement or an offset for costs that the contracting agency incurs after the contracting agency begins using the utility vehicle.

(4) This section does not apply to a person that receives $100,000 or more in income from renting utility vehicles to other persons during the calendar year before the year in which the rental of the utility vehicle to the contracting agency occurs. [2021 c.234 §2]

SAFETY AND HEALTH PROFESSIONALS

654.400 Use of title of industrial hygienist, occupational health and safety technologist, construction health and safety technician or safety professional; cause of action. (1) No person may purport to be:

(a) A certified industrial hygienist or use the initials CIH unless the person holds a current certification as an industrial hygienist from the American Board of Industrial Hygiene.

(b) An industrial hygienist in training or use the initials IHIT unless the person holds a current designation as an industrial hygienist in training from the American Board of Industrial Hygiene.

(c) A certified occupational health and safety technologist or use the initials OHST unless the person holds a current certification as an occupational health and safety technologist from the American Board of Industrial Hygiene or the Board of Certified Safety Professionals.

(d) A certified construction health and safety technician or use the initials CHST unless the person holds a current certification as a construction health and safety technician from the American Board of Industrial Hygiene or the Board of Certified Safety Professionals.

(e) A certified safety professional or use the initials CSP unless the person holds a current designation as a certified safety professional from the Board of Certified Safety Professionals.

(f) An associate safety professional or use the initials ASP unless the person holds a current designation as an associate safety professional from the Board of Certified Safety Professionals.

(2) The American Board of Industrial Hygiene, the Board of Certified Safety Professionals or a person lawfully practicing a profession listed in subsection (1) of this section may bring a private cause of action in the appropriate court to recover damages up to $1,000 against any person who violates subsection (1) of this section. The court may provide such equitable relief as it deems necessary or proper. The court may award reasonable attorney fees to the prevailing party in an action under this section. [1999 c.478 §1]

Note: 654.400 and 654.402 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 654 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

654.402 Activities permitted under other designation, certification or license. ORS 654.400 does not prevent a person legally regulated in this state under any other licensing provisions, rules or regulations from engaging in the activities permitted under that designation, certification or license provided that the person does not use the titles or initials specified in ORS 654.400. [1999 c.478 §2]

Note: See note under 654.400.

654.405 [Repealed by 1973 c.833 §48]

654.410 [Repealed by 1973 c.833 §48]

SAFETY OF HEALTH CARE EMPLOYEES

654.412 Definitions for ORS 654.412 to 654.423. As used in ORS 654.412 to 654.423:

(1) "Assault" means intentionally, knowingly or recklessly causing physical injury.

(2) "Energy generating device" means a tool that performs a surgical function using heat, laser, electricity or other form of energy.

(3) "Health care employer" means:

(a) An ambulatory surgical center as defined in ORS 442.015.

(b) A hospital as defined in ORS 441.760, except for the Oregon State Hospital.

(c) A home health agency as defined in ORS 443.014.

(d) A home hospice program.

(4) "Home health care services" means items or services furnished to a patient by an employee of a health care employer in a place of temporary or permanent residence used as the patient's home.

(5) "Home hospice program" means a coordinated program of home care, available 24 hours a day, that utilizes an interdisciplinary team of personnel trained to provide palliative and supportive services to a patient-family unit experiencing a life threatening disease with a limited prognosis.

(6) "Smoke evacuation system" means equipment that effectively captures or neutralizes surgical smoke before the smoke makes contact with the eyes or the respiratory tract of the occupants of a room.

(7) "Surgical smoke" means the by-product that results from contact with tissue by an energy generating device.

(8) "Workplace violence" includes any act or threat of physical violence, harassment, intimidation, assault, homicide or any other threatening behavior that occurs in the workplace. [2007 c.397 §2; 2021 c.362 §3; 2025 c.535 §2]

654.413 Required policies regarding surgical smoke. (1) A health care employer shall adopt policies that require the use of a smoke evacuation system during any surgical procedure that is likely to generate surgical smoke. The hospital or ambulatory surgical center may select any smoke evacuation system that accounts for surgical techniques and procedures vital to patient safety.

(2) The Occupational Safety and Health Division of the Department of Consumer and Business Services shall ensure compliance with this section during any on-site inspection. [2021 c.362 §2]

654.414 Duties of health care employer; security and safety assessment; workplace violence prevention and protection program; requirements. (1) A health care employer, in consultation with the employer's workplace safety committee described in ORS 654.176, shall:

(a) Conduct periodic security and safety assessments to identify existing or potential threats of workplace violence;

(b) Develop and implement a workplace violence prevention and protection program for employees based on assessments conducted under paragraph (a) of this subsection; and

(c) Provide workplace violence prevention and protection training on an annual basis for employees and any contracted security personnel who work at the premises of the health care employer.

(2) An assessment conducted under subsection (1)(a) of this section shall include, but need not be limited to:

(a) A measure of the frequency of workplace violence, including attempts of workplace violence, that are committed against

employees on the premises of a health care employer or in the home of a patient receiving home health care services during the preceding five years or for the years that records are available if fewer than five years of records are available;

(b) An analysis of the root causes and consequences of workplace violence committed against employees, including a plan for addressing the analyzed causes; and

(c) Findings on the extent to which the security considerations described in subsection (3) of this section were implemented to mitigate risks of workplace violence.

(3) A workplace violence prevention and protection program developed and implemented by a health care employer under subsection (1)(b) of this section shall incorporate and implement a workplace violence prevention and response plan. The plan shall:

(a) Be based on an assessment conducted under subsection (1)(a) of this section.

(b) Address security considerations related to the following:

(A) Physical attributes of the health care setting;

(B) Staffing plans, including security staffing;

(C) Personnel policies;

(D) First aid and emergency procedures;

(E) Procedures for reporting incidents of workplace violence; and

(F) Education and training for employees.

(c) Include policies and procedures for:

(A) Conducting internal investigations of incidents of workplace violence that occur on the premises of the health care employer.

(B) Identifying employees involved in a workplace violence incident.

(C) Conducting post-incident employee interviews for the purpose of gathering factual details about an incident of workplace violence.

(D) Implementing post-incident response strategies that address the provision of:

(i) First aid or medical care to employees who have been injured in a workplace violence incident; and

(ii) Trauma counseling for employees affected by an incident of workplace violence.

(4)(a) Workplace violence prevention and protection training required under subsection (1)(c) of this section shall address the following topics:

(A) General safety and personal safety procedures, including emergency response guidelines that may be used to notify employees and contracted security personnel who work at the premises of the health care employer of a threat or occurrence of workplace violence;

(B) The meaning of workplace violence;

(C) Escalation cycles for assaultive behaviors and other violent or threatening behaviors;

(D) Predictive factors of workplace violence;

(E) Techniques for obtaining medical history from a patient with assaultive or other threatening or violent behavior;

(F) Verbal and physical techniques to de-escalate and minimize assaultive behaviors and threats of workplace violence;

(G) Strategies for avoiding physical harm and minimizing use of restraints;

(H) Restraint techniques consistent with regulatory requirements;

(I) Self-defense, including:

(i) The amount of physical force that is reasonably necessary to protect the employee or a third person from assault; and

(ii) The use of least restrictive procedures necessary under the circumstances, in accordance with an approved behavior management plan, and any other methods of response approved by the health care employer;

(J) Procedures for documenting and reporting incidents involving assaultive behaviors and incidents of workplace violence;

(K) Programs for post-incident counseling and follow-up;

(L) Resources available to employees for coping with workplace violence;

(M) The health care employer's workplace violence prevention and protection program, including the health care employer's internal investigation process for investigating incidents of workplace violence;

(N) Visual cues and other methods that may be used to identify or notify employees about individuals exhibiting behavioral indicators of workplace violence; and

(O) Responding to active shooter incidents.

(b) A health care employer shall provide workplace violence prevention and protection training to:

(A) A new employee, other than a temporary employee, within 90 days of the employee's initial hiring date.

(B) A temporary employee, within 14 days of the employee's initial hiring date.

(c) A health care employer may use classes, video recordings, brochures, verbal or written training or other training that the employer determines to be appropriate, based

on an employee's job duties, under the workplace violence prevention and protection program developed by the employer.

(d) A health care employer shall ensure that a person with the appropriate knowledge and expertise is available to employees to answer questions and clarify any aspects of the workplace violence prevention and protection training through in-person interaction, phone, electronic mail or other reasonable means of communication.

(5) Once a year, a health care employer shall establish, in coordination with the health care employer's workplace safety committee as described in ORS 654.176, a process by which the committee shall review the health care employer's workplace violence prevention and protection program developed and implemented under subsection (1)(b) of this section in order to evaluate the efficacy of the program and consider any changes to the program that are necessary to promote the prevention of workplace violence.

(6)(a) A health care employer shall provide to each employee and, if applicable, to the employee's union representative, a written copy of the workplace violence prevention and response plan described under subsection (3) of this section, including a written statement explaining that an employee who reports an incident of workplace violence has a right to be protected from retaliation.

(b) For newly hired employees, the health care employer shall provide the copy of the plan and the accompanying statement within 30 calendar days from the date of hire. [2007 c.397 §3; 2019 c.350 §4; 2025 c.535 §3]

654.415 [Repealed by 1973 c.833 §48]

654.416 Required records of assaults against employees; contents; summary report; rules. (1) A health care employer shall maintain a record of assaults committed against employees that occur on the premises of the health care employer or in the home of a patient receiving home health care services. The record shall include, but need not be limited to, the following:

(a) The name and address of the premises on which each assault occurred;

(b) The date, time and specific location where the assault occurred;

(c) The name, job title and department or ward assignment of the employee who was assaulted;

(d) A description of the person who committed the assault as a patient, visitor, employee or other category;

(e) A description of the assaultive behavior as:

(A) An assault with mild soreness, surface abrasions, scratches or small bruises;

(B) An assault with major soreness, cuts or large bruises;

(C) An assault with severe lacerations, a bone fracture or a head injury; or

(D) An assault with loss of limb or death;

(f) An identification of the physical injury;

(g) A description of any weapon used;

(h) The number of employees, including nursing staff as defined in ORS 441.179, in the immediate area of the assault when it occurred; and

(i) A description of actions taken by the employees and the health care employer in response to the assault.

(2) A health care employer shall maintain the record of assaults described in subsection (1) of this section for no fewer than five years following a reported assault.

(3)(a) Upon the request of an employee or of a workplace safety committee conducting a review pursuant to ORS 654.414, the health care employer shall generate and make available to the requesting party a report summarizing:

(A) The information in the record required under subsection (1) of this section; and

(B) Information regarding work-related injuries and illnesses recorded by the health care employer to comply with applicable federal health and safety recordkeeping requirements.

(b) A report made available under this subsection:

(A) May not include any personally identifiable information; and

(B) May be used only for the purposes of conducting a review of the workplace violence prevention and protection program under ORS 654.414 or for other purposes that are related to improving the program.

(4) The Director of the Department of Consumer and Business Services shall adopt by rule a common recording form for the purposes of this section. [2007 c.397 §4; 2019 c.350 §5; 2025 c.535 §7]

654.417 Duty of Department of Consumer and Business Services to submit consolidated report of assault records and incidents of workplace violence occurring on premises of health care provider; requirements. (1) Not later than December 31 of each year, the Department of Consumer and Business Services shall prepare and submit a consolidated report that includes the assault records that are made available under ORS 654.416 and the

following information regarding incidents of workplace violence occurring on the premises of a health care employer:

(a) The location where each workplace violence incident occurred.

(b) The nature of the incident.

(c) The nature and severity of any employee injuries stemming from the workplace violence incident.

(d) The job titles of any employees who were injured as a result of workplace violence.

(e) Any increases or decreases in the number of incidents of workplace violence since the previous study conducted under this section.

(2) The department shall submit the report, in the manner provided in ORS 192.245, including recommendations for legislation, if any, to the interim committees of the Legislative Assembly related to business and labor. [2025 c.535 §5]

654.418 Protection of employee of health care employer after assault by patient. If a health care employer directs an employee who has been assaulted by a patient on the premises of the health care employer to provide further treatment to the patient, the employee may request that a second employee accompany the employee when treating the patient. If the health care employer declines the employee's request, the health care employer may not require the employee to treat the patient. [2007 c.397 §5]

654.420 [Repealed by 1973 c.833 §48]

654.421 Refusal to treat certain patients by home health care employee. (1) An employee who provides home health care services may refuse to treat a patient unless accompanied by a second employee if, based on the patient's past behavior or physical or mental condition, the employee believes that the patient may assault the employee.

(2) An employee who provides home health care services may refuse to treat a patient unless the employee is equipped with a communication device that allows the employee to transmit one-way or two-way messages indicating that the employee is being assaulted. [2007 c.397 §6]

654.423 Use of physical force by health care employee in self-defense against assault. (1) A health care employer may not impose sanctions against an employee who used physical force in self-defense against an assault if the health care employer finds that the employee:

(a) Was acting in self-defense in response to the use or imminent use of physical force;

(b) Used an amount of physical force that was reasonably necessary to protect the employee or a third person from assault; and

(c) Used the least restrictive procedures necessary under the circumstances, in accordance with an approved behavior management plan, or other methods of response approved by the health care employer.

(2) As used in this section, "self-defense" means the use of physical force upon another person in self-defense or to defend a third person. [2007 c.397 §7]

654.425 [Repealed by 1973 c.833 §48]

654.430 [Repealed by 1973 c.833 §48]

654.505 [Repealed by 1961 c.485 §29]

654.510 [Amended by 1953 c.514 §5; 1957 c.201 §1; 1959 c.515 §1; repealed by 1961 c.485 §29]

654.515 [Repealed by 1961 c.485 §29]

654.520 [Amended by 1953 c.514 §5; repealed by 1961 c.485 §29]

654.525 [Amended by 1959 c.657 §1; repealed by 1961 c.485 §29]

654.530 [Amended by 1953 c.514 §5; 1957 c.201 §2; repealed by 1961 c.485 §29]

654.532 [1953 c.514 §5; 1957 c.201 §3; repealed by 1961 c.485 §29]

654.535 [Amended by 1953 c.514 §5; 1957 c.201 §4; repealed by 1961 c.485 §29]

654.540 [Amended by 1957 c.465 §11; repealed by 1961 c.485 §29]

654.545 [Amended by 1953 c.514 §5; repealed by 1961 c.485 §29]

654.550 [Amended by 1953 c.514 §5; 1957 c.201 §5; repealed by 1961 c.485 §29]

654.605 [Repealed by 1973 c.833 §48]

654.610 [Repealed by 1973 c.833 §48]

654.705 [Repealed by 1967 c.150 §2]

654.710 [Repealed by 1967 c.150 §2]

REPORTS OF ACCIDENTS TO PUBLIC UTILITY COMMISSION

654.715 Report of accidents to Public Utility Commission; investigation; supplemental reports; rules. (1) Every public utility and telecommunications utility shall give immediate notice by telegraph, telephone or personally, to the Public Utility Commission whenever any accident occurs within this state upon its premises, or directly or indirectly arises from or is connected with its maintenance or operation, if the accident is attended by loss of human life or limb or serious injury to person or property.

(2) The Public Utility Commission may, if the commission deems the public interest requires it, investigate each such accident forthwith, after giving the public utility or telecommunications utility involved reasonable notice of the time and place of such investigation.

(3) The Public Utility Commission may adopt and amend rules and regulations governing the form and content of reports to the commission to enable the commission to ascertain relevant facts and circumstances attending such accident and the causes thereof. Whenever the original report is insufficient, in the opinion of the commission, the commission may require the public utility or telecommunications utility to file supplemental reports of accidents. [Amended by 1965 c.462 §2; 1987 c.447 §137; 1995 c.733 §48]

654.720 Public inspection or use of reports as evidence prohibited. No report, or any part thereof, required by ORS 654.715, shall be open to public inspection or be used as evidence in any action for damages in any suit or action arising out of any matter mentioned in the report.

HAZARDOUS CHEMICALS USED IN AGRICULTURE

654.750 Definitions for ORS 654.750 to 654.780. As used in this section and ORS 654.760, 654.770 and 654.780, unless the context requires otherwise:

(1) "Employee" means any individual, whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, financial or otherwise, subject to the direction and control of an employer.

(2) "Employer" means any person engaged in agriculture who engages one or more employees.

(3) "Hazardous chemical" means any chemical which is a physical or health hazard.

(4) "Health hazard" means a chemical for which there is statistically significant evidence, based on at least one study conducted in accordance with established scientific principles, that acute or chronic health effects may occur in exposed employees. The term "health hazard" includes chemicals which are carcinogenic, toxic or highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes or mucous membranes.

(5) "Physical hazard" means a chemical for which there is scientifically valid evidence that it is a combustible liquid, a compressed gas, explosive, flammable, an organic peroxide, an oxidizer, pyrophoric, unstable or water-reactive compound. [1987 c.832 §2]

654.760 Rules on hazardous chemicals, safety equipment and training. The Department of Consumer and Business Services shall adopt rules that require employers in agriculture to:

(1) Provide adequate information to all of their employees about hazardous chemicals in use in the workplace and to which employees may reasonably be expected to be exposed;

(2) Provide protective safety equipment determined by rule to be adequate; and

(3) Provide adequate training for employees mixing, loading, applying or otherwise handling hazardous chemicals. [1987 c.832 §3; 1999 c.232 §3]

654.770 Basic information available to agricultural employers for employees; content; language. The Department of Consumer and Business Services shall develop and make available basic information for agriculture employers to use in informing and training employees pursuant to ORS 654.780. The information shall include, but need not be limited to, proper personal hygiene, protective safety equipment, general safety rules, proper work clothing, employee rights with respect to this chapter and common symptoms of hazardous chemical exposure. The basic information shall be made available in English, Spanish and any other language determined necessary by the Director of the Department of Consumer and Business Services after consideration of any input received from stakeholders. [1987 c.832 §4; 2005 c.22 §460; 2011 c.352 §1]

654.780 Providing basic information to employees. Agriculture employers shall give all employees a copy of the basic information developed by the Department of Consumer and Business Services for the purpose of informing employees pursuant to ORS 654.770. The information shall be provided in the employee's own language if the department has produced it in that language. The information shall be provided to persons at the time of hire. [1987 c.832 §5; 2005 c.22 §461]

654.990 [Amended by 1959 c.516 §5; 1961 c.485 §28; 1967 c.150 §1; repealed by 1973 c.833 §37 (654.991 enacted in lieu of 654.990)]

PENALTIES

654.991 Penalties. (1) Subject to ORS 153.022, any employer who willfully violates any provision of, or any regulation, rule, standard or order promulgated pursuant to, ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, and that violation is found to have caused or materially contributed to the death of any employee, shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than $20,000 or by imprisonment for not more than one year, or by both. For the

purposes of this subsection, a violation is willful if it is committed knowingly by an employer or supervisory employee who, having a free will or choice, intentionally or knowingly disobeys or recklessly disregards the requirements of a regulation, rule, standard or order. ORS 161.085 shall apply to terms used in this section.

(2) Any person who gives advance notice of any inspection to be conducted under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, without authority from the Director of the Department of Consumer and Business Services or the designees of the director, shall, upon conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months, or by both.

(3) Whoever knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 shall, upon conviction, be punished by a fine of not more than $10,000 or by imprisonment for not more than six months, or by both.

(4) Punishment under this section does not affect or lessen the civil liability of the offender. [1973 c.833 §38 (enacted in lieu of 654.990); 1977 c.455 §1; 1999 c.1051 §321]

Chapter 183

2025 EDITION

Administrative Procedures Act; Review of Rules; Civil Penalties

ADMINISTRATIVE PROCEDURES ACT

(General Provisions)

183.310 Definitions for chapter

183.315 Application of provisions of chapter to certain agencies

(Adoption of Rules)

183.325 Delegation of rulemaking authority to named officer or employee

183.330 Description of organization; service of order; rules coordinator; order not final until put in writing

183.332 Policy statement; conformity of state rules with equivalent federal laws and rules

183.333 Policy statement; public involvement in development of policy and drafting of rules; advisory committees

183.335 Notice; content; public comment; temporary rule adoption, amendment or suspension; substantial compliance required

183.336 Cost of compliance effect on small businesses

183.337 Procedure for agency adoption of federal rules

183.338 Use of term "noncitizen" in rules and regulations

183.341 Model rules of procedure; establishment; compilation; publication; agencies required to adopt procedural rules

183.355 Filing and taking effect of rules; filing of executive orders; copies; fees; rules

183.360 Publication of rules and orders; exceptions; requirements; bulletin; judicial notice; citation

183.365 Publication of administrative rules in electronic form

183.370 Distribution of published rules

183.390 Petitions requesting adoption of rules

183.400 Judicial determination of validity of rule

183.403 Agency report to Legislative Assembly regarding temporary rules

183.405 Agency review of rules; report by Secretary of State

183.407 Small Business Rules Advisory Committee

183.410 Agency determination of applicability of rule or statute to petitioner; effect; judicial review

(Contested Cases)

183.411 Delegation of final order authority

183.413 Notice to parties before hearing of rights and procedure; failure to provide notice

183.415 Notice of right to hearing

183.417 Procedure in contested case hearing

183.425 Depositions or subpoena of material witness; discovery

183.430 Hearing on refusal to renew license; exceptions

183.435 Period allowed to request hearing for license refusal on grounds other than test or inspection results

183.440 Subpoenas in contested cases

183.445 Subpoena by agency or attorney of record of party when agency not subject to ORS 183.440

183.450 Evidence in contested cases

183.452 Representation of agencies at contested case hearings

183.453 Representation of Oregon Health Authority and Department of Human Services at contested case hearings

183.457 Representation of persons other than agencies participating in contested case hearings

183.458 Nonattorney and out-of-state attorney representation of parties in certain contested case hearings

183.459 Representation of home care worker by labor union representative

183.460 Examination of evidence by agency

183.462 Agency statement of ex parte communications; notice

183.464 Proposed order by hearing officer; amendment by agency; exemptions

183.470 Orders in contested cases

183.471 Preservation of orders in electronic format; fees

(Judicial Review)

183.480 Judicial review of agency orders

183.482 Jurisdiction for review of contested cases; procedure; scope of court authority

183.484 Jurisdiction for review of orders other than contested cases; procedure; scope of court authority

183.485 Decision of court on review of contested case

183.486 Form and scope of decision of reviewing court

183.490 Agency may be compelled to act

183.497 Awarding costs and attorney fees when finding for petitioner

(Appeals From Circuit Courts)

183.500 Appeals

(Alternative Dispute Resolution)

183.502 Authority of agencies to use alternative means of dispute resolution; model rules; amendment of agreements and forms; agency alternative dispute resolution programs

(Housing Cost Impact Statement)

183.530 Housing cost impact statement required for certain proposed rules

183.534 Housing cost impact statement described; rules

183.538 Effect of failure to prepare housing cost impact statement; judicial review

(Effects of Rules on Small Business)

183.540 Reduction of economic impact on small business

(Office of Administrative Hearings)

183.605 Office of Administrative Hearings

183.610 Chief administrative law judge

183.615 Administrative law judges; duties; qualifications; rules

183.620 Contract administrative law judges

183.625 Assignment of administrative law judges; conduct of hearings

183.630 Model rules of procedure; exemptions; depositions

183.635 Agencies required to use administrative law judges from Office of Administrative Hearings; exceptions

183.640 Use of Office of Administrative Hearings by exempt agencies and by political subdivisions

183.645 Request for change of administrative law judge; rules

183.650 Form of order; modification of form of order by agency; finding of historical fact

183.655 Fees

183.660 Office of Administrative Hearings Operating Account

183.665 Estimates of office expenses

183.670 Rules

183.675 Alternative dispute resolution

183.680 Standards and training program

183.685 Ex parte communications

183.690 Office of Administrative Hearings Oversight Committee

PERMITS AND LICENSES

183.700 Permits subject to ORS 183.702

183.702 Statement of criteria and procedures for evaluating permit application; documentation of decision on application; required signature

183.705 Extended term for renewed licenses; fees; continuing education; rules

REVIEW OF RULES

(Legislative Assembly)

183.710 Definitions for ORS 183.710 to 183.730

183.715 Submission of adopted rule to Legislative Counsel required

183.720 Procedure for review of agency rule; reports on rules claimed to be duplicative or conflicting

183.722 Required agency response to Legislative Counsel determination; consideration of determination by interim committee

183.724 Designation of interim committees for purposes of considering rule reports

(Oregon Sunshine Committee)

183.730 Review of rule by Oregon Sunshine Committee

CIVIL PENALTIES

183.745 Civil penalty procedures; notice; hearing; judicial review; exemptions; recording; enforcement

READABILITY OF PUBLIC WRITINGS

183.750 State agency required to prepare public writings in readable form

183.010 [Repealed by 1971 c.734 §21]

183.020 [Repealed by 1971 c.734 §21]

183.025 [Formerly 182.065; 1993 c.729 §4; 2003 c.749 §8; renumbered 183.750 in 2003]

183.030 [Repealed by 1971 c.734 §21]

183.040 [Repealed by 1971 c.734 §21]

183.050 [Repealed by 1971 c.734 §21]

183.060 [1957 c.147 §1; repealed by 1969 c.292 §3]

183.090 [1991 c.734 §2; 1997 c.387 §3; 2001 c.621 §71; renumbered 183.745 in 2003]

ADMINISTRATIVE PROCEDURES ACT
(General Provisions)

183.310 Definitions for chapter. As used in this chapter:

(1) "Agency" means any state board, commission, department, or division thereof, or officer authorized by law to make rules or to issue orders, except those in the legislative and judicial branches.

(2)(a) "Contested case" means a proceeding before an agency:

(A) In which the individual legal rights, duties or privileges of specific parties are required by statute or Constitution to be determined only after an agency hearing at which such specific parties are entitled to appear and be heard;

(B) Where the agency has discretion to suspend or revoke a right or privilege of a person;

(C) For the suspension, revocation or refusal to renew or issue a license where the licensee or applicant for a license demands such hearing; or

(D) Where the agency by rule or order provides for hearings substantially of the character required by ORS 183.415, 183.417, 183.425, 183.450, 183.460 and 183.470.

(b) "Contested case" does not include proceedings in which an agency decision rests solely on the result of a test.

(3) "Economic effect" means the economic impact on affected businesses by and the costs of compliance, if any, with a rule for businesses, including but not limited to the costs of equipment, supplies, labor and administration.

(4) "Hearing officer" includes an administrative law judge.

(5) "License" includes the whole or part of any agency permit, certificate, approval, registration or similar form of permission required by law to pursue any commercial activity, trade, occupation or profession.

(6)(a) "Order" means any agency action expressed orally or in writing directed to a named person or named persons, other than employees, officers or members of an agency. "Order" includes any agency determination or decision issued in connection with a contested case proceeding. "Order" includes:

(A) Agency action under ORS chapter 657 making determination for purposes of unemployment compensation of employees of the state;

(B) Agency action under ORS chapter 240 which grants, denies, modifies, suspends or revokes any right or privilege of an employee of the state; and

(C) Agency action under ORS 468B.050 to issue a permit.

(b) "Final order" means final agency action expressed in writing. "Final order" does not include any tentative or preliminary agency declaration or statement that:

(A) Precedes final agency action; or

(B) Does not preclude further agency consideration of the subject matter of the statement or declaration.

(7) "Party" means:

(a) Each person or agency entitled as of right to a hearing before the agency;

(b) Each person or agency named by the agency to be a party; or

(c) Any person requesting to participate before the agency as a party or in a limited party status which the agency determines either has an interest in the outcome of the agency's proceeding or represents a public interest in such result. The agency's determination is subject to judicial review in the manner provided by ORS 183.482 after the agency has issued its final order in the proceedings.

(8) "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than an agency.

(9) "Rule" means any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include:

(a) Unless a hearing is required by statute, internal management directives, regulations or statements which do not substantially affect the interests of the public:

(A) Between agencies, or their officers or their employees; or

(B) Within an agency, between its officers or between employees.

(b) Action by agencies directed to other agencies or other units of government which

do not substantially affect the interests of the public.

(c) Declaratory rulings issued pursuant to ORS 183.410 or 305.105.

(d) Intra-agency memoranda.

(e) Executive orders of the Governor.

(f) Rules of conduct for persons committed to the physical and legal custody of the Department of Corrections, the violation of which will not result in:

(A) Placement in segregation or isolation status in excess of seven days.

(B) Institutional transfer or other transfer to secure confinement status for disciplinary reasons.

(C) Disciplinary procedures adopted pursuant to ORS 421.180.

(10)(a) "Small business" means a corporation, partnership, sole proprietorship or other legal entity formed for the purpose of making a profit, which is independently owned and operated from all other businesses and which has 50 or fewer employees.

(b) "Small business" does not include a coordinated care organization as defined in ORS 414.025. [1957 c.717 §1; 1965 c.285 §78a; 1967 c.419 §32; 1969 c.80 §37a; 1971 c.734 §1; 1973 c.386 §4; 1973 c.621 §1a; 1977 c.374 §1; 1977 c.798 §1; 1979 c.593 §6; 1981 c.755 §1; 1987 c.320 §141; 1987 c.861 §1; 2003 c.75 §71; 2005 c.523 §8; 2007 c.288 §9; 2019 c.529 §4]

183.315 Application of provisions of chapter to certain agencies. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created pursuant to ORS 199.430, the Department of Revenue, State Accident Insurance Fund Corporation, Department of Consumer and Business Services with respect to its functions under ORS chapters 654 and 656, State Board of Parole and Post-Prison Supervision or Psychiatric Security Review Board with respect to its functions under ORS 161.315 to 161.351.

(2) This chapter does not apply with respect to actions of the Governor authorized under ORS chapter 240 and ORS 396.125 or actions of the Adjutant General authorized under ORS 396.160 (14).

(3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458 and 183.460 do not apply to the Employment Appeals Board or the Employment Department.

(4) The Employment Department shall be exempt from the provisions of this chapter to the extent that a formal finding of the United States Secretary of Labor is made that such provision conflicts with the terms of the federal law, acceptance of which by the state is a condition precedent to continued certification by the United States Secretary of Labor of the state's law.

(5) The provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490 to 183.500 do not apply to orders issued to persons who:

(a) Have been committed pursuant to ORS 137.124 to the custody of the Department of Corrections or are otherwise confined in a Department of Corrections facility; or

(b) Seek to visit an adult in custody confined in a Department of Corrections facility.

(6) ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do not apply to the Public Utility Commission. Except as provided in ORS 774.180, judicial review of an order issued by the commission in a contested case may be sought only by a party to the contested case.

(7) The provisions of this chapter do not apply to the suspension, cancellation or termination of an apprenticeship or training agreement under ORS 660.060.

(8) The provisions of ORS 183.413 to 183.497 do not apply to administrative proceedings conducted under rules adopted by the Secretary of State under ORS 246.190. [1971 c.734 §19; 1973 c.612 §3; 1973 c.621 §2; 1973 c.694 §1; 1975 c.759 §1; 1977 c.804 §45; 1979 c.593 §7; 1981 c.711 §16; 1987 c.320 §142; 1987 c.373 §21; 1989 c.90 §1; 1997 c.26 §1; 1999 c.448 §6; 1999 c.679 §1; 2003 c.64 §8; 2005 c.512 §30; 2005 c.638 §1; 2007 c.239 §8; 2007 c.288 §10; 2011 c.708 §24; 2017 c.312 §1; 2017 c.442 §23; 2019 c.213 §54]

183.317 [1971 c.734 §187; repealed by 1979 c.593 §34]

183.320 [1957 c.717 §15; repealed by 1971 c.734 §21]

(Adoption of Rules)

183.325 Delegation of rulemaking authority to named officer or employee. Unless otherwise provided by law, an agency may delegate its rulemaking authority to an officer or employee within the agency. A delegation of authority under this section must be made in writing and filed with the Secretary of State before the filing of any rule adopted pursuant to the delegation. A delegation under this section may be made only to one or more named individuals. The delegation of authority shall reflect the name of the authorized individual or individuals, and be signed in acknowledgment by the named individuals. Any officer or employee to whom rulemaking authority is delegated under this section is an "agency" for the purposes of the rulemaking requirements of this chapter. [1979 c.593 §10; 1993 c.729 §1]

183.330 Description of organization; service of order; rules coordinator; order not final until put in writing. (1) In addition to other rulemaking requirements im-

posed by law, each agency shall publish a description of its organization and the methods whereby the public may obtain information or make submissions or requests.

(2) Each state agency that adopts rules shall appoint a rules coordinator and file a copy of that appointment with the Secretary of State. The rules coordinator shall:

(a) Maintain copies of all rules adopted by the agency;

(b) Provide to the public, upon request, information pertaining to:

(A) All rulemaking proceedings of the agency;

(B) The status of the agency's rules; and

(C) All certificates and rules filed by the agency with the Secretary of State; and

(c) Keep and make available the mailing list required by ORS 183.335 (8).

(3) An order shall not be effective as to any person or party unless it is served upon the person or party either personally or by mail. This subsection is not applicable in favor of any person or party who has actual knowledge of the order.

(4) An order is not final until it is reduced to writing. [1957 c.717 §2; 1971 c.734 §4; 1975 c.759 §3; 1979 c.593 §8; 1993 c.729 §2; 2001 c.220 §3; 2017 c.518 §1]

183.332 Policy statement; conformity of state rules with equivalent federal laws and rules. It is the policy of this state that agencies shall seek to retain and promote the unique identity of Oregon by considering local conditions when an agency adopts policies and rules. However, since there are many federal laws and regulations that apply to activities that are also regulated by the state, it is also the policy of this state that agencies attempt to adopt rules that correspond with equivalent federal laws and rules unless:

(1) There is specific statutory direction to the agency that authorizes the adoption of the rule;

(2) A federal waiver has been granted that authorizes the adoption of the rule;

(3) Local or special conditions exist in this state that warrant a different rule;

(4) The state rule has the effect of clarifying the federal rules, standards, procedures or requirements;

(5) The state rule achieves the goals of the federal and state law with the least impact on public and private resources; or

(6) There is no corresponding federal regulation. [1997 c.602 §2]

183.333 Policy statement; public involvement in development of policy and drafting of rules; advisory committees. (1)(a) The Legislative Assembly finds and declares that it is the policy of this state that whenever possible the public be involved in the development of public policy by agencies and in the drafting of rules. The Legislative Assembly encourages agencies to seek public input to the maximum extent possible before giving notice of intent to adopt a rule. The agency may appoint an advisory committee or use any other means of obtaining public views that will assist the agency in drafting the rule.

(b) The membership of an advisory committee appointed under this subsection must represent the interests of persons and communities likely to be affected by the rule.

(c) An agency that appoints an advisory committee under this subsection with regard to adoption of rules implementing legislation enacted by the Legislative Assembly shall invite to participate as a nonvoting member of the committee:

(A) For legislation sponsored by a member of the Legislative Assembly, the first chief sponsor of the legislation, or another sponsor of the legislation as designated by the first chief sponsor.

(B) For legislation sponsored by a committee of the Legislative Assembly, the chair of the committee that sponsored the legislation at the time the legislation was introduced, or another member of the committee as designated by the chair.

(2) Any agency in its discretion may develop a list of interested parties and inform those parties of any issue that may be the subject of rulemaking and invite the parties to make comments on the issue.

(3) If an agency appoints an advisory committee for consideration of a rule under subsection (1) of this section, the agency shall seek the committee's recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be and whether the rule will have a significant adverse impact on small businesses. If the committee indicates that the rule will have a significant adverse impact on small businesses, the agency shall seek the committee's recommendations on compliance with ORS 183.540.

(4) An agency shall consider an advisory committee's recommendations provided under subsection (3) of this section in preparing the statement of fiscal impact required by ORS 183.335 (2)(b)(E).

(5) If an agency does not appoint an advisory committee for consideration of a permanent rule under subsection (1) of this

section and 10 or more persons likely to be affected by the rule object to the agency's statement of fiscal impact as required by ORS 183.335 (2)(b)(E) or an association with at least 10 members likely to be affected by the rule objects to the statement, the agency shall appoint a fiscal impact advisory committee to provide recommendations on whether the rule will have a fiscal impact and what the extent of that impact will be. The membership of the fiscal impact advisory committee must represent the interests of persons and communities likely to be affected by the rule. An objection under this subsection must be made not later than 14 days after the notice required by ORS 183.335 (1) is given. If the agency determines that the statement does not adequately reflect the rule's fiscal impact, the agency shall extend the period for submission of data or views under ORS 183.335 (3)(a) by at least 20 days. The agency shall include any recommendations from the committee in the record maintained by the agency for the rule.

(6) An agency may appoint the Small Business Rules Advisory Committee established in ORS 183.407 as the advisory committee or fiscal impact advisory committee for purposes of this section.

(7) Subsection (5) of this section does not apply to any rule adopted by an agency to comply with a judgment or a settlement of a judicial proceeding.

(8) If an agency is required by law to appoint an advisory committee or a fiscal impact advisory committee under this section, the agency may not appoint an officer, employee or other agent of the agency to serve as a member of the advisory committee or fiscal impact advisory committee. [2003 c.749 §4; 2005 c.807 §4; 2013 c.273 §1; 2018 c.20 §3; 2021 c.463 §1; 2025 c.446 §1]

183.335 Notice; content; public comment; temporary rule adoption, amendment or suspension; substantial compliance required. (1) Prior to the adoption, amendment or repeal of any rule, the agency shall give notice of its intended action:

(a) In the manner established by rule adopted by the agency under ORS 183.341 (4), which provides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

(b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;

(c) At least 28 days before the effective date, to persons who have requested notice pursuant to subsection (8) of this section; and

(d) Delivered only by electronic mail, at least 49 days before the effective date, to the persons specified in subsection (15) of this section.

(2)(a) The notice required by subsection (1) of this section must include:

(A) A caption of not more than 15 words that reasonably identifies the subject matter of the agency's intended action. The agency shall include the caption on each separate notice, statement, certificate or other similar document related to the intended action.

(B) An objective, simple and understandable statement summarizing the subject matter and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected, and the time, place and manner in which interested persons may present their views on the intended action.

(b) The agency shall include with the notice of intended action given under subsection (1) of this section:

(A) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(B) A citation of the statute or other law the rule is intended to implement;

(C) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(D) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection. The list may be abbreviated if necessary, and if so abbreviated there shall be identified the location of a complete list;

(E) A statement of fiscal impact identifying state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected. For an agency specified in ORS 183.530, the statement of fiscal impact shall also include a housing cost impact statement as described in ORS 183.534;

(F) A statement identifying how adoption of the rule will affect racial equity in this state;

(G) If an advisory committee is not appointed under the provisions of ORS 183.333, an explanation as to why no advisory committee was used to assist the agency in drafting the rule; and

(H) A request for public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

(c) The Secretary of State may omit the information submitted under paragraph (b) of this subsection from publication in the bulletin referred to in ORS 183.360.

(d) When providing notice of an intended action under subsection (1)(c) of this section, the agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or an explanation of how the person may acquire a copy of the rule. The copy of an amended rule shall show all changes to the rule by striking through material to be deleted and underlining all new material, or by any other method that clearly shows all new and deleted material.

(3)(a) When an agency proposes to adopt, amend or repeal a rule, it shall give interested persons reasonable opportunity to submit data or views. Opportunity for oral hearing shall be granted upon request received from 10 persons or from an association having not less than 10 members before the earliest date that the rule could become effective after the giving of notice pursuant to subsection (1) of this section. An agency holding a hearing upon a request made under this subsection shall give notice of the hearing at least 21 days before the hearing to the person who has requested the hearing, to persons who have requested notice pursuant to subsection (8) of this section and to the persons specified in subsection (15) of this section. The agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 at least 14 days before the hearing. The agency shall consider fully any written or oral submission.

(b) If an agency is required to conduct an oral hearing under paragraph (a) of this subsection, and the rule for which the hearing is to be conducted applies only to a limited geographical area within this state, or affects only a limited geographical area within this state, the hearing shall be conducted within the geographical area at the place most convenient for the majority of the residents within the geographical area. At least 14 days before a hearing conducted under this paragraph, the agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 and in a newspaper of general circulation published within the geographical area that is affected by the rule or to which the rule applies. If a newspaper of general circulation is not published within the geographical area that is affected by the rule or to which the rule applies, the publication shall be made in the newspaper of general circulation published closest to the geographical area.

(c) Notwithstanding paragraph (a) of this subsection, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may adopt rules limiting participation by adults in custody in the proposed adoption, amendment or repeal of any rule to written submissions.

(d) If requested by at least five persons before the earliest date that the rule could become effective after the agency gives notice pursuant to subsection (1) of this section, the agency shall provide a statement that identifies the objective of the rule and a statement of how the agency will subsequently determine whether the rule is in fact accomplishing that objective.

(e) An agency that receives data or views concerning proposed rules from interested persons shall maintain a record of the data or views submitted. The record shall contain:

(A) All written materials submitted to an agency in response to a notice of intent to adopt, amend or repeal a rule.

(B) A recording or summary of oral submissions received at hearings held for the purpose of receiving those submissions.

(C) Any public comment received in response to the request made under subsection (2)(b)(H) of this section and the agency's response to that comment.

(D) Any statements provided by the agency under paragraph (d) of this subsection.

(4) Upon request of an interested person received before the earliest date that the rule could become effective after the giving of notice pursuant to subsection (1) of this section, the agency shall postpone the date of its intended action no less than 21 nor more than 90 days in order to allow the requesting person an opportunity to submit data, views or arguments concerning the proposed action. Nothing in this subsection shall preclude an agency from adopting a temporary rule pursuant to subsection (5) of this section.

(5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or suspend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, if the agency prepares:

(a) A statement of its findings that its failure to act promptly will result in serious

prejudice to the public interest or the interest of the parties concerned and the specific reasons for its findings of prejudice;

(b) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(c) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection; and

(e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS 183.534.

(6)(a) A rule adopted, amended or suspended under subsection (5) of this section is temporary and may be effective for a period of not longer than 180 days. The adoption of a rule under this subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to (4) of this section.

(b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary period of suspension unless the rule is repealed under subsections (1) to (4) of this section.

(7) Notwithstanding subsections (1) to (4) of this section, an agency may amend a rule without prior notice or hearing if the amendment is solely for the purpose of:

(a) Changing the name of an agency by reason of a name change prescribed by law;

(b) Changing the name of a program, office or division within an agency as long as the change in name does not have a substantive effect on the functions of the program, office or division;

(c) Correcting spelling;

(d) Correcting grammatical mistakes in a manner that does not alter the scope, application or meaning of the rule;

(e) Correcting statutory or rule references;

(f) Correcting addresses or telephone numbers referred to in the rules; or

(g) Changing a term or phrase in order to conform with a change prescribed by law.

(8)(a) Any person may request in writing that an agency send to the person copies of the agency's notices of intended action issued under subsection (1) of this section. The person must provide an address where the person elects to receive notices. The address provided may be a postal mailing address or, if the agency provides notice by electronic mail, may be an electronic mailing address.

(b) A request under this subsection must indicate that the person requests one of the following:

(A) The person may request that the agency mail paper copies of the proposed rule and other information required by subsection (2) of this section to the postal mailing address.

(B) If the agency posts notices of intended action on a website, the person may request that the agency mail the information required by subsection (2)(a) of this section to the postal mailing address with a reference to the website where electronic copies of the proposed rule and other information required by subsection (2) of this section are posted.

(C) The person may request that the agency electronically mail the information required by subsection (2)(a) of this section to the electronic mailing address, and either provide electronic copies of the proposed rule and other information required by subsection (2) of this section or provide a reference to a website where electronic copies of the proposed rule and other information required by subsection (2) of this section are posted.

(c) Upon receipt of any request under this subsection, the agency shall acknowledge the request, establish a mailing list and maintain a record of all mailings made pursuant to the request. Agencies may establish procedures for establishing the mailing lists and keeping the mailing lists current. Agencies by rule may establish fees necessary to defray the costs of mailings and maintenance of the lists.

(d) Members of the Legislative Assembly who receive notices under subsection (15) of this section may request that an agency furnish paper copies of the notices.

(9) This section does not apply to rules establishing an effective date for a previously effective rule or establishing a period during which a provision of a previously effective rule will apply.

(10) This section does not apply to ORS 279.835 to 279.855, 279A.140 to 279A.161, 279A.250 to 279A.290, 279A.990, 279B.050 to 279B.085, 279B.200 to 279B.240, 279B.270, 279B.275, 279B.280, 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.550 to 279C.570, 279C.580, 279C.585, 279C.590, 279C.600 to 279C.625, 279C.650 to 279C.670 and 279C.800 to 279C.870 relating to public contracts and purchasing.

(11)(a) Except as provided in paragraph (c) of this subsection, a rule is not valid unless adopted in substantial compliance with

the provisions of this section in effect on the date that the notice required under subsection (1) of this section is delivered to the Secretary of State for the purpose of publication in the bulletin referred to in ORS 183.360.

(b) In addition to all other requirements with which rule adoptions must comply, a rule other than a rule amended for a purpose described in subsection (7) of this section is not valid if the rule has not been submitted to the Legislative Counsel in the manner required by ORS 183.355 and 183.715.

(c) A rule is not subject to judicial review or other challenge by reason of failing to comply with subsection (2)(a)(A) of this section.

(12)(a) Notwithstanding the provisions of subsection (11) of this section, but subject to paragraph (b) of this subsection, an agency may correct its failure to substantially comply with the requirements of subsections (2) and (5) of this section in adoption of a rule by an amended filing, as long as the noncompliance did not substantially prejudice the interests of persons to be affected by the rule.

(b) An agency may use an amended filing to correct a failure to include a fiscal impact statement in a notice of intended action, as required by subsection (2)(b)(E) of this section, or to correct an inaccurate fiscal impact statement, only if the agency developed the fiscal impact statement with the assistance of an advisory committee or fiscal impact advisory committee appointed under ORS 183.333.

(13) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by an agency need not be based upon or supported by an evidentiary record.

(14) When an agency has established a deadline for comment on a proposed rule under the provisions of subsection (3)(a) of this section, the agency may not extend that deadline for another agency or person unless the extension applies equally to all interested agencies and persons. An agency shall not consider any submission made by another agency after the final deadline has passed.

(15) The notices required under subsections (1) and (3) of this section must be given by the agency to the following persons:

(a) If the proposed adoption, amendment or repeal results from legislation that was passed within two years before notice is given under subsection (1) of this section, notice shall be given to the legislator who introduced the bill that subsequently was enacted into law, and to the chair or cochairs of all committees that reported the bill out, except for those committees whose sole action on the bill was referral to another committee.

(b) If the proposed adoption, amendment or repeal does not result from legislation that was passed within two years before notice is given under subsection (1) of this section, notice shall be given to the chair or cochairs of any interim or session committee with authority over the subject matter of the rule.

(c) If notice cannot be given under paragraph (a) or (b) of this subsection, notice shall be given to the Speaker of the House of Representatives and to the President of the Senate who are in office on the date the notice is given.

(16)(a) Upon the request of a member of the Legislative Assembly or of a person who would be affected by a proposed adoption, amendment or repeal, the committees receiving notice under subsection (15) of this section shall review the proposed adoption, amendment or repeal for compliance with the legislation from which the proposed adoption, amendment or repeal results.

(b) The committees shall submit their comments on the proposed adoption, amendment or repeal to the agency proposing the adoption, amendment or repeal. [1971 c.734 §3; 1973 c.612 §1; 1975 c.136 §11; 1975 c.759 §4; 1977 c.161 §1; 1977 c.344 §6; 1977 c.394 §1a; 1977 c.798 §2; 1979 c.593 §11; 1981 c.755 §2; 1987 c.861 §2; 1993 c.729 §3; 1995 c.652 §5; 1997 c.602 §3; 1999 c.123 §1; 1999 c.334 §1; 2001 c.220 §1; 2001 c.563 §1; 2003 c.749 §5; 2003 c.794 §206; 2005 c.17 §1; 2005 c.18 §1; 2005 c.382 §1; 2005 c.807 §5; 2007 c.115 §1; 2007 c.768 §58; 2011 c.380 §2; 2017 c.518 §2; 2019 c.213 §126; 2021 c.463 §2; 2022 c.97 §6]

183.336 Cost of compliance effect on small businesses. (1) The statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) must include:

(a) An estimate of the number of small businesses subject to the proposed rule and identification of the types of businesses and industries with small businesses subject to the proposed rule;

(b) A brief description of the projected reporting, recordkeeping and other administrative activities required for compliance with the proposed rule, including costs of professional services;

(c) An identification of equipment, supplies, labor and increased administration required for compliance with the proposed rule; and

(d) A description of the manner in which the agency proposing the rule involved small businesses in the development of the rule.

(2) An agency shall utilize available information in complying with the requirements of this section. [2005 c.807 §2]

183.337 Procedure for agency adoption of federal rules. (1) Notwithstanding ORS 183.335, when an agency is required to adopt rules or regulations promulgated by an agency of the federal government and the agency has no authority to alter or amend the content or language of those rules or regulations prior to their adoption, the agency may adopt those rules or regulations under the procedure prescribed in this section.

(2) Prior to the adoption of a federal rule or regulation under subsection (1) of this section, the agency shall give notice of the adoption of the rule or regulation, the effective date of the rule or regulation in this state and the subject matter of the rule or regulation in the manner established in ORS 183.335 (1).

(3) After giving notice the agency may adopt the rule or regulation by filing a copy with the Secretary of State in compliance with ORS 183.355. The agency is not required to conduct a public hearing concerning the adoption of the rule or regulation.

(4) Nothing in this section authorizes an agency to amend federal rules or regulations or adopt rules in accordance with federal requirements without giving an opportunity for hearing as required by ORS 183.335. [1979 c.593 §15]

183.338 Use of term "noncitizen" in rules and regulations. (1) As used in this section:

(a) "Noncitizen" means an individual who is not a citizen or national of the United States.

(b) "State agency" means any state officer, board, commission, department, division, institution, branch or agency of the state government.

(2) A state agency shall use the term "noncitizen" to reference an individual who is not a citizen or national of the United States when promulgating a rule or regulation that references an individual who is not a citizen or national of the United States. [2022 c.97 §1]

Note: 183.338 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.340 [1957 c.717 §3 (3); 1971 c.734 §6; repealed by 1975 c.759 §5 (183.341 enacted in lieu of 183.340)]

183.341 Model rules of procedure; establishment; compilation; publication; agencies required to adopt procedural rules. (1) The Attorney General shall prepare model rules of procedure appropriate for use by as many agencies as possible. Except as provided in ORS 183.630, any agency may adopt all or part of the model rules by reference without complying with the rulemaking procedures under ORS 183.335. Notice of such adoption shall be filed with the Secretary of State in the manner provided by ORS 183.355 for the filing of rules. The model rules may be amended from time to time by an adopting agency or the Attorney General after notice and opportunity for hearing as required by rulemaking procedures under this chapter.

(2) Except as provided in ORS 183.630, all agencies shall adopt rules of procedure to be utilized in the adoption of rules and conduct of proceedings in contested cases or, if exempt from the contested case provisions of this chapter, for the conduct of proceedings.

(3) The Secretary of State shall publish in the Oregon Administrative Rules:

(a) The Attorney General's model rules adopted under subsection (1) of this section;

(b) The procedural rules of all agencies that have not adopted the Attorney General's model rules; and

(c) The notice procedures required by ORS 183.335 (1).

(4) Agencies shall adopt rules of procedure which will provide a reasonable opportunity for interested persons to be notified of the agency's intention to adopt, amend or repeal a rule.

(5) No rule adopted after September 13, 1975, is valid unless adopted in substantial compliance with the rules adopted pursuant to subsection (4) of this section. [1975 c.759 §6 (enacted in lieu of 183.340); 1979 c.593 §12; 1997 c.837 §1; 1999 c.849 §§24,25; 2003 c.75 §28]

183.350 [1957 c.717 §3 (1), (2); repealed by 1971 c.734 §21]

183.355 Filing and taking effect of rules; filing of executive orders; copies; fees; rules. (1) The Secretary of State shall by rule prescribe requirements for the manner and form for filing rules adopted, amended or repealed by agencies. The Secretary of State may refuse to accept for filing any rules that do not comply with the requirements.

(2)(a) Each agency shall file with the office of the Secretary of State each rule adopted by the agency.

(b) Unless otherwise provided by rule adopted by the Secretary of State, an agency adopting a rule incorporating published standards by reference is not required to file a copy of those standards with the Secretary of State if:

(A) The standards adopted are unusually voluminous and costly to reproduce; and

(B) The rule filed with the Secretary of State identifies the location of the standards

so incorporated and the conditions of their availability to the public.

(3) Each rule is effective upon filing as required by subsection (2) of this section, except that:

(a) If a later effective date is required by statute or specified in the rule, the later date is the effective date.

(b) A temporary rule becomes effective upon filing with the Secretary of State, or at a designated later date, only if the statement required by ORS 183.335 (5) is filed with the rule. The agency shall take appropriate measures to make temporary rules known to the persons who may be affected by them.

(4) When a rule is amended or repealed by an agency, the agency shall file the amendment or notice of repeal with the Secretary of State.

(5) A certified copy of each executive order issued, prescribed or promulgated by the Governor shall be filed in the office of the Secretary of State.

(6) A rule is not valid or effective against any person or party until the rule is filed in accordance with this section. However, if an agency, in disposing of a contested case, announces in its decision the adoption of a general policy applicable to the case and subsequent cases of like nature the agency may rely upon the decision in disposition of later cases.

(7) The Secretary of State shall, upon request, supply copies of rules, or orders or designated parts of rules or orders, in the format requested, making and collecting therefor fees prescribed by ORS 177.130. All receipts from the sale of copies shall be deposited in the State Treasury to the credit of the Secretary of State Miscellaneous Receipts Account established under ORS 279A.290.

(8) The Secretary of State shall establish and collect fees from agencies filing rules under this section. The fees shall be established in amounts calculated to be necessary to generate revenues adequate to pay costs incurred by the Secretary of State in performing the following duties that are not paid for by subscriber fees or other fees prescribed by law:

(a) Publication of the compilation referred to in ORS 183.360 (1);

(b) Electronic publication of the bulletin referred to in ORS 183.360 (3); and

(c) Electronic publication of rules and other information relating to rules under ORS 183.365.

(9) All fees collected under subsection (8) of this section shall be deposited in the State Treasury to the credit of the Secretary of State Miscellaneous Receipts Account established under ORS 279A.290.

(10) No later than 10 days after an agency files an adopted, amended or repealed rule with the Secretary of State, other than a rule amended for a purpose described in ORS 183.335 (7), the Secretary of State shall:

(a) Electronically transmit the rule to the Legislative Counsel in accordance with ORS 183.715; and

(b) Provide to the agency that filed the rule a written confirmation that the rule was transmitted to the Legislative Counsel. [1971 c.734 §5; 1973 c.612 §2; 1975 c.759 §7; 1977 c.798 §2b; 1979 c.593 §13; 1991 c.169 §2; 2003 c.794 §207; 2009 c.289 §1; 2017 c.518 §3]

183.360 Publication of rules and orders; exceptions; requirements; bulletin; judicial notice; citation. (1) The Secretary of State shall compile, index and publish all rules adopted by each agency. The compilation shall be supplemented or revised as often as necessary. Such compilation supersedes any other rules. The Secretary of State may make such compilations of other material published in the bulletin as are desirable. The Secretary of State may copyright the compilations prepared under this subsection, and may establish policies for the revision, clarification, classification, arrangement, indexing, printing, binding, publication, sale and distribution of the compilations.

(2) The Secretary of State has discretion to omit from the compilation, if published in print, rules the publication of which would be unduly cumbersome or expensive if the rule in printed or processed form is made available on application to the adopting agency, and if the compilation contains a notice summarizing the omitted rule and stating how a copy of the omitted rule may be obtained. In preparing the compilation the Secretary of State may not alter the sense, meaning, effect or substance of any rule, but may renumber sections and parts of sections of the rules, change the wording of headnotes, rearrange sections, change reference numbers to agree with renumbered chapters, sections or other parts, substitute the proper subsection, section or chapter or other division numbers, change capitalization for the purpose of uniformity, and correct manifest clerical or typographical errors.

(3) The Secretary of State shall publish at least at monthly intervals a bulletin that:

(a) Briefly indicates the agencies that are proposing to adopt, amend or repeal a rule, the subject matter of the rule and the name, address and telephone number of an agency officer or employee from whom information and a copy of any proposed rule may be obtained;

(b) Contains the text or a brief description of all rules filed under ORS 183.355 since the last bulletin indicating the effective date of the rule;

(c) Contains executive orders of the Governor; and

(d) Contains orders issued by the Director of the Department of Revenue under ORS 305.157 extending tax statutes of limitation.

(4) Courts shall take judicial notice of rules and executive orders filed with the Secretary of State.

(5) The compilation required by subsection (1) of this section shall be titled Oregon Administrative Rules and may be cited as "OAR" with appropriate numerical indications.

(6) The Secretary of State may publish the compilation and bulletin required by this section in print, or by placing the compilation and bulletin on the Internet. [1957 c.717 §4 (1),(2),(3); 1961 c.464 §1; 1971 c.734 §7; 1973 c.612 §4; 1975 c.759 §7a; 1977 c.394 §2; 1979 c.593 §16; 1993 c.729 §13; 1995 c.79 §62; 2001 c.104 §63; 2003 c.168 §3; 2009 c.289 §2; 2017 c.518 §4]

183.362 [1993 c.729 §12; repealed by 2017 c.518 §9]

183.365 Publication of administrative rules in electronic form. (1) Pursuant to ORS 183.360, the Secretary of State shall publish in electronic form administrative rules adopted or amended by state agencies and make the information available to the public and members of the Legislative Assembly.

(2) The Secretary of State shall determine the most cost-effective format and procedures for the timely release of the information described in subsection (1) of this section in electronic form.

(3) Pursuant to ORS 183.355, the Secretary of State shall establish requirements for filing administrative rules adopted or amended by state agencies for entry into computer networks for the purpose of subsection (1) of this section.

(4) Although each state agency is responsible for its information resources, centralized information resource management must also exist to:

(a) Provide public access to the information described in subsection (1) of this section;

(b) Provide technical assistance to state agencies; and

(c) Ensure that the information resources needed to implement subsection (1) of this section are addressed along with the needs of the individual agencies.

(5) Personal information concerning a person who accesses the information identified in subsection (1) of this section may be maintained only for the purpose of providing service to the person.

(6) No fee or other charge may be imposed by the Secretary of State as a condition of accessing the information identified in subsection (1) of this section.

(7) No action taken pursuant to this section shall be deemed to alter or relinquish any copyright or other proprietary interest or entitlement of the State of Oregon relative to any of the information made available pursuant to subsection (1) of this section. [1995 c.614 §5; 2017 c.518 §5]

Note: 183.365 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.370 Distribution of published rules. The bulletins and compilations may be distributed by the Secretary of State free of charge as provided for the distribution of legislative materials referred to in ORS 171.236. Other copies of the bulletins and compilations shall be distributed by the Secretary of State at a cost determined by the Secretary of State. Any agency may compile and publish its rules or all or part of its rules for purpose of distribution outside of the agency only after it proves to the satisfaction of the Secretary of State that agency publication is necessary. [1957 c.717 §4(4); 1959 c.260 §1; 1969 c.174 §4; 1975 c.759 §8; 1977 c.394 §3]

183.380 [1957 c.717 §4 (5); repealed by 1971 c.734 §21]

183.390 Petitions requesting adoption of rules. (1) An interested person may petition an agency requesting the promulgation, amendment or repeal of a rule. The Attorney General shall prescribe by rule the form for such petitions and the procedure for their submission, consideration and disposition. Not later than 90 days after the date of submission of a petition, the agency either shall deny the petition in writing or shall initiate rulemaking proceedings in accordance with ORS 183.335.

(2) If a petition requesting the amendment or repeal of a rule is submitted to an agency under this section, the agency shall invite public comment upon the rule, and shall specifically request public comment on whether options exist for achieving the rule's substantive goals in a way that reduces the negative economic impact on businesses.

(3) In reviewing a petition subject to subsection (2) of this section, the agency shall consider:

(a) The continued need for the rule;

(b) The nature of complaints or comments received concerning the rule from the public;

(c) The complexity of the rule;

(d) The extent to which the rule overlaps, duplicates or conflicts with other state rules or federal regulations and, to the extent feasible, with local government regulations;

(e) The degree to which technology, economic conditions or other factors have changed in the subject area affected by the rule; and

(f) The statutory citation or legal basis for the rule. [1957 c.717 §5; 1971 c.734 §8; 2003 c.749 §6]

183.400 Judicial determination of validity of rule. (1) The validity of any rule may be determined upon a petition by any person to the Court of Appeals in the manner provided for review of orders in contested cases. The court shall have jurisdiction to review the validity of the rule whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question, but not when the petitioner is a party to an order or a contested case in which the validity of the rule may be determined by a court.

(2) The validity of any applicable rule may also be determined by a court, upon review of an order in any manner provided by law or pursuant to ORS 183.480 or upon enforcement of such rule or order in the manner provided by law.

(3) Judicial review of a rule shall be limited to an examination of:

(a) The rule under review;

(b) The statutory provisions authorizing the rule; and

(c) Copies of all documents necessary to demonstrate compliance with applicable rulemaking procedures.

(4) The court shall declare the rule invalid only if it finds that the rule:

(a) Violates constitutional provisions;

(b) Exceeds the statutory authority of the agency; or

(c) Was adopted without compliance with applicable rulemaking procedures.

(5) In the case of disputed allegations of irregularities in procedure which, if proved, would warrant reversal or remand, the Court of Appeals may refer the allegations to a master appointed by the court to take evidence and make findings of fact. The court's review of the master's findings of fact shall be de novo on the evidence.

(6) The court shall not declare a rule invalid solely because it was adopted without compliance with applicable rulemaking procedures after a period of two years after the date the rule was filed in the office of the Secretary of State, if the agency attempted to comply with those procedures and its failure to do so did not substantially prejudice the interests of the parties. [1957 c.717 §6; 1971 c.734 §9; 1975 c.759 §9; 1979 c.593 §17; 1987 c.861 §3]

183.403 Agency report to Legislative Assembly regarding temporary rules. (1) As used in this section:

(a) "Agency" has the meaning given that term in ORS 183.310.

(b) "Rule" has the meaning given that term in ORS 183.310.

(c) "Statement of need" means the statement described in ORS 183.335 (5)(c).

(2) No later than February 1 of each year, an agency that is subject to ORS 183.335 shall provide a report to the Legislative Assembly, in the manner provided in ORS 192.245, regarding all rules that the agency adopted, amended, repealed or suspended during the preceding 12-month period. The report must include:

(a) The number of rules adopted, amended or repealed in accordance with ORS 183.335 (2) and (3); and

(b) With respect to rules adopted, amended or suspended using the procedure described in ORS 183.335 (5):

(A) The number of rules;

(B) A list of the rules;

(C) A statement of need for each rule and all of the agency's findings that a failure to act promptly would result in serious prejudice to the public interest or the interest of parties concerned; and

(D) For each rule, an explanation of why proceeding under ORS 183.335 (5) was the most appropriate method for adopting, amending or suspending the rule and why it was not appropriate to proceed in accordance with ORS 183.335 (2) and (3). [2016 c.44 §1]

Note: 183.403 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.405 Agency review of rules; report by Secretary of State. (1) Not later than five years after adopting a rule, an agency shall review the rule for the purpose of determining:

(a) Whether the rule has had the intended effect;

(b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;

(c) Whether subsequent changes in the law require that the rule be repealed or amended;

(d) Whether there is continued need for the rule; and

(e) What impacts the rule has on small businesses.

(2) Upon request of an agency, the Small Business Rules Advisory Committee established in ORS 183.407 may agree to complete the review and reporting required by this section for the agency.

(3) An agency or the Small Business Rules Advisory Committee shall utilize available information in complying with the requirements of subsection (1) of this section.

(4) An agency or the Small Business Rules Advisory Committee shall provide a report on each review of a rule conducted under this section:

(a) To the Secretary of State;

(b) To the Small Business Rules Advisory Committee, unless the committee completed the review under subsection (2) of this section; and

(c) If the agency appointed an advisory committee pursuant to ORS 183.333 for consideration of a rule subject to the requirements of this section, to the advisory committee.

(5) The provisions of this section do not apply to the amendment or repeal of a rule.

(6) The provisions of this section do not apply to:

(a) Rules adopted to implement court orders or the settlement of civil proceedings;

(b) Rules that adopt federal laws or rules by reference;

(c) Rules adopted to implement legislatively approved fee changes; or

(d) Rules adopted to correct errors or omissions.

(7) The Secretary of State shall compile the reports submitted under this section during each calendar year and submit an annual report to the Legislative Assembly in the manner required by ORS 192.245 no later than February 1 of the following year. [2005 c.807 §3; 2017 c.518 §6; 2018 c.20 §4]

Note: 183.405 was added to and made a part of 183.325 to 183.410 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.407 Small Business Rules Advisory Committee. (1) The Small Business Rules Advisory Committee is established to serve as an advisory committee for agencies adopting new administrative rules and to review the effectiveness of existing administrative rules.

(2) The committee consists of nine members as follows:

(a) Two representatives of small businesses appointed by the Governor;

(b) Two representatives of small businesses appointed by the President of the Senate;

(c) Two representatives of small businesses appointed by the Speaker of the House;

(d) A representative of small businesses appointed by the Office of Small Business Assistance established in ORS 56.203;

(e) A representative of state agencies appointed by the Director of the Oregon Department of Administrative Services; and

(f) A member who is an expert in the rulemaking process appointed by the State Archivist.

(3)(a) Upon request of an agency, the committee shall serve as the advisory committee or fiscal impact advisory committee for reviewing an agency's proposed administrative rules under ORS 183.333.

(b) When an agency uses the committee as the advisory committee under this subsection with regard to adoption of rules implementing legislation enacted by the Legislative Assembly, the committee shall invite to participate as a nonvoting member of the committee:

(A) For legislation sponsored by a member of the Legislative Assembly, the first chief sponsor of the legislation, or another sponsor of the legislation as designated by the first chief sponsor.

(B) For legislation sponsored by a committee of the Legislative Assembly, the chair of the committee that sponsored the legislation at the time the legislation was introduced, or another member of the committee as designated by the chair.

(4) Upon request of an agency, the committee may agree to complete the rules review and reporting required by ORS 183.405 in place of the agency.

(5) Members of the committee shall be appointed to serve for terms of two years, but a member serves at the pleasure of the appointing authority. The appointing authority shall appoint a person to fill any vacancy on the committee for the expired term. A member may be reappointed to the committee.

(6) The members of the committee shall elect a chairperson from among the members of the committee. In the absence of a chairperson, the member appointed by the State Archivist shall serve as acting chairperson.

(7) A majority of the members of the committee constitutes a quorum for the transaction of business.

(8) The committee shall meet upon the call of the chairperson or upon a request of

a majority of the members of the committee. The committee may meet by phone or video conference with at least 24 hours' public notice.

(9) The State Archives shall provide administrative support to the committee.

(10) Members of the committee are not entitled to compensation, but may be reimbursed from funds available to the State Archives for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. [2018 c.20 §2; 2025 c.446 §2]

Note: 183.407 was added to and made a part of 183.325 to 183.410 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.410 Agency determination of applicability of rule or statute to petitioner; effect; judicial review. On petition of any interested person, any agency may in its discretion issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it. A declaratory ruling is binding between the agency and the petitioner on the state of facts alleged, unless it is altered or set aside by a court. However, the agency may, where the ruling is adverse to the petitioner, review the ruling and alter it if requested by the petitioner. Binding rulings provided by this section are subject to review in the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in contested cases. The Attorney General shall prescribe by rule the form for such petitions and the procedure for their submission, consideration and disposition. The petitioner shall have the right to submit briefs and present oral argument at any declaratory ruling proceeding held pursuant to this section. [1957 c.717 §7; 1971 c.734 §10; 1973 c.612 §5]

(Contested Cases)

183.411 Delegation of final order authority. Unless otherwise provided by law, an agency may delegate authority to enter a final order in a proceeding or class of proceedings to an officer or employee of the agency, or to a class of officers or employees of the agency. A delegation of authority under this section must be made in writing before the issuance of any order pursuant to the delegation and must be retained in the agency's records. [2007 c.116 §2]

Note: 183.411 was added to and made a part of ORS chapter 183 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.413 Notice to parties before hearing of rights and procedure; failure to provide notice. (1) The Legislative Assembly finds that parties to a contested case hearing have a right to be informed as to the procedures by which contested cases are heard by state agencies, their rights in hearings before state agencies, the import and effect of hearings before state agencies and their rights and remedies with respect to actions taken by state agencies. Accordingly, it is the purpose of subsections (2) and (3) of this section to set forth certain requirements of state agencies so that parties to contested case hearings shall be fully informed as to these matters when exercising their rights before state agencies.

(2) Prior to the commencement of a contested case hearing before any agency including those agencies identified in ORS 183.315, the agency shall serve personally or by mail a written notice to each party to the hearing that includes the following:

(a) The time and place of the hearing.

(b) A statement of the authority and jurisdiction under which the hearing is to be held.

(c) A statement that generally identifies the issues to be considered at the hearing.

(d) A statement indicating that the party may be represented by counsel and that legal aid organizations may be able to assist a party with limited financial resources.

(e) A statement that the party has the right to respond to all issues properly before the presiding officer and present evidence and witnesses on those issues.

(f) A statement indicating whether discovery is permitted and, if so, how discovery may be requested.

(g) A general description of the hearing procedure including the order of presentation of evidence, what kinds of evidence are admissible, whether objections may be made to the introduction of evidence and what kind of objections may be made and an explanation of the burdens of proof or burdens of going forward with the evidence.

(h) Whether a record will be made of the proceedings and the manner of making the record and its availability to the parties.

(i) The function of the record-making with respect to the perpetuation of the testimony and evidence and with respect to any appeal from the determination or order of the agency.

(j) Whether an attorney will represent the agency in the matters to be heard and whether the parties ordinarily and customarily are represented by an attorney.

(k) The title and function of the person presiding at the hearing with respect to the decision process, including, but not limited to, the manner in which the testimony and evidence taken by the person presiding at the hearing are reviewed, the effect of that person's determination, who makes the final determination on behalf of the agency, whether the person presiding at the hearing is or is not an employee, officer or other representative of the agency and whether that person has the authority to make a final independent determination.

(L) In the event a party is not represented by an attorney, whether the party may during the course of proceedings request a recess if at that point the party determines that representation by an attorney is necessary to the protection of the party's rights.

(m) Whether there exists an opportunity for an adjournment at the end of the hearing if the party then determines that additional evidence should be brought to the attention of the agency and the hearing reopened.

(n) Whether there exists an opportunity after the hearing and prior to the final determination or order of the agency to review and object to any proposed findings of fact, conclusions of law, summary of evidence or recommendations of the officer presiding at the hearing.

(o) A description of the appeal process from the determination or order of the agency.

(p) A statement that active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act and may contact the Oregon State Bar or the Oregon Military Department for more information. The statement must include the toll-free telephone numbers for the Oregon State Bar and the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website.

(3) The failure of an agency to give notice of any item specified in subsection (2) of this section does not invalidate any determination or order of the agency unless upon an appeal from or review of the determination or order a court finds that the failure affects the substantial rights of the complaining party. In the event of such a finding, the court shall remand the matter to the agency for a reopening of the hearing and shall direct the agency as to what steps it shall take to remedy the prejudice to the rights of the complaining party. [1979 c.593 §§37,38,39; 1995 c.79 §63; 2007 c.288 §1; 2013 c.295 §1]

183.415 Notice of right to hearing. (1) The Legislative Assembly finds that persons affected by actions taken by state agencies have a right to be informed of their rights and remedies with respect to the actions.

(2) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice, served personally or by registered or certified mail.

(3) Notice under this section must include:

(a) A statement of the party's right to hearing, with a description of the procedure and time to request a hearing, or a statement of the time and place of the hearing;

(b) A statement of the authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular sections of the statutes and rules involved;

(d) A short and plain statement of the matters asserted or charged;

(e) A statement indicating whether and under what circumstances an order by default may be entered; and

(f) A statement that active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act and may contact the Oregon State Bar or the Oregon Military Department for more information. The statement must include the toll-free telephone numbers for the Oregon State Bar and the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website. [1971 c.734 §13; 1979 c.593 §18; 1985 c.757 §1; 1997 c.837 §2; 1999 c.849 §§27,28; 2003 c.75 §29; 2007 c.288 §2; 2013 c.295 §3]

183.417 Procedure in contested case hearing. (1) In a contested case proceeding, the parties may elect to be represented by counsel and to respond and present evidence and argument on all issues properly before the presiding officer in the proceeding.

(2) Agencies may adopt rules of procedure governing participation in contested case proceedings by persons appearing as limited parties.

(3)(a) Unless prohibited by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. Informal settlement may be made in license revocation proceedings by written agreement of the parties and the agency consenting to a suspension, fine or other form of intermediate sanction.

(b) Any informal disposition of a contested case, other than an informal disposition by default, must be in writing and signed by the party or parties to the contested case. The agency shall incorporate that disposition into a final order. An order under this paragraph is not subject to ORS 183.470. The agency shall deliver or mail a

copy of the order to each party and to the attorney of record if the party is represented. An order that incorporates the informal disposition is a final order in a contested case, but is not subject to judicial review. A party may petition the agency to set aside a final order that incorporates the informal disposition on the ground that the informal disposition was obtained by fraud or duress.

(4) An order adverse to a party may be issued upon default only if a prima facie case is made on the record. The record on a default order includes all materials submitted by the party. The record on a default order may be made at the time of issuance of the order. If the record on the default order consists solely of an application and other materials submitted by the party, the agency shall so note in the order.

(5) At the commencement of a contested case hearing, the officer presiding at the hearing shall explain the issues involved in the hearing and the matters that the parties must either prove or disprove.

(6) Testimony at a contested case hearing shall be taken upon oath or affirmation of the witness. The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

(7) The officer presiding at the hearing shall place on the record a statement of the substance of any written or oral ex parte communication on a fact in issue made to the officer during the pendency of the proceeding and notify the parties of the communication and of their right to rebut the communication. If an ex parte communication is made to an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605, the administrative law judge must comply with ORS 183.685.

(8) The officer presiding at the hearing shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary for consideration of all issues properly before the presiding officer in the case and the correct application of the law to those facts.

(9) The record in a contested case shall include:

(a) All pleadings, motions and intermediate rulings.

(b) Evidence received or considered.

(c) Stipulations.

(d) A statement of matters officially noticed.

(e) Questions and offers of proof, objections and rulings thereon.

(f) A statement of any ex parte communication that must be disclosed under subsection (7) of this section and that was made to the officer presiding at the hearing.

(g) Proposed findings and exceptions.

(h) Any proposed, intermediate or final order prepared by the agency or an administrative law judge.

(10) A verbatim oral, written or mechanical record shall be made of all motions, rulings and testimony in a contested case proceeding. The record need not be transcribed unless requested for purposes of rehearing or court review. The agency may charge the party requesting transcription the cost of a copy of transcription, unless the party files an appropriate affidavit of indigency. Upon petition, a court having jurisdiction to review under ORS 183.480 may reduce or eliminate the charge upon finding that it is equitable to do so, or that matters of general interest would be determined by review of the order of the agency. [2007 c.288 §4]

183.418 [1973 c.386 §6; 1989 c.224 §11; 1991 c.750 §5; repealed by 1999 c.1041 §9]

183.420 [1957 c.717 §8 (1); repealed by 1971 c.734 §21]

183.421 [1991 c.750 §4; repealed by 1999 c.1041 §9]

183.425 Depositions or subpoena of material witness; discovery. (1) On petition of any party to a contested case, or upon the agency's own motion, the agency may order that the testimony of any material witness may be taken by deposition in the manner prescribed by law for depositions in civil actions. Depositions may also be taken by the use of audio or audio-visual recordings. The petition shall set forth the name and address of the witness whose testimony is desired, a showing of the materiality of the testimony of the witness, and a request for an order that the testimony of such witness be taken before an officer named in the petition for that purpose. If the witness resides in this state and is unwilling to appear, the agency may issue a subpoena as provided in ORS 183.440, requiring the appearance of the witness before such officer.

(2) An agency may, by rule, prescribe other methods of discovery which may be used in proceedings before the agency. [1971 c.734 §14; 1975 c.759 §11; 1979 c.593 §19; 1997 c.837 §6]

183.430 Hearing on refusal to renew license; exceptions. (1) In the case of any license which must be periodically renewed, where the licensee has made timely application for renewal in accordance with the rules of the agency, such license shall not be deemed to expire, despite any stated expiration date thereon, until the agency concerned has issued a formal order of grant or denial of such renewal. In case an agency proposes to refuse to renew such license, upon demand of the licensee, the agency

must grant hearing as provided by this chapter before issuance of order of refusal to renew. This subsection does not apply to any emergency or temporary permit or license.

(2) In any case where the agency finds a serious danger to the public health or safety and sets forth specific reasons for such findings, the agency may suspend or refuse to renew a license without hearing, but if the licensee demands a hearing within 90 days after the date of notice to the licensee of such suspension or refusal to renew, then a hearing must be granted to the licensee as soon as practicable after such demand, and the agency shall issue an order pursuant to such hearing as required by this chapter confirming, altering or revoking its earlier order. Such a hearing need not be held where the order of suspension or refusal to renew is accompanied by or is pursuant to, a citation for violation which is subject to judicial determination in any court of this state, and the order by its terms will terminate in case of final judgment in favor of the licensee. [1957 c.717 §8 (3), (4); 1965 c.212 §1; 1971 c.734 §11]

183.435 Period allowed to request hearing for license refusal on grounds other than test or inspection results. When an agency refuses to issue a license required to pursue any commercial activity, trade, occupation or profession if the refusal is based on grounds other than the results of a test or inspection that agency shall grant the person requesting the license 60 days from notification of the refusal to request a hearing. [Formerly 670.285]

183.440 Subpoenas in contested cases. (1) An agency may issue subpoenas on its own motion in a contested case. In addition, an agency or hearing officer in a contested case may issue subpoenas upon the request of a party to a contested case upon a showing of general relevance and reasonable scope of the evidence sought. A party entitled to have witnesses on behalf of the party may have subpoenas issued by an attorney of record of the party, subscribed by the signature of the attorney. Witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the agency, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2).

(2) If any person fails to comply with any subpoena so issued or any party or witness refuses to testify on any matters on which the party or witness may be lawfully interrogated, the judge of the circuit court of any county, on the application of the hearing officer, the agency or the party requesting the issuance of or issuing the subpoena, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1957 c.717 §8 (2); 1971 c.734 §12; 1979 c.593 §20; 1981 c.174 §4; 1989 c.980 §10a; 1997 c.837 §3; 1999 c.849 §30]

183.445 Subpoena by agency or attorney of record of party when agency not subject to ORS 183.440. (1) In any proceeding before an agency not subject to ORS 183.440 in which a party is entitled to have subpoenas issued for the appearance of witnesses on behalf of the party, a subpoena may be issued by an attorney of record of the party, subscribed by the signature of the attorney. A subpoena issued by an attorney of record may be enforced in the same manner as a subpoena issued by the agency.

(2) In any proceeding before an agency not subject to ORS 183.440 in which a party is entitled to have subpoenas issued by the agency to compel the appearance of witnesses on behalf of the party, the agency may issue subpoenas on its own motion. [1981 c.174 §6; 1997 c.837 §4; 1999 c.849 §32]

183.450 Evidence in contested cases. In contested cases:

(1) Irrelevant, immaterial or unduly repetitious evidence shall be excluded but erroneous rulings on evidence shall not preclude agency action on the record unless shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible. Agencies and hearing officers shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

(2) All evidence shall be offered and made a part of the record in the case, and except for matters stipulated to and except as provided in subsection (4) of this section no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

(3) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence. Persons appearing in a limited party status shall participate in the manner and to the extent prescribed by rule of the agency.

(4) The hearing officer and agency may take notice of judicially cognizable facts, and may take official notice of general, technical or scientific facts within the specialized knowledge of the hearing officer or agency.

Parties shall be notified at any time during the proceeding but in any event prior to the final decision of material officially noticed and they shall be afforded an opportunity to contest the facts so noticed. The hearing officer and agency may utilize the hearing officer's or agency's experience, technical competence and specialized knowledge in the evaluation of the evidence presented.

(5) No sanction shall be imposed or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party, and as supported by, and in accordance with, reliable, probative and substantial evidence. [1957 c.717 §9; 1971 c.734 §15; 1975 c.759 §12; 1977 c.798 §3; 1979 c.593 §21; 1987 c.833 §1; 1995 c.272 §5; 1997 c.391 §1; 1997 c.801 §76; 1999 c.448 §5; 1999 c.849 §34]

183.452 Representation of agencies at contested case hearings. (1) Agencies may, at their discretion, be represented at contested case hearings by the Attorney General.

(2) Notwithstanding ORS 9.160 and 9.320 and ORS chapter 180, and unless otherwise authorized by another law, an agency may be represented at contested case hearings by an officer or employee of the agency if:

(a) The Attorney General has consented to the representation of the agency by an agency representative in the particular hearing or in the class of hearings that includes the particular hearing; and

(b) The agency, by rule, has authorized an agency representative to appear on its behalf in the particular type of hearing being conducted.

(3) An agency representative acting under the provisions of this section may not give legal advice to an agency, and may not present legal argument in contested case hearings, except to the extent authorized by subsection (4) of this section.

(4) The officer presiding at a contested case hearing in which an agency representative appears under the provisions of this section may allow the agency representative to present evidence, examine and cross-examine witnesses, and make arguments relating to the:

(a) Application of statutes and rules to the facts in the contested case;

(b) Actions taken by the agency in the past in similar situations;

(c) Literal meaning of the statutes or rules at issue in the contested case;

(d) Admissibility of evidence; and

(e) Proper procedures to be used in the contested case hearing.

(5) Upon judicial review, no limitation imposed under this section on an agency representative is the basis for reversal or remand of agency action unless the limitation resulted in substantial prejudice to a party.

(6) The Attorney General may prepare model rules for agency representatives authorized under this section. [1999 c.448 §3]

Note: 183.452 was added to and made a part of 183.413 to 183.470 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

183.453 Representation of Oregon Health Authority and Department of Human Services at contested case hearings. The Oregon Health Authority and the Department of Human Services may be represented at contested case hearings by an officer or employee of either the authority or the department, subject to the requirements of ORS 183.452. [2013 c.14 §1]

Note: 183.453 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.455 [1987 c.259 §3; repealed by 1999 c.448 §10]

183.457 Representation of persons other than agencies participating in contested case hearings. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, and unless otherwise authorized by another law, a person participating in a contested case hearing conducted by an agency described in this subsection may be represented by an attorney or by an authorized representative subject to the provisions of subsection (2) of this section. The Attorney General shall prepare model rules for proceedings with lay representation that do not have the effect of precluding lay representation. No rule adopted by a state agency shall have the effect of precluding lay representation. The agencies before which an authorized representative may appear are:

(a) The State Landscape Contractors Board in the administration of the Landscape Contractors Law.

(b) The State Department of Energy and the Energy Facility Siting Council.

(c) The Environmental Quality Commission and the Department of Environmental Quality.

(d) The Department of Consumer and Business Services for proceedings in which an insured appears pursuant to ORS 737.505.

(e) The Department of Consumer and Business Services and any other agency for the purpose of proceedings to enforce the state building code, as defined by ORS 455.010.

(f) The Department of the State Fire Marshal.

(g) The Department of State Lands for proceedings regarding the issuance or denial of fill or removal permits under ORS 196.800 to 196.825.

(h) The Public Utility Commission.

(i) The Water Resources Commission and the Water Resources Department.

(j) The Land Conservation and Development Commission and the Department of Land Conservation and Development.

(k) The State Department of Agriculture, for purposes of hearings under ORS 215.705.

(L) The Bureau of Labor and Industries.

(2) A person participating in a contested case hearing as provided in subsection (1) of this section may appear by an authorized representative if:

(a) The agency conducting the contested case hearing has determined that appearance of such a person by an authorized representative will not hinder the orderly and timely development of the record in the type of contested case hearing being conducted;

(b) The agency conducting the contested case hearing allows, by rule, authorized representatives to appear on behalf of such participants in the type of contested case hearing being conducted; and

(c) The officer presiding at the contested case hearing may exercise discretion to limit an authorized representative's presentation of evidence, examination and cross-examination of witnesses, or presentation of factual arguments to ensure the orderly and timely development of the hearing record, and shall not allow an authorized representative to present legal arguments except to the extent authorized under subsection (3) of this section.

(3) The officer presiding at a contested case hearing in which an authorized representative appears under the provisions of this section may allow the authorized representative to present evidence, examine and cross-examine witnesses, and make arguments relating to the:

(a) Application of statutes and rules to the facts in the contested case;

(b) Actions taken by the agency in the past in similar situations;

(c) Literal meaning of the statutes or rules at issue in the contested case;

(d) Admissibility of evidence; and

(e) Proper procedures to be used in the contested case hearing.

(4) Upon judicial review, no limitation imposed by an agency presiding officer on the participation of an authorized representative shall be the basis for reversal or remand of agency action unless the limitation resulted in substantial prejudice to a person entitled to judicial review of the agency action.

(5) For the purposes of this section, "authorized representative" means a member of a participating partnership, an authorized officer or regular employee of a participating corporation, association or organized group, or an authorized officer or employee of a participating governmental authority other than a state agency. [1987 c.833 §3; 1989 c.453 §2; 1993 c.186 §4; 1995 c.102 §1; 1999 c.448 §1; 1999 c.599 §1; 2021 c.539 §109]

Note: 183.457 was added to and made a part of 183.413 to 183.470 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

183.458 Nonattorney and out-of-state attorney representation of parties in certain contested case hearings. (1) Notwithstanding any other provision of law, in any contested case hearing before a state agency involving child support, public assistance as defined in ORS 411.010, medical assistance as defined in ORS 414.025 or the right to be free from potentially unusual or hazardous treatment procedures under ORS 426.385 (3), a party may be represented by any of the following persons:

(a) An attorney licensed to practice law in any state who is an employee of or contracts with a nonprofit legal services program that receives funding pursuant to ORS 9.572.

(b) An authorized representative who is an employee of a nonprofit legal services program that receives funding pursuant to ORS 9.572. The authorized representative must be supervised by an attorney also employed by a legal services program.

(c) An authorized representative who is an employee of the system described in ORS 192.517 (1). The authorized representative must be supervised by an attorney also employed by the system.

(2) In any contested case hearing before a state agency involving child support, a party may be represented by a law student who is:

(a) Handling the child support matter as part of a law school clinical program in which the student is enrolled; and

(b) Supervised by an attorney employed by the program.

(3) In any contested case hearing before a state agency involving an applicant for or recipient of medical assistance, the claimant may be represented by a relative, friend or any other person of the claimant's choosing.

(4) A person authorized to represent a party under this section may present evi-

dence in the proceeding, examine and cross-examine witnesses and present factual and legal arguments in the proceeding. [1999 c.448 §4; 2003 c.14 §86; 2005 c.498 §6; 2009 c.49 §1; 2013 c.688 §25]

Note: 183.458 was added to and made a part of 183.413 to 183.470 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

183.459 Representation of home care worker by labor union representative. (1) Notwithstanding ORS 8.690, 9.160 and 9.320, a home care worker or personal support worker, as defined in ORS 410.600, who is a party in a contested case hearing conducted by the Department of Human Services may be represented in the hearing by a labor union representative.

(2) Notwithstanding ORS 8.690, 9.160 and 9.320, a family child care provider, as defined in ORS 329A.430, who is a party in a contested case hearing conducted by the Department of Early Learning and Care may be represented in the hearing by a labor union representative.

(3) The hearing officer at a contested case hearing in which a labor union representative appears under the provisions of this section shall allow the representative to present evidence, examine and cross-examine witnesses and make arguments relating to the:

(a) Application of statutes and rules to the facts in the contested case;

(b) Actions taken by the agency in the past in similar situations;

(c) Literal meaning of the statutes or rules at issue in the contested case;

(d) Admissibility of evidence; and

(e) Proper procedures to be used in the contested case hearing. [2009 c.424 §2; 2018 c.75 §9; 2021 c.631 §16; 2023 c.554 §43]

Note: 183.459 was added to and made a part of 183.413 to 183.470 by legislative action but was not added to any other series. See Preface to Oregon Revised Statutes for further explanation.

183.460 Examination of evidence by agency. Whenever in a contested case a majority of the officials of the agency who are to render the final order have not heard the case or considered the record, the order, if adverse to a party other than the agency itself, shall not be made until a proposed order, including findings of fact and conclusions of law, has been served upon the parties and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the officials who are to render the decision. [1957 c.717 §10; 1971 c.734 §16; 1975 c.759 §13]

183.462 Agency statement of ex parte communications; notice. The agency shall place on the record a statement of the substance of any written or oral ex parte communications on a fact in issue made to the agency during its review of a contested case. The agency shall notify all parties of such communications and of their right to rebut the substance of the ex parte communications on the record. [1979 c.593 §36c]

183.464 Proposed order by hearing officer; amendment by agency; exemptions. (1) Except as otherwise provided in subsections (1) to (4) of this section, unless a hearing officer is authorized or required by law or agency rule to issue a final order, the hearing officer shall prepare and serve on the agency and all parties to a contested case hearing a proposed order, including recommended findings of fact and conclusions of law. The proposed order shall become final after the 30th day following the date of service of the proposed order, unless the agency within that period issues an amended order.

(2) An agency may by rule specify a period of time after which a proposed order will become final that is different from that specified in subsection (1) of this section.

(3) If an agency determines that additional time will be necessary to allow the agency adequately to review a proposed order in a contested case, the agency may extend the time after which the proposed order will become final by a specified period of time. The agency shall notify the parties to the hearing of the period of extension.

(4) Subsections (1) to (4) of this section do not apply to the Public Utility Commission or the Energy Facility Siting Council.

(5) The Governor may exempt any agency or any class of contested case hearings before an agency from the requirements in whole or part of subsections (1) to (4) of this section by executive order. The executive order shall contain a statement of the reasons for the exemption. [1979 c.593 §§36,36b; 1995 c.79 §64; 2001 c.104 §64]

183.470 Orders in contested cases. In a contested case:

(1) Every order adverse to a party to the proceeding shall be in writing or stated in the record and may be accompanied by an opinion.

(2) A final order shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the underlying facts supporting the findings as to each contested issue of fact and as to each ultimate fact required to support the agency's order.

(3) The agency shall notify the parties to a proceeding of a final order by delivering or

mailing a copy of the order and any accompanying findings and conclusions to each party or, if applicable, the party's attorney of record.

(4) Every final order shall include a citation of the statutes under which the order may be appealed. [1957 c.717 §11; 1971 c.734 §17; 1979 c.593 §22]

183.471 Preservation of orders in electronic format; fees. (1) When an agency issues a final order in a contested case, the agency shall maintain the final order in a digital format that:

(a) Identifies the final order by the date it was issued;

(b) Is suitable for indexing and searching; and

(c) Preserves the textual attributes of the document, including the manner in which the document is paginated and any boldfaced, italicized or underlined writing in the document.

(2) The Oregon State Bar may request that an agency provide the Oregon State Bar, or its designee, with electronic copies of final orders issued by the agency in contested cases. The request must be in writing. No later than 30 days after receiving the request, the agency, subject to ORS 192.338, 192.345 and 192.355, shall provide the Oregon State Bar, or its designee, with an electronic copy of all final orders identified in the request.

(3) Notwithstanding ORS 192.324, an agency may not charge a fee for the first two requests submitted under this section in a calendar year. For any subsequent request, an agency may impose a fee in accordance with ORS 192.324 to reimburse the agency for the actual costs of complying with the request.

(4) For purposes of this section, a final order entered in a contested case by an administrative law judge under ORS 183.625 (3) is a final order issued by the agency that authorized the administrative law judge to conduct the hearing.

(5) This section does not apply to final orders by default issued under ORS 183.417 (3) or to final orders issued in contested cases by:

(a) The Department of Revenue;

(b) The State Board of Parole and Post-Prison Supervision;

(c) The Department of Corrections;

(d) The Employment Relations Board;

(e) The Public Utility Commission of Oregon;

(f) The Oregon Health Authority;

(g) The Land Conservation and Development Commission, except for enforcement orders under ORS 197A.810;

(h) The Land Use Board of Appeals;

(i) The Division of Child Support of the Department of Justice;

(j) The Department of Transportation, if the final order relates to the suspension, revocation or cancellation of identification cards, vehicle registrations, vehicle titles or driving privileges or to the assessment of taxes or stipulated settlements in the regulation of vehicle related businesses;

(k) The Employment Department or the Employment Appeals Board, if the final order relates to benefits as defined in ORS 657.010;

(L) The Employment Department, if the final order relates to an assessment of unemployment tax for which a hearing was not held;

(m) The Employment Department, if the final order relates to:

(A) Benefits, as defined in ORS 657B.010;

(B) Employer and employee contributions under ORS 657B.150 for which a hearing was not held;

(C) Employer-offered benefit plans approved under ORS 657B.210 or terminated under ORS 657B.220; or

(D) Employer assistance grants under ORS 657B.200; or

(n) The Department of Human Services, if the final order was not related to licensing or certification. [2013 c.156 §2; 2023 c.292 §12; 2024 c.110 §65]

Note: 183.471 was added to and made a part of ORS chapter 183 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

(Judicial Review)

183.480 Judicial review of agency orders. (1) Except as provided in ORS 183.417 (3)(b), any person adversely affected or aggrieved by an order or any party to an agency proceeding is entitled to judicial review of a final order, whether such order is affirmative or negative in form. A petition for rehearing or reconsideration need not be filed as a condition of judicial review unless specifically otherwise provided by statute or agency rule.

(2) Judicial review of final orders of agencies shall be solely as provided by ORS 183.482, 183.484, 183.490 and 183.500.

(3) No action or suit shall be maintained as to the validity of any agency order except a final order as provided in this section and ORS 183.482, 183.484, 183.490 and 183.500 or except upon showing that the agency is pro-

ceeding without probable cause, or that the party will suffer substantial and irreparable harm if interlocutory relief is not granted.

(4) Judicial review of orders issued pursuant to ORS 813.410 shall be as provided by ORS 813.410. [1957 c.717 §12; 1963 c.449 §1; 1971 c.734 §18; 1975 c.759 §14; 1979 c.593 §23; 1983 c.338 §901; 1985 c.757 §4; 1997 c.837 §5; 2007 c.288 §11]

183.482 Jurisdiction for review of contested cases; procedure; scope of court authority. (1) Jurisdiction for judicial review of contested cases is conferred upon the Court of Appeals. Proceedings for review shall be instituted by filing a petition in the Court of Appeals. The petition shall be filed within 60 days only following the date the order upon which the petition is based is served unless otherwise provided by statute. If a petition for rehearing has been filed, then the petition for review shall be filed within 60 days only following the date the order denying the petition for rehearing is served. If the agency does not otherwise act, a petition for rehearing or reconsideration shall be deemed denied the 60th day following the date the petition was filed, and in such cases, petition for judicial review shall be filed within 60 days only following such date. Date of service shall be the date on which the agency delivered or mailed its order in accordance with ORS 183.470.

(2) The petition shall state the nature of the order the petitioner desires reviewed, and shall state whether the petitioner was a party to the administrative proceeding, was denied status as a party or is seeking judicial review as a person adversely affected or aggrieved by the agency order. In the latter case, the petitioner shall, by supporting affidavit, state the facts showing how the petitioner is adversely affected or aggrieved by the agency order. Before deciding the issues raised by the petition for review, the Court of Appeals shall decide, from facts set forth in the affidavit, whether or not the petitioner is entitled to petition as an adversely affected or an aggrieved person. Copies of the petition shall be served by registered or certified mail upon the agency, and all other parties of record in the agency proceeding.

(3)(a) The filing of the petition shall not stay enforcement of the agency order, but the agency may do so upon a showing of:

(A) Irreparable injury to the petitioner; and

(B) A colorable claim of error in the order.

(b) When a petitioner makes the showing required by paragraph (a) of this subsection, the agency shall grant the stay unless the agency determines that substantial public harm will result if the order is stayed. If the agency denies the stay, the denial shall be in writing and shall specifically state the substantial public harm that would result from the granting of the stay.

(c) When the agency grants a stay, the agency may impose such reasonable conditions as the giving of a bond, irrevocable letter of credit or other undertaking and that the petitioner file all documents necessary to bring the matter to issue before the Court of Appeals within specified reasonable periods of time.

(d) Agency denial of a motion for stay is subject to review by the Court of Appeals under such rules as the court may establish.

(4) Within 30 days after service of the petition, or within such further time as the court may allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review, but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record when deemed desirable. Except as specifically provided in this subsection, the cost of the record shall not be taxed to the petitioner or any intervening party. However, the court may tax such costs and the cost of agency transcription of record to a party filing a frivolous petition for review.

(5) If, on review of a contested case, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good and substantial reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon such conditions as the court deems proper. The agency may modify its findings and order by reason of the additional evidence and shall, within a time to be fixed by the court, file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings or orders, or its certificate that the agency elects to stand on its original findings and order, as the case may be.

(6) At any time subsequent to the filing of the petition for review and prior to the date set for hearing the agency may withdraw its order for purposes of reconsideration. If an agency withdraws an order for purposes of reconsideration, the agency shall, within such time as the court may allow, affirm, modify or reverse its order. If the petitioner is dissatisfied with the agency action

after withdrawal for purposes of reconsideration, the petitioner may refile the petition for review and the review shall proceed upon the revised order. An amended petition for review shall not be required if the agency, on reconsideration, affirms the order or modifies the order with only minor changes. If an agency withdraws an order for purposes of reconsideration and modifies or reverses the order in favor of the petitioner, the court shall allow the petitioner costs, but not attorney fees, to be paid from funds available to the agency.

(7) Review of a contested case shall be confined to the record, and the court shall not substitute its judgment for that of the agency as to any issue of fact or agency discretion. In the case of disputed allegations of irregularities in procedure before the agency not shown in the record which, if proved, would warrant reversal or remand, the Court of Appeals may refer the allegations to a master appointed by the court to take evidence and make findings of fact upon them. The court shall remand the order for further agency action if the court finds that either the fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure, including a failure by the presiding officer to comply with the requirements of ORS 183.417 (8).

(8)(a) The court may affirm, reverse or remand the order. If the court finds that the agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, the court shall:

(A) Set aside or modify the order; or

(B) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(b) The court shall remand the order to the agency if the court finds the agency's exercise of discretion to be:

(A) Outside the range of discretion delegated to the agency by law;

(B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency practice, if the inconsistency is not explained by the agency; or

(C) Otherwise in violation of a constitutional or statutory provision.

(c) The court shall set aside or remand the order if the court finds that the order is not supported by substantial evidence in the record. Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding. [1975 c.759 §15; 1977 c.798 §4; 1979 c.593 §24; 1985 c.757 §2; 1989 c.453 §1; 1991 c.331 §44; 2007 c.659 §§2,5]

183.484 Jurisdiction for review of orders other than contested cases; procedure; scope of court authority. (1) Jurisdiction for judicial review of orders other than contested cases is conferred upon the Circuit Court for Marion County and upon the circuit court for the county in which the petitioner resides or has a principal business office. Proceedings for review under this section shall be instituted by filing a petition in the Circuit Court for Marion County or the circuit court for the county in which the petitioner resides or has a principal business office.

(2) Petitions for review shall be filed within 60 days only following the date the order is served, or if a petition for reconsideration or rehearing has been filed, then within 60 days only following the date the order denying such petition is served. If the agency does not otherwise act, a petition for rehearing or reconsideration shall be deemed denied the 60th day following the date the petition was filed, and in such case petition for judicial review shall be filed within 60 days only following such date. Date of service shall be the date on which the agency delivered or mailed its order in accordance with ORS 183.470.

(3) The petition shall state the nature of the petitioner's interest, the facts showing how the petitioner is adversely affected or aggrieved by the agency order and the ground or grounds upon which the petitioner contends the order should be reversed or remanded. The review shall proceed and be conducted by the court without a jury.

(4) At any time subsequent to the filing of the petition for review and prior to the date set for hearing, the agency may withdraw its order for purposes of reconsideration. If an agency withdraws an order for purposes of reconsideration, it shall, within such time as the court may allow, affirm, modify or reverse its order. If the petitioner is dissatisfied with the agency action after withdrawal for purposes of reconsideration, the petitioner may refile the petition for review and the review shall proceed upon the revised order. An amended petition for review shall not be required if the agency, on reconsideration, affirms the order or modifies the order with only minor changes. If an agency withdraws an order for purposes of reconsideration and modifies or reverses the order in favor of the petitioner, the court shall allow the petitioner costs, but not attorney fees, to be paid from funds available to the agency.

(5)(a) The court may affirm, reverse or remand the order. If the court finds that the

agency has erroneously interpreted a provision of law and that a correct interpretation compels a particular action, it shall:

(A) Set aside or modify the order; or

(B) Remand the case to the agency for further action under a correct interpretation of the provision of law.

(b) The court shall remand the order to the agency if it finds the agency's exercise of discretion to be:

(A) Outside the range of discretion delegated to the agency by law;

(B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency practice, if the inconsistency is not explained by the agency; or

(C) Otherwise in violation of a constitutional or statutory provision.

(c) The court shall set aside or remand the order if it finds that the order is not supported by substantial evidence in the record. Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding.

(6) In the case of reversal the court shall make special findings of fact based upon the evidence in the record and conclusions of law indicating clearly all aspects in which the agency's order is erroneous. [1975 c.759 §16; 1979 c.284 §121; 1979 c.593 §25a; 1985 c.757 §3; 1999 c.113 §1]

183.485 Decision of court on review of contested case. (1) The court having jurisdiction for judicial review of contested cases shall direct its decision, including its judgment, to the agency issuing the order being reviewed and may direct that its judgment be delivered to the circuit court for any county designated by the prevailing party for entry in the circuit court's register.

(2) Upon receipt of the court's decision, including the judgment, the clerk of the circuit court shall enter a judgment in the register of the court pursuant to the direction of the court to which the appeal is made. [1973 c.612 §7; 1981 c.178 §11; 1985 c.540 §39; 2003 c.576 §193]

183.486 Form and scope of decision of reviewing court. (1) The reviewing court's decision under ORS 183.482 or 183.484 may be mandatory, prohibitory, or declaratory in form, and it shall provide whatever relief is appropriate irrespective of the original form of the petition. The court may:

(a) Order agency action required by law, order agency exercise of discretion when required by law, set aside agency action, remand the case for further agency proceedings or decide the rights, privileges, obligations, requirements or procedures at issue between the parties; and

(b) Order such ancillary relief as the court finds necessary to redress the effects of official action wrongfully taken or withheld.

(2) If the court sets aside agency action or remands the case to the agency for further proceedings, it may make such interlocutory order as the court finds necessary to preserve the interests of any party and the public pending further proceedings or agency action.

(3) Unless the court finds a ground for setting aside, modifying, remanding, or ordering agency action or ancillary relief under a specified provision of this section, it shall affirm the agency action. [1979 c.593 §27]

183.490 Agency may be compelled to act. The court may, upon petition as described in ORS 183.484, compel an agency to act where it has unlawfully refused to act or make a decision or unreasonably delayed taking action or making a decision. [1957 c.717 §13; 1979 c.593 §28]

183.495 [1975 c.759 §16a; repealed by 1985 c.757 §7]

183.497 Awarding costs and attorney fees when finding for petitioner. (1) In a judicial proceeding designated under subsection (2) of this section the court:

(a) May, in its discretion, allow a petitioner reasonable attorney fees and costs if the court finds in favor of the petitioner.

(b) Shall allow a petitioner reasonable attorney fees and costs if the court finds in favor of the petitioner and determines that the state agency acted without a reasonable basis in fact or in law; but the court may withhold all or part of the attorney fees from any allowance to a petitioner if the court finds that the state agency has proved that its action was substantially justified or that special circumstances exist that make the allowance of all or part of the attorney fees unjust.

(2) The provisions of subsection (1) of this section apply to an administrative or judicial proceeding brought by a petitioner against a state agency, as defined in ORS 291.002, for:

(a) Judicial review of a final order as provided in ORS 183.480 to 183.484;

(b) Judicial review of a declaratory ruling provided in ORS 183.410; or

(c) A judicial determination of the validity of a rule as provided in ORS 183.400.

(3) Amounts allowed under this section for reasonable attorney fees and costs shall be paid from funds available to the state agency whose final order, declaratory ruling

or rule was reviewed by the court. [1981 c.871 §1; 1985 c.757 §5]

Note: 183.497 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Appeals From Circuit Courts)

183.500 Appeals. Any party to the proceedings before the circuit court may appeal from the judgment of that court to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals from the circuit court in suits in equity. [1957 c.717 §14; 1969 c.198 §76; 2003 c.576 §394]

(Alternative Dispute Resolution)

183.502 Authority of agencies to use alternative means of dispute resolution; model rules; amendment of agreements and forms; agency alternative dispute resolution programs. (1) Unless otherwise prohibited by law, agencies may use alternative means of dispute resolution in rulemaking proceedings, contested case proceedings, judicial proceedings in which the agency is a party, and any other decision-making process in which conflicts may arise. The alternative means of dispute resolution may be arbitration, mediation or any other collaborative problem-solving process designed to encourage parties to work together to develop mutually agreeable solutions to disputes. Use of alternative means of dispute resolution by an agency does not affect the application of ORS 192.311 to 192.478 to the agency, or the application of ORS 192.610 to 192.705 to the agency.

(2) An agency that elects to utilize alternative means of dispute resolution shall inform and may consult with the Mark O. Hatfield School of Government, the Department of Justice and the Oregon Department of Administrative Services in developing a policy or program for implementation of alternative means of dispute resolution.

(3) The Attorney General, in consultation with the Mark O. Hatfield School of Government and the Oregon Department of Administrative Services, may develop for agencies model rules for the implementation of alternative means of dispute resolution. An agency may adopt all or part of the model rules by reference without complying with the rulemaking procedures of ORS 183.325 to 183.410. Notice of the adoption of all or part of the model rules must be filed by the agency with the Secretary of State in the manner provided by ORS 183.355 for the filing of rules.

(4) When an agency reviews the standard agreements, forms for contracts and forms for applying for grants or other assistance used by the agency, the agency shall determine whether the agreements and forms should be amended to authorize and encourage the use of alternative means of dispute resolution in disputes that arise under the agreement, contract or application.

(5) The Department of Justice, the Mark O. Hatfield School of Government, the Oregon Department of Administrative Services and the Governor shall collaborate to increase the use of alternative dispute resolution to resolve disputes involving the State of Oregon by:

(a) Assisting agencies to develop a policy for alternative means of dispute resolution;

(b) Assisting agencies to develop or expand flexible and diverse agency programs that provide alternative means of dispute resolution; and

(c) Providing assistance in the efficient and effective selection of mediators or facilitators.

(6)(a) The Mark O. Hatfield School of Government, the Oregon Department of Administrative Services and the Department of Justice shall work cooperatively in designing the program under ORS 36.179 that is intended to provide services to, apply to or involve any state agency.

(b) The Mark O. Hatfield School of Government, the Oregon Department of Administrative Services and the Department of Justice shall enter into an interagency agreement that includes, but is not limited to, provisions on appropriate roles, reporting requirements and coordination of services provided to state agencies by the Mark O. Hatfield School of Government pursuant to ORS 36.179.

(c) Before providing dispute resolution services in a specific matter to a state agency under ORS 36.179, the Mark O. Hatfield School of Government shall notify the Department of Justice of any proposal to provide such services.

(7) Agencies with alternative dispute resolution programs shall seek to identify cases appropriate for mediation and other means of alternative dispute resolution and to design systems and procedures to resolve those cases.

(8) The purpose of the agency alternative dispute resolution programs is to:

(a) Increase agency efficiency;

(b) Increase public and agency satisfaction with the process and results of dispute resolution; and

(c) Decrease the cost of resolving disputes.

(9) An agency may use the services of an employee of another agency or of the federal government to serve as a mediator or facilitator, and may provide the services of an agency employee to another agency or to the federal government to serve as a mediator or facilitator. An agency may enter into an agreement with another agency or with the federal government to determine reimbursement for services of an employee acting as a mediator or facilitator under the provisions of this subsection. This subsection does not apply to mediation under ORS 243.650 to 243.809. [1993 c.647 §2; 1995 c.515 §2; 1997 c.706 §5; 1997 c.801 §42; 1997 c.837 §7; 2001 c.581 §2; 2003 c.791 §§27,27a; 2005 c.334 §§1,2; 2005 c.817 §6]

Note: 183.502 was added to and made a part of ORS chapter 183 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.510 [1957 c.717 §16; repealed by 1971 c.734 §21]

(Housing Cost Impact Statement)

183.530 Housing cost impact statement required for certain proposed rules. A housing cost impact statement shall be prepared upon the proposal for adoption or repeal of any rule or any amendment to an existing rule by:

(1) The Oregon Housing Stability Council;

(2) A building codes division of the Department of Consumer and Business Services or any board associated with the department with regard to rules adopted under ORS 455.610 to 455.630;

(3) The Land Conservation and Development Commission;

(4) The Environmental Quality Commission;

(5) The Construction Contractors Board;

(6) The Occupational Safety and Health Division of the Department of Consumer and Business Services; or

(7) The State Department of Energy. [1995 c.652 §2; 2015 c.180 §39]

Note: 183.530 to 183.538 were added to and made a part of ORS chapter 183 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

183.534 Housing cost impact statement described; rules. (1) A housing cost impact statement is an estimate of the effect of a proposed rule or ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel. The Housing and Community Services Department shall adopt rules prescribing the form to be used when preparing the estimate and other such rules necessary to the implementation of this section and ORS 183.530 and 183.538.

(2) A housing cost impact statement:

(a) For an agency listed in ORS 183.530 shall be incorporated in the:

(A) Fiscal impact statement required by ORS 183.335 (2)(b)(E) for permanent rule adoption; or

(B) Statements required by ORS 183.335 (5) for temporary rule adoption.

(b) Shall not be required for the adoption of any procedural rule by an agency listed in ORS 183.530. [1995 c.652 §3; 1997 c.249 §54; 2015 c.180 §40; 2023 c.193 §12]

Note: See note under 183.530.

183.538 Effect of failure to prepare housing cost impact statement; judicial review. (1) Notwithstanding ORS 183.335 (12), 183.400 (4) or any other provision of law, the failure to prepare a housing cost impact statement shall not affect the validity or effective date of any rule or ordinance or any amendment to a rule or ordinance.

(2) If a rule or ordinance or any amendment to a rule or ordinance is challenged based on the failure to prepare a housing cost impact statement, the court or other reviewing authority shall remand the proposed rule or ordinance or any amendment to a rule or ordinance to the adopting or repealing entity if it determines that a housing cost impact statement is required.

(3) The court or other reviewing authority shall determine only whether a housing cost impact statement was prepared and shall not make any determination as to the sufficiency of the housing cost impact statement. [1995 c.652 §4; 2001 c.220 §4]

Note: See note under 183.530.

(Effects of Rules on Small Business)

183.540 Reduction of economic impact on small business. If the statement of cost of compliance effect on small businesses required by ORS 183.335 (2)(b)(E) shows that a rule has a significant adverse effect upon small business, to the extent consistent with the public health and safety purpose of the rule, the agency shall reduce the economic impact of the rule on small business by:

(1) Establishing differing compliance or reporting requirements or time tables for small business;

(2) Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;

(3) Utilizing objective criteria for standards;

(4) Exempting small businesses from any or all requirements of the rule; or

(5) Otherwise establishing less intrusive or less costly alternatives applicable to small business. [1981 c.755 §4; 2003 c.749 §7; 2005 c.807 §6]

183.545 [1981 c.755 §5; repealed by 2003 c.749 §17]

183.550 [1981 c.755 §6; repealed by 2003 c.749 §17]

183.560 [2001 c.374 §1; 2003 c.740 §1; renumbered 183.700 in 2003]

183.562 [2001 c.374 §2; renumbered 183.702 in 2003]

183.600 [1999 c.849 §2; 2003 c.75 §1; repealed by 2009 c.866 §4]

(Office of Administrative Hearings)

183.605 Office of Administrative Hearings. (1) The Office of Administrative Hearings is established within the Employment Department. The office shall be managed by the chief administrative law judge appointed under ORS 183.610. The office shall make administrative law judges available to agencies under ORS 183.605 to 183.690. Administrative law judges assigned from the office under ORS 183.605 to 183.690 may:

(a) Conduct contested case proceedings on behalf of agencies in the manner provided by ORS 183.605 to 183.690;

(b) Perform such other services, as may be requested by an agency, that are appropriate for the resolution of disputes arising out of the conduct of agency business; and

(c) Perform such other duties as may be authorized under ORS 183.605 to 183.690.

(2) All persons serving as administrative law judges in the office must meet the standards and training requirements of ORS 183.680.

(3) The Employment Department shall provide administrative services to the Office of Administrative Hearings, including budget services, accounting services, procurement services, contracting services, human resources services and information technology services. The services must be provided in a manner that is consistent with law, rules and state policies. The Office of Administrative Hearings shall reimburse the Employment Department for the costs of the services provided. [1999 c.849 §3; 2003 c.75 §2; 2009 c.866 §5]

183.610 Chief administrative law judge. (1)(a) The Governor shall appoint a person to serve as chief administrative law judge for the Office of Administrative Hearings. The appointment of the chief administrative law judge is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(b) At the time of appointment, the chief administrative law judge must be an active licensee of the Oregon State Bar with at least one year of employment experience in administrative law or administrative hearings. Within six months after the appointment, the chief administrative law judge must meet all qualifications required of an administrative law judge under ORS 183.615.

(c) The Governor shall consider recommendations by the Office of Administrative Hearings Oversight Committee in appointing or reappointing a chief administrative law judge.

(d) The chief administrative law judge has all the powers necessary and convenient to organize and manage the office. Subject to the State Personnel Relations Law, the chief administrative law judge shall employ all persons necessary for the administration of the office, prescribe the duties of those employees and fix their compensation.

(e) The chief administrative law judge shall serve for a term of four years.

(f) Upon a vacancy or expected vacancy in the office of chief administrative law judge, the Governor shall notify the Office of Administrative Hearings Oversight Committee and the Oregon State Bar of the vacancy and direct the Employment Department, in coordination with the oversight committee, to conduct a public candidate search, recruitment and application process to assist the oversight committee in making recommendations to the Governor to fill the vacancy. The Governor may appoint an acting chief administrative law judge until the vacancy is filled.

(g) Notwithstanding ORS 236.140, the Governor may remove the chief administrative law judge only for cause, but the Governor may decline to reappoint the chief administrative law judge at the end of the four-year term without cause.

(2) The chief administrative law judge shall employ administrative law judges. The chief administrative law judge shall ensure that administrative law judges employed for the office receive all training necessary to meet the standards required under the program created under ORS 183.680.

(3) The chief administrative law judge shall take all actions necessary to protect and ensure the independence of each administrative law judge assigned from the office. [1999 c.849 §4; 2003 c.75 §3; 2009 c.866 §1; 2023 c.52 §1; 2025 c.32 §95]

183.615 Administrative law judges; duties; qualifications; rules. (1) An administrative law judge employed by or contracting with the chief administrative law judge shall conduct hearings on behalf of agencies as assigned by the chief administrative law judge. An administrative law judge shall be impartial in the performance of the administrative law judge's duties and shall remain fair in all hearings conducted by the administrative law judge. An administrative law

judge shall develop the record in contested case proceedings in the manner provided by ORS 183.417 (8).

(2) Only persons who have a knowledge of administrative law and procedure may be employed by the chief administrative law judge as administrative law judges. The chief administrative law judge by rule may establish additional qualifications for administrative law judges employed for the office. [1999 c.849 §5; 2003 c.75 §4; 2007 c.659 §§3,6]

183.620 Contract administrative law judges. (1) The chief administrative law judge for the Office of Administrative Hearings may contract for the services of persons to act as administrative law judges.

(2) Contract administrative law judges shall meet the same qualifications as administrative law judges regularly employed by the chief administrative law judge and shall be paid at an hourly rate comparable to the per hour cost of salary and benefits for administrative law judges regularly employed by the chief administrative law judge and conducting similar hearings. [1999 c.849 §6; 2003 c.75 §5]

183.625 Assignment of administrative law judges; conduct of hearings. (1) In assigning an administrative law judge to conduct hearings on behalf of an agency, the chief administrative law judge shall, whenever practicable, assign an administrative law judge that has expertise in the legal issues or general subject matter of the proceeding.

(2) Notwithstanding any other provision of state law, any agency that is required to use administrative law judges assigned from the Office of Administrative Hearings to conduct hearings must delegate responsibility for the conduct of the hearing to an administrative law judge assigned from the Office of Administrative Hearings, and the hearing may not be conducted by the administrator, director, board, commission or other person or body charged with administering the agency.

(3) Any agency may authorize an administrative law judge assigned to conduct a hearing on behalf of the agency under this section to enter a final order for the agency.

(4) An agency that is not required to use administrative law judges assigned from the office may contract with the chief administrative law judge for the assignment of an administrative law judge from the office for the purpose of conducting one or more contested cases on behalf of the agency. [1999 c.849 §7; 2003 c.75 §6]

183.630 Model rules of procedure; exemptions; depositions. (1) Except as provided in subsection (2) of this section, all contested case hearings conducted by administrative law judges assigned from the Office of Administrative Hearings must be conducted pursuant to the model rules of procedure prepared by the Attorney General under ORS 183.341 if the hearing is subject to the procedural requirements for contested case proceedings.

(2) The Attorney General, after consulting with the chief administrative law judge, may exempt an agency or a category of cases from the requirements of subsection (1) of this section. The exemption may be from all or part of the model rules adopted by the Attorney General. Any exemption granted under this subsection must be made in writing.

(3) The Attorney General shall consult with an advisory group when adopting model rules of procedure for the purpose of contested case hearings conducted by administrative law judges assigned from the Office of Administrative Hearings. The advisory group shall consist of:

(a) The chief administrative law judge;

(b) An officer or employee of a state agency, appointed by the Governor;

(c) An attorney who practices administrative law, appointed by the Oregon State Bar;

(d) A deputy or assistant attorney general appointed by the Attorney General; and

(e) A public member, appointed by the Governor, who is not an attorney or an officer or employee of a state agency.

(4) Except as may be expressly granted by the agency to an administrative law judge assigned from the office, or as may be expressly provided for by law, an administrative law judge conducting a hearing for an agency under ORS 183.605 to 183.690 may not authorize a party to take a deposition that is to be paid for by the agency. [1999 c.849 §8; 2003 c.75 §7; 2009 c.866 §6]

183.635 Agencies required to use administrative law judges from Office of Administrative Hearings; exceptions. (1) Except as provided in this section, all agencies must use administrative law judges assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct contested case hearings, without regard to whether those hearings are subject to the procedural requirements for contested case hearings.

(2) The following agencies need not use administrative law judges assigned from the office:

(a) Attorney General.

(b) Boards of stewards appointed by the Oregon Racing Commission.

(c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.

(d) Department of Corrections.

(e) Department of Education, State Board of Education and Superintendent of Public Instruction.

(f) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C. 722(c) and disability determination cases under 42 U.S.C. 405.

(g) Department of Revenue.

(h) Department of State Police.

(i) Employment Appeals Board.

(j) Employment Relations Board.

(k) Energy Facility Siting Council.

(L) Fair Dismissal Appeals Board.

(m) Governor.

(n) Land Conservation and Development Commission.

(o) Land Use Board of Appeals.

(p) Local government boundary commissions created pursuant to ORS 199.430.

(q) Public universities listed in ORS 352.002.

(r) Oregon Youth Authority.

(s) Psychiatric Security Review Board.

(t) Oregon Health Authority, for purposes of contested case hearings involving informed consent at the Oregon State Hospital.

(u) Public Utility Commission.

(v) State Accident Insurance Fund Corporation.

(w) State Apprenticeship and Training Council.

(x) State Board of Parole and Post-Prison Supervision.

(y) State Land Board.

(z) State Treasurer, except the State Treasurer shall use an administrative law judge for contested cases involving claims arising under ORS 98.302 to 98.436, 98.992 or 116.253 or any other claim to escheated or unclaimed property.

(3) The Workers' Compensation Board is exempt from using administrative law judges assigned from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except as specifically provided in this subsection, the Department of Consumer and Business Services must use administrative law judges assigned from the office only for contested cases arising out of the department's powers and duties under:

(a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;

(b) ORS chapter 455;

(c) ORS chapter 674;

(d) ORS chapters 706 to 716;

(e) ORS chapter 717;

(f) ORS chapters 723, 725 and 726; and

(g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750.

(4) Notwithstanding any other provision of law, in any proceeding in which an agency is required to use an administrative law judge assigned from the office, an officer or employee of the agency may not conduct the hearing on behalf of the agency.

(5) Notwithstanding any other provision of ORS 183.605 to 183.690, an agency is not required to use an administrative law judge assigned from the office if:

(a) Federal law requires that a different administrative law judge or hearing officer be used; or

(b) Use of an administrative law judge from the office could result in a loss of federal funds.

(6) Notwithstanding any other provision of this section, the Department of Environmental Quality must use administrative law judges assigned from the office only for contested case hearings conducted under the provisions of ORS 183.413 to 183.470. [1999 c.849 §9; 2001 c.900 §46; 2003 c.75 §8; 2005 c.22 §131; 2005 c.26 §18; 2007 c.239 §9; 2009 c.541 §6; 2009 c.762 §46; 2009 c.830 §147; 2009 c.866 §10; 2011 c.637 §64; 2011 c.708 §25; 2013 c.296 §19; 2015 c.767 §53; 2017 c.442 §24; 2019 c.678 §56; 2025 c.559 §41]

183.640 Use of Office of Administrative Hearings by exempt agencies and by political subdivisions. (1) Upon request of an agency, the chief administrative law judge for the Office of Administrative Hearings may assign administrative law judges from the office to conduct contested case proceedings on behalf of agencies that are exempted from mandatory use of administrative law judges assigned from the office under ORS 183.635.

(2) The chief administrative law judge may contract with any political subdivision of this state to provide the services of administrative law judges to the political subdivision for the purpose of conducting quasi-judicial hearings on behalf of the political subdivision. [1999 c. 849 §10; 2003 c.75 §9]

183.645 Request for change of administrative law judge; rules. (1) After assignment of an administrative law judge from the Office of Administrative Hearings to conduct a hearing on behalf of an agency, the chief administrative law judge shall assign a different administrative law judge for the hearing upon receiving a written request from

any party in the contested case or from the agency. The chief administrative law judge may by rule establish time limitations and procedures for requests under this section.

(2) Only one request for a change of assignment of administrative law judge under subsection (1) of this section may be granted by the chief administrative law judge without a showing of good cause. If a party or agency fails to make a request under subsection (1) of this section within the time allowed, or if a party or agency objects to an administrative law judge assigned after a request for a different administrative law judge has been granted under subsection (1) of this section, the chief administrative law judge shall assign a different administrative law judge only upon a showing of good cause.

(3) Notwithstanding subsection (1) of this section, a different administrative law judge may not be assigned for a hearing provided under ORS 813.410 or 813.440 on suspension of driving privileges, except upon a showing of good cause. [1999 c.849 §11; 2001 c.294 §8; 2003 c.75 §10]

183.650 Form of order; modification of form of order by agency; finding of historical fact. (1) In any contested case hearing conducted by an administrative law judge assigned from the Office of Administrative Hearings, the administrative law judge shall prepare and serve on the agency and all parties to the hearing a form of order, including recommended findings of fact and conclusions of law. The administrative law judge shall also prepare and serve a proposed order in the manner provided by ORS 183.464 unless the agency or hearing is exempt from the requirements of ORS 183.464.

(2) If the administrative law judge assigned from the office will not enter the final order in a contested case proceeding, and the agency modifies the form of order issued by the administrative law judge in any substantial manner, the agency must identify the modifications and provide an explanation to the parties to the hearing as to why the agency made the modifications.

(3) An agency conducting a contested case hearing may modify a finding of historical fact made by the administrative law judge assigned from the Office of Administrative Hearings only if the agency determines that there is clear and convincing evidence in the record that the finding was wrong. For the purposes of this section, an administrative law judge makes a finding of historical fact if the administrative law judge determines that an event did or did not occur in the past or that a circumstance or status did or did not exist either before the hearing or at the time of the hearing.

(4) Notwithstanding ORS 19.415 (3), if a party seeks judicial review of an agency's modification of a finding of historical fact under subsection (3) of this section, the court shall make an independent finding of the fact in dispute by conducting a review de novo of the record viewed as a whole. If the court decides that the agency erred in modifying the finding of historical fact made by the administrative law judge, the court shall remand the matter to the agency for entry of an order consistent with the court's judgment. [1999 c.849 §12; 2003 c.75 §11; 2009 c.231 §5; 2009 c.866 §7]

183.655 Fees. The chief administrative law judge for the Office of Administrative Hearings shall establish a schedule of fees for services rendered by administrative law judges assigned from the office. The fee charged shall be in an amount calculated to recover the cost of providing the administrative law judge, the cost of conducting the hearing and all associated administrative costs. All fees collected by the chief administrative law judge under this section shall be paid into the Office of Administrative Hearings Operating Account created under ORS 183.660. [1999 c.849 §13; 2003 c.75 §12]

183.660 Office of Administrative Hearings Operating Account. (1) The Office of Administrative Hearings Operating Account is created within the General Fund. The account shall consist of moneys paid into the account under ORS 183.655. Moneys credited to the account are continuously appropriated to the chief administrative law judge for the Office of Administrative Hearings created under ORS 183.605 for the purpose of paying expenses incurred in the administration of the office.

(2) At the discretion of the chief administrative law judge, petty cash funds may be established and maintained for the purpose of administering the duties of the office. [1999 c.849 §14; 2003 c.75 §13]

183.665 Estimates of office expenses. The chief administrative law judge for the Office of Administrative Hearings shall estimate in advance the expenses that the office will incur during each biennium and shall notify each agency required to use the office's services of the agency's share of the anticipated expenses for periods within the biennium. [1999 c.849 §15; 2003 c.75 §14]

183.670 Rules. Subject to the provisions of the State Personnel Relations Law, the chief administrative law judge for the Office of Administrative Hearings may adopt rules to:

(1) Organize and manage the Office of Administrative Hearings established under ORS 183.605.

(2) Facilitate the performance of the duties of administrative law judges assigned from the office.

(3) Establish qualifications for persons employed as administrative law judges by the office.

(4) Establish standards and procedures for the evaluation and training of administrative law judges employed by the office, consistent with standards and training requirements established under ORS 183.680. [1999 c.849 §16; 2003 c.75 §15]

183.675 Alternative dispute resolution. ORS 183.605 to 183.690 do not limit in any way the ability of any agency to use alternative dispute resolution, including mediation or arbitration, to resolve disputes without conducting a contested case hearing or without requesting assignment of an administrative law judge from the Office of Administrative Hearings. [1999 c.849 §16a; 2003 c.75 §16]

183.680 Standards and training program. (1) The chief administrative law judge for the Office of Administrative Hearings, working in coordination with the Attorney General, shall design and implement a standards and training program for administrative law judges employed by the office and for persons seeking to be employed as administrative law judges by the office. The program shall include:

(a) The establishment of an ethical code for persons employed as administrative law judges by the office.

(b) Training for administrative law judges employed by the office that is designed to assist in identifying cases that are appropriate for the use of alternative dispute resolution processes.

(2) The program established by the chief administrative law judge under this section may include:

(a) The conducting of courses on administrative law, evidence, hearing procedures and other issues that arise in presiding over administrative hearings, including courses designed to provide any training required by the chief administrative law judge for administrative law judges employed by the office.

(b) The certification of courses offered by other persons for the purpose of any training required by the chief administrative law judge for administrative law judges employed by the office.

(c) The provision of specialized training for administrative law judges in subject matter areas affecting particular agencies required to use administrative law judges assigned from the office.

(3) The chief administrative law judge is bound by the ethical code established under this section and must satisfactorily complete training required of administrative law judges employed by the office other than specialized training in subject matter areas affecting particular agencies. [1999 c.849 §19; 2003 c.75 §17]

183.685 Ex parte communications. (1) An administrative law judge assigned from the Office of Administrative Hearings who is presiding in a contested case proceeding and who receives an ex parte communication described in subsections (3) and (4) of this section shall place in the record of the pending matter:

(a) The name of each person from whom the administrative law judge received an ex parte communication;

(b) A copy of any ex parte written communication received by the administrative law judge;

(c) A copy of any written response to the communication made by the administrative law judge;

(d) A memorandum reflecting the substance of any ex parte oral communication made to the administrative law judge; and

(e) A memorandum reflecting the substance of any oral response made by the administrative law judge to an ex parte oral communication.

(2) Upon making a record of an ex parte communication under subsection (1) of this section, an administrative law judge shall advise the agency and all parties in the proceeding that an ex parte communication has been made a part of the record. The administrative law judge shall allow the agency and parties an opportunity to respond to the ex parte communication.

(3) Except as otherwise provided in this section, the provisions of this section apply to communications that:

(a) Relate to a legal or factual issue in a contested case proceeding;

(b) Are made directly or indirectly to an administrative law judge while the proceeding is pending; and

(c) Are made without notice and opportunity for the agency and all parties to participate in the communication.

(4) The provisions of this section apply to any ex parte communication made directly or indirectly to an administrative law judge, or to any agent of an administrative law judge, by:

(a) A party;

(b) A party's representative or legal adviser;

(c) Any other person who has a direct or indirect interest in the outcome of the proceeding;

(d) Any other person with personal knowledge of the facts relevant to the proceeding; or

(e) Any officer, employee or agent of an agency.

(5) The provisions of this section do not apply to:

(a) Communications made to an administrative law judge by other administrative law judges; or

(b) Communications made to an administrative law judge by any person employed by the office to assist the administrative law judge. [1999 c.849 §20; 2003 c.75 §18; 2009 c.866 §9]

183.690 Office of Administrative Hearings Oversight Committee. (1) The Office of Administrative Hearings Oversight Committee is created. The committee consists of nine members, as follows:

(a) The President of the Senate and the Speaker of the House of Representatives shall appoint four legislators to the committee. Two shall be Senators appointed by the President. Two shall be Representatives appointed by the Speaker.

(b) The Governor shall appoint two members to the committee. At least one of the members appointed by the Governor shall be an active licensee of the Oregon State Bar with experience in representing parties who are not agencies in contested case hearings.

(c) The Attorney General shall appoint two members to the committee.

(d) The chief administrative law judge for the Office of Administrative Hearings shall serve as an ex officio member of the committee. The chief administrative law judge may cast a vote on a matter before the committee if the votes of the other members are equally divided on the matter.

(2) The term of a legislative member of the committee shall be two years. If a person appointed by the President of the Senate or by the Speaker of the House ceases to be a Senator or Representative during the person's term on the committee, the person may continue to serve as a member of the committee for the balance of the member's term on the committee. The term of all other appointed members shall be four years. Appointed members of the committee may be reappointed. If a vacancy occurs in one of the appointed positions for any reason during the term of membership, the official who appointed the member to the vacated position shall appoint a new member to serve the remainder of the term. An appointed member of the committee may be removed from the committee at any time by the official who appointed the member.

(3)(a) The members of the committee shall select from among themselves a chairperson and a vice chairperson.

(b) The committee shall meet at such times and places as determined by the chairperson.

(4) Legislative members shall be entitled to payment of per diem and expense reimbursement under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(5) The committee shall:

(a) Study the operations of the Office of Administrative Hearings;

(b) Make any recommendations to the Governor and the Legislative Assembly that the committee deems necessary to increase the effectiveness, fairness and efficiency of the operations of the Office of Administrative Hearings;

(c) Make any recommendations for additional legislation governing the operations of the Office of Administrative Hearings;

(d) Make recommendations to the Governor for the appointment or reappointment of the chief administrative law judge; and

(e) Conduct such other studies as necessary to accomplish the purposes of this subsection.

(6)(a) The Office of Administrative Hearings shall provide the committee with staff.

(b) The Employment Department shall provide the committee with human resources services and assist the committee with candidate searches for appointment of the chief administrative law judge. [1999 c.849 §21; 2003 c.75 §19; 2005 c.22 §132; 2009 c.866 §3; 2023 c.52 §2; 2025 c.32 §96]

PERMITS AND LICENSES

183.700 Permits subject to ORS 183.702. (1) As used in this section and ORS 183.702, "permit" means an individual and particularized license, permit, certificate, approval, registration or similar form of permission required by law to pursue any activity specified in this section, for which an agency must weigh information, make specific findings and make determinations on a case-by-case basis for each applicant.

(2) The requirements of this section and ORS 183.702 apply to the following permits granted by:

(a) The Department of Environmental Quality under ORS 448.415, 454.655, 454.695, 454.790, 454.800, 459.205, 465.315, 465.325, 466.140, 466.145, 466.706 to 466.882, 468A.040,

468A.310, 468B.035, 468B.040, 468B.045, 468B.050 and 468B.095.

(b) The Department of State Lands under ORS 196.800 to 196.900 and 390.805 to 390.925.

(c) The Water Resources Department under ORS chapters 537 and 540, except those permits issued under ORS 537.747 to 537.765.

(d) The State Department of Agriculture pursuant to ORS 468B.200 to 468B.230 and 622.250.

(e) The State Department of Fish and Wildlife pursuant to ORS 497.142, 497.218, 497.228, 497.238, 497.248, 497.252, 497.298, 497.308, 498.019, 498.279, 508.106, 508.300, 508.760, 508.775, 508.801, 508.840, 508.880, 508.926 and 509.140.

(f) The Department of Transportation pursuant to ORS 374.312. [Formerly 183.560]

Note: 183.700 and 183.702 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.702 Statement of criteria and procedures for evaluating permit application; documentation of decision on application; required signature. (1) At the time a person applies for a permit specified in ORS 183.700, the issuing agency shall offer a document to that applicant that specifies the criteria and procedures for evaluating a permit application.

(2) The agencies specified in ORS 183.700 must document in writing the basis for all decisions to deny a permit specified in ORS 183.700, including citation to the criteria applied by the agency and the manner in which agency standards were utilized in applying the criteria. The documentation required under this section shall be made part of the record for the decision on the permit application.

(3) At least one officer or employee of the issuing agency who has authority to sign orders on behalf of the agency, or the officer or employee responsible for the decision to deny a permit specified in ORS 183.700, shall sign the documentation required under subsection (2) of this section.

(4) The issuing agency shall provide to the applicant a copy of the documentation required under subsection (2) of this section. [Formerly 183.562]

Note: See note under 183.700.

183.705 Extended term for renewed licenses; fees; continuing education; rules. (1) Notwithstanding any other provision of law, an agency that issues licenses that must be renewed on an annual basis under the laws administered by the agency also may offer those licenses with terms of two, three, four or five years. Notwithstanding any other provision of law, an agency that issues licenses that must be renewed on a biennial basis under the laws administered by the agency also may offer those licenses with terms of three, four or five years. Extended terms may be offered only for renewed licenses and may not be offered for initial applications for licenses.

(2) An agency may offer an extended term under this section for a license issued by the agency only after adopting a rule authorizing the extended term. An agency may adopt a rule authorizing an extended term only if the agency finds that the extended term is consistent with public safety and with the objectives of the licensing requirement. An agency by rule may prohibit extended terms based on prior license discipline of an applicant.

(3) An applicant must meet all qualifications established by the agency to be granted an extended term.

(4) An agency may not offer an extended term under this section if:

(a) Another agency or a local government, as defined by ORS 174.116, is authorized by statute to make a recommendation on the issuance of the license;

(b) The agency or the local government, as defined by ORS 174.116, that has authority to make a recommendation on the issuance of the license has recommended against the issuance of the license; and

(c) The recommendation of the agency or the local government, as defined by ORS 174.116, is based on licensing criteria established by statute or by rule.

(5) An extended term granted under this section may be revoked by an agency if the agency determines that the licensee is subject to discipline under the licensing criteria applicable to the licensee. An agency offering extended terms under this section by rule may establish other grounds for revoking an extended term under this section.

(6) Notwithstanding any other provision of law, an agency that offers an extended term under this section for a license issued by the agency shall increase the annual or biennial license fee established by statute by a percentage no greater than necessary to ensure that there is no revenue loss by reason of the extended term.

(7) Notwithstanding any other provision of law, an agency that offers an extended term under this section for a license issued by the agency shall increase any annual or biennial continuing education requirement established by statute as necessary to ensure that there is no reduction in the continuing education requirement for licensees by rea-

son of the extended term. [2005 c.76 §2; 2007 c.768 §1]

REVIEW OF RULES
(Legislative Assembly)

183.710 Definitions for ORS 183.710 to 183.730. As used in ORS 183.710 to 183.730, unless the context requires otherwise:

(1) "Interim committee" means a committee of the Legislative Assembly that is scheduled to meet when the Legislative Assembly is not in session and that has subject-matter jurisdiction over the state agency that has adopted a rule, as set forth in the subject-matter jurisdiction list developed under ORS 183.724.

(2) "Rule" has the meaning given that term in ORS 183.310.

(3) "State agency" means an agency as defined in ORS 183.310. [Formerly 171.705; 2009 c.81 §1]

Note: 183.710 to 183.730 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

183.715 Submission of adopted rule to Legislative Counsel required. If a state agency adopts, amends or repeals a rule, the Secretary of State shall electronically submit a copy of the adopted, amended or repealed rule to the Legislative Counsel within 10 days after the agency files the rule in the office of the Secretary of State as provided in ORS 183.355. The electronic transmission of an amended rule that is submitted to the Legislative Counsel must show all changes to the rule by striking through material to be deleted and underlining all new material, or by any other method that clearly shows all new and deleted material. [Formerly 171.707; 1991 c.94 §1; 1999 c.167 §1; 2005 c.18 §2; 2017 c.518 §7]

Note: See note under 183.710.

183.720 Procedure for review of agency rule; reports on rules claimed to be duplicative or conflicting. (1) The Legislative Counsel may review, or shall review at the direction of the Legislative Counsel Committee, a proposed rule or an adopted rule of a state agency.

(2) The Legislative Counsel may review an adopted rule of a state agency upon the written request of any person affected by the rule. The Legislative Counsel shall review a proposed or adopted rule of a state agency upon the written request of any member of the Legislative Assembly. The written request for review must identify the specific objection or problem with the rule.

(3) When reviewing a rule of a state agency pursuant to subsection (1) or (2) of this section, the Legislative Counsel shall:

(a) Determine whether the rule appears to be within the intent and scope of the enabling legislation purporting to authorize its adoption; and

(b) Determine whether the rule raises any constitutional issue other than described in paragraph (a) of this subsection, and if so, the nature of the issue.

(4) In making a determination under subsection (3)(a) of this section, the Legislative Counsel shall, wherever possible, follow generally accepted principles of statutory construction.

(5) The Legislative Counsel shall prepare written findings on a rule reviewed, setting forth the determinations made under subsection (3) of this section.

(6) When a review of a rule is made by the Legislative Counsel, the Legislative Counsel shall send a copy of the determinations made under subsection (3) of this section to the appropriate interim committee or, if the review was requested by a member of the Legislative Assembly or by a person affected by the rule, to the person requesting the review. If the Legislative Counsel determines that a rule is not within the intent and scope of the enabling legislation purporting to authorize the state agency's adoption of the rule, or that the rule raises a constitutional issue, the Legislative Counsel shall also send a copy of the determination to the agency. The Legislative Counsel may request that the state agency respond in writing to the determinations or appear at the meeting of the interim committee at which the committee will consider the determinations. The interim committee may direct the Legislative Counsel to send a copy of the determinations to the presiding officer of a house of the Legislative Assembly, who may refer the determinations to any legislative committee concerned.

(7)(a) A member of the Legislative Assembly may request that Legislative Counsel prepare a report on a rule adopted by a state agency that the member asserts is duplicative of or conflicts with another rule. A person affected by a rule adopted by a state agency may request that Legislative Counsel prepare a report on the rule if the person asserts that the rule is duplicative of or conflicts with another rule. A request for a report must be in writing and contain copies of the two rules that are claimed to be duplicative or conflicting. The second rule may be either a rule adopted by a state agency or a rule or regulation adopted by a federal agency.

(b)(A) Upon receipt of a written request by a member of the Legislative Assembly, the Legislative Counsel shall prepare a report to the interim committee that contains:

(i) A copy of the request, including copies of the two rules that the member asserts are conflicting or duplicative; and

(ii) Legislative Counsel's analysis of the requirements of the two rules.

(B) Upon receipt of a written request by a person affected by a rule adopted by a state agency, the Legislative Counsel may prepare a written report to the person and each state agency concerned that contains the Legislative Counsel's analysis of the requirements of the two rules.

(8) Upon receipt of a report under subsection (7)(b)(A) of this section, the interim committee may issue a determination that a rule is duplicative of or conflicts with the other cited rule.

(9) When a report on a rule is made by the Legislative Counsel under subsection (7)(b)(A) of this section, the Legislative Counsel shall send a copy of the report and any determinations made under subsection (8) of this section to each state agency concerned. The interim committee may direct the Legislative Counsel to send a copy of the determinations to the presiding officer of a house of the Legislative Assembly, who may refer the determinations to any legislative committee concerned. [Formerly 171.709; 1993 c.729 §7; 1997 c.602 §4; 2001 c.156 §1; 2009 c.81 §4]

Note: See note under 183.710.

183.722 Required agency response to Legislative Counsel determination; consideration of determination by interim committee. (1)(a) If the Legislative Counsel determines under ORS 183.720 (3) that a proposed or adopted rule is not within the intent and scope of the enabling legislation purporting to authorize the rule's adoption, or that the rule is not constitutional, and the Legislative Counsel has provided a copy of that determination to the state agency pursuant to 183.720 (6), the agency shall either make a written response to the determination or appear at the meeting of the interim committee at which the committee will consider the determinations. The response of the state agency shall indicate if the agency intends to repeal, amend or take other action with respect to the rule.

(b) The interim committee shall consider the Legislative Counsel determination described in paragraph (a) of this subsection and any state agency response to the determination. If the interim committee adopts the Legislative Counsel determination, the Legislative Counsel shall post the determination on the Legislative Counsel website. Adopted determinations that are posted on the website shall be organized by OAR number and shall remain on the website until the earlier of the date that:

(A) The rule is modified and the Legislative Counsel determines that the modified rule is within the intent and scope of the enabling legislation;

(B) A court makes a final determination that the rule is within the intent and scope of the enabling legislation and is otherwise constitutional, all appeals of the court's determination are exhausted and the state agency notifies the Legislative Counsel of the determination; or

(C) The Legislative Assembly modifies the enabling legislation so as to bring the rule within the intent and scope of the enabling legislation, any other constitutional defect in the rule is cured and the state agency notifies the Legislative Counsel of the modification or cure.

(2) If the Legislative Counsel determines under ORS 183.720 (3) that a proposed or adopted rule is not within the intent and scope of the enabling legislation purporting to authorize the rule's adoption, or that the rule is not constitutional, and the interim committee is not satisfied with the response to those issues made by the state agency, the committee may request that one or more representatives of the agency appear at a subsequent meeting of the committee along with a representative of the Oregon Department of Administrative Services for the purpose of further explaining the position of the agency.

(3) If a state agency is requested under subsection (2) of this section to appear at a subsequent meeting of the interim committee along with a representative of the Oregon Department of Administrative Services, the agency shall promptly notify the department of the request. The notification to the department must be in writing, and must include a copy of the determinations made by the Legislative Counsel and a copy of any written response made by the state agency to the determinations. [1997 c.602 §7; 1999 c.31 §2; 2009 c.81 §5]

Note: See note under 183.710.

183.724 Designation of interim committees for purposes of considering rule reports. (1) As soon as is practicable after the end of each odd-numbered year regular legislative session, the Legislative Counsel shall develop a list of state agencies with areas of responsibility that are primarily within the subject-matter jurisdiction of interim committees of the Legislative Assembly. The Legislative Counsel shall assign all state agencies to at least one interim committee. The Legislative Counsel may modify the list to reflect changes in interim committees. The Legislative Counsel shall distribute the list to all state agencies whenever the list is developed or modified.

(2) If an interim committee of one house of the Legislative Assembly has overlapping subject-matter jurisdiction with an interim committee of the other house, the Legislative Counsel may assign a state agency to either committee or to both committees. The Legislative Counsel shall strive to assign state agencies so as to ensure that the rule review workload is approximately equally distributed between the interim committees of both houses of the Legislative Assembly.

(3) The consideration of the written findings prepared by the Legislative Counsel on a rule by any one interim committee of either house of the Legislative Assembly satisfies the requirements of ORS 183.710 to 183.730. [2009 c.81 §3; 2011 c.545 §13]

Note: See note under 183.710.

183.725 [Formerly 171.713; 1993 c.729 §8; 1997 c.602 §5; 1999 c.31 §1; 2009 c.81 §6; repealed by 2017 c.518 §9]

(Oregon Sunshine Committee)

183.730 Review of rule by Oregon Sunshine Committee. (1) As used in this section, "public record" has the meaning given that term in ORS 192.311.

(2) The Oregon Sunshine Committee shall include in the plan or schedule for review established under ORS 192.511 an adopted rule of a state agency upon the written request of any person affected by the rule if the adopted rule impacts the disclosure, or exemption from disclosure, of a public record. The request must specify the disclosure or exemption that is of concern.

(3) The committee shall include in the plan or schedule for review established under ORS 192.511 an adopted rule of a state agency upon the written request of a member of the Legislative Assembly if the adopted rule impacts the disclosure, or exemption from disclosure, of a public record. [2017 c.654 §9]

Note: See note under 183.710.

CIVIL PENALTIES

183.745 Civil penalty procedures; notice; hearing; judicial review; exemptions; recording; enforcement. (1) Except as otherwise provided by law, an agency may only impose a civil penalty as provided in this section.

(2) A civil penalty imposed under this section shall become due and payable 10 days after the order imposing the civil penalty becomes final by operation of law or on appeal. A person against whom a civil penalty is to be imposed shall be served with a notice in the form provided in ORS 183.415. Service of the notice shall be accomplished in the manner provided by ORS 183.415.

(3) The person to whom the notice is addressed shall have 20 days from the date of service of the notice provided for in subsection (2) of this section in which to make written application for a hearing. The agency may by rule provide for a longer period of time in which application for a hearing may be made. If no application for a hearing is made within the time allowed, the agency may make a final order imposing the penalty. A final order entered under this subsection need not be delivered or mailed to the person against whom the civil penalty is imposed.

(4) Any person who makes application as provided for in subsection (3) of this section shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(5) Judicial review of an order made after a hearing under subsection (4) of this section shall be as provided in ORS 183.480 to 183.497 for judicial review of contested cases.

(6) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(7) This section does not apply to penalties:

(a) Imposed under the tax laws of this state;

(b) Imposed under the provisions of ORS 646.760 or 652.332;

(c) Imposed under the provisions of ORS chapter 654, 656 or 659A; or

(d) Imposed by the Public Utility Commission.

(8) This section creates no new authority in any agency to impose civil penalties.

(9) This section does not affect:

(a) Any right under any other law that an agency may have to bring an action in a court of this state to recover a civil penalty; or

(b) The ability of an agency to collect a properly imposed civil penalty under the provisions of ORS 305.830.

(10) The notice provided for in subsection (2) of this section may be made part of any other notice served by the agency under ORS 183.415.

(11) Informal disposition of proceedings under this section, whether by stipulation,

agreed settlement, consent order or default, may be made at any time.

(12) In addition to any other remedy provided by law, recording an order in the County Clerk Lien Record pursuant to the provisions of this section has the effect provided for in ORS 205.125 and 205.126, and the order may be enforced as provided in ORS 205.125 and 205.126.

(13) As used in this section:

(a) "Agency" has that meaning given in ORS 183.310.

(b) "Civil penalty" includes only those monetary penalties that are specifically denominated as civil penalties by statute. [Formerly 183.090]

Note: 183.745 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

READABILITY OF PUBLIC WRITINGS

183.750 State agency required to prepare public writings in readable form. (1) Every state agency shall prepare its public writings in language that is as clear and simple as possible.

(2) As used in this section:

(a) "Public writing" means any rule, form, license or notice prepared by a state agency.

(b) "State agency" means any officer, board, commission, department, division or institution in the executive or administrative branch of state government. [Formerly 183.025]

Note: 183.750 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Chapter 659

2025 EDITION

Miscellaneous Prohibitions Relating to Employment and Discrimination

PROHIBITIONS RELATING TO EMPLOYMENT

(Employment Action Relating to Communication of Employer About Religious or Political Matters)

659.780 Definitions for ORS 659.780 and 659.785

659.785 Employer prohibited from taking action; civil action; notice; exceptions

(Use of Force or Misrepresentation to Secure or Prevent Employment)

659.800 Use of force or misrepresentation to prevent employment prohibited

659.805 Blacklisting and blackmailing prohibited

659.810 Employer prohibited from filing false statement with employment agency to secure labor

659.815 Deceptive representations or advertisements by persons employing labor prohibited

659.820 Right of worker to recover damages and attorney fees

(Prohibitions Relating to Employee Benefits)

659.825 Employer failing to make agreed payments to employee benefit fund

659.830 Prohibitions and requirements relating to health insurance

659.835 Health insurance coverage for children of employees

(Testing)

659.840 Requiring breathalyzer or lie detector test prohibited; exception for breathalyzer test

(Fraudulent Acceptance of Benefits From Employer)

659.845 Fraudulently accepting advancement and refusing to work prohibited

PROHIBITED DISCRIMINATION

(Discrimination in Education)

659.850 Discrimination in education prohibited; rules

659.852 Retaliation against student prohibited

659.855 Sanctions for noncompliance with discrimination prohibitions

659.860 Enforcement of ORS 659.850

(Discrimination Against Athletes)

659.865 Discrimination for participation in sanctioned athletic events prohibited

(Prohibitions Relating to Health Benefits and Certain Medical Services and Procedures)

659.875 Discrimination in issuance of benefits or coverage or payment for certain medical services prohibited

PENALTIES

659.990 Penalties

659.010 [Amended by 1957 c.724 §3; 1959 c.547 §5; 1959 c.689 §13; 1961 c.247 §2; 1963 c.622 §3; 1969 c.618 §1; 1973 c.714 §5; 1977 c.770 §12; 1979 c.813 §1; 1983 c.225 §1; 1987 c.319 §5; 1987 c.393 §1; 1989 c.317 §3; 1989 c.686 §1; 1991 c.652 §13; 1991 c.939 §5; 1993 c.719 §3; 1993 c.798 §32; 1995 c.343 §56; 1995 c.580 §15; 1997 c.30 §1; 1999 c.245 §2; repealed by 2001 c.621 §90]

659.015 [1959 c.547 §2; 1959 c.689 §2; renumbered 659A.009 in 2001]

659.020 [Amended by 1969 c.618 §2; 1977 c.770 §13; 1983 c.225 §2; 1989 c.224 §125; renumbered 659A.006 in 2001]

659.022 [1963 c.622 §2; 1969 c.618 §2a; 1977 c.770 §14; 2001 c.621 §49; renumbered 659A.003 in 2001]

659.024 [1959 c.547 §3; 1963 c.622 §5; 1965 c.575 §1; 1973 c.189 §2; repealed by 1977 c.770 §15]

659.025 [Subsection (1) enacted as 1981 c.454 §1; subsection (2) enacted as 1981 c.242 §1; 1989 c.224 §126; renumbered 659A.012 in 2001]

659.026 [1959 c.689 §3; 1973 c.189 §3; repealed by 1977 c.770 §15]

659.027 [1983 c.183 §1; renumbered 659A.015 in 2001]

659.028 [1969 c.618 §8; 1981 c.643 §1; 1987 c.279 §1; renumbered 659A.321 in 2001]

659.029 [1977 c.330 §2; renumbered 659A.029 in 2001]

659.030 [Amended by 1969 c.618 §3; 1977 c.770 §1; 1977 c.801 §1a; 1981 c.595 §1; 1981 c.643 §2; 1983 c.477 §1; 1983 c.820 §17; 1985 c.98 §4; 1985 c.151 §1; 1987 c.279 §2; 1993 c.33 §359; 2001 c.621 §50; renumbered 659A.030 in 2001]

659.031 [1959 c.584 §2; 1973 c.714 §6; renumbered 659A.420 in 2001]

659.032 [1957 c.725 §2; repealed by 1959 c.584 §4]

659.033 [1957 c.725 §3; 1959 c.584 §3; 1973 c.714 §7; 1975 c.384 §1; 1989 c.523 §4; 1989 c.686 §2; 1995 c.559 §44; 1997 c.235 §1; 2001 c.621 §18; renumbered 659A.421 in 2001]

659.034 [1957 c.725 §4; repealed by 1959 c.584 §4]

659.035 [1981 c.470 §5; 1985 c.404 §3; 1989 c.890 §10; 2001 c.621 §40; renumbered 659A.233 in 2001]

659.036 [1993 c.719 §2; 1995 c.680 §6; 2001 c.621 §51; 2001 c.739 §11; renumbered 659A.303 in 2001]

659.037 [1957 c.724 §10; 1973 c.714 §8; 1977 c.770 §2; 1995 c.79 §336; 2001 c.621 §52; renumbered 659A.409 in 2001]

659.038 [1999 c.627 §2; repealed by 2001 c.621 §90]

659.040 [Amended by 1957 c.724 §13; 1971 c.723 §1; 1977 c.453 §2; 1977 c.770 §3; repealed by 2001 c.621 §90]

659.045 [1957 c.724 §5; 1969 c.618 §4; 1973 c.714 §9; 1977 c.453 §2; 1977 c.770 §4; 1995 c.343 §57; repealed by 2001 c.621 §90]

659.050 [Amended by 1957 c.724 §6; 1963 c.622 §6; 1971 c.723 §2; 1975 c.503 §1; 1987 c.393 §2; repealed by 2001 c.621 §90]

659.055 [1963 c.622 §4; repealed by 2001 c.621 §90]

659.060 [Amended by 1957 c.724 §7; 1961 c.145 §1; 1963 c.622 §7; 1971 c.418 §20; 1971 c.723 §3; 1975 c.419 §1; 1987 c.393 §3; repealed by 2001 c.621 §90]

659.070 [Amended by 1963 c.622 §10; 1983 c.225 §3; 1999 c.245 §3; 1999 c.788 §44; repealed by 2001 c.621 §90]

659.080 [Amended by 1957 c.724 §8; 1961 c.145 §2; 1963 c.622 §11; repealed by 1971 c.734 §21]

659.085 [1971 c.734 §103; repealed by 2001 c.621 §90]

659.090 [Repealed by 1971 c.734 §21]

659.095 [1977 c.453 §4; 1979 c.843 §1; repealed by 2001 c.621 §90]

659.100 [Amended by 1957 c.724 §9; 1959 c.547 §6; 1959 c.689 §14; 1961 c.145 §3; 1963 c.622 §8; part renumbered 659.103; 1969 c.618 §5; 1971 c.322 §1; 1973 c.714 §10; 1977 c.770 §5; 1981 c.643 §3; 1987 c.279 §3; 1989 c.224 §127; 1995 c.343 §58; 2001 c.621 §53; renumbered 659A.800 in 2001]

659.102 [Subsection (1) enacted as 1959 c.547 §4; subsection (2) enacted as 1959 c.689 §4; repealed by 1977 c.770 §15]

659.103 [Formerly part of 659.100; 1969 c.618 §6; 1973 c.714 §11; 2001 c.621 §54; renumbered 659A.805 in 2001]

659.105 [1963 c.622 §9; 1975 c.503 §2; 1987 c.393 §4; 2001 c.621 §55; renumbered 659A.890 in 2001]

659.110 [Amended by 1957 c.724 §14; 2001 c.621 §56; renumbered 659A.810 in 2001]

659.115 [1955 c.534 §1; 1969 c.618 §7; 2001 c.621 §57; renumbered 659A.815 in 2001]

659.120 [Repealed by 1955 c.534 §2]

659.121 [1977 c.453 §6; 1979 c.813 §2; 1981 c.897 §95; 1983 c.225 §4; 1987 c.822 §1; 1989 c.165 §3; 1989 c.317 §4; 1989 c.686 §4; 1989 c.1044 §6; 1991 c.342 §2; 1993 c.798 §33; 1995 c.580 §16; 1999 c.245 §1; repealed by 2001 c.621 §90]

659.130 [Repealed by 1955 c.534 §2]

659.131 [1977 c.771 §1; renumbered as subsections (1), (2) and (3) of 659.340]

659.136 [1977 c.771 §2; renumbered as subsection (4) of 659.340]

659.140 [Repealed by 1955 c.534 §2]

659.150 [1975 c.204 §1; 1989 c.224 §128; renumbered 659.850 in 2001]

659.155 [1975 c.204 §3; 1989 c.491 §64; 1999 c.200 §35; renumbered 659.855 in 2001]

659.160 [1987 c.276 §2; 1995 c.618 §116; renumbered 659.860 in 2001]

659.165 [1993 c.556 §1; 1995 c.618 §117; renumbered 659.870 in 2001]

659.175 [1983 c.823 §3; renumbered 659.865 in 2001]

659.210 [Renumbered 659.815 in 2001]

659.220 [Amended by 1979 c.389 §1; 1981 c.897 §96; renumbered 659.820 in 2001]

659.225 [1963 c.249 §1; 1981 c.301 §1; renumbered 659.840 in 2001]

659.227 [1979 c.318 §1; 1981 c.301 §2; 1989 c.892 §1; 1995 c.680 §7; 2001 c.621 §58; renumbered 659A.300 in 2001]

659.230 [Renumbered 659.805 in 2001]

659.240 [Renumbered 659.800 in 2001]

659.250 [Renumbered 659.845 in 2001]

659.260 [Renumbered 659.810 in 2001]

659.270 [1980 c.1 §3; 2001 c.621 §59; renumbered 659A.236 in 2001]

659.280 [1981 c.867 §2; 1989 c.165 §1; renumbered 659A.250 in 2001]

659.285 [1981 c.867 §3; 1989 c.165 §2; 2001 c.621 §86a; renumbered 659A.253 in 2001]

659.290 [1981 c.867 §4; 1989 c.165 §7; renumbered 659A.256 in 2001]

659.295 [1981 c.867 §5; 2001 c.621 §87; renumbered 659A.259 in 2001]

659.297 [1989 c.165 §§4,5,6; 2001 c.621 §27; renumbered 659A.262 in 2001]

659.320 [1957 c.548 §1; 1973 c.140 §1; renumbered 659.825 in 2001]

659.322 [1991 c.875 §5; 1995 c.506 §5; 1999 c.59 §198; renumbered 659.830 in 2001]

659.324 [1995 c.506 §7; 2001 c.621 §19; renumbered 659.835 in 2001]

659.330 [1979 c.595 §1; 2001 c.621 §60; renumbered 659A.306 in 2001]

659.340 [Subsections (1), (2) and (3) of 1979 Replacement Part formerly 659.131; subsection (4) of 1979 Replacement Part formerly 659.136; 1983 c.225 §5; 1985 c.565 §90; 2001 c.621 §61; renumbered 659A.309 in 2001]

659.358 [1991 c.652 §§2,4; 2001 c.621 §20; renumbered 659A.312 in 2001]

659.360 [1987 c.319 §2; repealed by 1995 c.580 §18]

659.365 [1987 c.319 §3; repealed by 1995 c.580 §18]

659.370 [1987 c.319 §4; repealed by 1995 c.580 §18]

659.380 [1989 c.892 §3; 2001 c.621 §62; renumbered 659A.315 in 2001]

659.385 [1989 c.822 §2; repealed by 1995 c.580 §18]

659.389 [1989 c.822 §3; repealed by 1995 c.580 §18]

659.391 [1989 c.822 §4; repealed by 1995 c.580 §18]

659.393 [1989 c.822 §5; 1991 c.939 §6; repealed by 1995 c.580 §18]

659.400 [1973 c.660 §2; 1979 c.640 §1; 1989 c.224 §129; 1997 c.854 §12; 2001 c.621 §21; renumbered 659A.100 in 2001]

659.405 [1973 c.660 §3; 1979 c.640 §2; 1989 c.224 §130; 2001 c.621 §29; renumbered 659A.103 in 2001]

659.410 [1973 c.660 §4; 1989 c.1044 §1; 1999 c.245 §4; 2001 c.621 §30; renumbered 659A.109 in 2001]

659.412 [1989 c.850 §2; 1995 c.332 §62; renumbered 659A.052 in 2001]

659.415 [1973 c.660 §5; 1979 c.813 §3; 1981 c.874 §14; 1989 c.1044 §1; 1990 c.2 §45; 1995 c.332 §60; renumbered 659A.043 in 2001]

659.417 [1987 c.884 §45; renumbered 659A.049 in 2001]

659.420 [1973 c.660 §6; 1979 c.813 §4; 1995 c.332 §61; 2001 c.621 §35; renumbered 659A.046 in 2001]

659.425 [1973 c.660 §7; 1979 c.640 §3; 1989 c.224 §131; 1997 c.854 §13; renumbered 659A.142 in 2001]

659.430 [1973 c.660 §8; 1979 c.640 §4; 1983 c.225 §6; 1989 c.686 §3; 1995 c.79 §337; 2001 c.300 §56; 2001 c.621 §24; renumbered 659A.145 in 2001]

659.435 [1973 c.660 §9; repealed by 2001 c.621 §90]

659.436 [1997 c.854 §2; renumbered 659A.112 in 2001]

659.437 [1997 c.854 §3; renumbered 659A.115 in 2001]

659.439 [1997 c.854 §4; 2001 c.621 §36; renumbered 659A.118 in 2001]

659.440 [1997 c.854 §5; renumbered 659A.121 in 2001]

659.442 [1997 c.854 §6; renumbered 659A.124 in 2001]

659.444 [1997 c.854 §7; renumbered 659A.127 in 2001]

659.446 [1997 c.854 §8; renumbered 659A.130 in 2001]

659.447 [1997 c.854 §9; renumbered 659A.133 in 2001]

659.448 [1997 c.854 §10; renumbered 659A.136 in 2001]

659.449 [1997 c.854 §11; renumbered 659A.139 in 2001]

659.450 [1989 c.1044 §3; 1991 c.90 §1; 1999 c.245 §6; 2001 c.621 §37; renumbered 659A.060 in 2001]

659.455 [1989 c.1044 §4; 1991 c.90 §2; 1999 c.245 §5; 1999 c.313 §15; 2001 c.621 §38; renumbered 659A.063 in 2001]

659.460 [1989 c.1044 §5; 2001 c.621 §39; renumbered 659A.066 in 2001]

659.470 [1995 c.580 §1; renumbered 659A.150 in 2001]

659.472 [1995 c.580 §2; renumbered 659A.153 in 2001]

659.474 [1995 c.580 §3; renumbered 659A.156 in 2001]

659.476 [1995 c.580 §4; renumbered 659A.159 in 2001]

659.478 [1995 c.580 §5; renumbered 659A.162 in 2001]

659.480 [1995 c.580 §6; renumbered 659A.165 in 2001]

659.482 [1995 c.580 §7; renumbered 659A.168 in 2001]

659.484 [1995 c.580 §8; renumbered 659A.171 in 2001]

659.486 [1995 c.580 §9; renumbered 659A.174 in 2001]

659.488 [1995 c.580 §9a; renumbered 659A.177 in 2001]

659.490 [1995 c.580 §10; renumbered 659A.180 in 2001]

659.492 [1995 c.580 §11; 2001 c.621 §88; renumbered 659A.183 in 2001]

659.494 [1995 c.580 §12; renumbered 659A.186 in 2001]

659.505 [1989 c.890 §2; 2001 c.621 §41; renumbered 659A.200 in 2001]

659.510 [1989 c.890 §3; 2001 c.621 §42; renumbered 659A.203 in 2001]

659.515 [1989 c.890 §4; 2001 c.621 §43; renumbered 659A.206 in 2001]

659.520 [1989 c.890 §5; 2001 c.621 §44; renumbered 659A.209 in 2001]

659.525 [1989 c.890 §6; renumbered 659A.212 in 2001]

659.530 [1989 c.890 §7; 2001 c.621 §45; renumbered 659A.215 in 2001]

659.535 [1989 c.890 §8; 2001 c.621 §46; renumbered 659A.218 in 2001]

659.540 [1989 c.890 §9; 2001 c.621 §47; renumbered 659A.221 in 2001]

659.545 [1989 c.890 §1; 2001 c.621 §48; renumbered 659A.224 in 2001]

659.550 [1991 c.342 §1; 2001 c.621 §63; renumbered 659A.230 in 2001]

659.560 [1991 c.939 §2; repealed by 1995 c.580 §18]

659.565 [1991 c.939 §3; repealed by 1995 c.580 §18]

659.570 [1991 c.939 §4; repealed by 1995 c.580 §18]

659.700 [1995 c.680 §1; 1997 c.780 §1; 1999 c.921 §§1,2; 2001 c.588 §§11,12; renumbered 192.531 in 2001]

659.705 [1995 c.680 §2; 1997 c.780 §2; 2001 c.588 §13; renumbered 192.533 in 2001]

659.710 [1995 c.680 §3; 2001 c.588 §14; renumbered 192.535 in 2001]

659.715 [1995 c.680 §4; 1997 c.780 §3; 2001 c.588 §15; renumbered 192.537 in 2001]

659.720 [1995 c.680 §5; 2001 c.588 §16; renumbered 192.539 in 2001]

PROHIBITIONS RELATING TO EMPLOYMENT

(Employment Action Relating to Communication of Employer About Religious or Political Matters)

659.780 Definitions for ORS 659.780 and 659.785. As used in this section and ORS 659.785:

(1) "Constituent group" includes, but is not limited to, civic associations, community groups, social clubs and mutual benefit alliances, including labor organizations.

(2) "Employee" means an individual engaged in service to an employer in a business of the employer.

(3) "Employer" includes:

(a) A person engaged in business that has employees; and

(b) A public body, as defined in ORS 174.109.

(4) "Labor organization" means an organization that exists for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employment.

(5) "Political matters" includes activity related to political party affiliation, campaigns for measures, as defined in ORS 260.005, or candidates for political office and the decision to join, not join, support or not support any lawful political or constituent group.

(6) "Religious matters" includes activity related to religious affiliation or the decision to join, not join, support or not support a bona fide religious organization. [2009 c.658 §1; 2009 c.890 §1]

Note: 659.780 and 659.785 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 659 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659.785 Employer prohibited from taking action; civil action; notice; exceptions. (1) An employer or the employer's agent, representative or designee may not discharge, discipline or otherwise penalize or threaten to discharge, discipline or otherwise penalize or take any adverse employment action against an employee:

(a) Because the employee declines to attend or participate in an employer-sponsored meeting or communication with the employer or the agent, representative or designee of the employer if the primary purpose of the meeting or communication is to communicate the opinion of the employer about religious or political matters;

(b) As a means of requiring an employee to attend a meeting or participate in communications described in paragraph (a) of this subsection; or

(c) Because the employee, or a person acting on behalf of the employee, makes a good faith report, orally or in writing, of a violation or a suspected violation of this section. This paragraph does not apply if the employee knows that the report is false.

(2) An aggrieved employee may bring a civil action to enforce this section no later than 90 days after the date of the alleged violation in the circuit court of the judicial district where the violation is alleged to have occurred or where the principal office of the employer is located. The court may award a prevailing employee all appropriate relief, including injunctive relief, rehiring or reinstatement of the employee to the employee's former position or an equivalent position, back pay and reestablishment of any employee benefits, including seniority, to which the employee would otherwise have been eligible if the violation had not occurred and any other appropriate relief as deemed necessary by the court to make the employee whole. The court shall award a prevailing employee treble damages, together with reasonable attorney fees and costs.

(3) An employer subject to this section shall post a notice of employee rights under this section in a place normally reserved for employment-related notices and in a place commonly frequented by employees.

(4) This section does not:

(a) Limit an employee's right to bring a common law cause of action against an employer for wrongful termination;

(b) Diminish or impair the rights of a person under a collective bargaining agreement;

(c) Limit the application of ORS 260.432;

(d) Prohibit a religious organization from requiring its employees to attend an employer-sponsored meeting or participate in any communication with the employer or the employer's agent, representative or designee for the primary purpose of communicating the employer's religious beliefs, practices or tenets;

(e) Prohibit a political organization, including a political party or other organization that engages, in substantial part, in political matters, from requiring the political organization's employees to attend an employer-sponsored meeting or participate in any communication with the employer or the employer's agent, representative or designee for the primary purpose of communicating the employer's political tenets or purposes;

(f) Prohibit communications of information about religious or political matters that the employer is required by law to communicate, but only to the extent of the lawful requirement;

(g) Prohibit mandatory meetings of an employer's executive or administrative personnel to discuss issues related to the employer's business, including those issues addressed in this section; or

(h) Limit the rights of an employer to offer meetings, forums or other communications about religious or political matters for which attendance or participation is strictly voluntary. [2009 c.658 §2; 2009 c.890 §2]

Note: See note under 659.780.

(Use of Force or Misrepresentation to Secure or Prevent Employment)

659.800 Use of force or misrepresentation to prevent employment prohibited. (1) No person shall, by force, threats, or intimidation, prevent, or endeavor to prevent,

any person employed by another from continuing or performing work, or from accepting any new work or employment.

(2) No person shall circulate any false written or printed matter, or be concerned in the circulation of any such matter, to induce others not to buy from or sell to or have dealings with any person, for the purpose or with the intent to prevent such person from employing any person, or to force or compel such person to employ or discharge from employment anyone, or to alter the mode of carrying on business, or to limit or increase the number of employees or the rate of wages or time of service. [Formerly 659.240]

659.805 Blacklisting and blackmailing prohibited. (1) No corporation, company or individual shall blacklist or publish, or cause to be blacklisted or published, any employee, mechanic or laborer discharged by such corporation, company or individual, with intent and for the purpose of preventing such employee, mechanic or laborer from engaging in or securing similar or other employment from any other corporation, company or individual.

(2) No officer or agent of any corporation or any other person shall, in any manner, conspire or contrive by correspondence or otherwise to prevent an employee discharged by such corporation or such person from securing employment. [Formerly 659.230]

659.810 Employer prohibited from filing false statement with employment agency to secure labor. (1) No employer of labor shall directly or through any agent, knowing and with intent to deceive, file with any employment agency as a preliminary to securing labor, a false written or printed statement of wages to be paid, work to be performed or living and working conditions.

(2) The failure or refusal of such employer to employ any laborer, to whom such written or printed statement has been delivered, is prima facie evidence of intent to deceive. [Formerly 659.260]

659.815 Deceptive representations or advertisements by persons employing labor prohibited. No person, firm, company, corporation, or association of any kind employing labor, shall, either in person or through any agent, manager or other legal representatives, induce, influence, persuade or engage workers to change from one place to another in this state or bring workers of any class or calling into this state to work in any of the departments of labor by:

(1) Any false or deceptive representation or false advertising, concerning the amount or character of the compensation to be paid for any work, or as to the existence or nonexistence of a strike, lockout or other labor troubles pending between employer or employees.

(2) Neglecting to state in the advertisement, proposal or inducement for the employment of workers that there is a strike, lockout or unsettled condition of labor, when such strike, lockout or unsettled condition of labor actually exists. [Formerly 659.210]

659.820 Right of worker to recover damages and attorney fees. (1) Any worker of this state, or any worker of another state, who is influenced, induced or persuaded to engage with any persons mentioned in ORS 659.815, through or by means of any of the things prohibited in that statute, shall have a right of action for:

(a) Recovery of all damages sustained in consequence of the false or deceptive representations, false advertising and false pretenses used to induce the worker to change the worker's place of employment against any persons, corporations, companies, or associations, directly or indirectly causing such damages, or $500, whichever is greater; and

(b) Such reasonable attorney fees at trial and on appeal as the court fixes, to be taxed in any judgment recovered.

(2) In any action brought under this section, the court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. [Formerly 659.220]

(Prohibitions Relating to Employee Benefits)

659.825 Employer failing to make agreed payments to employee benefit fund. Whenever an employer has agreed in writing with any employee to make payments to a health and welfare, dental, pension, vacation, apprenticeship and industry fund or any other such plan for the benefit of the employees, or has entered into a collective bargaining agreement providing for such payments, it shall be unlawful for such an employer willfully or with intent to defraud to fail to make the payments required by the terms of any such agreement. [Formerly 659.320]

659.830 Prohibitions and requirements relating to health insurance. (1) An employee benefit plan may not include any provision which has the effect of limiting or excluding coverage or payment for any health care for an individual who would otherwise be covered or entitled to benefits or services under the terms of the employee benefit plan because that individual is provided, or is eligible for, benefits or services pursuant to a plan under Title XIX of the Social Security Act. This section applies to employee benefit plans, whether sponsored by an employer or a labor union.

(2) A group health plan is prohibited from considering the availability or eligibility for medical assistance in this or any other state under 42 U.S.C. 1396a (section 1902 of the Social Security Act), herein referred to as Medicaid, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(3) To the extent that payment for covered expenses has been made under the state Medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by any other party for those health care items or services.

(4) An employee benefit plan, self-insured plan, managed care organization or group health plan, a third party administrator, fiscal intermediary or pharmacy benefit manager of the plan or organization, or other party that is, by statute, contract or agreement legally responsible for payment of a claim for a health care item or service, may not deny a claim submitted by the state Medicaid agency under subsection (3) of this section based on the date of submission of the claim, the type or format of the claim form or a failure to present proper documentation at the point of sale that is the basis of the claim if:

(a) The claim is submitted by the agency within the three-year period beginning on the date on which the health care item or service was furnished; and

(b) Any action by the agency to enforce its rights with respect to the claim is commenced within six years of the agency's submission of the claim.

(5) An employee benefit plan, self-insured plan, managed care organization or group health plan, a third party administrator, fiscal intermediary or pharmacy benefit manager of the plan or organization, or other party that is, by statute, contract or agreement legally responsible for payment of a claim for a health care item or service, must provide to the state Medicaid agency or coordinated care organization described in ORS 414.591, upon the request of the agency or contractor, the following information:

(a) The period during which a Medicaid recipient, the spouse or dependents may be or may have been covered by the plan or organization;

(b) The nature of coverage that is or was provided by the plan or organization; and

(c) The name, address and identifying numbers of the plan or organization.

(6) A group health plan may not deny enrollment of a child under the health plan of the child's parent on the grounds that:

(a) The child was born out of wedlock;

(b) The child is not claimed as a dependent on the parent's federal tax return; or

(c) The child does not reside with the child's parent or in the group health plan service area.

(7) Where a child has health coverage through a group health plan of a noncustodial parent, the group health plan must:

(a) Provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;

(b) Permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(c) Make payments on claims submitted in accordance with paragraph (b) of this subsection directly to the custodial parent, to the provider or, if a claim is filed by the state Medicaid agency, directly to the state Medicaid agency.

(8) Where a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the group health plan is required:

(a) To permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(b) If the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the Medicaid program or the state agency administering 42 U.S.C. 651 to 669, the child support program; and

(c) Not to disenroll or eliminate coverage of the child unless the group health plan is provided satisfactory written evidence that:

(A) The court or administrative order is no longer in effect; or

(B) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment.

(9) A group health plan may not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for health benefits from the plan if the requirements are different from require-

ments applicable to an agent or assignee of any other individual so covered.

(10)(a) In any case in which a group health plan provides coverage for dependent children of participants or beneficiaries, the plan must provide benefits to dependent children placed with participants or beneficiaries for adoption under the same terms and conditions as apply to the natural, dependent children of the participants and beneficiaries, regardless of whether the adoption has become final.

(b) A group health plan may not restrict coverage under the plan of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time that the child would otherwise become eligible for coverage under the plan if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

(11) As used in this section:

(a) "Child" means, in connection with any adoption, or placement for adoption of the child, an individual who has not attained 18 years of age as of the date of the adoption or placement for adoption.

(b) "Group health plan" means a group health plan as defined in 29 U.S.C. 1167.

(c) "Placement for adoption" means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of the adoption of the child. The child's placement with a person terminates upon the termination of such legal obligations. [Formerly 659.322; 2007 c.484 §1; 2011 c.602 §56; 2025 c.99 §71]

659.835 Health insurance coverage for children of employees. Where a parent is required by a court or administrative order to provide health coverage that is available through an employer doing business in this state, the employer shall:

(1) Permit the parent to enroll under family coverage a child who is otherwise eligible for coverage without regard to any enrollment season restrictions.

(2) If the parent is enrolled but fails to make application to obtain coverage of the child, enroll the child under family coverage upon application by the child's other parent, by the state agency administering the Medicaid program or the state agency administering 42 U.S.C. 651 to 669, the child support program.

(3) Not disenroll or eliminate coverage of a child unless the employer is provided satisfactory written evidence that:

(a) The court order is no longer in effect;

(b) The child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or

(c) The employer has eliminated family health coverage for all of its employees.

(4) Withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and pay this amount to the insurance provider. [Formerly 659.324; 2025 c.99 §72]

(Testing)

659.840 Requiring breathalyzer or lie detector test prohibited; exception for breathalyzer test. (1) No person, or agent or representative of such person, shall require, as a condition for employment or continuation of employment, any person or employee to take a breathalyzer test, polygraph test or any other form of a so-called lie detector test. However, nothing in this section shall be construed to prohibit the administration of a breathalyzer test to an individual if the individual consents to the test. If the employer has reasonable grounds to believe that the individual is under the influence of intoxicating liquor, the employer may require, as a condition for employment or continuation of employment, the administration of a blood alcohol content test by a third party or a breathalyzer test. The employer shall not require the employee to pay the cost of administering any such test.

(2) For the purposes of this section, an individual is "under the influence of intoxicating liquor" when the individual's blood alcohol content exceeds the amount prescribed in a collective bargaining agreement or the amount prescribed in the employer's work rules if there is no applicable collective bargaining provision. [Formerly 659.225]

(Fraudulent Acceptance of Benefits From Employer)

659.845 Fraudulently accepting advancement and refusing to work prohibited. (1) No person shall, with intent to defraud, sign for and accept or receive transportation to or in the direction of a place of employment provided by or at the instance or expense of the proposed employer, or knowingly or with intent to defraud accept or receive the benefit of any other pecuniary advancements made by or at the instance or expense of the employer, as advances against wages for labor to be performed, and neglect to render service or perform labor or pay in money equal in value to such transportation or other benefits accepted or received.

(2) The failure of any person to render service, perform labor, or pay in money for such transportation or other benefits, shall be prima facie evidence of intent to defraud if:

(a) At or prior to the time of advancing such transportation or other benefits, the employer has delivered directly to such laborer or has filed in duplicate with the employment agency through which any such laborer is secured, one copy of which shall be delivered to such laborer, a written or printed statement setting forth the wages to be paid, the character of the work to be performed, and the living and working conditions; and

(b) The wages to be paid, the character of the work to be performed and the living and working conditions are as represented in such written or printed statement. [Formerly 659.250]

PROHIBITED DISCRIMINATION

(Discrimination in Education)

659.850 Discrimination in education prohibited; rules. (1) As used in this section:

(a)(A) "Discrimination" means any act that unreasonably differentiates treatment, intended or unintended, or any act that is fair in form but discriminatory in operation, either of which is based on race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age or disability.

(B) "Discrimination" does not include enforcement of an otherwise valid dress code or policy, as long as the code or policy:

(i) Provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual; and

(ii) Does not have a disproportionate adverse impact on members of a protected class to a greater extent than the policy impacts persons generally.

(b) "Race" includes physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hairstyles as defined in ORS 659A.001.

(2) A person may not be subjected to discrimination in any public elementary, secondary or community college education program or service, school or interschool activity or in any higher education program or service, school or interschool activity where the program, service, school or activity is financed in whole or in part by moneys appropriated by the Legislative Assembly.

(3) The State Board of Education and the Higher Education Coordinating Commission shall establish rules necessary to ensure compliance with subsection (2) of this section in the manner required by ORS chapter 183. [Formerly 659.150; 2007 c.100 §29; 2013 c.747 §182; 2013 c.768 §146; 2021 c.239 §3; 2021 c.367 §32]

659.852 Retaliation against student prohibited. (1) As used in this section:

(a) "Education program" means an education program provided by:

(A) A school district;

(B) A public charter school;

(C) An education service district;

(D) A long term care or treatment facility, as described in ORS 343.961;

(E) The Youth Corrections Education Program;

(F) The Oregon School for the Deaf;

(G) An approved recovery school, as defined in ORS 336.680;

(H) A community college operated under ORS chapter 341;

(I) A public university listed in ORS 352.002;

(J) A career school;

(K) A private school; or

(L) A private college or university.

(b) "Retaliation" means suspension, expulsion, disenrollment, grade reduction, denial of academic or employment opportunities, exclusion from academic or extracurricular activities, denial of access to transcripts, threats, harassment or other adverse action that substantially disadvantages a student in academic, employment or extracurricular activities.

(2) A student of an education program may not be subjected to retaliation by an education program for the reason that the student has in good faith reported information that the student believes is evidence of a violation of a state or federal law, rule or regulation.

(3) A student, or a parent or guardian of a student under 18 years of age, who alleges a violation of subsection (2) of this section may bring a civil action under ORS 659A.885. [2015 c.434 §2; 2023 c.513 §19]

659.855 Sanctions for noncompliance with discrimination prohibitions. (1) Any public elementary or secondary school or program determined by the Superintendent of Public Instruction to be in noncompliance with provisions of this section and ORS 332.505 (2), 659.850 and 659.852 shall be subject to appropriate sanctions, as established by rule of the State Board of Education, which may include:

(a) Entering an order for the school or program to adopt or revise a policy, undergo training, publicly disseminate information or receive technical assistance.

(b) For a violation of ORS 659.850 involving a student when the discrimination caused the student to miss an educational or extracurricular activity, not have full access to educational services or be treated differently with respect to any aid, benefit or service otherwise available to students:

(A) Providing the student with access to the missed educational or extracurricular activity, full access to the educational service or the difference in the aid, benefit or service; or

(B) Reimbursing the student or the student's parent or legal guardian for any reasonable costs incurred in obtaining a comparable educational or extracurricular activity, receiving full access to comparable educational services or receiving comparable aid, benefits or services.

(c) Withholding of all or part of state funding.

(2) Any public community college determined by the Higher Education Coordinating Commission to be in noncompliance with provisions of ORS 659.850 and 659.852 and this section shall be subject to appropriate sanctions, which may include withholding of all or part of state funding, as established by rule of the commission.

(3) Any public university listed in ORS 352.002 determined by the Higher Education Coordinating Commission to be in noncompliance with provisions of ORS 659.850 and 659.852 and this section shall be subject to appropriate sanctions, which may include withholding of all or part of state funding, as established by rule of the commission.

(4) Any public charter school determined by the sponsor of the school or the superintendent to be in noncompliance with the provisions of this section and ORS 332.505 (2), 659.850 and 659.852 shall be subject to appropriate sanctions, which may include the withholding of all or part of state funding by the sponsor or superintendent, as established by rule of the State Board of Education. [Formerly 659.155; 2011 c.637 §279; 2013 c.747 §169; 2013 c.768 §147; 2015 c.434 §3; 2023 c.243 §3; 2025 c.111 §1]

659.860 Enforcement of ORS 659.850. (1) Any person claiming to be aggrieved by unlawful discrimination as prohibited by ORS 659.850 may file a civil action in circuit court for equitable relief or, subject to the terms and conditions of ORS 30.265 to 30.300, damages, or both. The court may order such other relief as may be appropriate. Damages shall be $200 or actual damages, whichever is greater.

(2) The action authorized by this section shall be filed within one year of the filing of a grievance.

(3) An action may not be filed unless, within 180 days of the alleged discrimination, a grievance has been filed with the school district board, public charter school governing body, community college board of education or governing board of a public university listed in ORS 352.002.

(4) An action may not be filed until 90 days after filing a grievance unless only injunctive relief is sought pursuant to ORCP 79. The right to temporary or preliminary injunctive relief shall be independent of the right to pursue any administrative remedy available to complainants pursuant to ORS 659.850.

(5) An action may not be filed if the school district board, public charter school governing body, community college board of education or governing board of a public university listed in ORS 352.002 has obtained a conciliation agreement with the person filing the grievance or if a final determination of a grievance has been made except as provided in ORS 183.480.

(6) Notwithstanding the filing of a grievance, pursuant to subsection (3) of this section, any person seeking to maintain an action under this section shall also file a notice of claim within 180 days of the alleged discrimination as required by ORS 30.275.

(7) The court shall award reasonable attorney fees to a prevailing plaintiff in any action under this section. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse decision of a trial court.

(8) Nothing in this section is intended to reduce the obligations of the education agencies under this section and ORS 659.850 and 659.855. [Formerly 659.160; 2007 c.256 §1; 2013 c.768 §148; 2015 c.767 §207]

(Discrimination Against Athletes)

659.865 Discrimination for participation in sanctioned athletic events prohibited. (1) No public or private organization or individual:

(a) Shall infringe in any manner on the right of an athlete to compete in or train for any athletic event duly sanctioned by the national governing body for that sport as recognized by the United States Olympic Committee.

(b) Shall levy any form of punishment or sanction against any athlete for participating

in any athletic event duly sanctioned by the national governing body for that sport as recognized by the United States Olympic Committee.

(2) This section applies only to those sports under the jurisdiction of the United States Olympic Committee and known to be "Olympic" sports. [Formerly 659.175]

Note: 659.865 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659.870 [Formerly 659.165; repealed by 2021 c.367 §50]

(Prohibitions Relating to Health Benefits and Certain Medical Services and Procedures)

659.875 Discrimination in issuance of benefits or coverage or payment for certain medical services prohibited. (1) An individual may not, on the basis of actual or perceived race, color, national origin, sex, sexual orientation, gender identity, age or disability, be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination by any health benefit plan issued or delivered in this state, in the receipt of medical assistance as defined in ORS 414.025 or in the coverage of or payment for the services, drugs, devices, products and procedures described in ORS 743A.067.

(2) Violation of this section is an unlawful practice under ORS 659A.403.

(3) Nothing in this section shall be construed to invalidate or limit the rights, remedies, procedures or legal standards available to individuals under ORS 659A.820 or 659A.885 or to supersede state or local laws that provide additional protections against discrimination on any basis described in subsection (1) of this section. [2017 c.721 §7]

Note: 659.875 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659.880 [2017 c.721 §8; 2023 c.228 §5; renumbered 435.240 in 2023]

PENALTIES

659.990 Penalties. (1) Violation of ORS 659.815 is a Class A misdemeanor.

(2) Violation of ORS 659.805 by any officer or agent of a corporation or any other person is a Class C misdemeanor.

(3) Violation of ORS 659.800 is a Class B misdemeanor.

(4) Violation of ORS 659.810 or 659.845 is a Class C misdemeanor.

(5) Any person who violates ORS 659.825, commits a Class A misdemeanor and, upon conviction, shall be required to make immediate restitution of delinquent payments to the fund or funds mentioned in ORS 659.825.

(6) Violation of ORS 659.840 is a Class A misdemeanor. [Subsection (6) enacted as last sentence of 1957 c.548 §1; subsection (7) enacted as 1963 c.249 §2; 1973 c.140 §2; 2001 c.621 §64; 2011 c.597 §273]

Chapter 659A

2025 EDITION

Unlawful Discrimination in Employment, Public Accommodations and Real Property Transactions; Administrative and Civil Enforcement

DEFINITIONS

659A.001 Definitions

PURPOSE AND POLICY

659A.003 Purpose of ORS chapter 659A

659A.004 Short title

659A.006 Declaration of policy against unlawful discrimination; opportunity to obtain employment without unlawful discrimination recognized as a civil right; exception of religious group

659A.009 Declaration of policy against discrimination in employment because of age

659A.012 State agencies to carry out policy against discrimination in employment; evaluation of supervisors; affirmative action reports

659A.015 Affirmative action reports to include information on contracts to minority businesses

UNLAWFUL EMPLOYMENT DISCRIMINATION BECAUSE OF RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, NATIONAL ORIGIN, MARITAL STATUS OR AGE

659A.029 "Because of sex" defined for ORS 659A.030

659A.030 Discrimination because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age or expunged juvenile record prohibited

659A.033 Violation of ORS 659A.030 by denying religious leave or prohibiting certain religious observances or practices; determination of reasonable accommodation

659A.036 Short title

UNLAWFUL EMPLOYMENT DISCRIMINATION AGAINST INJURED WORKERS

(Unlawful Discrimination Against Injured Workers)

659A.040 Discrimination against worker applying for or inquiring about workers' compensation benefits prohibited

659A.043 Reinstatement of injured worker to former position; certificate evidencing ability to work; effect of collective bargaining agreement; termination of right to reinstatement; when reinstatement right terminates

659A.046 Reemployment of injured worker in other available and suitable work; termination of right to reemployment; effect of collective bargaining agreement

659A.049 Rights of reinstatement and reemployment protected

659A.052 Reemployment rights of injured state workers; rules

(Benefits for Injured State Workers and Covered Dependents)

659A.060 Definitions for ORS 659A.060 to 659A.069

659A.063 State to continue group health benefits for injured worker and covered dependents; when ended

659A.066 Worker may continue benefits after employer's obligation ends

659A.069 Discrimination against state worker applying for benefits under ORS 659A.060 to 659A.069 prohibited

UNLAWFUL EMPLOYMENT DISCRIMINATION AND REQUIRED LEAVE RELATED TO MILITARY SERVICE

(Unlawful Discrimination for Service in Uniformed Service)

659A.082 Discrimination against person for service in uniformed service prohibited

(Leave of Absence for State Service)

659A.086 Employment rights of members of organized militia when called into active state service

659A.088 Violation of ORS 659A.086 as unlawful employment practice; complaint; remedies and penalties

(Notification to Director of Veterans' Affairs)

659A.089 Notification to Director of Veterans' Affairs

(Oregon Military Family Leave Act)

659A.090 Definitions for ORS 659A.090 to 659A.099

659A.093 Employer required to provide leave; job protection; benefits; notice to employer; use of accrued leave; rules

659A.096 Denial of leave, retaliation and discrimination prohibited

659A.099 Short title

UNLAWFUL DISCRIMINATION AGAINST PERSONS WITH DISABILITIES

659A.103 Policy

659A.104 Description of disability for purposes of ORS 659A.103 to 659A.145

659A.106 Employers to whom ORS 659A.112 to 659A.139 apply

659A.109 Discrimination against individual for using procedures in ORS 659A.103 to 659A.145 prohibited

659A.112 Employment discrimination

659A.115 Qualification for position

659A.118 Reasonable accommodation

659A.121 Undue hardship

659A.122 Definitions for ORS 659A.124, 659A.127 and 659A.130
659A.124 Illegal use of drugs
659A.127 Permitted employer action
659A.130 Conditions that do not constitute impairment
659A.133 Medical examinations and inquiries of job applicants
659A.136 Medical examinations and inquiries of employees
659A.139 Construction of ORS 659A.103 to 659A.145
659A.141 Damages recoverable for harm or theft of assistance animal
659A.142 Discrimination against individual with disability by employment agency, labor organization, place of public accommodation or state government prohibited; discrimination in provision of healthcare; mental disorder treatment not evidence of inability to manage property
659A.143 Assistance animals
659A.144 Required accommodations in transient lodging; liability; limitations on applicability
659A.145 Discrimination against individual with disability in real property transactions prohibited; advertising discriminatory preference prohibited; allowance for reasonable modification; assisting discriminatory practices prohibited

UNLAWFUL DISCRIMINATION AND REASONABLE ACCOMMODATION RELATED TO PREGNANCY

659A.146 Reasonable accommodation
659A.147 Prohibited conduct; posting requirements; Commissioner of Bureau of Labor and Industries to develop training and education materials; undue hardship exception; remedies
659A.148 Employers to whom provisions relating to reasonable accommodation apply

FAMILY LEAVE

659A.150 Definitions for ORS 659A.150 to 659A.186
659A.153 Covered employers
659A.156 Eligible employees; exceptions; eligibility during public health emergency; restoration of time worked
659A.157 Determining family member by reason of affinity
659A.159 Purposes for which family leave may be taken
659A.162 Length of leave; conditions; rules
659A.164 Meaning of "one-year period" for purposes of determining amount of leave available to eligible employee; rules
659A.165 Notice to employer; exceptions
659A.168 Medical verification requirements; exceptions
659A.171 Job protection; benefits
659A.174 Use of paid leave
659A.177 Special rules for teachers
659A.180 Postings by employer
659A.183 Denying family leave to eligible employee prohibited; retaliation prohibited
659A.186 Exclusivity of provisions; construction; concurrent leave

LEAVE TO ATTEND CRIMINAL PROCEEDING

659A.190 Definitions for ORS 659A.190 to 659A.198
659A.192 Leave to attend criminal proceeding; undue hardship on employer; scheduling criminal proceeding
659A.194 Denying leave to employee prohibited
659A.196 Notice to employer; records confidential
659A.198 Use of paid leave

WHISTLEBLOWING

(Disclosures by Employee of Violation of State or Federal Law)

659A.199 Prohibited conduct by employer

(Disclosures by Public and Nonprofit Employees)

659A.200 Definitions for ORS 659A.200 to 659A.224
659A.203 Prohibited conduct by public or nonprofit employer; prohibited conduct by school services employer during public health emergency; remedies
659A.206 Effects of ORS 659A.200 to 659A.224 on employees
659A.209 Effect on public record disclosures
659A.210 Affirmative defense
659A.212 Policy on cooperation with law enforcement officials; duty to report person subject to warrant for arrest
659A.215 Remedies not exclusive
659A.218 Disclosure of employee's name without consent prohibited
659A.219 Uniform standards and procedures manual for implementation of Whistleblower Law; requirements
659A.220 Bureau of Labor and Industries to collect and compile information relating to disclosures; report to legislature
659A.221 Uniform application to all public employers; optional procedure for disclosures; rules
659A.224 Short title

(Reports of Violations of Election Laws)

659A.228 Discrimination for reporting violation of election laws prohibited

(Initiating or Aiding Administrative, Criminal or Civil Proceeding)

659A.230 Discrimination for initiating or aiding in criminal or civil proceedings prohibited; remedies not exclusive
659A.233 Discrimination for reporting certain violations or testifying at unemployment compensation hearing prohibited

(Legislative Testimony)

659A.236 Discrimination for testifying before Legislative Assembly, committee or task force prohibited

UNLAWFUL EMPLOYMENT DISCRIMINATION RELATING TO EMPLOYEE HOUSING

659A.250 Definitions for ORS 659A.250 to 659A.262
659A.253 Restriction of access to employee housing owned or controlled by employer prohibited; telephone accessibility

659A.256 Regulations by employers concerning use and occupancy of employee housing; requirements; notice

659A.259 Eviction from employee housing or discrimination against employee for reporting violations of ORS 659A.250 to 659A.262 prohibited; enforcement

659A.262 Warrant on behalf of person entitled to access to housing; vacation of warrant; rules

PROTECTIONS BECAUSE OF DOMESTIC VIOLENCE, HARASSMENT, SEXUAL ASSAULT, BIAS OR STALKING

(Leave)

659A.270 Definitions for ORS 659A.270 to 659A.285

659A.272 Employer required to provide leave

659A.275 Undue hardship

659A.277 Denying leave to employee prohibited

659A.279 Required posting of summaries of statutes and rules

659A.280 Notice to employer; records confidential

659A.283 Paid leave for public employees

659A.285 Use of paid leave

(Prohibited Conduct)

659A.290 Prohibited conduct by employer; records confidential

MISCELLANEOUS UNLAWFUL EMPLOYMENT DISCRIMINATION

(Prohibited Testing)

659A.300 Requiring breathalyzer, polygraph, psychological stress or brain-wave test or genetic test prohibited; exceptions

659A.303 Employer prohibited from obtaining, seeking to obtain or using genetic information

659A.306 Requiring employee to pay for medical examination as condition of continued employment prohibited; exceptions

(Miscellaneous Provisions)

659A.309 Discrimination solely because of employment of another family member prohibited; exceptions

659A.312 Leave of absence to donate bone marrow; verification by employer

659A.314 Discrimination for service as appointed member of state board or commission; requiring employee to use accrued leave prohibited; remedy for violation

659A.315 Restricting use of tobacco in nonworking hours prohibited; exceptions

659A.318 Discrimination relating to academic degree in theology or religious occupations prohibited

659A.320 Discrimination based on information in credit history prohibited; exceptions; remedies for violation

659A.321 Seniority systems and benefit plans not unlawful employment practices

659A.330 Employee social media account privacy; exception

659A.340 Interfering with employee's good faith disclosure of information concerning unlawful conduct or certain violations prohibited; remedy

659A.343 Discrimination based on individual's presentation of identification other than Real ID prohibited; remedies

659A.347 Discrimination related to possession of valid driver license

659A.350 Interns

659A.355 Discrimination based on wage inquiry or wage complaint; exception

659A.357 Restricting salary history inquiries

659A.360 Restricting criminal conviction inquiries; exceptions

659A.362 Enforcement

WORKPLACE FAIRNESS

659A.370 Employer prohibited from entering into agreements that prevent employee from discussing certain unlawful conduct; exceptions; remedies

659A.375 Employer policies relating to prevention of discrimination and sexual assault; requirements

659A.377 Requirements for mediation related to claims or allegations of unlawful conduct as described under ORS 659A.370

659A.380 When severance or separation agreements are voidable by employer

659A.390 Restrictions on no-rehire provisions as condition of workers' compensation settlements; exceptions; remedy for violation; civil penalties

ACCESS TO PUBLIC ACCOMMODATIONS

(Unlawful Discrimination in Public Accommodations)

659A.400 Place of public accommodation defined

659A.403 Discrimination in place of public accommodation prohibited

659A.406 Aiding or abetting certain discrimination prohibited

659A.409 Notice that discrimination will be made in place of public accommodation prohibited; age exceptions

659A.410 Refusing to accept currency or coins as payment prohibited; advertising and education duties of Bureau of Labor and Industries; exceptions; remedies for violation

(Access to Employee Toilet Facilities)

659A.411 Definitions for ORS 659A.411 to 659A.415

659A.413 Denial of access prohibited; exception

659A.415 Liability for damages; physical changes not required

659A.417 Violation of ORS 659A.413

(Closed Captioning on Television Receivers)

659A.419 Closed captioning required on television receivers in places of public accommodation; exceptions; training requirements; penalties; rules

UNLAWFUL DISCRIMINATION IN REAL PROPERTY TRANSACTIONS

659A.421 Discrimination in selling, renting or leasing real property prohibited

659A.425 Violation based on facially neutral housing policy

UNLAWFUL DISCRIMINATION BECAUSE OF EMPLOYMENT STATUS

659A.550 Discrimination because of employment status prohibited; penalties

ADMINISTRATIVE ACTIONS FOR UNLAWFUL DISCRIMINATION

(Enforcement Powers of Bureau of Labor and Industries)

659A.800 Elimination and prevention of discrimination by Bureau of Labor and Industries; subpoenas

659A.805 Rules for carrying out ORS chapter 659A

659A.810 Willful interference with administration of law and violation of orders of commissioner prohibited

659A.815 Advisory agencies and intergroup-relations councils

(Complaint, Investigation and Hearing Procedures)

659A.820 Complaints

659A.825 Complaints filed by Attorney General or commissioner; temporary cease and desist orders in certain cases

659A.830 Authority of commissioner

659A.835 Investigation; finding of substantial evidence

659A.840 Settlement

659A.845 Formal charges

659A.850 Hearing; orders; fees

659A.855 Civil penalty for certain complaints filed by commissioner

659A.860 Settlement agreements and orders

659A.865 Retaliatory action prohibited

CIVIL ACTIONS FOR UNLAWFUL DISCRIMINATION

659A.870 Election of remedies

659A.875 Time limitations

659A.880 Notice informing complainant of right to file civil action

659A.883 Contractual shortening of statute of limitations prohibited

659A.885 Civil action

659A.890 Civil action for violation of ORS 659A.865

PENALTIES

659A.990 Penalties

DEFINITIONS

659A.001 Definitions. As used in this chapter:

(1) "Bureau" means the Bureau of Labor and Industries.

(2) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

(3) "Employee" does not include any individual employed by the individual's parents, spouse or child or in the domestic service of any person.

(4)(a) "Employer" means any person who in this state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed.

(b) For the purposes of employee protections described in ORS 659A.350, "employer" means any person who, in this state, is in an employment relationship with an intern as described in ORS 659A.350.

(5) "Employment agency" includes any person undertaking to procure employees or opportunities to work.

(6)(a) "Familial status" means the relationship between one or more individuals who have not attained 18 years of age and who are domiciled with:

(A) A parent or another person having legal custody of the individual; or

(B) The designee of the parent or other person having such custody, with the written permission of the parent or other person.

(b) "Familial status" includes any individual, regardless of age or domicile, who is pregnant or is in the process of securing legal custody of an individual who has not attained 18 years of age.

(7) "Labor organization" includes any organization which is constituted for the purpose, in whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.

(8) "National origin" includes ancestry.

(9) "Person" includes:

(a) One or more individuals, partnerships, associations, labor organizations, limited liability companies, joint stock companies, corporations, legal representatives, trustees, trustees in bankruptcy or receivers.

(b) A public body as defined in ORS 30.260.

(c) For purposes of ORS 659A.145 and 659A.421 and the application of any federal housing law, a fiduciary, mutual company, trust or unincorporated organization.

(10) "Protective hairstyle" means a hairstyle, hair color or manner of wearing hair that includes, but is not limited to, braids, regardless of whether the braids are created with extensions or styled with adornments, locs and twists.

(11) "Race" includes physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hairstyles.

(12) "Respondent" means any person against whom a complaint or charge of an unlawful practice is filed with the commissioner or whose name has been added to such complaint or charge pursuant to ORS 659A.835.

(13) "Unlawful employment practice" means a practice specifically denominated as an unlawful employment practice in this chapter. "Unlawful employment practice" includes a practice that is specifically denominated in another statute of this state as an unlawful employment practice and that is specifically made subject to enforcement under this chapter.

(14) "Unlawful practice" means any unlawful employment practice or any other practice specifically denominated as an unlawful practice in this chapter. "Unlawful practice" includes a practice that is specifically denominated in another statute of this state as an unlawful practice and that is specifically made subject to enforcement under this chapter, or a practice that violates a rule adopted by the commissioner for the enforcement of the provisions of this chapter. [2001 c.621 §1; 2008 c.36 §4; 2013 c.379 §3; 2021 c.239 §1]

PURPOSE AND POLICY

659A.003 Purpose of ORS chapter 659A. The purpose of this chapter is to encourage the fullest utilization of the available workforce by removing arbitrary standards of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age or disability as a barrier to employment of the inhabitants of this state, and to ensure the human dignity of all people within this state and protect their health, safety and morals from the consequences of intergroup hostility, tensions and practices of unlawful discrimination of any kind based on race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability or familial status. To accomplish this purpose, the Legislative Assembly intends by this chapter to provide:

(1) A program of public education calculated to eliminate attitudes upon which practices of unlawful discrimination because

of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability or familial status are based.

(2) An adequate remedy for persons aggrieved by certain acts of unlawful discrimination because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, disability or familial status, or unreasonable acts of discrimination in employment based upon age.

(3) An adequate administrative machinery for the orderly resolution of complaints of unlawful discrimination through a procedure involving investigation and conference, mediation, conciliation, persuasion or other alternative dispute resolution processes, to encourage the use in good faith of the machinery by all parties to a complaint of unlawful discrimination and to discourage unilateral action that makes moot the outcome of final administrative or judicial determination on the merits of the complaint. [Formerly 659.022; 2005 c.22 §467; 2007 c.100 §2; 2007 c.903 §1a; 2021 c.367 §33; 2025 c.22 §8]

659A.004 Short title. The amendments to ORS 10.030, 20.107, 30.860, 93.270, 109.035, 166.155, 166.165, 174.100, 179.750, 192.630, 240.306, 338.125, 353.100, 418.648, 418.925, 421.352, 430.550, 443.739, 458.505, 659.850, 659A.003, 659A.006, 659A.030, 659A.403, 659A.406, 659A.409, 659A.421, 659A.805, 659A.815, 659A.885, 660.139 and 744.353 by sections 1 to 31, 33 and 34, chapter 100, Oregon Laws 2007, and the repeal of ORS 236.380 by section 32, chapter 100, Oregon Laws 2007, may be cited as the Oregon Equality Act. [2007 c.100 §42; 2007 c.903 §17]

659A.006 Declaration of policy against unlawful discrimination; opportunity to obtain employment without unlawful discrimination recognized as a civil right; exception of religious group. (1) It is declared to be the public policy of Oregon that practices of unlawful discrimination against any of its inhabitants because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability or familial status are a matter of state concern and that this discrimination not only threatens the rights and privileges of its inhabitants but menaces the institutions and foundation of a free democratic state.

(2) The opportunity to obtain employment or housing or to use and enjoy places of public accommodation without unlawful discrimination because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age or disability hereby is recognized as and declared to be a civil right.

(3) It is not an unlawful practice for a bona fide church or other religious institution to take any action with respect to housing or the use of facilities based on a bona fide religious belief about sexual orientation or gender identity as long as the housing or the use of facilities is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(4) It is not an unlawful employment practice for a bona fide church or other religious institution, including but not limited to a school, hospital or church camp, to prefer an employee, or an applicant for employment, of one religious sect or persuasion over another if:

(a) The religious sect or persuasion to which the employee or applicant belongs is the same as that of the church or institution;

(b) In the opinion of the church or institution, the preference will best serve the purposes of the church or institution; and

(c) The employment involved is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(5) It is not an unlawful employment practice for a bona fide church or other religious institution to take any employment action based on a bona fide religious belief about sexual orientation or gender identity:

(a) In employment positions directly related to the operation of a church or other place of worship, such as clergy, religious instructors and support staff;

(b) In employment positions in a nonprofit religious school, nonprofit religious camp, nonprofit religious day care center, nonprofit religious thrift store, nonprofit religious bookstore, nonprofit religious radio station or nonprofit religious shelter; or

(c) In other employment positions that involve religious activities, as long as the employment involved is closely connected with or related to the primary purposes of the church or institution and is not connected with a commercial or business activity that has no necessary relationship to the church or institution. [Formerly 659.020; 2007 c.100 §3; 2007 c.903 §2; 2021 c.367 §34]

659A.009 Declaration of policy against discrimination in employment because of age. It is declared to be the public policy of Oregon that the available workforce should be utilized to the fullest extent possible. To this end, the abilities of an individual, and not any arbitrary standards that discriminate

against an individual solely because of age, should be the measure of the individual's fitness and qualification for employment. [Formerly 659.015; 2005 c.22 §468]

659A.012 State agencies to carry out policy against discrimination in employment; evaluation of supervisors; affirmative action reports. (1) To achieve the public policy of the State of Oregon for persons in the state to attain employment and advancement without discrimination because of race, religion, color, sex, marital status, national origin, disability or age, every state agency shall be required to include in the evaluation of all management personnel the manager's or supervisor's effectiveness in achieving affirmative action objectives as a key consideration of the manager's or supervisor's performance.

(2) To achieve the public policy of the State of Oregon for persons in the state to attain employment and advancement without discrimination because of race, religion, color, sex, marital status, national origin, age or disability, every state agency shall be required to present the affirmative action objectives and performance of that agency of the current biennium and those for the following biennium to the Governor of the State of Oregon and to the Legislative Assembly. These plans shall be reviewed as part of the budget review process. [Formerly 659.025]

659A.015 Affirmative action reports to include information on contracts to minority businesses. In carrying out the policy of affirmative action, every state agency shall include in its affirmative action reports under ORS 659A.012 information concerning its awards of construction, service and personal service contracts awarded to minority businesses. [Formerly 659.027]

UNLAWFUL EMPLOYMENT DISCRIMINATION BECAUSE OF RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, NATIONAL ORIGIN, MARITAL STATUS OR AGE

659A.029 "Because of sex" defined for ORS 659A.030. For purposes of ORS 659A.030, the phrase "because of sex" includes, but is not limited to, because of pregnancy, childbirth and related medical conditions or occurrences. An individual affected by the individual's pregnancy, childbirth or related medical conditions or occurrences shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as any other person not so affected but similar in ability or inability to work by reason of physical condition, and nothing in this section shall be interpreted to permit otherwise. [Formerly 659.029; 2023 c.228 §47]

Note: Section 59 (5), chapter 228, Oregon Laws 2023, provides:

Sec. 59. (5) The amendments to ORS 659A.029 by section 47 of this 2023 Act apply to unlawful employment discrimination occurring before, on or after the effective date of this 2023 Act [July 13, 2023]. [2023 c.228 §59(5)]

659A.030 Discrimination because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age or expunged juvenile record prohibited. (1) It is an unlawful employment practice:

(a) For an employer, because of an individual's race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age of any other person with whom the individual associates, or because of an individual's juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.271, to refuse to hire or employ the individual or to bar or discharge the individual from employment. However, discrimination is not an unlawful employment practice if the discrimination results from a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.

(b) For an employer, because of an individual's race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age of any other person with whom the individual associates, or because of an individual's juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.271, to discriminate against the individual in compensation or in terms, conditions or privileges of employment.

(c) For a labor organization, because of an individual's race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age if the individual is 18 years of age or older, or because of an individual's juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.271, to exclude or to expel from its membership the individual or to discriminate in any way against the individual or any other person.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or to make any inquiry in connection with prospective employment that expresses directly or indi-

rectly any limitation, specification or discrimination as to an individual's race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age if the individual is 18 years of age or older, or on the basis of an expunged juvenile record, or any intent to make any such limitation, specification or discrimination, unless based upon a bona fide occupational qualification. Identification of prospective employees according to race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age does not violate this section unless the Commissioner of the Bureau of Labor and Industries, after a hearing conducted pursuant to ORS 659A.805, determines that the designation expresses an intent to limit, specify or discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age.

(e) For an employment agency, because of an individual's race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age if the individual is 18 years of age or older, or because of the race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age of any other person with whom the individual associates, or because of an individual's juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.271, to classify or refer for employment, or to fail or refuse to refer for employment, or otherwise to discriminate against the individual. However, it is not an unlawful employment practice for an employment agency to classify or refer for employment an individual when the classification or referral results from a bona fide occupational qualification reasonably necessary to the normal operation of the employer's business.

(f) For an employer, prospective employer or employment agency, prior to completing an initial interview, or if there is no initial interview, prior to making a conditional offer of employment, to request or require disclosure of the applicant's age or date of birth or when the applicant attended or graduated from any educational institution, except when such information is required to:

(A) Affirm that the applicant meets bona fide occupational qualifications; or

(B) Comply with any provision of federal, state or local law, rule or regulation.

(g) For any person to discharge, expel or otherwise discriminate against any other person because that other person has opposed any unlawful practice, or because that other person has filed a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so.

(h) For any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this chapter or to attempt to do so.

(2) The provisions of this section apply to an apprentice under ORS 660.002 to 660.210. The commissioner shall administer this section with respect to apprentices under ORS 660.002 to 660.210 equally with regard to all employees and labor organizations.

(3) The compulsory retirement of employees required by law at any age is not an unlawful employment practice if lawful under federal law.

(4)(a) It is not an unlawful employment practice for an employer or labor organization to provide or make financial provision for child care services of a custodial or other nature to its employees or members who are responsible for a minor child.

(b) As used in this subsection, "responsible for a minor child" means having custody or legal guardianship of a minor child or acting in loco parentis to the child.

(5) This section does not prohibit an employer from enforcing an otherwise valid dress code or policy, as long as the employer provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual and the dress code or policy does not have a disproportionate adverse impact on members of a protected class to a greater extent than the policy impacts persons generally. [Formerly 659.030; 2007 c.100 §4; 2021 c.239 §4; 2021 c.367 §35; 2021 c.585 §10; 2025 c.125 §1]

659A.033 Violation of ORS 659A.030 by denying religious leave or prohibiting certain religious observances or practices; determination of reasonable accommodation. (1) An employer violates ORS 659A.030 if:

(a) The employer does not allow an employee to use vacation leave, or other leave available to the employee, for the purpose of allowing the employee to engage in the religious observance or practices of the employee; and

(b) Reasonably accommodating use of the leave by the employee will not impose an undue hardship on the operation of the business of the employer as described in subsections (4) and (5) of this section.

(2) Subsection (1) of this section applies only to leave that is not restricted as to the manner in which the leave may be used and that the employer allows the employee to take by adjusting or altering the work schedule or assignment of the employee.

(3) An employer violates ORS 659A.030 if:

(a) The employer imposes an occupational requirement that restricts the ability of an employee to wear religious clothing in accordance with the employee's sincerely held religious beliefs, to take time off for a holy day or to take time off to participate in a religious observance or practice;

(b) Reasonably accommodating those activities does not impose an undue hardship on the operation of the business of the employer as described in subsections (4) and (5) of this section; and

(c) The activities have only a temporary or tangential impact on the employee's ability to perform the essential functions of the employee's job.

(4) A reasonable accommodation imposes an undue hardship on the operation of the business of the employer for the purposes of this section if the accommodation requires significant difficulty or expense. For the purpose of determining whether an accommodation requires significant difficulty or expense, the following factors shall be considered:

(a) The nature and the cost of the accommodation needed.

(b) The overall financial resources of the facility or facilities involved in the provision of the accommodation, the number of persons employed at the facility and the effect on expenses and resources or other impacts on the operation of the facility caused by the accommodation.

(c) The overall financial resources of the employer, the overall size of the business of the employer with respect to the number of persons employed by the employer and the number, type and location of the employer's facilities.

(d) The type of business operations conducted by the employer, including the composition, structure and functions of the workforce of the employer and the geographic separateness and administrative or fiscal relationship of the facility or facilities of the employer.

(e) The safety and health requirements in a facility, including requirements for the safety of other employees and any other person whose safety may be adversely impacted by the requested accommodation.

(f) The degree to which an accommodation may constrain the obligation of a school district, education service district or public charter school to maintain a religiously neutral work environment.

(5) A reasonable accommodation imposes an undue hardship on the operation of the business of the employer for the purposes of this section if the accommodation would constrain the legal obligation of a school district, education service district or public charter school to:

(a) Maintain religious neutrality in the school environment; or

(b) Refrain from endorsing religion. [2009 c.744 §2; 2010 c.105 §1]

659A.036 Short title. ORS 659A.033 shall be known and may be cited as the "Oregon Workplace Religious Freedom Act." [2009 c.744 §5]

Note: 659A.036 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

UNLAWFUL EMPLOYMENT DISCRIMINATION AGAINST INJURED WORKERS

(Unlawful Discrimination Against Injured Workers)

659A.040 Discrimination against worker applying for or inquiring about workers' compensation benefits prohibited. It is an unlawful employment practice for any person acting on behalf of an employer to discriminate against a worker with respect to hire or tenure or any term or condition of employment because the worker has:

(1) Applied for or inquired about benefits under ORS chapter 656;

(2) Invoked or utilized the procedures provided for in ORS chapter 656; or

(3) Given testimony under the provisions of ORS chapter 656. [2001 c.621 §32; 2022 c.6 §4]

659A.043 Reinstatement of injured worker to former position; certificate evidencing ability to work; effect of collective bargaining agreement; termination of right to reinstatement; when reinstatement right terminates. (1) A worker who has sustained a compensable injury shall be reinstated by the worker's employer to the worker's former position of employment upon demand for such reinstatement, if the position exists and is available and the worker is not disabled from performing the duties of such position. A worker's former position is available even if that position has been filled by a replacement while the injured worker was absent. If the former position is not available, the worker shall be reinstated in any other existing position that is vacant and suitable. A certificate by the attending physician or a nurse practitioner authorized to provide compensable medical services under ORS 656.245 that the physician or nurse practitioner approves the worker's return to the worker's regular employment or other suitable employment shall

be prima facie evidence that the worker is able to perform such duties.

(2) Such right of reemployment shall be subject to the provisions for seniority rights and other employment restrictions contained in a valid collective bargaining agreement between the employer and a representative of the employer's employees.

(3) Notwithstanding subsection (1) of this section:

(a) The right to reinstatement to the worker's former position under this section terminates when whichever of the following events first occurs:

(A) A medical determination by the attending physician or, after an appeal of such determination to a medical arbiter or panel of medical arbiters pursuant to ORS chapter 656, has been made that the worker cannot return to the former position of employment.

(B) The worker is eligible and participates in vocational assistance under ORS 656.340.

(C) The worker accepts suitable employment with another employer after becoming medically stationary.

(D) The worker refuses a bona fide offer from the employer of light duty or modified employment that is suitable prior to becoming medically stationary.

(E) Seven days elapse from the date that the worker is notified by the insurer or self-insured employer by certified mail that the worker's attending physician or a nurse practitioner authorized to provide compensable medical services under ORS 656.245 has released the worker for employment unless the worker requests reinstatement within that time period.

(F) Three years elapse from the date of injury.

(b) The right to reinstatement under this section does not apply to:

(A) A worker hired on a temporary basis as a replacement for an injured worker.

(B) A seasonal worker employed to perform less than six months' work in a calendar year.

(C) A worker whose employment at the time of injury resulted from referral from a hiring hall operating pursuant to a collective bargaining agreement.

(D) A worker whose employer employs 20 or fewer workers at the time of the worker's injury and at the time of the worker's demand for reinstatement.

(4) Notwithstanding ORS 659A.165, a worker who refuses an offer of employment under subsection (3)(a)(D) of this section and who otherwise is entitled to family leave under ORS 659A.150 to 659A.186:

(a) Automatically commences a period of family leave under ORS 659A.150 to 659A.186 upon refusing the offer of employment; and

(b) Need not give additional written or oral notice to the employer that the employee is commencing a period of family leave.

(5) Any violation of this section is an unlawful employment practice. [Formerly 659.415; 2003 c.811 §§21,22; 2005 c.22 §§469,470; 2007 c.365 §11; 2007 c.633 §§4,5]

659A.046 Reemployment of injured worker in other available and suitable work; termination of right to reemployment; effect of collective bargaining agreement. (1) A worker who has sustained a compensable injury and is disabled from performing the duties of the worker's former regular employment shall, upon demand, be reemployed by the worker's employer at employment which is available and suitable.

(2) A certificate of the worker's attending physician or a nurse practitioner authorized to provide compensable medical services under ORS 656.245 that the worker is able to perform described types of work shall be prima facie evidence of such ability.

(3) Notwithstanding subsection (1) of this section, the right to reemployment under this section terminates when whichever of the following events first occurs:

(a) The worker cannot return to reemployment at any position with the employer either by determination of the attending physician or a nurse practitioner authorized to provide compensable medical services under ORS 656.245 or upon appeal of that determination, by determination of a medical arbiter or panel of medical arbiters pursuant to ORS chapter 656.

(b) The worker is eligible and participates in vocational assistance under ORS 656.340.

(c) The worker accepts suitable employment with another employer after becoming medically stationary.

(d) The worker refuses a bona fide offer from the employer of light duty or modified employment that is suitable prior to becoming medically stationary.

(e) Seven days elapse from the date that the worker is notified by the insurer or self-insured employer by certified mail that the worker's attending physician or a nurse practitioner authorized to provide compensable medical services under ORS 656.245 has released the worker for reemployment unless the worker requests reemployment within that time period.

(f) Three years elapse from the date of injury.

(4) Such right of reemployment shall be subject to the provisions for seniority rights and other employment restrictions contained in a valid collective bargaining agreement between the employer and a representative of the employer's employees.

(5) Notwithstanding ORS 659A.165, a worker who refuses an offer of employment under subsection (3)(d) of this section and who otherwise is entitled to family leave under ORS 659A.150 to 659A.186:

(a) Automatically commences a period of family leave under ORS 659A.150 to 659A.186 upon refusing the offer of employment; and

(b) Need not give additional written or oral notice to the employer that the employee is commencing a period of family leave.

(6) Any violation of this section is an unlawful employment practice.

(7) This section applies only to employers who employ six or more persons. [Formerly 659.420; 2003 c.811 §§23,24; 2007 c.365 §12; 2007 c.633 §§6,7]

659A.049 Rights of reinstatement and reemployment protected. The rights of reinstatement afforded by ORS 659A.043 and 659A.046 shall not be forfeited if the worker refuses to return to the worker's regular or other offered employment without release to such employment by the worker's attending physician or a nurse practitioner authorized to provide compensable medical services under ORS 656.245. [Formerly 659.417; 2003 c.811 §§25,26; 2007 c.365 §13]

659A.052 Reemployment rights of injured state workers; rules. (1) In addition to the rights provided to injured workers under ORS 659A.043 and 659A.046, if all permanent restrictions of an injured worker are known and:

(a) The injured worker was employed at the time of injury by any agency in the legislative department of the government of this state, the injured worker shall have the right to reinstatement or reemployment at any available and suitable position in another agency in the legislative department.

(b) The injured worker was employed at the time of injury by any agency in the judicial department of the government of this state, the injured worker shall have the right to reinstatement or reemployment at any available and suitable position in another agency in the judicial department.

(c) The injured worker was employed at the time of injury by any agency of the executive or administrative department of the government of this state, the injured worker shall have the right to reinstatement or reemployment at any available and suitable position in another agency of the executive or administrative department.

(2) Notwithstanding ORS 659A.043 and 659A.046, an injured worker referred to in subsection (1) of this section has preference for entry level and light duty assignments with agencies described in subsection (1) of this section. The legislative and judicial departments of the government of this state may adopt rules to define entry level and light duty assignments. The Administrator of the Personnel Division by rule shall adopt a process to identify entry level and light duty assignments within the executive or administrative department of the government of this state.

(3) In accordance with any applicable provision of ORS chapter 240, the Administrator of the Personnel Division shall compel compliance with this section and ORS 659A.043 and 659A.046 by any agency of the executive or administrative department of the government of this state. [Formerly 659.412; 2005 c.22 §471; 2009 c.315 §1; 2015 c.232 §1]

(Benefits for Injured State Workers and Covered Dependents)

659A.060 Definitions for ORS 659A.060 to 659A.069. As used in ORS 659A.060 to 659A.069, unless the context requires otherwise:

(1) "Group health benefits" means that form of health benefits provided by the State of Oregon to cover groups of employees, with or without one or more members of their families or one or more dependents. The group health benefits which are continued under ORS 659A.060 to 659A.069 shall be the same as the worker and the worker's dependents had immediately prior to the injury or illness, and includes, but is not limited to, medical care, dental care, vision care or prescription drug coverage, or any combination thereof, that the worker had elected prior to the injury or illness. If the plan elected prior to the injury or illness is no longer available, the worker shall have the same plan selection rights as do active employees.

(2) "Worker" means any state employee who has filed a workers' compensation claim pursuant to ORS chapter 656. [Formerly 659.450]

659A.063 State to continue group health benefits for injured worker and covered dependents; when ended. (1) The State of Oregon shall cause group health benefits to continue in effect with respect to that worker and any covered dependents or family members by timely payment of the

premium that includes the contribution due from the state under the applicable benefit plan, subject to any premium contribution due from the worker that the worker paid before the occurrence of the injury or illness. If the premium increases or decreases, the State of Oregon and worker contributions shall be adjusted to remain consistent with similarly situated active employees. The State of Oregon shall continue the worker's health benefits in effect until whichever of the following events occurs first:

(a) The worker's attending physician or a nurse practitioner authorized to provide compensable medical services under ORS 656.245 has determined the worker to be medically stationary and a notice of closure has been entered;

(b) The worker returns to work for the State of Oregon, after a period of continued coverage under this section, and satisfies any probationary or minimum work requirement to be eligible for group health benefits;

(c) The worker takes full- or part-time employment with another employer that is comparable in terms of the number of hours per week the worker was employed with the State of Oregon or the worker retires;

(d) Twelve months have elapsed since the date the State of Oregon received notice that the worker filed a workers' compensation claim pursuant to ORS chapter 656;

(e) The claim is denied and the claimant fails to appeal within the time provided by ORS 656.319 or the Workers' Compensation Board or a workers' compensation hearings referee or a court issues an order finding the claim is not compensable;

(f) The worker does not pay the required premium or portion thereof in a timely manner in accordance with the terms and conditions under this section;

(g) The worker elects to discontinue coverage under this section and notifies the State of Oregon in writing of this election;

(h) The worker's attending physician or a nurse practitioner authorized to provide compensable medical services under ORS 656.245 has released the worker to modified or regular work, the work has been offered to the worker and the worker refuses to return to work; or

(i) The worker has been terminated from employment for reasons unrelated to the workers' compensation claim.

(2) If the workers' compensation claim of a worker for whom health benefits are provided pursuant to subsection (1) of this section is denied and the worker does not appeal or the worker appeals and does not prevail, the State of Oregon may recover from the worker the amount of the premiums plus interest at the rate authorized by ORS 82.010. The State of Oregon may recover the payments through a payroll deduction not to exceed 10 percent of gross pay for each pay period.

(3) The State of Oregon shall notify the worker of the provisions of ORS 659A.060 to 659A.069, and of the remedies available for breaches of ORS 659A.060 to 659A.069, within a reasonable time after the State of Oregon receives notice that the worker will be absent from work as a result of an injury or illness for which a workers' compensation claim has been filed pursuant to ORS chapter 656. The notice from the State of Oregon shall include the terms and conditions of the continuation of health benefits and what events will terminate the coverage.

(4) If the worker fails to make timely payment of any premium contribution owing, the State of Oregon shall notify the worker of impending cancellation of the health benefits and provide the worker with 30 days to pay the required premium prior to canceling the policy.

(5) It is an unlawful employment practice for the State of Oregon to discriminate against a worker, as defined in ORS 659A.060, by terminating the worker's group health benefits while that worker is absent from the place of employment as a result of an injury or illness for which a workers' compensation claim has been filed pursuant to ORS chapter 656, except as provided for in this section. [Formerly 659.455; 2003 c.811 §§27,28; 2007 c.365 §14]

659A.066 Worker may continue benefits after employer's obligation ends. If the State of Oregon's obligation to continue paying premiums for health benefits under ORS 659A.063 expires or terminates, the worker may continue coverage by paying the entire premium pursuant to ORS 743B.342. [Formerly 659.460]

659A.069 Discrimination against state worker applying for benefits under ORS 659A.060 to 659A.069 prohibited. It is an unlawful employment practice for the State of Oregon to discriminate against a worker with respect to hire or tenure or any term or condition of employment because the worker has applied for benefits or invoked

or utilized the procedures provided for in ORS 659A.060 to 659A.069 or has given testimony under the provisions of those laws. [2001 c.621 §34]

UNLAWFUL EMPLOYMENT DISCRIMINATION AND REQUIRED LEAVE RELATED TO MILITARY SERVICE

(Unlawful Discrimination for Service in Uniformed Service)

659A.082 Discrimination against person for service in uniformed service prohibited. (1) As used in this section:

(a) "Service" means the performance of duty on a voluntary or involuntary basis in a uniformed service that may involve active duty, active duty for training, initial active duty for training, inactive duty for training, full-time duty in the National Guard, funeral honors duty or an examination to determine fitness for service in a uniformed service.

(b) "Uniformed service" means the Armed Forces of the United States, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training or full-time National Guard duty, the commissioned corps of the United States Public Health Service and any other category of persons designated by the President of the United States in time of war or national emergency.

(2) It is an unlawful employment practice for an employer to discriminate against a person because of the person's service in a uniformed service by:

(a) If the employer is a public body, denying a public officer or public employee the status or rights provided by ORS 408.240 to 408.280 and 408.290.

(b) Denying any of the following because a person is a member of, applies to be a member of, performs, has performed, applies to perform or has an obligation to perform service in a uniformed service:

(A) Initial employment;

(B) Reemployment following a leave from employment taken by reason of service in a uniformed service;

(C) Retention in employment;

(D) Promotion; or

(E) Any other term, condition or privilege of employment, including but not limited to compensation.

(c) Discharging, expelling, disciplining, threatening or otherwise retaliating against the person for exercising or attempting to exercise the status or rights provided by this section.

(3) An employer does not commit an unlawful employment practice under subsection (2)(b) of this section if the employer acted based on a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business and the employer's actions could not be avoided by making a reasonable accommodation of the person's service in a uniformed service.

(4) Subsection (2)(b) and (c) of this section shall be construed to the extent possible in a manner that is consistent with similar provisions of the federal Uniformed Services Employment and Reemployment Rights Act of 1994, including the five-year limit on eligibility for reemployment under 38 U.S.C. 4312.

(5) In addition to any exception under federal law, the cumulative period of time for which an employee is absent from a position of employment with an employer for purposes of any of the following types of service in the uniformed service shall be excluded from the calculation of any durational limit on the eligibility for reemployment rights:

(a) Voluntary service overseas; and

(b) Voluntary service within the United States during or in response to an emergency or disaster declared by local, state or federal government. [2009 c.378 §2; 2011 c.18 §1; 2021 c.62 §2]

(Leave of Absence for State Service)

659A.086 Employment rights of members of organized militia when called into active state service. (1) An employee shall be granted a leave of absence by the employer of the employee to perform active state service if:

(a) The employee is a member of the organized militia of this state and is called into active service of the state under ORS 399.065 or 399.075.

(b) The employee is a member of the organized militia of another state and is called into active state service by the Governor of the respective state.

(2) The employer shall grant the employee a leave of absence until release from active state service permits the employee to resume the duties of employment. The regular employment position of an employee on a leave of absence for active state service under this section is considered vacant only for the period of the leave of absence. The employee is not subject to removal or discharge from the position as a consequence of the leave of absence.

(3) Upon the termination of the leave of absence for active state service, an employee shall:

(a) Resume the duties of employment within seven calendar days; and

(b) Be restored to the employee's position or an equivalent position by the employer without loss of seniority, vacation credits, sick leave credits, service credits under a pension plan or any other employee benefit or right that had been earned at the time of the leave of absence.

(4) An employer is not required to pay wages or other monetary compensation to an employee during a leave of absence required under subsection (1) of this section.

(5) Notwithstanding subsection (4) of this section:

(a) The State of Oregon shall continue coverage under an employer-sponsored health plan to an employee of the State of Oregon and any other individual provided coverage under the employee's plan on the day before the date the employee goes on leave for a period not exceeding a total of 12 months during a leave of absence required under subsection (1) of this section.

(b) An employer other than the State of Oregon may continue coverage under an employer-sponsored health plan to an employee and any other individual provided coverage under the employee's plan on the day before the date the employee goes on leave during a leave of absence required under subsection (1) of this section.

(6)(a) Notwithstanding subsection (4) of this section, the State of Oregon, a county, a municipality or other political subdivision of this state may establish and administer a donated leave program that:

(A) Allows an employee who is on a leave of absence required under subsection (1) of this section to receive donated leave; and

(B) Allows an employee to voluntarily donate vacation time to an eligible employee on a leave of absence required under subsection (1) of this section.

(b) An employee who is on a leave of absence required under subsection (1) of this section and who receives donated leave under paragraph (a) of this subsection may receive an amount of donated leave that supplements any pay received as a member of the organized militia, but may not receive more than the amount the employee was earning in total compensation on the date the employee began the leave of absence.

(7) For the purpose of calculating total compensation under subsection (6) of this section, the State of Oregon, a county, a municipality or other political subdivision of this state shall:

(a) Include any amounts attributable to hours of overtime that equal the average number of hours of overtime for the same employee class;

(b) Determine the average number of hours of overtime for an employee class based on a reasonable expectation of the average number of hours of overtime employees in that class would perform over the course of a calendar year; and

(c) Maintain records of the average number of hours of overtime for each employee class for each calendar year.

(8) As used in this section:

(a) "Active service of the state" has the meaning given that term in ORS 396.005.

(b) "Employee" means any individual, other than a copartner of the employer or an independent contractor, who renders personal services in this state to an employer who pays or agrees to pay wages or other compensation to the individual for those services.

(c) "Employee class" means a group of similarly situated employees whose positions have been designated by their employer in a policy or a collective bargaining agreement as having common characteristics.

(d) "Employer" means any person who employs one or more employees in this state. The term includes the State of Oregon or any county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter, but does not include the federal government.

(e) "Total compensation" means the total of an employee's base salary, differentials and overtime. [Formerly 399.230; 2013 c.81 §28; 2023 c.122 §10]

Note: 659A.086, 659A.088 and 659A.089 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 659A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659A.088 Violation of ORS 659A.086 as unlawful employment practice; complaint; remedies and penalties. (1) Any violation of ORS 659A.086 (1) to (3) by an employer is an unlawful employment practice.

(2) Complaints alleging a violation of ORS 659A.086 (1) to (3) may be filed by employees with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820. The commissioner shall enforce ORS 659A.086 in the manner provided in ORS chapter 659A regarding other unlawful employment practices.

(3) Violation of ORS 659A.086 (1) to (3) subjects the violator to the same civil remedies and penalties as provided in ORS chapter 659A. [Formerly 399.235]

Note: See note under 659A.086.

(Notification to Director of Veterans' Affairs)

659A.089 Notification to Director of Veterans' Affairs. (1) As used in this section, "uniformed service" means the Armed Forces of the United States, the Army National Guard or the Air National Guard when the member is engaged in active duty for training, inactive duty for training or full-time National Guard duty, the commissioned corps of the United States Public Health Service and any other category of persons designated by the President of the United States in time of war or national emergency.

(2) Subject to subsection (3) of this section, the Commissioner of the Bureau of Labor and Industries shall notify the Director of Veterans' Affairs within 30 days of receipt of written information from, or the filing of a complaint for violation of ORS 659A.082 or 659A.086 by, a member or veteran of a uniformed service.

(3) The commissioner shall notify the director as required by subsection (2) of this section only if authorized to do so by the member or veteran of a uniformed service who submitted the written information or filed the complaint. [2012 c.44 §1]

Note: See note under 659A.086.

(Oregon Military Family Leave Act)

659A.090 Definitions for ORS 659A.090 to 659A.099. As used in ORS 659A.090 to 659A.099:

(1) Notwithstanding ORS 659A.001, "employee" means an individual who performs services for compensation for an employer for an average of at least 20 hours per week. "Employee" includes all individuals employed at any site owned or operated by an employer, but does not include independent contractors.

(2) Notwithstanding ORS 659A.001, "employer" means:

(a) A person, firm, corporation, partnership, legal representative or other business entity that engages in any business, industry, profession or activity in this state and that employs 25 or more persons in the State of Oregon for each working day during each of 20 or more calendar workweeks in the year in which leave is taken under ORS 659A.093 or the year immediately preceding the year in which the leave is to be taken;

(b) The state, and a department, agency, board or commission of the state; and

(c) A local government, including, but not limited to, a county, city, town, municipal corporation, independent public corporation or political subdivision of the state.

(3) "Period of military conflict" means a period of war:

(a) Declared by the United States Congress;

(b) Declared by executive order of the President of the United States; or

(c) In which a reserve component of the Armed Forces of the United States is ordered to active duty pursuant to Title 32 of the United States Code or section 12301 or 12302 of Title 10 of the United States Code. [2009 c.559 §3]

659A.093 Employer required to provide leave; job protection; benefits; notice to employer; use of accrued leave; rules. (1) During a period of military conflict, an employee who is a spouse of a member of the Armed Forces of the United States, the National Guard or the military reserve forces of the United States who has been notified of an impending call or order to active duty or who has been deployed is entitled to a total of 14 days of unpaid leave per deployment after the military spouse has been notified of an impending call or order to active duty and before deployment and when the military spouse is on leave from deployment.

(2) An employee who takes leave authorized under this section is entitled to be restored to a position of employment and to the continuation of benefits as provided in ORS 659A.171.

(3) An employee who intends to take leave as authorized under this section must provide the employer with notice of the intention to take leave within five business days of receiving official notice of an impending call or order to active duty or of a leave from deployment.

(4) An employee who takes leave authorized under this section may elect to substitute any accrued leave to which the employee is entitled for any part of the leave provided under this section.

(5) Leave taken under this section shall be included in the total amount of leave authorized under ORS 659A.162.

(6) The Bureau of Labor and Industries may adopt rules necessary for the implementation and administration of ORS 659A.090 to 659A.099. [2009 c.559 §4]

659A.096 Denial of leave, retaliation and discrimination prohibited. It is an unlawful practice for an employer to:

(1) Deny military family leave to an employee who is entitled to such leave under ORS 659A.090 to 659A.099; or

(2) Retaliate or in any way discriminate against an individual with respect to hire or tenure or any other term or condition of employment because the individual has in-

quired about the provisions of ORS 659A.090 to 659A.099, submitted a request for military family leave or invoked any provision of ORS 659A.090 to 659A.099. [2009 c.559 §5]

659A.099 Short title. ORS 659A.090 to 659A.099 may be cited as the Oregon Military Family Leave Act. [2009 c.559 §2]

659A.100 [Formerly 659.400; 2003 c.254 §1; 2007 c.70 §289; 2009 c.508 §3; renumbered 659A.122 in 2009]

UNLAWFUL DISCRIMINATION AGAINST PERSONS WITH DISABILITIES

659A.103 Policy. (1) It is declared to be the public policy of Oregon to guarantee individuals the fullest possible participation in the social and economic life of the state, to engage in remunerative employment, to use and enjoy places of public accommodation, resort or amusement, to participate in and receive the benefits of the services, programs and activities of state government and to secure housing accommodations of their choice, without discrimination on the basis of disability.

(2) The guarantees expressed in subsection (1) of this section are hereby declared to be the policy of the State of Oregon to protect, and ORS 659A.103 to 659A.145 shall be construed to effectuate such policy. [Formerly 659.405; 2003 c.254 §2; 2007 c.70 §290; 2009 c.508 §4]

659A.104 Description of disability for purposes of ORS 659A.103 to 659A.145. (1) An individual has a disability for the purposes of ORS 659A.103 to 659A.145 if the individual meets any one of the following criteria:

(a) The individual has a physical or mental impairment that substantially limits one or more major life activities of the individual.

(b) The individual has a record of having a physical or mental impairment that substantially limits one or more major life activities of the individual. For the purposes of this paragraph, an individual has a record of having a physical or mental impairment if the individual has a history of, or has been misclassified as having, a physical or mental impairment that substantially limits one or more major life activities of the individual.

(c) The individual is regarded as having a physical or mental impairment that substantially limits one or more major life activities of the individual. For the purposes of this paragraph:

(A) An individual is regarded as having a physical or mental impairment if the individual has been subjected to an action prohibited under ORS 659A.112 to 659A.139 because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity of the individual.

(B) An individual is not regarded as having a physical or mental impairment if the individual has an impairment that is minor and that has an actual or expected duration of six months or less.

(2) Activities and functions that are considered major life activities for the purpose of determining if an individual has a disability include but are not limited to:

(a) Caring for oneself;

(b) Performing manual tasks;

(c) Seeing;

(d) Hearing;

(e) Eating;

(f) Sleeping;

(g) Walking;

(h) Standing;

(i) Lifting;

(j) Bending;

(k) Speaking;

(L) Breathing;

(m) Learning;

(n) Reading;

(o) Concentrating;

(p) Thinking;

(q) Communicating;

(r) Working;

(s) Socializing;

(t) Sitting;

(u) Reaching;

(v) Interacting with others;

(w) Employment;

(x) Ambulation;

(y) Transportation;

(z) Operation of a major bodily function, including but not limited to:

(A) Functions of the immune system;

(B) Normal cell growth; and

(C) Digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions; and

(aa) Ability to acquire, rent or maintain property.

(3) An individual is substantially limited in a major life activity if the individual has an impairment, had an impairment or is perceived as having an impairment that restricts one or more major life activities of the individual as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life

activity in order to be considered substantially limiting. An impairment that substantially limits one major life activity of the individual need not limit other major life activities of the individual. An impairment that is episodic or in remission is considered to substantially limit a major life activity of the individual if the impairment would substantially limit a major life activity of the individual when the impairment is active. Nonetheless, not every impairment will constitute a disability within the meaning of this section.

(4) When determining whether an impairment substantially limits a major life activity of an individual, the determination shall be made without regard to the ameliorative effects of mitigating measures, including:

(a) Medication;

(b) Medical supplies, equipment or appliances;

(c) Low vision devices or other devices that magnify, enhance or otherwise augment a visual image, except that ordinary eyeglasses or contact lenses or other similar lenses that are intended to fully correct visual acuity or eliminate refractive error may be considered when determining whether an impairment substantially limits a major life activity of an individual;

(d) Prosthetics, including limbs and devices;

(e) Hearing aids, cochlear implants or other implantable hearing devices;

(f) Mobility devices;

(g) Oxygen therapy equipment or supplies;

(h) Assistive technology;

(i) Reasonable accommodations or auxiliary aids or services; or

(j) Learned behavioral or adaptive neurological modifications.

(5) Nothing in subsection (4)(c) of this section authorizes an employer to use qualification standards, employment tests or other selection criteria based on an individual's uncorrected vision unless the standard, test or other selection criteria, as used by the employer, are shown to be job-related for the position in question and is consistent with business necessity. [2009 c.508 §2; 2013 c.105 §1]

659A.106 Employers to whom ORS 659A.112 to 659A.139 apply. The requirements of ORS 659A.112 to 659A.139 apply only to employers who employ six or more persons. The requirements of ORS 659A.112 to 659A.139 do not apply to the Oregon National Guard. [2001 c.621 §23; 2011 c.210 §1]

659A.109 Discrimination against individual for using procedures in ORS 659A.103 to 659A.145 prohibited. It is an unlawful employment practice for an employer to discriminate against an individual with respect to hire or tenure or any term or condition of employment because the individual has applied for benefits or invoked or used the procedures provided for in ORS 659A.103 to 659A.145 or has given testimony under the provisions of ORS 659A.103 to 659A.145. [Formerly 659.410; 2009 c.508 §5]

659A.112 Employment discrimination. (1) It is an unlawful employment practice for any employer to refuse to hire, employ or promote, to bar or discharge from employment or to discriminate in compensation or in terms, conditions or privileges of employment on the basis of disability.

(2) An employer violates subsection (1) of this section if the employer does any of the following:

(a) The employer limits, segregates or classifies a job applicant or employee in a way that adversely affects the opportunities or status of the applicant or employee because the applicant or employee has a disability.

(b) The employer participates in a contractual or other arrangement or relationship that has the effect of subjecting a qualified job applicant or employee with a disability to the discrimination prohibited by ORS 659A.112 to 659A.139, including but not limited to participating in a relationship with an employment or referral agency, a labor union, an organization providing fringe benefits to an employee of the employer, or an organization providing training and apprenticeship programs.

(c) The employer utilizes standards, criteria or methods of administration that have the effect of discrimination on the basis of disability, or that perpetuate the discrimination of others who are subject to common administrative control.

(d) The employer excludes or otherwise denies equal jobs or benefits to a qualified individual because the individual is known to have a relationship or association with an individual with a disability.

(e) The employer does not make reasonable accommodation to the known physical or mental limitations of a qualified individual with a disability who is a job applicant or employee, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer.

(f) The employer denies employment opportunities to a job applicant or employee who is a qualified individual with a disabil-

ity, if the denial is based on the need of the employer to make reasonable accommodation to the physical or mental impairments of the employee or applicant.

(g) The employer uses qualification standards, employment tests or other selection criteria, including those based on an individual's uncorrected vision or unaided hearing, that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criterion, as used by the employer, is shown to be job-related for the position in question and is consistent with business necessity.

(h) The employer fails to select and administer tests relating to employment in the most effective manner to ensure that when the test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or other characteristics of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of the employee or applicant. The provisions of this paragraph do not limit the ability of an employer to select or administer tests designed to measure sensory, manual or speaking skills of an employee or job applicant. [Formerly 659.436; 2007 c.70 §291; 2009 c.508 §6]

659A.115 Qualification for position. For the purposes of ORS 659A.112, an individual is qualified for a position if the individual, with or without reasonable accommodation, can perform the essential functions of the position. For the purpose of determining the essential functions of the position, due consideration shall be given to the employer's determination as to the essential functions of a position. If an employer has prepared a written description before advertising or interviewing applicants for a job, the position description shall be considered evidence of the essential functions of the job. [Formerly 659.437; 2007 c.70 §292; 2009 c.508 §7]

659A.118 Reasonable accommodation. (1) For the purposes of ORS 659A.112, reasonable accommodation may include:

(a) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities.

(b) Job restructuring, part-time or modified work schedules or reassignment to a vacant position.

(c) Acquisition or modification of equipment or devices.

(d) Appropriate adjustment or modification of examinations, training materials or policies.

(e) The provision of qualified readers or interpreters.

(2) An employer is not required to provide a reasonable accommodation to an individual who satisfies the criteria for being an individual with a disability for the purposes of ORS 659A.103 to 659A.145 solely because the individual meets the criterion described in ORS 659A.104 (1)(c). [Formerly 659.439; 2007 c.70 §293; 2009 c.508 §8; 2019 c.71 §1]

659A.121 Undue hardship. (1) For the purposes of ORS 659A.112, an accommodation imposes an undue hardship on the operation of the business of the employer if the accommodation requires significant difficulty or expense.

(2) For the purpose of determining whether an accommodation requires significant difficulty or expense, the following factors shall be considered:

(a) The nature and the cost of the accommodation needed.

(b) The overall financial resources of the facility or facilities involved in the provision of the accommodation, the number of persons employed at the facility and the effect on expenses and resources or other impacts on the operation of the facility caused by the accommodation.

(c) The overall financial resources of the employer, the overall size of the business of the employer with respect to the number of its employees and the number, type and location of the employer's facilities.

(d) The type of operations conducted by the employer, including the composition, structure and functions of the workforce of the employer and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the employer. [Formerly 659.440]

659A.122 Definitions for ORS 659A.124, 659A.127 and 659A.130. As used in this section and ORS 659A.124, 659A.127 and 659A.130:

(1) "Drug" means a controlled substance, as classified in schedules I through V of section 202 of the federal Controlled Substances Act, as amended, and as modified under ORS 475.035.

(2) "Illegal use of drugs" means any use of drugs, the possession or distribution of which is unlawful under state law or under the federal Controlled Substances Act, as amended, but does not include the use of a drug taken under supervision of a licensed health care professional, or other uses authorized under the Controlled Substances Act or under other provisions of state or federal law. [Formerly 659A.100]

Note: 659A.122 was made a part of 659A.103 to 659A.145 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

659A.124 Illegal use of drugs. (1) Subject to the provisions of subsection (2) of this section, the protections of ORS 659A.112 do not apply to any job applicant or employee who is currently engaging in the illegal use of drugs if the employer takes action based on that conduct.

(2) The protections of ORS 659A.112 apply to the following individuals:

(a) An individual who has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of drugs.

(b) An individual who is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs.

(c) An individual who is erroneously regarded as engaging in the illegal use of drugs.

(3) An employer may adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subsection (2)(a) or (b) of this section is no longer engaging in the illegal use of drugs. [Formerly 659.442; 2009 c.508 §9]

659A.127 Permitted employer action. ORS 659A.112 to 659A.139 do not affect the ability of an employer to do any of the following:

(1) An employer may prohibit the transfer, offering, sale, purchase or illegal use of drugs at the workplace by any employee. An employer may prohibit possession of drugs except for drugs prescribed by a licensed health care professional.

(2) An employer may prohibit the use of alcohol at the workplace by any employee.

(3) An employer may require that employees not be under the influence of alcohol or illegally used drugs at the workplace.

(4) An employer may require that employees behave in conformance with the requirements established under the federal Drug-Free Workplace Act of 1988.

(5) An employer may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment, job performance and behavior to which the employer holds other employees, even if the unsatisfactory performance or behavior is related to the alcoholism of or the illegal use of drugs by the employee.

(6) An employer may require that employees comply with all federal and state statutes and regulations regarding alcohol and the illegal use of drugs. [Formerly 659.444]

659A.130 Conditions that do not constitute impairment. For the purposes of ORS 659A.112 to 659A.139, the following conditions are not physical or mental impairments, and an individual with one or more of the following conditions does not have a disability for the purposes of ORS 659A.112 to 659A.139 solely by reason of that condition:

(1) Pedophilia, exhibitionism, voyeurism or other sexual behavior disorders.

(2) Compulsive gambling, kleptomania or pyromania.

(3) Psychoactive substance use disorders resulting from current illegal use of drugs. [Formerly 659.446; 2007 c.70 §294; 2009 c.508 §10; 2019 c.71 §2; 2021 c.367 §36]

659A.133 Medical examinations and inquiries of job applicants. (1) Except as provided in this section, an employer violates ORS 659A.112 if the employer conducts a medical examination of a job applicant, makes inquiries of a job applicant as to whether the applicant has a disability or makes inquiries as to the nature or severity of any disability of the applicant.

(2) An employer may make inquiries into the ability of a job applicant to perform job-related functions.

(3) An employer may require a medical examination after an offer of employment has been made to a job applicant and before the commencement of the employment duties of the applicant, and condition the employment on the results of the examination, if the following conditions are met:

(a) All individuals entering the employ of the employer must be subject to the examination regardless of disability.

(b) Information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except as follows:

(A) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

(B) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.

(C) Officers and employees of the Bureau of Labor and Industries investigating compliance with ORS 659A.112 to 659A.139 shall be provided relevant information on request.

(c) The results of an examination authorized under this subsection may only be used in the manner provided for in ORS 659A.112 to 659A.139. [Formerly 659.447; 2007 c.70 §295; 2009 c.508 §11]

659A.136 Medical examinations and inquiries of employees. (1) Except as provided in this section, an employer may not require that an employee submit to a medical examination, may not make inquiries of an employee as to whether the employee has a disability, and may not make inquiries of an employee as to the nature or severity of any disability of the employee, unless the examination or inquiry is shown to be job-related and consistent with business necessity.

(2) An employer may conduct voluntary medical examinations, including voluntary medical histories, that are part of an employee health program available to employees at that work site. An employer may make inquiries into the ability of an employee to perform job-related functions.

(3) Information obtained under subsection (2) of this section relating to the medical condition or history of any employee is subject to the same restrictions applicable to information acquired from medical examinations authorized under ORS 659A.133. [Formerly 659.448; 2007 c.70 §296; 2009 c.508 §12]

659A.139 Construction of ORS 659A.103 to 659A.145. (1) ORS 659A.103 to 659A.144 shall be construed to the extent possible in a manner that is consistent with any similar provisions of the federal Americans with Disabilities Act of 1990, as amended by the federal ADA Amendments Act of 2008 and as otherwise amended.

(2) The determination of whether an individual has a disability as provided in ORS 659A.104 (1) shall be construed in favor of broad coverage of individuals under ORS 659A.103 to 659A.145, to the maximum extent permitted by the terms of ORS 659A.103 to 659A.145. [Formerly 659.449; 2009 c.508 §13; 2013 c.740 §12]

659A.141 Damages recoverable for harm or theft of assistance animal. (1) In addition to and not in lieu of any other penalty provided by state law, a person with a disability who uses an assistance animal or the owner of an assistance animal may bring an action for economic and noneconomic damages against any person who steals or, without provocation, attacks the assistance animal. The person with a disability or the owner may also bring an action for such damages against the owner of any animal that, without provocation, attacks an assistance animal. The action authorized by this subsection may be brought by the person with a disability or the owner even if the assistance animal was in the custody or under the supervision of another person when the theft or attack occurred.

(2) If the theft of or unprovoked attack on an assistance animal described in subsection (1) of this section results in the death of the animal or the animal is not returned or if injuries sustained in the theft or attack prevent the animal from returning to service as an assistance animal, the measure of economic damages shall include, but need not be limited to, the replacement value of an equally trained assistance animal, without any differentiation for the age or the experience of the animal. In addition, the person with a disability or the owner may recover any other costs and expenses, including, but not limited to, costs of temporary replacement assistance services, whether provided by another assistance animal or a person, incurred as a result of the theft of or injury to the animal.

(3) If the theft of or unprovoked attack on an assistance animal described in subsection (1) of this section results in injuries from which the animal recovers and returns to service, or if the animal is stolen but is recovered and returns to service, the measure of economic damages shall include, but need not be limited to, the veterinary medical expenses, costs of temporary replacement assistance services, whether provided by another assistance animal or a person, and any other costs and expenses incurred by the person with a disability or the owner as a result of the theft of or injury to the animal.

(4) A cause of action does not arise under this section if the person with a disability, the owner or the person having custody or supervision of the assistance animal was committing a criminal or civil trespass at the time of the theft of or attack on the assistance animal.

(5) The court shall award reasonable attorney fees to the prevailing plaintiff in an action under this section. The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails in the action if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no objectively reasonable basis for appealing an adverse decision of a trial court.

(6) As used in this section, "assistance animal" has the meaning given that term in ORS 659A.143. [Formerly 346.687]

Note: 659A.141 was added to and made a part of ORS chapter 659 by legislative action but was not added to ORS chapter 659A or any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

659A.142 Discrimination against individual with disability by employment agency, labor organization, place of public accommodation or state government prohibited; discrimination in provision of healthcare; mental disorder treatment not evidence of inability to manage property. (1) As used in this section:

(a) "Health care facility" has the meaning given that term in ORS 442.015.

(b) "Health professional regulatory board" has the meaning given that term in ORS 676.160.

(c) "Medical resources" includes but is not limited to:

(A) Medical devices or equipment.

(B) Prescription drugs.

(C) Laboratory testing.

(d) "Provider" means:

(A) An individual licensed or certified by a health professional regulatory board.

(B) A health care facility.

(e) "State government" has the meaning given that term in ORS 174.111.

(2) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise discriminate against, any individual because that individual has a disability, or to classify or refer for employment any individual because that individual has a disability.

(3) It is an unlawful employment practice for a labor organization, because an individual has a disability, to exclude or to expel from its membership such individual or to discriminate in any way against such individual.

(4) It is an unlawful practice for any place of public accommodation, resort or amusement as defined in ORS 659A.400, or any person acting on behalf of such place, to make any distinction, discrimination or restriction because a customer or patron is an individual with a disability.

(5)(a) It is an unlawful practice for state government to exclude an individual from participation in or deny an individual the benefits of the services, programs or activities of state government or to make any distinction, discrimination or restriction because the individual has a disability.

(b) Paragraph (a) of this subsection is intended to ensure equal access to available services, programs and activities of state government.

(c) Paragraph (a) of this subsection is not intended to:

(A) Create an independent entitlement to any service, program or activity of state government; or

(B) Require state government to take any action that state government can demonstrate would result in a fundamental alteration in the nature of a service, program or activity of state government or would result in undue financial or administrative burdens on state government.

(6)(a) It is an unlawful practice for a provider or any person acting on behalf of a provider to discriminate by doing any of the following based on the patient's race, color, national origin, sex, sexual orientation, gender identity, age or disability:

(A) Deny medical treatment to the patient that is likely to benefit the patient based on an individualized assessment of the patient using objective medical evidence; or

(B) Limit or restrict in any manner the allocation of medical resources to the patient.

(b) In determining whether medical treatment is likely to benefit a patient under paragraph (a)(A) of this subsection, a provider shall consult with the patient and others legally authorized to act on behalf of the patient, if available.

(c) This subsection does not:

(A) Restrict the authority of a patient, or an individual legally authorized to act on behalf of a patient, to consent to or decline medical treatment;

(B) Require the provision of medical treatment that is prohibited by state or federal law; or

(C) Restrict a provider, after completing the individualized assessment described in paragraph (a)(A) of this subsection and the consultation described in paragraph (b) of this subsection, from providing objective information to the patient about the risks and benefits of treatment.

(7) Receipt or alleged receipt of treatment for a mental disorder does not constitute evidence of an individual's inability to acquire, rent or maintain property. [Formerly 659.425; 2003 c.254 §3; 2007 c.70 §297; 2009 c.508 §14; 2021 c.584 §1]

659A.143 Assistance animals. (1) As used in this section:

(a) "Assistance animal" means a dog or other animal designated by administrative rule that has been individually trained to do work or perform tasks for the benefit of an individual.

(b) "Assistance animal trainee" means an animal that is undergoing a course of development and training to do work or perform tasks for the benefit of an individual that di-

rectly relate to the disability of the individual.

(c) "Assistance animal trainer" means an individual exercising care, custody and control over an assistance animal trainee during a course of training designed to develop the trainee into an assistance animal.

(d) "Place of public accommodation" means a place of public accommodation as defined in ORS 659A.400.

(2) A place of public accommodation or of access to state government services, programs or activities may not:

(a) Ask an individual about the nature or extent of a disability that the individual has or may have;

(b) Require an individual to provide documentation proving that an animal is an assistance animal or an assistance animal trainee; or

(c) Notwithstanding any fee or admission charge imposed for pets, require that a person with a disability or an assistance animal trainer pay a fee or admission charge for an assistance animal or assistance animal trainee.

(3) A place of public accommodation or of access to state government services, programs or activities may:

(a) Ask whether an animal is required due to a disability; and

(b) Ask about the nature of the work or task that an animal is trained to do or perform or is being trained to do or perform, unless it is readily apparent that the animal performs or is being trained to perform work or a task for the benefit of a person with a disability.

(4) If a place of public accommodation or of access to state government services, programs or activities customarily charges a person for damages that the person causes to the place, the place may charge a person with a disability or an assistance animal trainer for damages that an assistance animal or assistance animal trainee causes to the place.

(5) A person with a disability or an assistance animal trainer must maintain control of an assistance animal or assistance animal trainee. Except as provided in this subsection, control shall be exerted by means of a harness, leash or other tether. If the use of a harness, leash or other tether would interfere with the ability of the animal to do the work or perform the tasks for which the animal is trained or is being trained, control may be exerted by the effective use of voice commands, signals or other means. If an animal is not under control as required in this subsection, a place of public accommodation or of access to state government services, programs or activities may consider the animal to be out of control for purposes of subsection (6) of this section.

(6)(a) Except as provided in this subsection, a place of public accommodation or of access to state government services, programs or activities may not deny a person with a disability or an assistance animal trainer the right to be accompanied by an assistance animal or assistance animal trainee in any area of the place that is open to the public or to business invitees. A place of public accommodation or of access to state government services, programs or activities may require a person with a disability or an assistance animal trainer to remove an assistance animal or assistance animal trainee if:

(A) The animal is not housebroken; or

(B) The animal is out of control and effective action is not taken to control the animal.

(b) A place of public accommodation or of access to state government services, programs or activities may impose legitimate requirements necessary for the safe operations of the place of public accommodation or the services, programs or activities. The place of public accommodation or of access to state government services, programs or activities shall ensure that the safety requirements are based on actual risks, not on speculation, stereotypes or generalizations about persons with disabilities.

(7) A place of public accommodation or of access to state government services, programs or activities shall make reasonable modifications as necessary to allow an opportunity for a person with a disability who is benefited by the use of an assistance animal to obtain goods, services and the use of the advantages, facilities and privileges of the place or the advantages, facilities and privileges of the state government services, programs or activities. For purposes of this subsection, except as provided in subsections (6) and (8) of this section, in addition to any other applicable accommodation requirement, allowing the presence of the assistance animal is a reasonable modification.

(8) If a place of public accommodation or of access to state government services, programs or activities requires a person with a disability to remove an assistance animal under subsection (6) of this section, the place shall give the person with a disability a reasonable opportunity to obtain goods, services and the use of the advantages, facilities and privileges of the place or the advantages, facilities and privileges of the state government services, programs or activities without the assistance animal's presence.

(9) A place of public accommodation or of access to state government services, programs or activities is not required to provide care or supervision for an assistance animal or assistance animal trainee.

(10) The protection granted under this section to a person with a disability or an assistance animal trainer does not invalidate or limit the remedies, rights and procedures of any other federal, state or local laws that provide equal or greater protection of the rights of a person with a disability, an assistance animal trainer or individuals associated with a person with a disability. [2013 c.530 §§2,3]

Note: 659A.143 was added to and made a part of 659A.103 to 659A.145 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

659A.144 Required accommodations in transient lodging; liability; limitations on applicability. (1) As used in this section:

(a) "Lift system" means a system that:

(A) Is used to transfer a person to a bed, toilet, shower or bathtub, but does not provide the person with independent mobility;

(B) May be a manual lift, an electronic lift or a lift that uses a track system; and

(C) May require operation by an assistant.

(b) "Transient lodging" means a unit consisting of a room or suite of rooms that:

(A) Is not occupied as a principal residence;

(B) Is typically occupied for periods of fewer than 30 consecutive days; and

(C) Includes services that are part of the regularly charged cost of occupancy, including maid and linen services.

(2) A transient lodging provider shall ensure that at least one room or suite of rooms of the transient lodging facility has a lift system or multiple lift systems that enable a person with a disability to access the following in the room or suite of rooms occupied by the person with a disability:

(a) A bed;

(b) A toilet; and

(c) A shower or bathtub.

(3) A lift system shall be made available by a transient lodging provider at no cost to a person with a disability, but the person is responsible for providing:

(a) The person's own sling or other personal equipment that is required to use the lift system; and

(b) Any assistant necessary for the operation of the lift system.

(4) A transient lodging provider is not liable for any injury caused by the use of a lift system, unless the injury is caused by the gross negligence or recklessness of the provider in relation to the provision and maintenance of the lift system.

(5)(a) The requirements of this section apply only to transient lodging facilities that:

(A) Consist of 175 or more rooms or suites of rooms; and

(B) Are newly constructed or that are altered in a manner that affects or could affect the usability of the facility in a manner that requires the facility to be in compliance with the accessibility standards established by the Americans with Disabilities Act of 1990.

(b) For the purpose of this subsection, the usability of a facility is not affected by cosmetic changes, including, but not limited to, changes in:

(A) Floor coverings;

(B) Wall coverings;

(C) Soft or hard surfaces, including upholstery, drapery, window treatments, countertops, vanities and cabinetry; and

(D) Furnishings, including furniture or fixtures.

(6) Any violation of this section is an unlawful practice. [2009 c.841 §2]

659A.145 Discrimination against individual with disability in real property transactions prohibited; advertising discriminatory preference prohibited; allowance for reasonable modification; assisting discriminatory practices prohibited. (1) As used in this section:

(a) "Dwelling" has the meaning given that term in ORS 659A.421.

(b) "Purchaser" has the meaning given that term in ORS 659A.421.

(2) A person may not discriminate because of a disability of a purchaser, a disability of an individual residing in or intending to reside in a dwelling after it is sold, rented or made available or a disability of any individual associated with a purchaser by doing any of the following:

(a) Refusing to sell, lease, rent or otherwise make available any real property to a purchaser.

(b) Expelling a purchaser.

(c) Making any distinction or restriction against a purchaser in the price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property or the furnishing of any facilities or services in connection with the real property.

(d) Attempting to discourage the sale, rental or lease of any real property.

(e) Representing that a dwelling is not available for inspection, sale, rental or lease when the dwelling is in fact available for inspection, sale, rental or lease.

(f) Refusing to permit, at the expense of the individual with a disability, reasonable modifications of existing premises occupied or to be occupied by the individual if the modifications may be necessary to afford the individual full enjoyment of the premises. However, in the case of a rental, the landlord may, when it is reasonable to do so, condition permission for a reasonable modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(g) Refusing to make reasonable accommodations in rules, policies, practices or services when the accommodations may be necessary to afford the individual with a disability equal opportunity to use and enjoy a dwelling.

(h) Failing to design and construct a covered multifamily dwelling as required by the Fair Housing Act (42 U.S.C. 3601 et seq.).

(3) A person may not publish, circulate, issue or display or cause to be published, circulated, issued or displayed any communication, notice, advertisement, or sign of any kind relating to the sale, rental or leasing of real property that indicates any preference, limitation, specification or discrimination against an individual on the basis of disability.

(4) A person whose business includes engaging in residential real estate related transactions, as defined in ORS 659A.421 (3), may not discriminate against any individual in making a transaction available, or in the terms or conditions of the transaction, because of a disability.

(5) A real estate broker or principal real estate broker may not accept or retain a listing of real property for sale, lease or rental with an understanding that the purchaser, lessee or renter may be discriminated against solely because an individual has a disability.

(6) A person may not deny access to, or membership or participation in, any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or discriminate against any individual in the terms or conditions of the access, membership or participation, because that individual has a disability.

(7) A person may not assist, induce, incite or coerce another person to commit an act or engage in a practice that violates this section.

(8) A person may not coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this section.

(9) A person may not, for profit, induce or attempt to induce any other person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of an individual who has a disability.

(10) In the sale, lease or rental of real property, a person may not disclose to any person that an occupant or owner of the real property has or died from a blood-borne infection.

(11) Any violation of this section is an unlawful practice. [Formerly 659.430; 2007 c.70 §298; 2007 c.903 §3a; 2008 c.36 §5; 2009 c.109 §1; 2009 c.508 §16; 2019 c.280 §12]

UNLAWFUL DISCRIMINATION AND REASONABLE ACCOMMODATION RELATED TO PREGNANCY

659A.146 Reasonable accommodation. For purposes of ORS 659A.147, reasonable accommodation may include, but need not be limited to:

(1) Acquisition or modification of equipment or devices;

(2) More frequent or longer break periods or periodic rest;

(3) Assistance with manual labor; or

(4) Modification of work schedules or job assignments. [2019 c.139 §2]

659A.147 Prohibited conduct; posting requirements; Commissioner of Bureau of Labor and Industries to develop training and education materials; undue hardship exception; remedies. (1) It is an unlawful employment practice for an employer, because of known limitations related to pregnancy, childbirth or a related medical condition, including but not limited to lactation, of a job applicant or an employee, to:

(a) Deny employment opportunities to an applicant or employee if the denial is based on the need of the employer to make reasonable accommodation to the known limitations.

(b) Fail or refuse to make reasonable accommodation to the known limitations, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer.

(c) Take an adverse employment action or in any manner discriminate or retaliate against an applicant or an employee, with respect to hire or tenure, or any other term or condition of employment, because the applicant or employee has inquired about, requested or used a reasonable accommodation under this section.

(d) Require an applicant or an employee to accept a reasonable accommodation that is unnecessary for the applicant or the employee to perform the essential duties of the job or to accept a reasonable accommodation if the applicant or employee does not have a known limitation.

(e) Require an employee to take family leave under ORS 659A.150 to 659A.186, or any other leave, if the employer can make reasonable accommodation to the known limitations.

(2)(a) An employer shall post signs that provide notice informing employees of the employment protections under this section, including the right to be free from discrimination because of pregnancy, childbirth and related medical conditions, and the right to reasonable accommodation under this section.

(b) The employer shall post the signs in a conspicuous and accessible location in or about the premises where employees work.

(c) In addition to posting the signs, the employer shall provide a written copy of the notice to:

(A) A new employee, at the time of hire;

(B) Existing employees, within 180 days after January 1, 2020; and

(C) An employee who informs the employer of the employee's pregnancy, within 10 days after the employer receives the information.

(3) The Commissioner of the Bureau of Labor and Industries shall develop training and education materials that the Bureau of Labor and Industries may use to train and educate employers and employees regarding the obligations, rights and protections provided in ORS 659A.030 and under this section.

(4)(a) For purposes of this section, a reasonable accommodation imposes an undue hardship on the operation of the business of an employer if the reasonable accommodation requires significant difficulty or expense.

(b) Whether a reasonable accommodation requires significant difficulty or expense shall be determined by considering the factors provided in ORS 659A.121 (2).

(5) An employee who alleges a violation of this section may bring a civil action under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.

(6)(a) Nothing in this section shall be construed to preempt, limit, diminish or otherwise affect any provision of state or federal law relating to discrimination because of sex.

(b) Nothing in this section shall be construed to limit the remedies or rights under federal or state law that provide greater or equal protection for employees who are affected by pregnancy, childbirth or a related medical condition. [2019 c.139 §3]

659A.148 Employers to whom provisions relating to reasonable accommodation apply. The requirements of ORS 659A.147 apply only to employers who employ six or more persons. [2019 c.139 §4]

FAMILY LEAVE

659A.150 Definitions for ORS 659A.150 to 659A.186. As used in ORS 659A.150 to 659A.186:

(1) "Covered employer" means an employer described in ORS 659A.153.

(2) "Eligible employee" means any employee of a covered employer other than those employees exempted under the provisions of ORS 659A.156.

(3) "Family leave" means a leave of absence described in ORS 659A.150 to 659A.186, except that "family leave" does not include leave taken by an eligible employee who is unable to work because of a disabling compensable injury, as defined in ORS 656.005, under ORS chapter 656.

(4) "Family member" means:

(a) The spouse of an eligible employee;

(b) A child of an eligible employee or the child's spouse or domestic partner;

(c) A parent of an eligible employee or the parent's spouse or domestic partner;

(d) A sibling or stepsibling of an eligible employee or the sibling's or stepsibling's spouse or domestic partner;

(e) A grandparent of an eligible employee or the grandparent's spouse or domestic partner;

(f) A grandchild of an eligible employee or the grandchild's spouse or domestic partner;

(g) The domestic partner of an eligible employee; or

(h) Any individual related by blood or affinity whose close association with an eligible employee is the equivalent of a family relationship.

(5) "Health care provider" means:

(a) A person who is primarily responsible for providing health care to an eligible employee or a family member of an eligible employee, who is performing within the scope of the person's professional license or certificate and who is:

(A) A physician licensed under ORS chapter 677;

(B) A physician associate licensed under ORS 677.505 to 677.525;

(C) A dentist licensed under ORS 679.090;

(D) A psychologist licensed under ORS 675.030;

(E) An optometrist licensed under ORS 683.070;

(F) A naturopath licensed under ORS 685.080;

(G) A registered nurse licensed under ORS 678.050;

(H) A nurse practitioner licensed under ORS 678.375;

(I) A direct entry midwife licensed under ORS 687.420;

(J) A licensed registered nurse licensed by the Oregon State Board of Nursing as a nurse practitioner specializing in nurse midwifery;

(K) A regulated social worker authorized to practice regulated social work under ORS 675.510 to 675.600; or

(L) A chiropractic physician licensed under ORS 684.054, but only to the extent the chiropractic physician provides treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated to exist by X-rays.

(b) A person who is primarily responsible for the treatment of an eligible employee or a family member of an eligible employee solely through spiritual means, including but not limited to a Christian Science practitioner.

(6) "Public health emergency" means:

(a) A public health emergency declared under ORS 433.441.

(b) An emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442. [Formerly 659.470; 2005 c.171 §1; 2007 c.633 §1; 2007 c.777 §1; 2009 c.442 §43; 2013 c.129 §34; 2014 c.45 §72; 2019 c.233 §3; 2019 c.265 §1; 2019 c.358 §18; 2021 c.182 §1; 2023 c.203 §6; 2024 c.20 §15; 2024 c.73 §114]

659A.153 Covered employers. (1) The requirements of ORS 659A.150 to 659A.186 apply only to employers who employ 25 or more persons in the State of Oregon for each working day during each of 20 or more calendar workweeks in the year in which the leave is to be taken or in the year immediately preceding the year in which the leave is to be taken.

(2) The requirements of ORS 659A.150 to 659A.186 do not apply to any employer who offers to an eligible employee a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, providing, as one of its options, employee leave at least as generous as the leave required by ORS 659A.150 to 659A.186. [Formerly 659.472]

659A.156 Eligible employees; exceptions; eligibility during public health emergency; restoration of time worked. (1) All employees of a covered employer are eligible to take leave for any of the purposes specified in ORS 659A.150 to 659A.186 except:

(a) An employee who was employed by the covered employer for fewer than 180 days immediately before the date on which the family leave would commence.

(b) An employee who worked an average of fewer than 25 hours per week for the covered employer during the 180 days immediately preceding the date on which the family leave would commence unless the employee is based in Oregon and subject to federal regulations under 29 C.F.R. part 825, subpart H, as in effect on January 1, 2025, and meets the hours of service requirement described in 29 C.F.R. 825.801 of those regulations.

(2) Notwithstanding subsection (1) of this section, all employees of a covered employer are eligible to take leave for any of the purposes specified in ORS 659A.150 to 659A.186 during a period of time covered by a public health emergency except:

(a) An employee who worked for the covered employer for fewer than 30 days immediately before the date on which the family leave would commence; or

(b) An employee who worked for the covered employer for an average of fewer than 25 hours per week in the 30 days immediately before the date on which the family leave would commence.

(3)(a) Notwithstanding subsection (1) of this section, an employee of a covered employer is eligible to take leave for any of the purposes specified in ORS 659A.150 to 659A.186 if the employee:

(A)(i) Separates from employment with the covered employer, irrespective of any reason;

(ii) Is eligible to take leave under subsection (1) of this section at the time the employee separates; and

(iii) Is reemployed by the covered employer within 180 days of separation from employment; or

(B)(i) Is eligible to take leave under subsection (1) of this section at the beginning of a temporary cessation of scheduled hours of 180 days or less; and

(ii) Returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

(b) Any family leave taken by the employee within any one-year period continues to count against the length of time of family leave the employee is entitled under ORS 659A.162.

(c) The amount of time that an employee is deemed to have worked for a covered employer prior to a break in service due to a separation from employment or a temporary cessation of scheduled hours shall be restored to the employee when the employee is reemployed by the employer within 180 days of separation from employment or when the employee returns to work at the end of the temporary cessation of scheduled hours of 180 days or less. [Formerly 659.474; 2013 c.384 §2; 2021 c.182 §2; 2023 c.9 §48; 2024 c.20 §16; 2025 c.85 §10]

659A.157 Determining family member by reason of affinity. In order to determine whether an individual qualifies as a family member by reason of affinity, as that term is used in ORS 659A.150, consideration shall be given to whether there exists a significant personal bond attributable to factors, established by the Commissioner of the Bureau of Labor and Industries by rule, that, when examined in total, resemble a family relationship. [2023 c.203 §4]

659A.159 Purposes for which family leave may be taken. (1) Family leave under ORS 659A.150 to 659A.186 may be taken by an eligible employee for any of the following purposes:

(a) To care for a child of the employee who is suffering from an illness, injury or condition that requires home care or who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency.

(b) To deal with the death of a family member by:

(A) Attending the funeral or alternative to a funeral of the family member;

(B) Making arrangements necessitated by the death of the family member; or

(C) Grieving the death of the family member.

(2) For purposes of ORS 659A.150 to 659A.186:

(a) Leave under subsection (1)(a) of this section may only be taken for a child of the employee who is:

(A) Under the age of 18; or

(B) Substantially limited by a physical or mental impairment as described in ORS 659A.104.

(b) Leave under subsection (1)(b) of this section must be completed within 60 days of the date on which the eligible employee receives notice of the death of a family member. [Formerly 659.476; 2013 c.384 §1; 2021 c.182 §3; 2024 c.20 §8; 2025 c.85 §4]

659A.162 Length of leave; conditions; rules. (1)(a) Except as specifically provided by ORS 659A.150 to 659A.186, an eligible employee is entitled to up to a total of 12 weeks of family leave for a purpose described in ORS 659A.159 within any one-year period.

(b) Leave taken under ORS 659A.150 to 659A.186 is in addition to, and may not be taken concurrently with, any leave taken pursuant to ORS chapter 657B.

(2)(a) Except as provided by paragraph (b) of this subsection, an eligible employee is entitled to a total of two weeks of family leave for the purposes described in ORS 659A.159 (1)(b).

(b) An eligible employee is entitled to the period of leave described in paragraph (a) of this subsection upon the death of each family member of the employee within any one-year period, except that leave taken as provided by this subsection may not exceed a total of four weeks within any one-year period.

(c) A covered employer may not require an eligible employee to take multiple periods of leave described in ORS 659A.159 (1)(b) concurrently if more than one family member of the employee dies during the one-year period.

(d) All leave taken for the purposes described in ORS 659A.159 (1)(b) shall be counted toward the total period of family leave authorized by subsection (1) of this section.

(3) In addition to the 12 weeks of family leave authorized by subsection (1) of this section, an eligible employee may take a total of 12 weeks of leave within any one-year period for an illness, injury or condition related to the eligible employee's own pregnancy or childbirth that disables the eligible employee from performing any available job duties offered by the covered employer.

(4) When two or more family members work for the same covered employer, the eligible employees may not take concurrent family leave unless:

(a) One employee needs to care for a child for a purpose described in ORS

659A.159 (1)(a) while another employee is taking leave under subsection (3) of this section; or

(b) One or more of the employees is taking leave described in ORS 659A.159 (1)(b).

(5) A covered employer may not reduce the amount of family leave available to an eligible employee under this section by any period the employee is unable to work because of a disabling compensable injury.

(6) The Commissioner of the Bureau of Labor and Industries shall adopt rules governing when family leave may be taken intermittently or by working a reduced workweek. Rules adopted by the commissioner under this paragraph shall allow taking of family leave on an intermittent basis or by use of a reduced workweek to the extent permitted by federal law and to the extent that taking family leave on an intermittent basis or by use of a reduced workweek does not result in the loss of an eligible employee's exempt status under the federal Fair Labor Standards Act. [Formerly 659.478; 2007 c.633 §2; 2013 c.384 §3; 2019 c.700 §56; 2021 c.182 §§4,5; 2024 c.20 §9]

659A.164 Meaning of "one-year period" for purposes of determining amount of leave available to eligible employee; rules. (1) For purposes of determining the amount of family leave that an eligible employee is entitled to take within a given one-year period, "one-year period" means a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which family leave commences.

(2) The Commissioner of the Bureau of Labor and Industries may adopt any rules necessary to implement and administer this section. [2023 c.203 §2; 2023 c.203 §3]

659A.165 Notice to employer; exceptions. (1) Except as provided in subsection (2) of this section, a covered employer may require an eligible employee to give the employer written notice at least 30 days before commencing family leave. The employer may require the employee to include an explanation of the need for the leave in the notice.

(2) An eligible employee may commence taking family leave without prior notice under the following circumstances:

(a) An unexpected illness, injury or condition of a child of the employee that requires home care;

(b) The death of a family member;

(c) The leave is for the purpose described under ORS 659A.162 (3); or

(d) The closure of the school or child care provider of the employee's child due to a public health emergency unless the declaration of the public health emergency was issued by the Governor at least 30 days before commencement of the leave.

(3) If an employee commences leave without prior notice under subsection (2) of this section, the employee must give oral notice to the employer within 24 hours of the commencement of the leave, and must provide the written notice required by subsection (1) of this section within three days after the employee returns to work. The oral notice required by this subsection may be given by any other person on behalf of the employee taking the leave.

(4) Except as provided in this subsection, if the employee fails to give notice as required by subsections (1) and (3) of this section, the employer may reduce the total period of family leave authorized by ORS 659A.162 by three weeks, and the employee may be subject to disciplinary action under a uniformly applied policy or practice of the employer. A reduction of family leave under this subsection may not limit leave described in ORS 659A.159 (1)(b). [Formerly 659.480; 2013 c.384 §4; 2024 c.20 §10; 2025 c.85 §5]

659A.168 Medical verification requirements; exceptions. (1) Except as provided in subsection (2) of this section, a covered employer may require medical verification from a health care provider of the need for the leave if the leave is for a purpose described in ORS 659A.159 (1)(a) other than to care for a child who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency, or if the leave is for the purpose described in ORS 659A.162 (3). If an employee is required to give notice under ORS 659A.165 (1), the employer may require that medical verification be provided by the employee before the leave period commences. If the employee commences family leave without prior notice pursuant to ORS 659A.165 (2), the medical verification must be provided by the employee within 15 days after the employer requests the medical verification.

(2) A covered employer may require medical verification for leave taken for the purpose described in ORS 659A.159 (1)(a), other than to care for a child who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency, only after an employee has taken more than three days of leave under ORS 659A.159 (1)(a) during any one-year period. Any medical verification required under this subsection must be paid for by the covered employer. An employer may not require an employee to obtain the opinion of a second health care provider for the purpose of medical verification required under this subsection.

(3) A covered employer may request verification for the need for leave for the purpose in ORS 659A.159 (1)(a) to care for a child who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency. A request for verification may include a request for:

(a) The name of the child requiring home care;

(b) The name of the school or child care provider that is subject to closure;

(c) A statement from the employee that no other family member of the child is willing and able to care for the child; and

(d) A statement that special circumstances exist that require the employee to provide home care for the child during the day, if the child is older than 14 years of age. [Formerly 659.482; 2021 c.182 §6; 2024 c.20 §11]

659A.171 Job protection; benefits. (1) After returning to work after taking family leave under the provisions of ORS 659A.150 to 659A.186, an eligible employee is entitled to be restored to the position of employment held by the employee when the leave commenced if that position still exists, without regard to whether the employer filled the position with a replacement worker during the period of family leave. If the position held by the employee at the time family leave commenced no longer exists, the employee is entitled to be restored to any available equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. If an equivalent position is not available at the job site of the employee's former position, the employer shall offer the employee an equivalent position at a job site located within 50 miles of the job site of the employee's former position, if such a position is available. If equivalent positions are available at multiple job sites, the employer shall first offer the employee the position at the job site that is nearest to the job site of the employee's former position.

(2) Except for employee benefits used during the period of leave, the taking of family leave under ORS 659A.150 to 659A.186 shall not result in the loss of any employment benefit accrued before the date on which the leave commenced.

(3) This section does not entitle any employee to:

(a) Any accrual of seniority or employment benefits during a period of family leave; or

(b) Any right, benefit or position of employment other than the rights, benefits and position that the employee would have been entitled to had the employee not taken the family leave.

(4)(a) Before restoring an employee to a position under subsection (1) of this section, an employer may require that the employee receive certification from the employee's health care provider that the employee is able to resume work. Certification under this subsection may only be required pursuant to a uniformly applied practice or policy of the employer.

(b) This subsection does not affect the ability of an employer to require an employee during a period of family leave to report periodically to the employer on the employee's status and on the employee's intention to return to work.

(5)(a) Except as provided in paragraph (b) of this subsection, benefits are not required to continue to accrue during a period of family leave unless continuation or accrual is required under an agreement of the employer and the employee, a collective bargaining agreement or an employer policy.

(b) If the employee is provided group health insurance, the employee is entitled to the continuation of group health insurance coverage during the period of family leave on the same terms as if the employee had continued to work. If family member coverage is provided to the employee, family member coverage must be maintained during the period of family leave. The employee must continue to make any regular contributions to the cost of the health insurance premiums.

(c) Notwithstanding ORS 652.610 (3) and except as provided in paragraph (b) of this subsection, if the employer is required or elects to pay any part of the costs of providing disability, life or other insurance coverage for an employee during the period of family leave that should have been paid by the employee, the employer may deduct from the employee's pay such amounts upon the employee's return to work until the amount the employer advanced toward the payments is paid. In no event may the total amount deducted for insurance under the provisions of this subsection exceed 10 percent of the employee's gross pay each pay period.

(6) Notwithstanding ORS 652.610 (3), if the employer pays any part of the costs of health, disability, life or other insurance coverage for an employee under the provisions of subsection (5) of this section, and the employee does not return to employment with the employer after taking family leave, the employer may deduct amounts paid by the employer from any amounts owed by the employer to the employee, or may seek to recover those amounts by any other legal means, unless the employee fails to return to work because of circumstances beyond the

control of the employee. [Formerly 659.484; 2015 c.323 §1; 2023 c.203 §7; 2024 c.20 §17]

659A.174 Use of paid leave. (1) Except as provided in subsection (2) of this section, and unless otherwise provided by the terms of an agreement between the eligible employee and the covered employer, a collective bargaining agreement or an employer policy, family leave is not required to be granted with pay.

(2) An employee taking family leave is entitled to use any paid accrued sick leave or any paid accrued vacation leave during the period of family leave, or to use any other paid leave that is offered by the employer in lieu of vacation leave during the period of family leave.

(3) Subject to the terms of any agreement between the eligible employee and the covered employer or the terms of a collective bargaining agreement, the employer may determine the particular order in which accrued leave is to be used in circumstances in which more than one type of accrued leave is available to the employee. [Formerly 659.486; 2007 c.635 §1]

659A.177 Special rules for teachers. (1) Notwithstanding any other provision of ORS 659A.150 to 659A.186, if a teacher commences a period of family leave for the purpose specified in ORS 659A.159 (1)(b) during the three-week period before the end of the term, and the duration of the leave is greater than five working days, the employer of the teacher may require that the employee continue on family leave until the end of the term.

(2) The provisions of this section apply only to an employee who is employed principally in an instructional capacity by a public kindergarten, elementary school, secondary school or education service district. [Formerly 659.488; 2013 c.384 §5; 2024 c.20 §18]

659A.180 Postings by employer. A covered employer shall post a notice of the requirements of ORS 659A.150 to 659A.186 in every establishment of the employer in which employees are employed. The Bureau of Labor and Industries shall provide notices to covered employers meeting the requirements of this section. [Formerly 659.490]

659A.183 Denying family leave to eligible employee prohibited; retaliation prohibited. It is an unlawful practice for a covered employer to:

(1) Deny family leave to which an eligible employee is entitled under ORS 659A.150 to 659A.186; or

(2) Retaliate or in any way discriminate against an individual with respect to hire or tenure or any other term or condition of employment because the individual has inquired about the provisions of ORS 659A.150 to 659A.186, submitted a request for family leave or invoked any provision of ORS 659A.150 to 659A.186. [Formerly 659.492; 2007 c.777 §2]

659A.186 Exclusivity of provisions; construction; concurrent leave. (1) ORS 659A.150 to 659A.186 do not limit any right of an employee to any leave that is similar to the leave described in ORS 659A.159 (1) and to which the employee may be entitled under any agreement between the employer and the employee, collective bargaining agreement or employer policy.

(2) ORS 659A.150 to 659A.186 shall be construed to the extent possible in a manner that is consistent with any similar provisions of the federal Family and Medical Leave Act of 1993. If family leave taken under ORS 659A.150 to 659A.186 qualifies as protected leave pursuant to the federal Family and Medical Leave Act of 1993 (P.L. 103-3), family leave taken under ORS 659A.150 to 659A.186 must be taken concurrently with, and not in addition to, any leave taken under the federal Family and Medical Leave Act of 1993 (P.L. 103-3). [Formerly 659.494; 2013 c.384 §6; 2023 c.203 §8; 2024 c.20 §19]

LEAVE TO ATTEND CRIMINAL PROCEEDING

659A.190 Definitions for ORS 659A.190 to 659A.198. As used in ORS 659A.190 to 659A.198:

(1) "Covered employer" means an employer who employs six or more persons in the State of Oregon for each working day during each of 20 or more calendar workweeks in the year in which an eligible employee takes leave to attend a criminal proceeding or in the year immediately preceding the year in which an eligible employee takes leave to attend a criminal proceeding.

(2) "Crime victim" means a person who has suffered financial, social, psychological or physical harm as a result of a person felony, as defined in the rules of the Oregon Criminal Justice Commission, and includes a member of the immediate family of the person.

(3) "Criminal proceeding" has the meaning given that term in ORS 131.005 and includes a juvenile proceeding under ORS chapter 419C or any other proceeding at which a crime victim has a right to be present.

(4) "Eligible employee" means an employee who:

(a) Worked an average of more than 25 hours per week for a covered employer for at least 180 days immediately before the date

the employee takes leave to attend a criminal proceeding; and

(b) Is a crime victim.

(5) "Immediate family" means spouse, domestic partner, father, mother, sibling, child, stepchild and grandparent. [2003 c.603 §2]

659A.192 Leave to attend criminal proceeding; undue hardship on employer; scheduling criminal proceeding. (1) As used in this section, "undue hardship" means a significant difficulty and expense to a business and includes consideration of the size of the covered employer's business and the covered employer's critical need for the employee.

(2) Except as provided in subsection (3) of this section, a covered employer shall allow an eligible employee to take leave from employment to attend a criminal proceeding.

(3) A covered employer may limit the amount of leave an eligible employee takes to attend a criminal proceeding if the employee's leave creates an undue hardship to the covered employer's business.

(4) An eligible employee may notify the prosecuting attorney if taking leave to attend a criminal proceeding would cause undue hardship to the covered employer. The prosecuting attorney shall then notify the court or hearing body. The court or hearing body must take the schedule of the employee into consideration when scheduling a criminal proceeding. [2003 c.603 §3]

659A.194 Denying leave to employee prohibited. A covered employer who denies leave to an eligible employee or who discharges, threatens to discharge, intimidates or coerces because the employee takes leave to attend a criminal proceeding commits an unlawful employment practice. [2003 c.603 §4; 2011 c.210 §3]

659A.196 Notice to employer; records confidential. (1) An eligible employee shall give the covered employer:

(a) Reasonable notice of the employee's intention to take leave to attend a criminal proceeding; and

(b) Copies of any notices of scheduled criminal proceedings that the employee receives from a law enforcement agency under ORS 147.417.

(2) All records kept by a covered employer regarding an eligible employee's leave under ORS 659A.192 or notices received under subsection (1) of this section are subject to the laws relating to confidentiality. [2003 c.603 §5]

659A.198 Use of paid leave. (1) Except as provided in subsections (2) and (3) of this section, and unless otherwise provided by the terms of an agreement between the eligible employee and the covered employer, a collective bargaining agreement or an employer policy, a covered employer is not required to grant leave with pay under ORS 659A.192 to an eligible employee to attend a criminal proceeding.

(2) An eligible employee who takes leave to attend a criminal proceeding may use any paid accrued vacation leave during the period of leave or may use any other paid leave that is offered by the covered employer in lieu of vacation leave during the period of leave.

(3) Subject to the terms of any agreement between the eligible employee and the covered employer or the terms of a collective bargaining agreement or an employer policy, the covered employer may determine the order in which accrued leave is to be used when more than one type of accrued leave is available to the employee. [2003 c.603 §6]

WHISTLEBLOWING

(Disclosures by Employee of Violation of State or Federal Law)

659A.199 Prohibited conduct by employer. (1) It is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported information that the employee believes is evidence of a violation of a state or federal law, rule or regulation.

(2) The remedies provided by this chapter are in addition to any common law remedy or other remedy that may be available to an employee for the conduct constituting a violation of this section. [2009 c.524 §2]

(Disclosures by Public and Nonprofit Employees)

659A.200 Definitions for ORS 659A.200 to 659A.224. As used in ORS 659A.200 to 659A.224:

(1) "Disciplinary action" includes but is not limited to any discrimination, dismissal, demotion, transfer, reassignment, supervisory reprimand, warning of possible dismissal or withholding of work, whether or not the action affects or will affect employee compensation.

(2) "Employee" means a person:

(a) Employed by or under contract with the state or any agency of or political subdivision in the state;

(b) Employed by or under contract with any person authorized to act on behalf of the state, or agency of the state or subdivision

in the state, with respect to control, management or supervision of any employee;

(c) Employed by the public corporation created under ORS 656.751;

(d) Employed by a contractor who performs services for the state, agency or subdivision, other than employees of a contractor under contract to construct a public improvement;

(e) Employed by or under contract with any person authorized by contract to act on behalf of the state, agency or subdivision;

(f) Employed by a nonprofit organization; or

(g) Serving as a member of a board of directors of a nonprofit organization who is not otherwise considered an employee.

(3) "Information" includes public and private records, documents and electronically stored data.

(4) "Knowledge" means actual knowledge.

(5) "Nonprofit organization" or "nonprofit" means an organization or group of organizations that:

(a) Receives public funds by way of grant or contract; and

(b) Is exempt from income tax under section 501(c)(3) of the Internal Revenue Code.

(6) "Public employer" means:

(a) The state or any agency of or political subdivision in the state;

(b) Any person authorized to act on behalf of the state, or any agency of or political subdivision in the state, with respect to control, management or supervision of any employee; or

(c) An employer who employs an employee described in subsection (2)(a) to (e) of this section.

(7) "School" means a common school district, a union high school district, an education service district, a public charter school, a private school providing instruction to any grade from kindergarten through grade 12 or a community college district.

(8) "School services" means any of the following services:

(a) Custodial or janitorial services;

(b) Nutrition services;

(c) Transportation services; or

(d) Any other education services that are customarily performed by school employees.

(9) "School services employee" means a person employed by a school services employer to provide school services to a school.

(10) "School services employer" means a private employer that enters into a contract with a school to provide school services to the school. [Formerly 659.505; 2014 c.78 §2; 2015 c.3 §49; 2016 c.73 §3; 2020 s.s.3 c.4 §4]

659A.203 Prohibited conduct by public or nonprofit employer; prohibited conduct by school services employer during public health emergency; remedies. (1) Subject to ORS 659A.206, except as provided in ORS 659A.200 to 659A.224, it is an unlawful employment practice for any public or nonprofit employer to:

(a) Prohibit any employee from discussing, either specifically or generally with any member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision in the state or any elected auditor of a city, county or metropolitan service district, the activities of:

(A) The state or any agency of or political subdivision in the state; or

(B) Any person authorized to act on behalf of the state or any agency of or political subdivision in the state.

(b) Prohibit any employee from disclosing, or take or threaten to take disciplinary action against an employee for the disclosure of any information that the employee reasonably believes is evidence of:

(A) A violation of any federal, state or local law, rule or regulation by the public or nonprofit employer;

(B) Mismanagement, gross waste of funds or abuse of authority or substantial and specific danger to public health and safety resulting from action of the public or nonprofit employer; or

(C) Subject to ORS 659A.212 (2), the fact that a person receiving services, benefits or assistance from the state or agency or subdivision, is subject to a felony or misdemeanor warrant for arrest issued by this state, any other state, the federal government, or any territory, commonwealth or governmental instrumentality of the United States.

(c) Require any employee to give notice prior to making any disclosure or engaging in discussion described in this section, except as allowed in ORS 659A.206 (1).

(d) Discourage, restrain, dissuade, coerce, prevent or otherwise interfere with disclosure or discussions described in this section.

(2) A public or nonprofit employer may not invoke or impose any disciplinary action against an employee for employee activity described in subsection (1) of this section or ORS 659A.212.

(3) It is an unlawful employment practice for any school services employer to invoke

or impose any disciplinary action against a school services employee for reporting or filing a complaint alleging a violation of any law, regulation or standard pertaining to the COVID-19 pandemic.

(4) The remedies provided by this section are in addition to any remedy provided to an employee under ORS 659A.199 or other remedy that may be available to an employee for the conduct alleged as a violation of this section.

(5) A violation of this section is a Class A misdemeanor. [Formerly 659.510; 2010 c.24 §1; 2016 c.73 §4; 2020 s.s.3 c.4 §5]

659A.206 Effects of ORS 659A.200 to 659A.224 on employees. ORS 659A.200 to 659A.224 are not intended to:

(1) Prohibit a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to official requests for information to the agency or subdivision or the substance of testimony made, or to be made, by the employee to legislators or members of the elected governing body of a political subdivision on behalf of the agency or subdivision;

(2) Permit an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and policies pertaining to leaves, unless the employee is requested by:

(a) A member of the Legislative Assembly or a legislative committee to appear before a legislative committee;

(b) A member of the elected governing body of a political subdivision to appear before the governing body of the political subdivision; or

(c) An elected auditor of a city, county or metropolitan service district to participate in an investigation or audit;

(3) Authorize an employee to represent the employee's personal opinions as the opinions of the agency or subdivision;

(4) Except as specified in ORS 659A.212 (2), authorize an employee to disclose information required to be kept confidential under state or federal law, rule or regulation;

(5) Restrict or preclude disciplinary action against an employee if the information disclosed by the employee is known by the employee to be false, if the employee discloses the information with reckless disregard for its truth or falsity, or if the information disclosed relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety; or

(6) Restrict or impair any judicial right of action an employee or an employer has under existing law. [Formerly 659.515; 2010 c.24 §2]

659A.209 Effect on public record disclosures. ORS 659A.200 to 659A.224 are not intended to:

(1) Allow disclosure of records exempt from disclosure except as provided in ORS 192.338, 192.345 and 192.355.

(2) Prevent public employers from prohibiting employee disclosure of information of an advisory nature to the extent that it covers other than purely factual materials and is preliminary to any final agency determination of policy or action. [Formerly 659.520]

659A.210 Affirmative defense. (1) An employee's good faith and objectively reasonable belief of a violation of federal, state or local law, rule or regulation by the employer shall be an affirmative defense to a civil or criminal charge related to the disclosure by the employee of lawfully accessed information related to the violation, including information that is exempt from disclosure as provided in ORS 192.338, 192.345 and 192.355 or by employer policy, if the information is provided to:

(a) A state or federal regulatory agency;

(b) A law enforcement agency;

(c) A manager employed by the public or nonprofit employer of the employee; or

(d) An attorney licensed to practice law in this state if a confidential communication is made in connection with the alleged violation described in this section and in furtherance of the rendition of professional legal services to the employee that are subject to ORS 40.225.

(2) An employee may not assert the affirmative defense described under subsection (1) of this section if the information described in subsection (1) of this section:

(a) Is disclosed or redisclosed by the employee or at the employee's direction to a party other than the parties listed in subsection (1) of this section;

(b) Is stated in a commercial exclusive negotiating agreement with a public or nonprofit employer, provided that the agreement is not related to the employee's employment with the employer; or

(c) Is stated in a commercial nondisclosure agreement with a public or nonprofit employer, provided that the agreement is not related to the employee's employment with the employer.

(3) The affirmative defense described in subsection (1) of this section is available to an employee who discloses information related to an alleged violation by a coworker or supervisor described in subsection (1) of

this section if the disclosure relates to the course and scope of employment of the coworker or supervisor.

(4) The affirmative defense described in subsection (1) of this section may not be asserted by an employee who is an attorney or by an employee who is not an attorney but who is employed, retained, supervised or directed by an attorney if the information disclosed pursuant to subsection (1) of this section is related to the representation of a client.

(5) This section and ORS 659A.203, including disclosures under subsection (1) of this section, are subject to the rules of professional conduct established pursuant to ORS 9.490.

(6) Public and nonprofit employers shall establish and implement a policy regarding employees who invoke their rights under this section or ORS 659A.203. The policy shall delineate all rights and remedies provided to employees under this section and ORS 659A.203. The employer shall deliver a written or electronic copy of the policy to each employee.

(7) Subject to the rules of professional conduct established pursuant to ORS 9.490, a public employee who is an attorney may report to the Attorney General the employee's knowledge of a violation of federal, state or local law, rule or regulation by the public employer.

(8) Disclosure of information pursuant to subsection (1) of this section does not waive attorney-client privilege or affect the applicability of any exemption from disclosure of a public record under ORS 192.338, 192.345 and 192.355.

(9) Notwithstanding subsection (1) of this section, information protected from disclosure under federal law, including but not limited to the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), may be disclosed only in accordance with federal law. [2016 c.73 §2]

659A.212 Policy on cooperation with law enforcement officials; duty to report person subject to warrant for arrest. (1) In order to protect the safety of the citizens of this state, it is the policy of this state that all public employers and their employees cooperate with law enforcement officials in the apprehension of persons subject to a felony or misdemeanor warrant for arrest.

(2) Notwithstanding any other law, when an employee reasonably believes that a person receiving services, benefits or assistance from the state or any agency or political subdivision in the state is subject to a felony or misdemeanor warrant for arrest issued by this state, any other state, the federal government, or any territory, commonwealth or governmental instrumentality of the United States, the employee shall promptly and without delay report to the employee's immediate supervisor or a person designated by the agency by rule to receive such report.

(3) The supervisor or person designated by the agency shall notify the Oregon State Police promptly and without delay of the information supplied by the employee.

(4) The notification required by subsections (2) and (3) of this section shall include disclosure of the name and address of the person, available information concerning the felony or misdemeanor warrant for arrest and other available identifying information.

(5) Information disclosed under this section shall only be used by law enforcement officials to verify the existence of a felony or misdemeanor warrant for arrest of the person and to apprehend the person if a felony or misdemeanor warrant for arrest exists. [Formerly 659.525]

659A.215 Remedies not exclusive. The remedies provided for violations of ORS 659A.203 and 659A.218 under this chapter are in addition to any appeal proceeding available under ORS 240.560 for a state employee or under any comparable provisions for employees of political subdivisions. [Formerly 659.530]

659A.218 Disclosure of employee's name without consent prohibited. (1) The identity of the employee who discloses any of the following shall not be disclosed by a public employer without the written consent of the employee during any investigation of the information provided by the employee, relating to:

(a) Matters described in ORS 659A.203 (1)(b).

(b) Reports required by ORS 659A.212 (2).

(2) Violation of this section is an unlawful employment practice. [Formerly 659.535]

659A.219 Uniform standards and procedures manual for implementation of Whistleblower Law; requirements. (1) The Bureau of Labor and Industries shall adopt a uniform standards and procedures manual that provides guidelines for implementing ORS 659A.200 to 659A.224.

(2) The bureau shall make the manual available to the public on the bureau's website.

(3) The manual must include, but need not be limited to, the following information:

(a) Proper procedures for disclosing information under ORS 659A.200 to 659A.224;

(b) The rights and remedies provided to an employee who discloses information under ORS 659A.200 to 659A.224; and

(c) The implementation of statutes and rules relating to protected activity under ORS 659A.200 to 659A.224 as interpreted by the case law of this state.

(4) The bureau shall review the manual on a periodic basis and make updates as necessary to reflect recent changes in rule or law, including case law, regarding disclosures of information under ORS 659A.200 to 659A.224. [2018 c.83 §3]

659A.220 Bureau of Labor and Industries to collect and compile information relating to disclosures; report to legislature. (1) The Bureau of Labor and Industries, in consultation and cooperation with the agencies described in subsection (2) of this section, shall collect and compile information and data relating to disclosures of information made under ORS 659A.200 to 659A.224. The information and data shall include:

(a) The total number of disclosures made by an employee to a public employer pursuant to ORS 659A.221 of matters described in ORS 659A.203 (1)(b); and

(b) The total number of all reports of violations of ORS 659A.203 or 659A.218.

(2) Subsection (1) of this section applies to the following agencies:

(a) The Oregon Health Authority;

(b) The Department of Transportation;

(c) The Department of Human Services; and

(d) The Department of Environmental Quality.

(3) No later than January 1 of each odd-numbered year, the bureau shall submit to the Governor, and, in the manner provided in ORS 192.245, to an appropriate committee or interim committee of the Legislative Assembly, a written report that includes the information and data described in subsection (1) of this section. [2018 c.83 §4]

659A.221 Uniform application to all public employers; optional procedure for disclosures; rules. (1) The Bureau of Labor and Industries by rule shall ensure that the requirements of ORS 659A.200 to 659A.224 are applied uniformly to all public employers. Each public employer may adopt rules, consistent with Bureau of Labor and Industries rules, that apply to that public employer and that also implement ORS 659A.200 to 659A.224.

(2) A public employer may establish by rule an optional procedure whereby an employee who wishes to disclose information described in ORS 659A.203 (1)(b) may disclose information first to the supervisor, or if the supervisor is involved, to the supervisor next higher, but the employer must protect the employee against retaliatory or disciplinary action by any supervisor for such disclosure. [Formerly 659.540]

659A.224 Short title. ORS 659A.200 to 659A.224 shall be known as the Whistleblower Law. [Formerly 659.545]

(Reports of Violations of Election Laws)

659A.228 Discrimination for reporting violation of election laws prohibited. (1) In addition to the conduct prohibited in ORS 659A.199, it is an unlawful employment practice for a person to discriminate or retaliate against another person with respect to hire or tenure, compensation or other terms, conditions or privileges of employment for the reason that the person has in good faith reported information that the person believes is evidence of a violation of a state or federal election law, rule or regulation.

(2) This section applies only to a person who pays money or offers other valuable consideration for obtaining signatures of electors on a state initiative, referendum or recall petition or on a prospective petition for a state measure to be initiated. [2013 c.519 §7]

(Initiating or Aiding Administrative, Criminal or Civil Proceeding)

659A.230 Discrimination for initiating or aiding in criminal or civil proceedings prohibited; remedies not exclusive. (1) It is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported criminal activity by any person, has in good faith caused a complainant's information or complaint to be filed against any person, has in good faith cooperated with any law enforcement agency conducting a criminal investigation, has in good faith brought a civil proceeding against an employer or has testified in good faith at a civil proceeding or criminal trial.

(2) For the purposes of this section, "complainant's information" and "complaint" have the meanings given those terms in ORS 131.005.

(3) The remedies provided by this chapter are in addition to any common law remedy or other remedy that may be available to an employee for the conduct constituting a violation of this section. [Formerly 659.550]

659A.233 Discrimination for reporting certain violations or testifying at unemployment compensation hearing prohibited. It is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment for the reason that the employee has in good faith reported possible violations of ORS chapter 441 or of ORS 443.400 to 443.455 or has testified in good faith at an unemployment compensation hearing or other hearing conducted pursuant to ORS chapter 657. [Formerly 659.035]

(Legislative Testimony)

659A.236 Discrimination for testifying before Legislative Assembly, committee or task force prohibited. It is an unlawful employment practice for an employer to discharge, demote, suspend or in any manner discriminate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment solely for the reason that the employee has testified before the Legislative Assembly or any of its interim or statutory committees, including advisory committees and subcommittees thereof, or task forces. [Formerly 659.270]

UNLAWFUL EMPLOYMENT DISCRIMINATION RELATING TO EMPLOYEE HOUSING

659A.250 Definitions for ORS 659A.250 to 659A.262. (1) For purposes of ORS 659A.250 to 659A.262, "access" means ingress to and egress from residential areas which are concentrated in a central location. It shall not include:

(a) The right to enter the individual residences of employees unless a resident of the household consents to the entry;

(b) The right to use any services provided by the employer for the exclusive use of the employees;

(c) The right to enter single residences shared by employees and employers where a separate entrance to the employee's quarter is not provided; or

(d) The right to enter work areas.

(2) "Authorized person" means government officials, physicians, certified education providers, local health officials, representatives of religious organizations and any other providers of services for farmworkers funded in whole or part by state, federal or local government.

(3) "Housing" means living quarters owned, rented or in any manner controlled by an employer and occupied by the employee.

(4) "Invited person" means persons invited to a dwelling unit by an employee or a member of the employee's family residing with the employee. [Formerly 659.280; 2015 c.736 §108; 2017 c.409 §20]

659A.253 Restriction of access to employee housing owned or controlled by employer prohibited; telephone accessibility. (1) Employers shall not restrict access by authorized persons or invited persons to any housing owned, rented or in any manner controlled by the employer where employees are residing. Authorized persons or invited persons must announce their presence on the premises upon request. Authorized persons shall, upon request, provide credentials identifying the person as representing a qualifying agency or organization.

(2)(a) A person need not disclose to the employer the name of the employee who issued the invitation prior to gaining access to the housing, but an invited person must do so in order to assert a right to access as an invited person in any judicial proceeding concerning the right to access provided in this section. If an invited person does not disclose the name of the inviter to the employer, the employer may deny access until the invited person obtains an order pursuant to ORS 659A.262.

(b) Invited persons shall not be allowed to enter work areas or to interfere with any employee's work or performance of duties on behalf of the employer.

(3)(a) The employer shall ensure to the employees residing in housing owned or controlled by an employer and occupied by employees the availability of:

(A) A reasonably accessible operating telephone, whether pay or private, available 24 hours a day for emergency use; and

(B) An operating telephone, whether pay or private, located within two miles of the housing, accessible and available so as to provide reasonable opportunity for private use by employees.

(b) An employer may request a waiver from the requirements of paragraph (a) of this subsection if the employer demonstrates to the bureau that:

(A) Compliance would constitute an unreasonable hardship for the employer; and

(B) The camp meets any requirements established by the Department of Consumer and Business Services for an emergency medical plan.

(4) A complaint may not be filed under ORS 659A.820 for violations of this section. [Formerly 659.285]

659A.256 Regulations by employers concerning use and occupancy of employee housing; requirements; notice. Employers may adopt reasonable rules and regulations concerning the use and occupancy of such housing including hours of access which must be posted in a conspicuous place at least three days prior to enforcement. Such rules shall be enforceable as to employees, invited persons and those authorized persons who are not governmental officials or who are not visiting the camp for emergency purposes only if:

(1) Their purpose is to promote the safety or welfare of the employees and authorized persons allowed access;

(2) They preserve the employer's property from abusive use;

(3) They are reasonably related to the purpose for which they are adopted;

(4) They apply to all employees on the premises in a fair manner; and

(5) They are sufficiently explicit in the prohibition, direction or limitation of the employee's conduct to fairly inform the employees of what must be done to comply. [Formerly 659.290]

659A.259 Eviction from employee housing or discrimination against employee for reporting violations of ORS 659A.250 to 659A.262 prohibited; enforcement. (1) It is an unlawful employment practice for an employer to expel or evict from housing referred to in ORS 659A.250 to 659A.262 or to discharge, demote, suspend from employment or in any other manner discriminate or retaliate against an employee or any member of the employee's household for the reason that the employee or any member of the employee's household has:

(a) Reported or complained concerning possible violations of ORS 659A.250 to 659A.262; or

(b) Conferred with or invited to residential areas, any authorized person or invited person.

(2) An employee or any member of the employee's household may file a complaint under ORS 659A.820 for violations of this section and may bring a civil action under ORS 659A.885 and recover the relief as provided by ORS 659A.885 (1) and (3). [Formerly 659.295]

659A.262 Warrant on behalf of person entitled to access to housing; vacation of warrant; rules. (1) In the event that any person claiming to be an authorized or invited person is denied access to housing, the person may apply to any magistrate having jurisdiction to issue warrants, for an order authorizing the person to gain access to the housing.

(2) The application pursuant to this section shall be sworn and shall include allegations of the facts and circumstances under which the person alleges that the person is entitled to access under ORS 659A.250 to 659A.262.

(3) If, on ex parte review of the application, it appears from the sworn allegations of the application that the person is entitled to access to the housing, the magistrate shall promptly issue an order restraining the owner of the housing from interfering with the access of the applicant to the housing.

(4) No fee, bond or undertaking shall be required in connection with proceedings under this section.

(5) On sufficient cause, the magistrate may enter further orders for the protection of residents of the housing, including the temporary sealing of the application, or portions thereof.

(6) Any person subject to an order referred to in subsections (1) to (5) of this section may request that the order be vacated or modified by filing a written motion with the court which issued the order.

(7) Upon receipt of a motion to modify or vacate the order, the court shall schedule a hearing.

(8) If after the hearing, the court determines that the applicant is not entitled to access, the court shall vacate or modify the order.

(9) The Bureau of Labor and Industries may adopt rules to carry out the provisions of ORS 659A.250 to 659A.262. [Formerly 659.297]

PROTECTIONS BECAUSE OF DOMESTIC VIOLENCE, HARASSMENT, SEXUAL ASSAULT, BIAS OR STALKING

(Leave)

659A.270 Definitions for ORS 659A.270 to 659A.285. As used in ORS 659A.270 to 659A.285:

(1) "Covered employer" means an employer who employs six or more individuals in the State of Oregon for each working day during each of 20 or more calendar workweeks in the year in which an eligible employee takes leave to address domestic violence, harassment, sexual assault, bias or stalking, or in the year immediately preceding the year in which an eligible employee takes leave to address domestic violence, harassment, sexual assault, bias or stalking.

(2) "Eligible employee" means an employee who is a victim of domestic violence,

harassment, sexual assault, bias or stalking or is the parent or guardian of a minor child or dependent who is a victim of domestic violence, harassment, sexual assault, bias or stalking.

(3) "Protective order" means an order authorized by ORS 30.866, 107.095 (1)(c), 107.700 to 107.735, 124.005 to 124.040, 163.730 to 163.750 or 163.760 to 163.777 or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent.

(4) "Victim of bias" means:

(a) An individual who has been a victim of a bias crime as defined in ORS 147.380; or

(b) Any other individual designated as a victim of bias by rule adopted under ORS 659A.805.

(5) "Victim of domestic violence" means:

(a) An individual who has been a victim of abuse, as defined in ORS 107.705; or

(b) Any other individual designated as a victim of domestic violence by rule adopted under ORS 659A.805.

(6) "Victim of harassment" means:

(a) An individual against whom harassment has been committed as described in ORS 166.065.

(b) Any other individual designated as a victim of harassment by rule adopted under ORS 659A.805.

(7) "Victim of sexual assault" means:

(a) An individual against whom a sexual offense has been committed as described in ORS 163.305 to 163.467, 163.472 or 163.525; or

(b) Any other individual designated as a victim of sexual assault by rule adopted under ORS 659A.805.

(8) "Victim of stalking" means:

(a) An individual against whom stalking has been committed as described in ORS 163.732;

(b) An individual designated as a victim of stalking by rule adopted under ORS 659A.805; or

(c) An individual who has obtained a court's stalking protective order or a temporary court's stalking protective order under ORS 30.866.

(9) "Victim services provider" means a prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault, bias or stalking. [2007 c.180 §2; 2011 c.687 §1; 2013 c.321 §3; 2013 c.687 §17; 2019 c.304 §4; 2023 c.549 §11]

659A.272 Employer required to provide leave. Except as provided in ORS 659A.275, a covered employer shall allow an eligible employee to take reasonable leave from employment for any of the following purposes:

(1) To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault, bias or stalking.

(2) To seek medical treatment for or to recover from injuries caused by domestic violence or sexual assault to, harassment or stalking of or the commission of a bias crime against the eligible employee or the employee's minor child or dependent.

(3) To obtain, or to assist a minor child or dependent in obtaining, counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault, bias or stalking.

(4) To obtain services from a victim services provider for the eligible employee or the employee's minor child or dependent.

(5) To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the employee's minor child or dependent. [2007 c.180 §3; 2011 c.687 §2; 2023 c.549 §12]

659A.275 Undue hardship. (1) As used in this section, "undue hardship" means a significant difficulty and expense to a covered employer's business and includes consideration of the size of the employer's business and the employer's critical need for the eligible employee.

(2) A covered employer may limit the amount of leave an eligible employee takes under ORS 659A.272 if the employee's leave creates an undue hardship on the employer's business. [2007 c.180 §4]

659A.277 Denying leave to employee prohibited. It is an unlawful employment practice for a covered employer to deny leave to an eligible employee or to discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment because the employee takes leave as provided in ORS 659A.272. [2007 c.180 §5]

659A.279 Required posting of summaries of statutes and rules. Every covered employer shall keep summaries of ORS 659A.270 to 659A.285 and summaries of all rules promulgated by the Commissioner of the Bureau of Labor and Industries for the enforcement of ORS 659A.270 to 659A.285

posted in a conspicuous and accessible place in or about the premises where the employees of the covered employer are employed. Employers may obtain the summaries from the website of the Bureau of Labor and Industries or upon request from the bureau, the first copy of which shall be furnished without charge. In addition, upon request, the bureau shall furnish the complete text of all rules promulgated pursuant to ORS 659A.270 to 659A.285 to any employer without charge. [2013 c.321 §2]

659A.280 Notice to employer; records confidential. (1) An eligible employee shall give the covered employer reasonable advance notice of the employee's intention to take leave for the purposes identified in ORS 659A.272, unless giving the advance notice is not feasible.

(2) The covered employer may require the eligible employee to provide certification that:

(a) The employee or the employee's minor child or dependent is a victim of domestic violence, harassment, sexual assault, bias or stalking; and

(b) The leave taken is for one of the purposes identified in ORS 659A.272.

(3) The eligible employee shall provide the certification within a reasonable time after receiving the covered employer's request for the certification.

(4) Any of the following constitutes sufficient certification:

(a) A copy of a police report indicating that the eligible employee or the employee's minor child or dependent was a victim of domestic violence, harassment, sexual assault, bias or stalking.

(b) A copy of a protective order or other evidence from a court, administrative agency or attorney that the eligible employee appeared in or was preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault, bias or stalking.

(c) Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy, employee of the Department of Justice division providing victim and survivor services or victim services provider that the eligible employee or the employee's minor child or dependent was undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault, bias or stalking.

(5) All records and information kept by a covered employer regarding an eligible employee's leave under ORS 659A.270 to 659A.285, including the fact that the employee has requested or obtained leave under ORS 659A.272, are confidential and may not be released without the express permission of the employee, unless otherwise required by law. [2007 c.180 §6; 2011 c.687 §3; 2023 c.549 §13]

659A.283 Paid leave for public employees. (1) As used in this section, "public employer" means the State of Oregon.

(2)(a) Notwithstanding ORS 659A.285, an eligible employee of the public employer who is a victim of domestic violence, a victim of harassment, a victim of sexual assault, a victim of bias or a victim of stalking shall be granted leave with pay from employment for the purposes specified in ORS 659A.272.

(b) Leave with pay authorized by this section is in addition to any vacation, sick, personal business or other form of paid or unpaid leave available to the eligible employee. However, an eligible employee must exhaust all other forms of paid leave before the employee may use the paid leave established under this section.

(c) An eligible employee may take up to 160 hours of leave with pay authorized by this section in each calendar year.

(3) If the public employer has knowledge, or reasonably should have knowledge, that an employee is a victim of domestic violence, a victim of harassment, a victim of sexual assault, a victim of bias or a victim of stalking and that any direct or indirect communication to the eligible employee related to the victimization of the employee is made or attempted to be made in the workplace, the public employer of the employee shall immediately inform the employee and offer to report the communication to law enforcement.

(4) The public employer shall annually inform all employees of the provisions of ORS 659A.290. [2013 c.613 §2; 2023 c.549 §14]

659A.285 Use of paid leave. (1) Except as provided in subsections (2) and (3) of this section, and unless otherwise provided by the terms of an agreement between the eligible employee and the covered employer, a collective bargaining agreement or an employer policy, a covered employer is not required to grant leave with pay to an eligible employee under ORS 659A.272.

(2) An eligible employee who takes leave pursuant to ORS 659A.272 may use any paid accrued vacation leave, any accrued sick leave or personal business leave, or any other paid leave that is offered by the covered employer in lieu of vacation leave during the period of leave.

(3) Subject to the terms of any agreement between the eligible employee and the covered employer or the terms of a collective

bargaining agreement or an employer policy, the covered employer may determine the order in which paid accrued leave is to be used when more than one type of paid accrued leave is available to the employee. [2007 c.180 §7; 2015 c.352 §1]

(Prohibited Conduct)

659A.290 Prohibited conduct by employer; records confidential. (1) As used in this section:

(a) "Reasonable safety accommodation" may include, but is not limited to, a transfer, reassignment, modified schedule, use of available paid leave from employment, unpaid leave from employment, changed work telephone number, changed work station, installed lock, implemented safety procedure or any other adjustment to a job structure, workplace facility or work requirement in response to actual or threatened domestic violence, harassment, sexual assault or stalking.

(b) "Victim of bias" has the meaning given that term in ORS 659A.270.

(c) "Victim of domestic violence" has the meaning given that term in ORS 659A.270.

(d) "Victim of harassment" has the meaning given that term in ORS 659A.270.

(e) "Victim of sexual assault" has the meaning given that term in ORS 659A.270.

(f) "Victim of stalking" has the meaning given that term in ORS 659A.270.

(2) It is an unlawful employment practice for an employer to:

(a) Refuse to hire an otherwise qualified individual because the individual is a victim of domestic violence, harassment, sexual assault, bias or stalking.

(b) Discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an individual with regard to promotion, compensation or other terms, conditions or privileges of employment because the individual is a victim of domestic violence, harassment, sexual assault, bias or stalking.

(c) Refuse to make a reasonable safety accommodation requested by an individual who is a victim of domestic violence, harassment, sexual assault, bias or stalking, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the employer, as determined under ORS 659A.121.

(3)(a) Prior to making a reasonable safety accommodation, an employer may require an individual to provide certification that the individual is a victim of domestic violence, harassment, sexual assault, bias or stalking.

(b) An individual must provide a certification required under paragraph (a) of this subsection within a reasonable time after receiving the employer's request for certification.

(c) Any of the following constitutes sufficient certification:

(A) A copy of a police report indicating that the individual was or is a victim of domestic violence, harassment, sexual assault, bias or stalking.

(B) A copy of a protective order or other evidence from a court, administrative agency or attorney that the individual appeared in or is preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault, bias or stalking.

(C) Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy, employee of the Department of Justice division providing victim and survivor services or victim services provider that the individual was or is undergoing treatment or counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault, bias or stalking.

(d) All records and information kept by an employer regarding a reasonable safety accommodation made for an individual are confidential and may not be released without the express permission of the individual, unless otherwise required by law. [2009 c.478 §2; 2011 c.687 §4; 2013 c.613 §3; 2023 c.549 §15]

MISCELLANEOUS UNLAWFUL EMPLOYMENT DISCRIMINATION

(Prohibited Testing)

659A.300 Requiring breathalyzer, polygraph, psychological stress or brain-wave test or genetic test prohibited; exceptions. (1) Except as provided in this section, it is an unlawful employment practice for any employer to subject, directly or indirectly, any employee or prospective employee to any breathalyzer test, polygraph examination, psychological stress test, genetic test or brain-wave test.

(2) As used in this section:

(a) "Breathalyzer test" means a test to detect the presence of alcohol in the body through the use of instrumentation or mechanical devices.

(b) "Genetic test" has the meaning given in ORS 192.531.

(c) "Polygraph examination or psychological stress test" means a test to detect deception or to verify the truth of statements

through the use of instrumentation or mechanical devices.

(d) An individual is "under the influence of intoxicating liquor" when the individual's blood alcohol content exceeds the amount prescribed in a collective bargaining agreement or the amount prescribed in the employer's work rules if there is no applicable collective bargaining provision.

(3) Nothing in subsection (1) of this section shall be construed to prohibit the administration of a polygraph examination to an individual, if the individual consents to the examination, during the course of criminal or civil judicial proceedings in which the individual is a party or witness or during the course of a criminal investigation conducted by a law enforcement agency, as defined in ORS 181A.010, a district attorney or the Attorney General.

(4) Nothing in subsection (1) of this section shall be construed to prohibit the administration of a breathalyzer test to an individual if the individual consents to the test. If the employer has reasonable grounds to believe that the individual is under the influence of intoxicating liquor, the employer may require, as a condition for employment or continuation of employment, the administration of a blood alcohol content test by a third party or a breathalyzer test. The employer shall not require the employee to pay the cost of administering any such test.

(5) Subsection (1) of this section does not prohibit the administration of a genetic test to an individual if the individual or the individual's representative grants informed consent in the manner provided by ORS 192.535, and the genetic test is administered solely to determine a bona fide occupational qualification. [Formerly 659.227]

659A.303 Employer prohibited from obtaining, seeking to obtain or using genetic information. (1) It is an unlawful employment practice for an employer to seek to obtain, to obtain or to use genetic information of an employee or a prospective employee, or of a blood relative of the employee or prospective employee, to distinguish between or discriminate against or restrict any right or benefit otherwise due or available to an employee or a prospective employee.

(2) For purposes of this section, "blood relative," "genetic information" and "obtain genetic information" have the meanings given those terms in ORS 192.531. [Formerly 659.036; 2011 c.210 §4]

659A.306 Requiring employee to pay for medical examination as condition of continued employment prohibited; exceptions. (1) It is an unlawful employment practice for any employer to require an employee, as a condition of continuation of employment, to pay the cost of any medical examination or the cost of furnishing any health certificate.

(2) Notwithstanding subsection (1) of this section, it is not an unlawful employment practice for an employer to require the payment of medical examination or health certificate costs:

(a) From health and welfare fringe benefit moneys contributed entirely by the employer; or

(b) By the employee if the medical examination or health certificate is required pursuant to a collective bargaining agreement, state or federal statute or city or county ordinance. [Formerly 659.330]

(Miscellaneous Provisions)

659A.309 Discrimination solely because of employment of another family member prohibited; exceptions. (1) Except as provided in subsection (2) of this section, it is an unlawful employment practice for an employer solely because another member of an individual's family works or has worked for that employer to:

(a) Refuse to hire or employ an individual;

(b) Bar or discharge from employment an individual; or

(c) Discriminate against an individual in compensation or in terms, conditions or privileges of employment.

(2) An employer is not required to hire or employ and is not prohibited from barring or discharging an individual if such action:

(a) Would constitute a violation of any law of this state or of the United States, or any rule promulgated pursuant thereto, with which the employer is required to comply;

(b) Would constitute a violation of the conditions of eligibility for receipt by the employer of financial assistance from the government of this state or the United States;

(c) Would place the individual in a position of exercising supervisory, appointment or grievance adjustment authority over a member of the individual's family or in a position of being subject to such authority which a member of the individual's family exercises; or

(d) Would cause the employer to disregard a bona fide occupational requirement reasonably necessary to the normal operation of the employer's business.

(3) As used in this section, "member of an individual's family" means the spouse in a marriage, son, daughter, parent, brother,

brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, parent-in-law, aunt, uncle, niece, nephew, stepparent or stepchild of the individual. [Formerly 659.340; 2015 c.629 §56]

659A.312 Leave of absence to donate bone marrow; verification by employer. (1) It is an unlawful employment practice for an employer to deny to grant already accrued paid leaves of absence to an employee who seeks to undergo a medical procedure to donate bone marrow. The total length of the leaves shall be determined by the employee, but shall not exceed the amount of already accrued paid leave or 40 work hours, whichever is less, unless agreed to by the employer.

(2) The employer may require verification by a physician or naturopathic physician of the purpose and length of each leave requested by the employee to donate bone marrow. If there is a medical determination that the employee does not qualify as a bone marrow donor, the paid leave of absence used by the employee prior to that medical determination is not affected.

(3) An employer shall not retaliate against an employee for requesting or using accrued paid leave of absence as provided by this section.

(4) This section does not:

(a) Prevent an employer from providing leave for bone marrow donations in addition to leave required under this section.

(b) Affect an employee's rights with respect to any other employment benefit.

(5) This section applies only to employees who work an average of 20 or more hours per week. [Formerly 659.358; 2017 c.356 §82]

659A.314 Discrimination for service as appointed member of state board or commission; requiring employee to use accrued leave prohibited; remedy for violation. (1) As used in this section, "state board or commission" means a state board or commission referred to in ORS 292.495.

(2) It is an unlawful employment practice if an employer discharges, threatens to discharge, intimidates or coerces any employee by reason of the employee's service or scheduled service as an appointed member of a state board or commission.

(3) Subject to subsection (4) of this section, an employer may not require that an employee use vacation leave, sick leave or annual leave for time spent by the employee in service as an appointed member of a state board or commission, and the employer shall allow the employee to take leave without pay for time spent by the employee in service as an appointed member of the state board or commission.

(4) The protections provided under subsection (3) of this section apply to an employee who has provided the employer with at least 21 days' advance notice of any time the employee needs to spend in service as an appointed member of a state board or commission.

(5) This section may not be construed to alter or affect an employer's policies or agreements with employees concerning employees' wages during times when an employee serves or is scheduled to serve as an appointed member of a state board or commission.

(6) An employee who alleges a violation of this section may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820. [2023 c.331 §2]

659A.315 Restricting use of tobacco in nonworking hours prohibited; exceptions. (1) It is an unlawful employment practice for any employer to require, as a condition of employment, that any employee or prospective employee refrain from using lawful tobacco products during nonworking hours, except when the restriction relates to a bona fide occupational requirement.

(2) Subsection (1) of this section does not apply if an applicable collective bargaining agreement prohibits off-duty use of tobacco products. [Formerly 659.380; 2005 c.199 §3]

659A.318 Discrimination relating to academic degree in theology or religious occupations prohibited. (1) If an employer requires an applicant or employee to have an academic degree from a post-secondary institution to qualify for a position, but does not require a degree with a specific title, it is an unlawful employment practice for the employer to refuse to hire or promote or in any manner discriminate or retaliate against the applicant or employee only because the applicant or employee meets the educational requirements for the position by having a degree leading to occupations in theology or religious occupations from a school that, when the degree was issued, was a school:

(a) That, on July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Access Commission and that offered only degrees leading to occupations in theology or religious occupations; or

(b) Exempt from ORS 348.594 to 348.615 under ORS 348.604.

(2) If an employer other than a public body, as defined in ORS 192.311, offers employees benefits of tuition reimbursement, educational debt reduction, educational incentive or educational contribution or gift match for educational services provided by a

post-secondary institution and the employer does not restrict the program to specific institutions or degrees with specific titles, it is an unlawful employment practice for the employer to refuse to offer the benefit to or in any manner discriminate or retaliate against an employee because the employee attends or seeks to attend a school that is:

(a) A school that, on July 14, 2005, met the criteria and followed procedures to obtain a religious exemption adopted by rule by the Oregon Student Access Commission and that offered only degrees leading to occupations in theology or religious occupations; or

(b) Exempt from ORS 348.594 to 348.615 under ORS 348.604. [2001 c.621 §93; 2005 c.546 §11; 2011 c.353 §5; 2023 c.557 §14]

659A.320 Discrimination based on information in credit history prohibited; exceptions; remedies for violation. (1) Except as provided in subsection (2) of this section, it is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.

(2) Subsection (1) of this section does not apply to:

(a) Employers that are federally insured banks or credit unions;

(b) Employers that are required by state or federal law to use individual credit history for employment purposes;

(c) The application for employment or the employment of a public safety officer who will be or who is:

(A) A member of a law enforcement unit;

(B) Employed as a peace officer commissioned by a city, port, school district, mass transit district, county, university under ORS 352.121 or 353.125, Indian reservation, the Superintendent of State Police under ORS 181A.340, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or employed as a regulatory specialist by the Oregon Liquor and Cannabis Commission; and

(C) Responsible for enforcing the criminal laws of this state or laws or ordinances related to airport security; or

(d) The obtainment or use by an employer of information in the credit history of an applicant or employee because the information is substantially job-related and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.

(3) An employee or an applicant for employment may file a complaint under ORS 659A.820 for violations of this section and may bring a civil action under ORS 659A.885 and recover the relief as provided by ORS 659A.885 (1) and (2).

(4) As used in this section, "credit history" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing or credit capacity. [2010 c.102 §2; 2011 c.210 §6; 2011 c.506 §54; 2012 c.54 §25; 2012 c.67 §16; 2013 c.180 §49; 2015 c.614 §165; 2021 c.351 §293]

659A.321 Seniority systems and benefit plans not unlawful employment practices. It is not an unlawful employment practice for an employer, employment agency or labor organization to observe the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this chapter. However, except as otherwise provided by law, no such employee benefit plan shall excuse the failure to hire any individual and no such seniority system or employee benefit plan shall require the involuntary retirement of any individual 18 years of age or older because of the age of such individual. [Formerly 659.028]

659A.330 Employee social media account privacy; exception. (1) It is an unlawful employment practice for an employer to:

(a) Require or request an employee or an applicant for employment to establish or maintain a personal social media account, or to disclose or to provide access through the employee's or applicant's user name and password, password or other means of authentication that provides access to a personal social media account;

(b) Require an employee or an applicant for employment to authorize the employer to advertise on the personal social media account of the employee or applicant;

(c) Compel an employee or applicant for employment to add the employer or an employment agency to the employee's or applicant's list of contacts associated with a social media website;

(d) Except as provided in subsection (4)(b) of this section, compel an employee or applicant for employment to access a personal social media account in the presence of the employer and in a manner that enables the employer to view the contents of the personal social media account that are visible

only when the personal social media account is accessed by the account holder's user name and password, password or other means of authentication;

(e) Take, or threaten to take, any action to discharge, discipline or otherwise penalize an employee for the employee's refusal to:

(A) Establish or maintain a personal social media account;

(B) Disclose, or provide access through, the employee's user name and password, password or other means of authentication that is associated with a personal social media account;

(C) Add the employer to the employee's list of contacts associated with a social media website; or

(D) Access a personal social media account as described in paragraph (d) of this subsection; or

(f) Fail or refuse to hire an applicant for employment because the applicant refused to:

(A) Establish or maintain a personal social media account;

(B) Disclose, or provide access through, the applicant's user name and password, password or other means of authentication that is associated with a personal social media account;

(C) Add the employer to the applicant's list of contacts associated with a social media website; or

(D) Access a personal social media account as described in paragraph (d) of this subsection.

(2) An employer may require an employee to disclose any user name and password, password or other means for accessing an account provided by, or on behalf of, the employer or to be used on behalf of the employer.

(3) An employer may not be held liable for the failure to request or require an employee or applicant to disclose the information specified in subsection (1)(a) of this section.

(4) Nothing in this section prevents an employer from:

(a) Conducting an investigation, without requiring an employee to provide a user name and password, password or other means of authentication that provides access to a personal social media account of the employee, for the purpose of ensuring compliance with applicable laws, regulatory requirements or prohibitions against work-related employee misconduct based on receipt by the employer of specific information about activity of the employee on a personal online account or service.

(b) Conducting an investigation permitted under this subsection that requires an employee, without providing a user name and password, password or other means of authentication that provides access to a personal social media account of the employee, to share content that has been reported to the employer that is necessary for the employer to make a factual determination about the matter.

(c) Complying with state and federal laws, rules and regulations and the rules of self-regulatory organizations.

(5) Nothing in this section prohibits an employer from accessing information available to the public about the employee or applicant that is accessible through an online account.

(6) If an employer inadvertently receives the user name and password, password or other means of authentication that provides access to a personal social media account of an employee through the use of an electronic device or program that monitors usage of the employer's network or employer-provided devices, the employer is not liable for having the information but may not use the information to access the personal social media account of the employee.

(7) This section does not apply to an employer that is a law enforcement unit as defined in ORS 181A.355.

(8) As used in this section:

(a) "Personal social media account" means a social media account that is used by an employee or applicant for employment exclusively for personal purposes unrelated to any business purpose of the employer or prospective employer and that is not provided by or paid for by the employer or prospective employer.

(b) "Social media" means an electronic medium that allows users to create, share and view user-generated content, including, but not limited to, uploading or downloading videos, still photographs, blogs, video blogs, podcasts, instant messages, electronic mail or Internet website profiles or locations. [2013 c.204 §2; 2015 c.229 §1; 2021 c.299 §6]

659A.340 Interfering with employee's good faith disclosure of information concerning unlawful conduct or certain violations prohibited; remedy. (1) As used in this section, "employer" means:

(a) An adjudicated youth foster home as defined in ORS 420.888;

(b) An adult foster home as defined in ORS 443.705;

(c) A child care provider as defined in ORS 329A.700;

(d) A child-caring agency as defined in ORS 418.205;

(e) A child-caring facility as defined in ORS 418.950;

(f) Community-based structured housing as defined in ORS 443.480;

(g) A facility as defined in ORS 430.735;

(h) A foster home as defined in ORS 418.625;

(i) A long term care facility as defined in ORS 442.015;

(j) A residential facility as defined in ORS 443.400;

(k) A youth care center as defined in ORS 420.855; or

(L) Any other entity that is licensed, certified or registered by a public body, as defined in ORS 174.109, to provide care to children, youth, individuals with disabilities or older adults.

(2) It is an unlawful employment practice under ORS chapter 659A for an employer to violate ORS 329A.348, 418.256, 418.644, 420.872, 420.891, 441.046, 443.453 or 443.766 or to interfere with an employee's good faith disclosure of information concerning the abuse or mistreatment of an individual cared for by the employer, violations of licensing or certification requirements, criminal activity occurring at the workplace, violations of state or federal laws or any practice that threatens the health and safety of the individual cared for by the employer to regulatory agencies, law enforcement authorities or persons who are acting on behalf of the individual.

(3) An employee or a volunteer may file a civil action under ORS 659A.885, alleging violation of this section. [2019 c.381 §21; 2021 c.489 §158]

Note: 659A.340 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659A.343 Discrimination based on individual's presentation of identification other than Real ID prohibited; remedies. (1) As used in this section, "Real ID" has the meaning given that term in ORS 807.450.

(2) A person may not discriminate against an individual because the individual holds or presents a form of government issued identification other than a Real ID.

(3) An individual claiming to be aggrieved by a violation of subsection (2) of this section may bring a civil action under ORS 659A.885 and recover the relief as provided by ORS 659A.885 (1) and (3). [2019 c.701 §11]

659A.347 Discrimination related to possession of valid driver license. (1) It is an unlawful employment practice for an employer to:

(a) Require, as a condition for employment or continuation of employment, an employee or prospective employee to possess or present a valid driver license unless the ability to legally drive is an essential function of the job or is related to a legitimate business purpose.

(b) Refuse to accept from an employee or prospective employee, as an alternative to a driver license, any other identification documents that are deemed acceptable for the purpose of forms prescribed by the United States Citizenship and Immigration Services that are used for verifying the identity and employment authorization of individuals hired for employment in the United States.

(2)(a) Nothing in subsection (1) of this section shall be construed to prohibit an employer from accepting a driver license as identification if voluntarily offered by an employee or prospective employee.

(b) An employer's acceptance of a driver license if voluntarily offered by an employee or prospective employee may not be used as evidence of a violation of subsection (1) of this section. [2021 c.279 §2]

659A.350 Interns. (1) An intern is considered to be in an employment relationship with an employer for the purposes of the employee protections provided under ORS 659A.030, 659A.082, 659A.109, 659A.112, 659A.136, 659A.142, 659A.199, 659A.230, 659A.233, 659A.236, 659A.290, 659A.300, 659A.303, 659A.306 and 659A.315.

(2) Nothing in subsection (1) of this section creates an employment relationship between an employer and an intern for the purposes of ORS chapter 652, 653, 654, 656, 657 or 658.

(3) As used in this section, "intern" means a person who performs work for an employer for the purpose of training if:

(a) The employer is not committed to hire the person performing the work at the conclusion of the training period;

(b) The employer and the person performing the work agree in writing that the person performing the work is not entitled to wages for the work performed; and

(c) The work performed:

(A) Supplements training given in an educational environment that may enhance the employability of the intern;

(B) Provides experience for the benefit of the person performing the work;

(C) Does not displace regular employees;

(D) Is performed under the close supervision of existing staff; and

(E) Provides no immediate advantage to the employer providing the training and may occasionally impede the operations of the employer. [2013 c.379 §2]

659A.355 Discrimination based on wage inquiry or wage complaint; exception. (1) It is an unlawful employment practice for an employer to discharge, demote or suspend, or to discriminate or retaliate against, an employee with regard to promotion, compensation or other terms, conditions or privileges of employment because the employee has:

(a) Inquired about, discussed or disclosed in any manner the wages of the employee or of another employee; or

(b) Made a charge, filed a complaint or instituted, or caused to be instituted, an investigation, proceeding, hearing or action based on the disclosure of wage information by the employee.

(2) This section does not apply to an employee who has access to wage information of employees as part of the job functions of the employee's position and discloses the wages of those employees to individuals not authorized access to the information, unless the disclosure is in response to a charge or complaint or is in furtherance of an investigation, proceeding, hearing or action, including but not limited to an investigation conducted by the employer. [2015 c.307 §2]

659A.357 Restricting salary history inquiries. It is an unlawful practice under ORS chapter 659A for an employer or prospective employer to seek the salary history of an applicant or employee from the applicant or employee or a current or former employer of the applicant or employee. This section is not intended to prevent an employer from requesting from a prospective employee written authorization to confirm prior compensation after the employer makes an offer of employment to the prospective employee that includes an amount of compensation. [2017 c.197 §4]

Note: 659A.357 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659A.360 Restricting criminal conviction inquiries; exceptions. (1) It is an unlawful practice for an employer to exclude an applicant from an initial interview solely because of a past criminal conviction.

(2) An employer excludes an applicant from an initial interview if the employer:

(a) Requires an applicant to disclose on an employment application a criminal conviction;

(b) Requires an applicant to disclose, prior to an initial interview, a criminal conviction; or

(c) If no interview is conducted, requires an applicant to disclose, prior to making a conditional offer of employment, a criminal conviction.

(3) Subject to subsections (1) and (2) of this section, nothing in this section prevents an employer from considering an applicant's conviction history when making a hiring decision.

(4) Subsections (1) and (2) of this section do not apply:

(a) If federal, state or local law, including corresponding rules and regulations, requires the consideration of an applicant's criminal history;

(b) To an employer that is a law enforcement agency;

(c) To an employer in the criminal justice system; or

(d) To an employer seeking a nonemployee volunteer. [2015 c.559 §1]

Note: 659A.360 and 659A.362 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 659A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659A.362 Enforcement. ORS 659A.360 is subject to enforcement by the Commissioner of the Bureau of Labor and Industries as provided in ORS 659A.820 to 659A.865. [2015 c.559 §2]

Note: See note under 659A.360.

WORKPLACE FAIRNESS

659A.370 Employer prohibited from entering into agreements that prevent employee from discussing certain unlawful conduct; exceptions; remedies. (1) Except as provided in subsections (2) or (4) of this subsection, it is an unlawful employment practice for an employer to enter into an agreement with a former, current or prospective employee, as a condition of employment, continued employment, promotion, compensation or the receipt of benefits, that contains a nondisclosure provision, a nondisparagement provision or any other provision that has the purpose or effect of preventing the employee from disclosing or discussing conduct:

(a)(A) That constitutes discrimination prohibited by ORS 659A.030, including conduct that constitutes sexual assault; or

(B) That constitutes discrimination prohibited by ORS 659A.082 or 659A.112; and

(b)(A) That occurred between employees or between an employer and an employee in the workplace or at a work-related event that is off the employment premises and coordinated by or through the employer; or

(B) That occurred between an employer and an employee off the employment premises.

(2)(a) Whenever an employer and a former, current or prospective employee enter into an agreement, the terms of which release a claim brought against the employer by an employee alleging the occurrence of unlawful conduct described in subsection (1)(a) and (b) of this section, the agreement may include one or more of the following provisions only when the employee who is a party to the agreement requests the inclusion of such provisions in the agreement:

(A) A provision described in subsection (1) of this section;

(B) A provision that prevents the disclosure of the amount of or fact of any settlement; or

(C) A no-rehire provision that prohibits the employee from seeking reemployment with the employer as a term or condition of the agreement.

(b) It is a violation of this subsection for an employer or former employer to:

(A) Make an offer of settlement conditional upon a request to include in the agreement the provisions described in paragraph (a) of this subsection.

(B) Fail to provide a person with whom the employer seeks to enter into the agreement a copy of the policy described in ORS 659A.375.

(3)(a) An agreement entered into under subsection (2) of this section must provide that the employee has at least seven days after executing the agreement to revoke the agreement.

(b) The agreement may not become effective until after the revocation period has expired.

(4) The prohibitions under subsection (1) of this section do not apply to agreements entered into between an employer and a former, current or prospective employee if an employer makes a good faith determination that the employee has engaged in conduct prohibited by ORS 659A.030, including sexual assault, conduct prohibited by ORS 659A.082 or 659A.112 or conduct prohibited by this section.

(5) An employee may file a complaint under ORS 659A.820 for violations of this section and may bring a civil action under ORS 659A.885 and recover a civil penalty of up to $5,000 and relief as provided by ORS 659A.885 (1) to (3).

(6) This section does not apply to an employee who is tasked by law to receive confidential or privileged reports of discrimination, sexual assault or harassment.

(7) Except to the extent provided under subsections (2) and (4) of this section, provisions included in an agreement in violation of this section are void and unenforceable.

(8) Nothing in this section prohibits an employer from enforcing a nondisclosure or nondisparagement agreement that is unrelated to the conduct described in subsection (1) of this section.

(9) As used in this section, "sexual assault" means unwanted conduct of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat or intimidation. [2019 c.343 §2; 2022 c.107 §1]

659A.375 Employer policies relating to prevention of discrimination and sexual assault; requirements. (1) Every employer in this state shall adopt a written policy containing procedures and practices for the reduction and prevention of discrimination prohibited by ORS 659A.030, including sexual assault, as defined in ORS 659A.370, and discrimination prohibited by ORS 659A.082 and 659A.112.

(2) At a minimum, the policy must:

(a) Provide a process for an employee to report prohibited conduct;

(b) Identify the individual designated by the employer who is responsible for receiving reports of prohibited conduct, including an individual designated as an alternate to receive such reports;

(c) Include the statute of limitations period applicable to an employee's right of action for alleging unlawful conduct described in subsection (1) of this section;

(d) Include a statement that an employer may not require or coerce an employee to enter into a nondisclosure or nondisparagement agreement, including a description of the meaning of those terms;

(e) Include an explanation that an employee claiming to be aggrieved by conduct described in subsection (1) of this section may voluntarily request to enter into an agreement described in ORS 659A.370 (2), including a statement that explains that the employee has at least seven days to revoke the agreement; and

(f) Include a statement that advises employers and employees to document any incidents involving conduct prohibited by ORS 659A.030, including sexual assault as defined

in ORS 659A.370, or conduct prohibited by ORS 659A.082 and 659A.112.

(3) An employer shall:

(a) Make the policy available to employees within the workplace;

(b) Provide a copy of the policy to each employee at the time of hire;

(c) Provide to each person with whom the employer seeks to enter into an agreement, as described in ORS 659A.370 (2), a copy of the policy in the language the employer typically uses to communicate with the person; and

(d) Require any individual who is designated by the employer to receive complaints to provide a copy of the policy to an employee at the time that the employee discloses information regarding prohibited discrimination or harassment.

(4) The Bureau of Labor and Industries shall make available on the bureau's website model procedures or policies that employers may use as guidance to establish the policy described in this section.

(5) Nothing in this section is intended to relieve an employer of liability for engaging in conduct that is prohibited under ORS chapter 659A. [2019 c.343 §3; 2022 c.107 §3]

659A.377 Requirements for mediation related to claims or allegations of unlawful conduct as described under ORS 659A.370. For purposes of mediation related to claims or allegations of the unlawful conduct described under ORS 659A.370 (1)(a) and (b), a mediator in the mediation shall provide a person who is a party to the mediation and who is not represented by an attorney with a copy of the model procedures and policies made available by the Bureau of Labor and Industries under ORS 659A.375. [2022 c.107 §2]

Note: 659A.377 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659A.380 When severance or separation agreements are voidable by employer. Any agreement entered into between an employer and a person with the authority to hire and fire employees, or the discretion to exercise control over employees, that requires severance or separation payments is voidable by the employer if, after the employer conducts a good faith investigation, the employer determines that the person violated ORS 659A.370 or violated the policy adopted under ORS 659A.375 and that such violations were a substantial contributing factor in causing the separation from employment. [2019 c.343 §4]

659A.390 Restrictions on no-rehire provisions as condition of workers' compensation settlements; exceptions; remedy for violation; civil penalties. (1) As used in this section:

(a) "No-rehire provision" means any provision in an agreement barring a worker from seeking further employment, reemployment or reinstatement with an employer.

(b) "Settlement agreement" means a settlement agreement disposing of all or part of a worker's claim for workers' compensation under ORS chapter 656.

(c) "Worker" means a worker who has applied for benefits or invoked or utilized the procedures provided for in ORS chapter 656.

(2) With respect to offers to enter into a settlement agreement, it is an unlawful employment practice for an employer to:

(a) Make an offer to negotiate a settlement agreement conditional upon a worker also entering into an agreement that includes a no-rehire provision.

(b) Make an offer for a settlement agreement conditional upon the worker also entering into an agreement that includes a no-rehire provision unless:

(A) Prior to the offer, the worker has provided the employer with written confirmation of the worker's willingness to enter into an agreement that includes a no-rehire provision as a condition of entering into the settlement agreement; and

(B) The settlement offer affirmatively states that entering into the settlement agreement is conditional upon the worker also entering into an agreement that includes a no-rehire provision.

(3) Provided that the requirements under subsection (2)(b) of this section are met, it is not a violation of this section:

(a) For any party participating in negotiations for a settlement agreement to make or reject an offer for a settlement agreement that includes a no-rehire provision.

(b) For an employer to require a worker, as a condition of a settlement agreement, to also enter into an agreement that includes a no-rehire provision.

(4) It is not a violation of this section for an employer to make an offer to enter into a settlement agreement that includes a no-rehire provision when the following circumstances exist:

(a) The worker has not provided the written confirmation described in subsection (2)(b)(A) of this section; and

(b) The offer affirmatively states that the offer is not conditional upon the worker also

entering in an agreement that includes a no-rehire provision.

(5) A worker may file a complaint under ORS 659A.820 for a violation of this section and may bring a civil action under ORS 659A.885 and recover a civil penalty of up to $5,000 and relief as provided by ORS 659A.885 (1) to (3). [2023 c.446 §2]

ACCESS TO PUBLIC ACCOMMODATIONS

(Unlawful Discrimination in Public Accommodations)

659A.400 Place of public accommodation defined. (1) A place of public accommodation, subject to the exclusions in subsection (2) of this section, means:

(a) Any place or service offering to the public accommodations, advantages, facilities or privileges whether in the nature of goods, services, lodgings, amusements, transportation or otherwise.

(b) Any place that is open to the public and owned or maintained by a public body, as defined in ORS 174.109, regardless of whether the place is commercial in nature.

(c) Any service to the public that is provided by a public body, as defined in ORS 174.109, regardless of whether the service is commercial in nature.

(2) A place of public accommodation does not include:

(a) A Department of Corrections institution as defined in ORS 421.005.

(b) A state hospital as defined in ORS 162.135.

(c) A youth correction facility as defined in ORS 420.005.

(d) A local correction facility or lockup as defined in ORS 169.005.

(e) An institution, bona fide club or place of accommodation that is in its nature distinctly private. [Formerly 30.675; 2013 c.429 §1; 2013 c.530 §4]

659A.403 Discrimination in place of public accommodation prohibited. (1) Except as provided in subsection (2) of this section, all persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities and privileges of any place of public accommodation, without any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age if the individual is of age, as described in this section, or older.

(2) Subsection (1) of this section does not prohibit:

(a) The enforcement of laws governing the consumption of alcoholic beverages by minors and the frequenting by minors of places of public accommodation where alcoholic beverages are served;

(b) The enforcement of laws governing the use of marijuana items, as defined in ORS 475C.009, by persons under 21 years of age and the frequenting by persons under 21 years of age of places of public accommodation where marijuana items are sold; or

(c) The offering of special rates or services to persons 50 years of age or older.

(3) It is an unlawful practice for any person to deny full and equal accommodations, advantages, facilities and privileges of any place of public accommodation in violation of this section. [Formerly 30.670; 2003 c.521 §1; 2005 c.131 §1; 2007 c.100 §5; 2015 c.614 §27; 2021 c.367 §37]

659A.406 Aiding or abetting certain discrimination prohibited. Except as otherwise authorized by ORS 659A.403, it is an unlawful practice for any person to aid or abet any place of public accommodation, as defined in ORS 659A.400, or any employee or person acting on behalf of the place of public accommodation to make any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age if the individual is 18 years of age or older. [Formerly 30.685; 2003 c.521 §2; 2007 c.100 §6; 2021 c.367 §38]

659A.409 Notice that discrimination will be made in place of public accommodation prohibited; age exceptions. Except as provided by laws governing the consumption of alcoholic beverages by minors, the use of marijuana items, as defined in ORS 475C.009, by persons under 21 years of age, the frequenting by minors of places of public accommodation where alcoholic beverages are served and the frequenting by persons under 21 years of age of places of public accommodation where marijuana items are sold, and except for special rates or services offered to persons 50 years of age or older, it is an unlawful practice for any person acting on behalf of any place of public accommodation as defined in ORS 659A.400 to publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind to the effect that any of the accommodations, advantages, facilities, services or privileges of the place of public accommodation will be refused, withheld from or denied to, or that any discrimination will be made against, any person on account of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age if the individual is

of age, as described in this section, or older. [Formerly 659.037; 2003 c.521 §3; 2005 c.131 §2; 2007 c.100 §7; 2015 c.614 §28; 2021 c.367 §39]

659A.410 Refusing to accept currency or coins as payment prohibited; advertising and education duties of Bureau of Labor and Industries; exceptions; remedies for violation. (1) Except as provided in subsections (2) and (4) of this section, it is an unlawful practice under ORS chapter 659A for a place of public accommodation offering goods or services, or any person acting on behalf of such place, to:

(a) Refuse to accept from a customer or patron, as payment for goods and services, any of the following:

(A) United States coins.

(B) United States currency, including federal reserve bank notes and circulating notes of federal reserve banks and national banks.

(b) Make any distinction, discrimination or restriction because a customer or patron offers any of the following as payment for goods and services:

(A) United States coins.

(B) United States currency, including federal reserve bank notes and circulating notes of federal reserve banks and national banks.

(2) Notwithstanding subsection (1) of this section, a place of public accommodation, or any person acting on behalf of such place, may refuse to accept as payment for goods and services:

(a) United States coins, in any combination, in an amount equal to or greater than $100; or

(b) United States currency in denominations of $50 or $100.

(3) This section does not apply to:

(a) Farmers' markets or roadside stands;

(b) Transactions occurring on aircraft;

(c) Transactions for goods or services involving a place or service offering goods, services, transient lodging or transportation, when the transaction or a portion of the transaction requires a customer or patron to deposit moneys or sign an agreement to rent or lease consumer goods;

(d) Any establishment that is owned by or operated under the control of the United States Government or an agency of the United States;

(e) Retail transactions that occur entirely over the telephone or by mail;

(f) Internet-based transactions;

(g) The purchase of diesel fuel or Class 1 flammable liquids at a filling station, service station, garage or other dispensary where diesel fuel or Class 1 flammable liquids are dispensed and sold at retail, during the hours in which the filling station, service station, garage or dispensary is unattended by an owner, operator or other employee to dispense the fuel or liquids or is attended by only one owner, operator or other employee to dispense the fuel or liquids;

(h) Electric vehicle charging stations;

(i) Transactions that occur in a micro market, including purchases from a vending machine;

(j) Purchases from a vending machine, unless the vending machine is located within a concentration or cluster of more than eight vending machines that do not accept coins or currency as payment for purchases;

(k) Activities for which a license or certificate is required to transact insurance;

(L) A place of public accommodation that provides hospital or medical services and that bills or invoices a person after such services are rendered, provided that the place of public accommodation accepts coins and currency as payment for the bill or invoice by mail or at a designated location other than the location where the services are rendered;

(m) Any regional office of the Department of Revenue;

(n) A place of public accommodation that is a branch or office of a bank holding company, financial holding company, financial institution or trust company or an affiliate of a bank holding company, financial holding company, financial institution or trust company;

(o) Transactions for which a license is required under ORS 59.165;

(p) Transactions for which a license is required under ORS 86A.095 to 86A.198, 86A.200 to 86A.239 or 86A.303 to 86A.339;

(q) Escrow transactions for which a license is required under ORS 696.511;

(r) A licensee under ORS chapter 725;

(s) A membership-only retail establishment where goods and services are sold to members who pay a recurring membership fee;

(t) On-street and off-street parking pay stations that accept either coins or currency as one method of payment; or

(u) On-street and off-street parking pay stations that do not accept coins or currency, provided that access to another pay station that accepts coins or currency as payment for the parking is made readily available to patrons.

(4) It is not a violation of subsection (1) of this section for a place of public accommodation, including a venue or facility used for live entertainment or sporting events, to require patrons or event attendees to make purchases at different points of sale within the place of public accommodation using a payment system that transfers or converts cash into a cashless payment instrument, including, but not limited to, tokens, cards, wristbands or other instruments that are preloaded with funds, provided that the place of public accommodation does not charge a transaction fee for the conversion or transfer of cash to the cashless payment instrument or to refund any balance that remains on the cashless payment instrument back to the patron or event attendee.

(5) Nothing in this section may be construed to prohibit, restrict or otherwise interfere with the ability of a place of public accommodation to:

(a) Accept, in addition to the forms of payment described under subsection (1) of this section, as payment for goods or services any other form of payment, provided that such payment is not prohibited under federal or state law;

(b) After services are rendered, invoice or bill a customer or patron, or submit a claim to a third party to receive payment for the services; or

(c) Offer a customer or patron an incentive for paying for goods or services in coin or currency.

(6) A person who alleges a violation of subsection (1) of this section may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.

(7) The Bureau of Labor and Industries shall conduct an ongoing advertising and education effort to publicize and explain the obligations set forth in subsection (1) of this section to places of public accommodation, to persons acting on behalf of places of public accommodation and to the public. The bureau's effort shall use such methods and media as the bureau determines will in a cost-effective manner reach the largest number of places of public accommodation and residents of this state. The bureau shall continue the effort described in this subsection until the bureau determines that a high level of compliance exists among places of public accommodation and persons acting on behalf of places of public accommodation.

(8) As used in this section:

(a) "Affiliate" means any company that controls, is controlled by or is under common control of another company.

(b) "Bank holding company," "financial holding company," "financial institution" and "trust company" have the meanings given those terms in ORS 706.008.

(c) "Class 1 flammable liquids" has the meaning given that term in ORS 480.310.

(d) "Consumer goods" has the meaning given that term in ORS 79A.1020.

(e) "Escrow" has the meaning given that term in ORS 696.505.

(f)(A) "Internet-based transaction" means a transaction that occurs over the Internet and that involves a sale, purchase or reservation of or deposit for goods or services to be picked up by, delivered to, shipped to or consumed by a customer or patron.

(B) "Internet-based transaction" does not mean an in-person transaction.

(g) "Micro market" means an unattended retail establishment to which access by the general public is restricted that offers whole or fresh-cut fruit and vegetables, packaged foods or beverages for purchase through an automated payment processing system.

(h) "Place of public accommodation" has the meaning given that term in ORS 659A.400.

(i) "Regional office" means an office of the Department of Revenue other than a central office or headquarters building located in Salem.

(j) "Transact insurance" has the meaning given that term in ORS 731.146.

(k) "Transient lodging" has the meaning given that term in ORS 699.005.

(L) "Vending machine" has the meaning given that term in ORS 624.310. [2022 c.98 §1; 2023 c.215 §1; 2025 c.146 §1]

Note: 659A.410 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 659A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

(Access to Employee Toilet Facilities)

659A.411 Definitions for ORS 659A.411 to 659A.415. As used in ORS 659A.411 to 659A.415:

(1) "Customer" means an individual who is lawfully on the premises of a place of public accommodation.

(2) "Eligible medical condition" means the use of an ostomy device or a diagnosis of Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome or other medical condition that can cause a person to require access to a toilet facility without delay.

(3) "Place of public accommodation" has the meaning given that term in ORS 659A.400. [2009 c.415 §1]

Note: 659A.411 to 659A.415 and 659A.417 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 659A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

659A.413 Denial of access prohibited; exception. (1) A place of public accommodation that has an employee toilet facility shall allow a customer to use that facility during normal business hours if:

(a) The customer requesting the use of the employee toilet facility suffers from an eligible medical condition;

(b) Three or more employees of the place of public accommodation are working at the time the customer requests use of the employee toilet facility;

(c) The customer presents a letter or other document from a physician, naturopathic physician, physician associate, nurse or nurse practitioner indicating that the customer suffers from an eligible medical condition, or presents an identification card that was issued by a national organization that advocates for persons with eligible medical conditions and that indicates that the person suffers from an eligible medical condition;

(d) The employee toilet facility is reasonably safe and is not located in an area where providing access would create an obvious health or safety risk to the customer or an obvious security risk to the place of public accommodation; and

(e) A public restroom is not immediately available to the customer.

(2) This section does not apply to a gas station, as defined in ORS 646.932, with a building of 800 square feet or less. [2009 c.415 §2; 2017 c.356 §83; 2024 c.73 §115]

Note: See note under 659A.411.

659A.415 Liability for damages; physical changes not required. (1) Places of public accommodation, and employees of places of public accommodation, are not liable for any damages suffered by a customer, or by any person accompanying a customer, while using an employee toilet facility pursuant to ORS 659A.413 unless the damages are the result of an intentional tort or gross negligence.

(2) A place of public accommodation is not required to make any physical changes to an employee toilet facility by reason of ORS 659A.413. [2009 c.415 §3]

Note: See note under 659A.411.

659A.417 Violation of ORS 659A.413. Violation of ORS 659A.413 is a Class D violation. [2009 c.415 §4]

Note: See note under 659A.411.

(Closed Captioning on Television Receivers)

659A.419 Closed captioning required on television receivers in places of public accommodation; exceptions; training requirements; penalties; rules. (1) As used in this section:

(a) "Closed-captioned television receiver" means a television and any other apparatus that is designed to receive or play back video programming transmitted simultaneously with sound and to display closed captioning, if technically feasible.

(b) "Closed captioning" means a transcript or dialog of the audio portion of video programming that is displayed on the screen of a closed-captioned television receiver in real-time and in the language of the audio programming.

(c) "Judicial department" has the meaning given that term in ORS 174.113.

(d) "Public area" means a part of a place of public accommodation that is open to the general public.

(2)(a) Except as otherwise provided by subsections (3), (4) and (6) of this section, every place of public accommodation that provides a closed-captioned television receiver in a public area shall activate closed captioning on the receiver unless the receiver does not have the technical ability to display closed captioning.

(b) The closed captioning must appear in white text, on a black background, in a style, font and size that is readable to a person with a visual impairment.

(3) Whenever a place of public accommodation provides multiple closed-captioned television receivers in a public area, the place of public accommodation shall activate closed captioning on at least 50 percent of the receivers within the area.

(4) If a place of public accommodation offers closed-captioned television receivers as merchandise for sale and the receivers are displayed together, the place of public accommodation shall activate closed captioning on at least one of the receivers on display.

(5)(a) A person acting on behalf of a place of public accommodation shall provide training to staff regarding the requirements of this section.

(b) The Bureau of Labor and Industries shall develop, and make available on the bureau's website, model training for a person acting on behalf of a place of public accom-

modation to use as guidance in providing the training required under paragraph (a) of this subsection.

(6) This section does not:

(a) Invalidate or limit the remedies, rights and procedures of any other federal, state or local laws that provide equal or greater protection of the rights of an individual with a disability who requests a reasonable accommodation that may be necessary to afford the individual with full and equal enjoyment of the place of public accommodation.

(b) Require a place of public accommodation to repair or replace a closed-captioned television receiver that does not have the technical ability to display closed captioning.

(c) Apply to the judicial department.

(d) Require a place of public accommodation to display closed captioning on a closed-captioned television receiver with a picture screen that measures 12 inches or less in size.

(e) Require a place of public accommodation to display closed captioning on a closed-captioned television receiver located:

(A) In a private room that is made available for rent; or

(B) In a hospital patient room.

(7) Any violation of this section by a place of public accommodation or person acting on behalf of the place of public accommodation is an unlawful practice.

(8) A person who alleges a violation of this section may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided in ORS 659A.820.

(9)(a) The bureau shall develop and provide a notice to the person acting on behalf of a place of public accommodation against whom a violation is alleged that states that the person may avoid a civil penalty for the violation by curing the violation within 30 days. The notice described under this paragraph must accompany the notice required under ORS 659A.820 (6).

(b) If the person fails to cure the violation within 30 days, the bureau may impose a civil penalty of $75 upon the person found to have committed the violation. The bureau may impose a civil penalty of $150 for the second and each subsequent violation.

(c) The bureau is not required to provide the person with an opportunity to cure a second or subsequent violation before imposing the civil penalty for the second or subsequent violation.

(10) The bureau shall impose civil penalties under this subsection in the manner provided by ORS 183.745.

(11) Moneys collected as penalties under this section shall be deposited in the Bureau of Labor and Industries Account established under ORS 651.160.

(12) The Commissioner of the Bureau of Labor and Industries may adopt rules reasonably necessary for the administration of this section. [2023 c.144 §2]

659A.420 [Formerly 659.031; repealed by 2008 c.36 §17]

UNLAWFUL DISCRIMINATION IN REAL PROPERTY TRANSACTIONS

659A.421 Discrimination in selling, renting or leasing real property prohibited. (1) As used in this section:

(a) "Dwelling" means:

(A) A building or structure, or portion of a building or structure, that is occupied, or designed or intended for occupancy, as a residence by one or more families; or

(B) Vacant land offered for sale or lease for the construction or location of a building or structure, or portion of a building or structure, that is occupied, or designed or intended for occupancy, as a residence by one or more families.

(b) "Purchaser" includes an occupant, prospective occupant, renter, prospective renter, lessee, prospective lessee, buyer or prospective buyer.

(c) "Real property" includes a dwelling.

(d)(A) "Source of income" includes federal rent subsidy payments under 42 U.S.C. 1437f and any other local, state or federal housing assistance.

(B) "Source of income" does not include income derived from a specific occupation or income derived in an illegal manner.

(2) A person may not, because of the race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status or source of income of any person:

(a) Refuse to sell, lease or rent any real property to a purchaser. This paragraph does not prevent a person from refusing to lease or rent real property to a prospective renter or prospective lessee:

(A) Based upon the past conduct of a prospective renter or prospective lessee provided the refusal to lease or rent based on past conduct is consistent with local, state and federal law, including but not limited to fair housing laws; or

(B) Based upon the prospective renter's or prospective lessee's inability to pay rent,

taking into account the value of the prospective renter's or prospective lessee's local, state and federal housing assistance, provided the refusal to lease or rent based on inability to pay rent is consistent with local, state and federal law, including but not limited to fair housing laws.

(b) Expel a purchaser from any real property.

(c) Make any distinction, discrimination or restriction against a purchaser in the price, terms, conditions or privileges relating to the sale, rental, lease or occupancy of real property or in the furnishing of any facilities or services in connection therewith.

(d) Attempt to discourage the sale, rental or lease of any real property to a purchaser.

(e) Publish, circulate, issue or display, or cause to be published, circulated, issued or displayed, any communication, notice, advertisement or sign of any kind relating to the sale, rental or leasing of real property that indicates any preference, limitation, specification or unlawful discrimination based on race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status or source of income.

(f) Assist, induce, incite or coerce another person to commit an act or engage in a practice that violates this section.

(g) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of the person having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section.

(h) Deny access to, or membership or participation in, any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or discriminate against any person in the terms or conditions of the access, membership or participation.

(i) Represent to a person that a dwelling is not available for inspection, sale or rental when the dwelling in fact is available for inspection, sale or rental.

(j) Otherwise make unavailable or deny a dwelling to a person.

(3)(a) A person whose business includes engaging in residential real estate related transactions may not discriminate against any person in making a transaction available, or in the terms or conditions of the transaction, because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status or source of income.

(b) As used in this subsection, "residential real estate related transaction" means any of the following:

(A) The making or purchasing of loans or providing other financial assistance:

(i) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

(ii) Secured by residential real estate; or

(B) The selling, brokering or appraising of residential real property.

(4) A real estate licensee may not accept or retain a listing of real property for sale, lease or rental with an understanding that a purchaser may be discriminated against with respect to the sale, rental or lease thereof because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status or source of income.

(5) A person may not, for profit, induce or attempt to induce any other person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status or source of income.

(6) This section does not apply with respect to sex distinction, discrimination or restriction if the real property involved is such that the application of this section would necessarily result in common use of bath or bedroom facilities by unrelated persons of opposite sex.

(7)(a) This section does not apply to familial status distinction, discrimination or restriction with respect to housing for older persons.

(b) As used in this subsection, "housing for older persons" means housing:

(A) Provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined by the state or federal program;

(B) Intended for, and solely occupied by, persons 62 years of age or older; or

(C) Intended and operated for occupancy by at least one person 55 years of age or older per unit. Housing qualifies as housing for older persons under this subparagraph if:

(i) At least 80 percent of the dwellings are occupied by at least one person 55 years of age or older per unit; and

(ii) Policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older are published and adhered to.

(c) Housing does not fail to meet the requirements for housing for older persons if:

(A) Persons residing in the housing as of September 13, 1988, do not meet the requirements of paragraph (b)(B) or (C) of this subsection. However, new occupants of the housing shall meet the age requirements of paragraph (b)(B) or (C) of this subsection; or

(B) The housing includes unoccupied units that are reserved for occupancy by persons who meet the age requirements of paragraph (b)(B) or (C) of this subsection.

(d) Nothing in this section limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(8) The provisions of subsection (2)(a) to (d) and (f) of this section that prohibit actions based upon sex, sexual orientation, gender identity or familial status do not apply to the renting of space within a single-family residence if the owner actually maintains and occupies the residence as the owner's primary residence and all occupants share some common space within the residence.

(9) Any violation of this section is an unlawful practice. [Formerly 659.033; 2007 c.100 §8; 2007 c.903 §4a; 2008 c.36 §6; 2013 c.740 §1; 2021 c.367 §40]

659A.424 [2003 c.378 §2; 2007 c.100 §9; repealed by 2007 c.903 §§15,15a]

659A.425 Violation based on facially neutral housing policy. (1) As used in this section:

(a) "Facially neutral housing policy" means a guideline, practice, rule or screening or admission criterion, regarding a real property transaction, that applies equally to all persons.

(b) "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, familial status, source of income or disability.

(c) "Real property transaction" means an act described in ORS 659A.145 or 659A.421 involving the renting or leasing of residential real property subject to ORS chapter 90.

(2) A court or the Commissioner of the Bureau of Labor and Industries may find a person to have violated ORS 659A.145 or 659A.421 if:

(a) The person applies a facially neutral housing policy to a member of a protected class in a real property transaction involving a residential tenancy subject to ORS chapter 90; and

(b) Application of the policy adversely impacts members of the protected class to a greater extent than the policy impacts persons generally.

(3) In determining under subsection (2) of this section whether a violation has occurred and, if a violation has occurred, what relief should be granted, a court or the commissioner shall consider:

(a) The significance of the adverse impact on the protected class;

(b) The importance and necessity of any business purpose for the facially neutral housing policy; and

(c) The availability of less discriminatory alternatives for achieving the business purpose for the facially neutral housing policy. [2008 c.36 §2; 2021 c.367 §41]

UNLAWFUL DISCRIMINATION BECAUSE OF EMPLOYMENT STATUS

659A.550 Discrimination because of employment status prohibited; penalties. (1) Except as permitted under ORS chapter 240 or any other provision of law, an employer, the employer's agent, representative or designee or an employment agency may not knowingly or purposefully publish in print or on the Internet an advertisement for a job vacancy in this state that provides that:

(a) The qualifications for a job include current employment;

(b) The employer, the employer's agent, representative or designee or the employment agency will not consider or review an application for employment submitted by a job applicant who is currently unemployed; or

(c) The employer, the employer's agent, representative or designee or the employment agency will only consider or review applications for employment submitted by job applicants who are currently employed.

(2) Violation of this section is an unlawful practice.

(3) Nothing in this section shall be construed to:

(a) Prohibit an employer, the employer's agent, representative or designee or an employment agency from publishing in print or on the Internet an advertisement for a job vacancy in this state that contains a provision:

(A) Setting forth qualifications for a job vacancy, including but not limited to:

(i) Holding a current and valid professional or occupational license, certificate, registration, permit or other credential; or

(ii) A minimum level of education or training, or professional, occupational or field experience; or

(B) Stating that only applicants who are current employees of the employer will be considered for the position.

(b) Create or authorize a private cause of action by an aggrieved person against an employer, the employer's agent, representative or designee or an employment agency that is alleged to violate or has violated this section.

(4) An employer or employment agency that is found to have violated subsection (1) of this section by the Commissioner of the Bureau of Labor and Industries shall be assessed a civil penalty as provided under ORS 659A.855. [2012 c.85 §2]

ADMINISTRATIVE ACTIONS FOR UNLAWFUL DISCRIMINATION

(Enforcement Powers of Bureau of Labor and Industries)

659A.800 Elimination and prevention of discrimination by Bureau of Labor and Industries; subpoenas. (1) The Bureau of Labor and Industries may take all steps necessary to eliminate and prevent unlawful practices. To eliminate the effects of unlawful discrimination, the bureau may promote voluntarily affirmative action by employers, labor organizations, governmental agencies, private organizations and individuals and may accept financial assistance and grants or funds for this purpose.

(2) The bureau is given general jurisdiction and power for the purpose of eliminating and preventing unlawful practices.

(3) The Commissioner of the Bureau of Labor and Industries shall employ a deputy commissioner and such other personnel as may be necessary to carry into effect the powers and duties conferred upon the bureau and the commissioner under this chapter and may prescribe the duties and responsibilities of the employees. The commissioner may delegate any of the powers under this chapter to the deputy commissioner employed under this subsection.

(4) In the manner described in ORS 651.060, the commissioner may conduct investigations, issue subpoenas and subpoenas duces tecum, administer oaths, obtain evidence and take testimony in all matters relating to the duties required under this chapter.

(5) A person delegated any powers or duties under this section and ORS 659A.805 may not act as prosecutor and examiner in processing any violation under this chapter. [Formerly 659.100; 2007 c.277 §4]

659A.805 Rules for carrying out ORS chapter 659A. (1) In accordance with any applicable provision of ORS chapter 183, the Commissioner of the Bureau of Labor and Industries may adopt reasonable rules:

(a) Establishing what acts and communications constitute a notice, sign or advertisement that public accommodation or real property will be refused, withheld from, or denied to any person or that the person will be unlawfully discriminated against because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, disability or:

(A) With respect to public accommodation, age.

(B) With respect to real property transactions, familial status or source of income.

(b) Establishing what inquiries in connection with employment and prospective employment express a limitation, specification or unlawful discrimination as to race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age or disability.

(c) Establishing what inquiries in connection with employment and prospective employment soliciting information as to race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age or disability are based on bona fide occupational qualifications.

(d) For internal operation and practice and procedure before the commissioner under this chapter.

(e) Covering any other matter required to carry out the purposes of this chapter.

(2) In adopting rules under this section the commissioner shall consider the following factors, among others:

(a) The relevance of information requested to job performance in connection with which it is requested.

(b) Available reasonable alternative ways of obtaining requested information without soliciting responses as to race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability, source of income or, with respect to real property transactions, familial status.

(c) Whether a statement or inquiry soliciting information as to race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability, source of income or, with respect to real property transactions, familial status, communicates an idea independent of an intention to limit, specify or unlawfully discriminate as to race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability, source of income or, with respect to real property transactions, familial status.

(d) Whether the independent idea communicated is relevant to a legitimate objec-

tive of the kind of transaction that it contemplates.

(e) The ease with which the independent idea relating to a legitimate objective of the kind of transaction contemplated could be communicated without connoting an intention to unlawfully discriminate as to race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability, source of income or, with respect to real property transactions, familial status. [Formerly 659.103; 2003 c.521 §4; 2007 c.100 §10; 2007 c.903 §5a; 2021 c.367 §42]

659A.810 Willful interference with administration of law and violation of orders of commissioner prohibited. (1) No person shall willfully resist, prevent, impede or interfere with the Commissioner of the Bureau of Labor and Industries or any authorized agents of the commissioner in the performance of duty under this chapter or willfully violate an order of the commissioner.

(2) An appeal or other procedure for the review of any such order is not deemed to be such willful conduct. [Formerly 659.110]

659A.815 Advisory agencies and intergroup-relations councils. (1) The Commissioner of the Bureau of Labor and Industries shall create such advisory agencies and intergroup-relations councils as the commissioner believes necessary to aid in effectuating the purposes of this chapter. The commissioner may empower advisory agencies and councils:

(a) To study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status, age, disability, familial status or source of income.

(b) To foster, through community effort or otherwise, goodwill, cooperation and conciliation among the groups and elements of the population of the state.

(c) To make recommendations to the commissioner for the development of policies and procedures in general and in specific instances, and for programs of formal and informal education.

(2) The advisory agencies and councils shall be composed of representative citizens, serving without pay, but with reimbursement for actual and necessary expenses in accordance with laws and regulations governing state officers.

(3) The commissioner may make provision for technical and clerical assistance to the advisory agencies and councils and for the expenses of the assistance. [Formerly 659.115; 2007 c.100 §11; 2021 c.367 §43]

(Complaint, Investigation and Hearing Procedures)

659A.820 Complaints. (1) As used in this section, for purposes of a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law, "person claiming to be aggrieved by an unlawful practice" includes, but is not limited to, a person who believes that the person:

(a) Has been injured by an unlawful practice under ORS 659A.145 or 659A.421 or a discriminatory housing practice; or

(b) Will be injured by an unlawful practice under ORS 659A.145 or 659A.421 or a discriminatory housing practice that is about to occur.

(2) Any person claiming to be aggrieved by an unlawful practice may file with the Commissioner of the Bureau of Labor and Industries a verified written complaint that states the name and address of the person alleged to have committed the unlawful practice. The complaint must be signed by the complainant. The complaint must set forth the acts or omissions alleged to be an unlawful practice. The complainant may be required to set forth in the complaint such other information as the commissioner may require. Except as provided in subsection (3) of this section, a complaint under this section must be filed no later than one year after the alleged unlawful practice.

(3) A complaint alleging an unlawful employment practice as described in ORS 243.323, 659A.030, 659A.082, 659A.112 or 659A.370 must be filed no later than five years after the occurrence of the alleged unlawful employment practice.

(4)(a) Except as provided in paragraph (b) of this subsection, a complaint may not be filed under this section if a civil action has been commenced in state or federal court alleging the same matters.

(b) The prohibition described in paragraph (a) of this subsection does not apply to a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or alleging discrimination under federal housing law.

(5) If an employer has one or more employees who refuse or threaten to refuse to abide by the provisions of this chapter or to cooperate in carrying out the purposes of this chapter, the employer may file with the commissioner a verified complaint requesting assistance by conciliation or other remedial action.

(6) Except as provided in subsection (7) of this section, the commissioner shall notify the person against whom a complaint is

made within 30 days of the filing of the complaint. The commissioner shall include in the notice the date, place and circumstances of the alleged unlawful practice.

(7) The commissioner shall notify the person against whom a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law is made within 10 days of the filing of the complaint. The commissioner shall include in the notice:

(a) The date, place and circumstances of the alleged unlawful practice; and

(b) A statement that the person against whom the complaint is made may file an answer to the complaint. [2001 c.621 §2; 2007 c.71 §214; 2007 c.903 §6; 2008 c.36 §7; 2009 c.108 §1; 2017 c.197 §5; 2019 c.343 §5; 2019 c.463 §5; 2021 c.293 §2]

659A.825 Complaints filed by Attorney General or commissioner; temporary cease and desist orders in certain cases. (1)(a) If the Attorney General or the Commissioner of the Bureau of Labor and Industries has reason to believe that any person has committed an unlawful practice, the Attorney General or the commissioner may file a complaint in the same manner as provided for a complaint filed by a person under ORS 659A.820.

(b) If the Attorney General or the commissioner has reason to believe that a violation of ORS 659A.403, 659A.406 or 659A.409 has occurred, the Attorney General or the commissioner may file a complaint under this section against any person acting on behalf of a place of public accommodation and against any person who has aided or abetted in that violation.

(c) If the Attorney General or the commissioner has reason to believe that an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law has occurred or is about to occur, the Attorney General or the commissioner may file a complaint in the same manner as a person filing a complaint under ORS 659A.820.

(2) If the commissioner files a complaint under this section alleging an unlawful practice other than an unlawful employment practice, or if a person files a complaint under ORS 659A.820 alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law, the commissioner may also issue a temporary cease and desist order requiring any respondent named in the complaint to refrain from the unlawful practice alleged. A temporary cease and desist order under this section may contain any provision that could be included in a cease and desist order issued after a hearing under ORS 659A.850. [2001 c.621 §3; 2008 c.36 §8]

659A.830 Authority of commissioner. (1) Except as provided in subsection (5) of this section, all authority of the Commissioner of the Bureau of Labor and Industries to conduct investigations or other proceedings to resolve a complaint filed under ORS 659A.820 ceases upon the filing of a civil action by the complainant alleging the same matters that are the basis of the complaint under ORS 659A.820.

(2)(a) Except as provided in paragraph (b) of this subsection, the commissioner may dismiss a complaint at any time after the complaint is filed. Upon the written request of the person who filed the complaint under ORS 659A.820, the commissioner shall dismiss the complaint. Upon dismissal of the complaint, the commissioner shall issue a notice to the complainant if notice is required under ORS 659A.880.

(b) Paragraph (a) of this subsection does not apply to a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law. The commissioner shall dismiss a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law if the commissioner finds no substantial evidence that an unlawful practice or discriminatory housing practice has occurred or is about to occur.

(3) Except as provided in this section, all authority of the commissioner to conduct investigations or other proceedings to resolve a complaint filed under ORS 659A.820 ceases one year after the complaint is filed unless the commissioner has issued a finding of substantial evidence under ORS 659A.835 during the one-year period. Unless it is impracticable to do so, the commissioner shall make a final administrative disposition of a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law no later than one year after receipt of the complaint.

(4) The authority of the commissioner to conduct investigations or other proceedings to resolve a complaint filed under ORS 659A.820 alleging an unlawful practice under ORS 659A.403 or 659A.406 continues until the filing of a civil action by the complainant or until the commissioner dismisses the proceedings, enters into a settlement agreement or enters a final order in the matter after a hearing under ORS 659A.850.

(5) The authority of the commissioner to conduct investigations or other proceedings to resolve a complaint filed under ORS 659A.820 alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law does not cease upon the filing of a civil action by the com-

plainant, but ceases upon the commencement of a trial in the civil action.

(6) The authority of the commissioner to conduct investigations or other proceedings to resolve a complaint filed under ORS 659A.820 alleging a violation of ORS 659A.145 or 659A.421 or 659A.406 does not cease under subsection (3) of this section if the issuance of a finding of substantial evidence under ORS 659A.835 within the time allowed under subsection (3) of this section is not practicable. The commissioner shall notify the parties in writing of the reasons that the issuance of substantial evidence cannot be made within the time allowed.

(7) Nothing in this section affects the ability of the commissioner to enforce any order entered by the commissioner or to enforce any settlement agreement signed by a representative of the commissioner. [2001 c.621 §4; 2007 c.903 §7; 2008 c.36 §9; 2025 c.379 §4]

Note: Section 7 (2), chapter 379, Oregon Laws 2025, provides:

Sec. 7. (2) The amendments to ORS 659A.830, 659A.870, 659A.875 and 659A.880 by sections 3 to 6 of this 2025 Act apply to complaints and actions:

(a) Filed on or after the effective date of this 2025 Act [June 24, 2025].

(b) Filed before the effective date of this 2025 Act and for which no notice was issued by the Bureau of Labor and Industries under ORS 659A.880. [2025 c.379 §7(2)]

659A.835 Investigation; finding of substantial evidence. (1) Except as provided in subsection (2) of this section, after the filing of any complaint under ORS 659A.820 or 659A.825, the Commissioner of the Bureau of Labor and Industries may investigate the complaint.

(2) The commissioner shall commence an investigation of any complaint filed under ORS 659A.820 or 659A.825 alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law within 30 days after the filing of the complaint.

(3) If, by reason of an investigation under this section, the commissioner determines that additional persons should be named as respondents in the complaint, the commissioner may add the names of those persons to the complaint. The commissioner may name additional persons as respondents under this subsection only during the course of the investigation. Within 10 days after identifying an additional person who will be named as a respondent, the commission shall serve the person with a copy of the complaint that identifies the alleged discriminatory housing practice and a notice that advises the person of the procedural rights and obligations of the person, including the person's right to file an answer to the complaint.

(4) If an investigation under this section discloses any substantial evidence supporting the allegations of a complaint, the commissioner shall issue a finding of substantial evidence. The finding must be sent to the respondent and the complainant and must be signed by the commissioner or the commissioner's designee. The finding must include at least the following information:

(a) The names of the complainant and the respondent;

(b) The allegations contained in the complaint;

(c) Facts found by the commissioner that are related to the allegations of the complaint; and

(d) A statement that the investigation of the complaint has disclosed substantial evidence supporting the allegations of the complaint. [2001 c.621 §5; 2007 c.903 §8]

659A.840 Settlement. (1) The Commissioner of the Bureau of Labor and Industries and any respondent named in a complaint may enter into a settlement at any time after the filing of a complaint and the commissioner may take immediate steps to settle the matter through conference, mediation, conciliation, persuasion or other alternative dispute resolution processes, to eliminate the effects of the unlawful practice and to otherwise carry out the purposes of this chapter.

(2) The terms of any settlement agreement entered into under this chapter must be contained in a written settlement agreement signed by the complainant, the respondent and a representative of the commissioner. Such agreement may include any or all terms and conditions that may be included in a cease and desist order issued by the commissioner after a hearing under ORS 659A.850.

(3) A complainant may file a complaint with the commissioner at any time after a settlement agreement has been entered into under this chapter to seek enforcement of the terms of the agreement. A complaint under this subsection must be filed within one year after the act or omission alleged to be a violation of the terms of the agreement. The commissioner shall investigate and resolve the complaint in the same manner as provided in this chapter for a complaint filed under ORS 659A.820.

(4) In addition to the remedy provided under subsection (3) of this section, a complainant may seek to enforce a settlement agreement entered into under this chapter by writ of mandamus or a civil action seeking injunctive relief or specific performance of the agreement.

(5) The commissioner shall enter an order based on the terms of a settlement agreement that is signed by a representative of the commissioner and that is entered into after the issuance of formal charges under ORS 659A.845. In addition to enforcement in the manner provided by subsection (3) or (4) of this section, the order may be recorded in the County Clerk Lien Record in the manner provided by ORS 205.125 and enforced in the manner provided by ORS 205.126.

(6) Nothing said or done in the course of settlement discussions concerning a complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law may be disclosed in any manner, including but not limited to disclosure under ORS 192.311 to 192.478, or be used as evidence in a subsequent proceeding under this chapter or under federal housing law, without the written consent of the persons concerned.

(7) All communications, oral or written, made during the course of or in connection with settlement discussions held through the bureau's alternative dispute resolution process under this section are confidential, are not subject to disclosure under ORS 192.311 to 192.478 and may not be disclosed or admitted as evidence in subsequent adjudicatory proceedings except as allowed under ORS 36.222.

(8) A settlement agreement and the order based on the terms of the settlement agreement:

(a) Are not subject to the provisions of subsection (6) or (7) of this section;

(b) Are subject to public disclosure under ORS 192.311 to 192.478; and

(c) May be admitted into evidence in any proceeding. [2001 c.621 §6; 2008 c.36 §10; 2025 c.22 §6]

659A.845 Formal charges. (1) If the Commissioner of the Bureau of Labor and Industries issues a finding of substantial evidence under ORS 659A.835 and the matter cannot be settled through conference, mediation, conciliation, persuasion or other alternative dispute resolution processes, or if the commissioner determines that the interest of justice requires that a hearing be held without first seeking settlement, the commissioner shall prepare formal charges. Formal charges must contain all information required for a notice under ORS 183.415 and must specify the allegations of the complaint to which the respondent will be required to make response. Formal charges shall also set the time and place for hearing the formal charges.

(2)(a) The commissioner shall serve the formal charges on all respondents found to have engaged in the unlawful practice.

(b) If the formal charges allege a violation of ORS 659A.145 or 659A.421 or discrimination under federal housing law, the commissioner shall serve on the named respondents and complainants the formal charges and a notice of the right of the respondents and complainants under ORS 659A.870 to opt for a court trial instead of a hearing under ORS 659A.850.

(3) The commissioner may not prepare formal charges alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law after trial has begun in a civil action that the complainant commenced under state or federal law and that seeks relief with respect to that unlawful or discriminatory practice. [2001 c.621 §7; 2007 c.903 §9; 2008 c.36 §11; 2015 c.609 §§1,4; 2025 c.22 §9]

659A.850 Hearing; orders; fees. (1)(a) All proceedings before the Commissioner of the Bureau of Labor and Industries under this section shall be conducted as contested case proceedings under the provisions of ORS chapter 183. Except as provided in paragraph (b) of this subsection, the commissioner may appoint a special tribunal or hearing officer to hear the matter. The commissioner may affirm, reverse, modify or supplement the determinations, conclusions or order of any special tribunal or hearing officer appointed under this subsection. The scheduling of a hearing under this section does not affect the ability of the commissioner and any respondent to thereafter settle the matters alleged in the complaint through conference, mediation, conciliation, persuasion or other alternative dispute resolution processes.

(b) In a proceeding under this section alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law:

(A) Only an employee of the Bureau of Labor and Industries may be a member of a special tribunal or a hearing officer appointed to hear the matter.

(B) An aggrieved person may intervene as a party in the proceeding. The commissioner may award prevailing party costs and reasonable attorney fees to a person who intervenes.

(2) After considering all the evidence, the commissioner shall cause to be issued findings of facts and conclusions of law.

(3) The commissioner shall issue an order dismissing the formal charges against any respondent not found to have engaged in any unlawful practice alleged in the complaint.

(4) After a hearing under this section, the commissioner shall issue an appropriate cease and desist order against any respondent found to have engaged in any unlawful practice alleged in the complaint. The order must be signed by the commissioner and must take into account the need to supervise compliance with the terms of order. The order may require that the respondent:

(a) Perform an act or series of acts designated in the order that are reasonably calculated to:

(A) Carry out the purposes of this chapter;

(B) Eliminate the effects of the unlawful practice that the respondent is found to have engaged in, including but not limited to paying an award of actual damages suffered by the complainant and complying with injunctive or other equitable relief; and

(C) Protect the rights of the complainant and other persons similarly situated;

(b) Submit reports to the commissioner on the manner of compliance with other terms and conditions specified in the commissioner's order, and take other action as may be required to ensure compliance with the commissioner's order; and

(c) Refrain from any action specified in the order that would jeopardize the rights of the complainant or other persons similarly situated, or that would otherwise frustrate the purposes of this chapter.

(5) A cease and desist order issued under subsection (4) of this section may be recorded in the County Clerk Lien Record in the manner provided by ORS 205.125 and enforced in the manner provided by ORS 205.126. In addition to enforcement under ORS 205.126, the order may be enforced by writ of mandamus or a civil action to compel specific performance of the order.

(6) The commissioner may charge a respondent on a cease and desist order the actual collection fees charged to the bureau by any other governmental agency or any private collection agency assisting in the collection of the judgment. [2001 c.621 §8; 2007 c.903 §10; 2008 c.36 §12; 2009 c.110 §1; 2009 c.162 §2; 2025 c.22 §10]

659A.855 Civil penalty for certain complaints filed by commissioner. (1)(a) If the Commissioner of the Bureau of Labor and Industries files a complaint under ORS 659A.825 alleging an unlawful practice other than an unlawful employment practice, and the commissioner finds that the respondent engaged in the unlawful practice, the commissioner may, in addition to other steps taken to eliminate the unlawful practice, impose a civil penalty upon each respondent found to have committed the unlawful practice.

(b) Civil penalties under this subsection may not exceed $1,000 for each violation.

(2)(a) Notwithstanding subsection (1)(b) of this section, if a complaint is filed under ORS 659A.820 or 659A.825 alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law and the commissioner finds that a respondent has engaged in an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law, the commissioner may assess against the respondent, in addition to any other relief available, a civil penalty:

(A) In an amount not exceeding $11,000;

(B) Except as provided in paragraph (b) of this subsection, in an amount not exceeding $27,500 if the respondent has been adjudged to have engaged in one other discriminatory housing practice during the five-year period ending on the date of the filing of the formal charges leading to the hearing; or

(C) Except as provided in paragraph (b) of this subsection, in an amount not exceeding $55,000 if the respondent has been adjudged to have engaged in two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the formal charges leading to the hearing.

(b) If acts constituting the discriminatory housing practice that is the object of the hearing were committed by the same individual who has been previously adjudged to have committed acts constituting a discriminatory housing practice, the civil penalties listed in paragraph (a)(B) and (C) of this subsection may be imposed regardless of the period of time between the previous discriminatory housing practice and the discriminatory housing practice that is the object of this hearing.

(3) All sums collected as civil penalties under this section must first be applied toward reimbursement of the costs incurred in determining the violations, conducting hearings and assessing and collecting the penalty. The remainder, if any, shall be paid over by the commissioner to the Department of State Lands for the benefit of the Common School Fund. The department shall issue a receipt for the money to the commissioner. [2001 c.621 §9; 2007 c.903 §11; 2011 c.210 §5]

659A.860 Settlement agreements and orders. (1) The terms and conditions of any order issued by the Commissioner of the Bureau of Labor and Industries under this chapter, and of any settlement agreement entered into by a respondent under this

chapter and signed by a representative of the commissioner, are binding on the agents and successors in interest of the respondent.

(2) The commissioner may relax any terms or conditions of a settlement agreement or of a cease and desist order issued by the commissioner under this chapter, if the performance of those terms and conditions would cause undue hardship on the respondent or another person and those terms and conditions are not essential to protecting the complainant's rights.

(3) Any person aggrieved by the violation of the terms and conditions of a cease and desist order, or of any settlement agreement signed by a representative of the commissioner, whether by a respondent or by any agent or successor in interest of the respondent, may bring a civil action in the manner provided by ORS 659A.885 (3) and recover the same relief as provided by ORS 659A.885 (3) for unlawful practices. [2001 c.621 §10]

659A.865 Retaliatory action prohibited. A respondent named in a complaint filed under ORS 659A.820 may not, with the intention of defeating a purpose of this chapter, take any action that deprives the person filing the complaint of any services, real property, employment or employment opportunities sought in the complaint during the period of time commencing with the date on which the respondent receives notice from the Commissioner of the Bureau of Labor and Industries that the complaint has been filed and ending on the date on which an administrative determination is made on the merits of the complaint or the matter is resolved by settlement. [2001 c.621 §11]

CIVIL ACTIONS FOR UNLAWFUL DISCRIMINATION

659A.870 Election of remedies. (1) Except as provided in this section, the filing of a civil action by a person in circuit court pursuant to ORS 659A.885, or in federal district court under applicable federal law, waives the right of the person to file a complaint with the Commissioner of the Bureau of Labor and Industries under ORS 659A.820 with respect to the matters alleged in the civil action.

(2) The filing of a complaint under ORS 659A.820 is not a condition precedent to the filing of any civil action.

(3) If a person files a civil action alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law, the filing does not constitute an election of remedies or a waiver of the right of the person to file a complaint with the commissioner under ORS 659A.820, but the commissioner shall dismiss the complaint upon the commencement of a trial in the civil action.

(4) If a person files a complaint under ORS 659A.820 alleging a violation of ORS 652.220 and the commissioner issues a final order in favor of the complainant, the commissioner shall require the employer to pay an award of back pay for the lesser of:

(a) The two-year period immediately preceding the filing of the complaint plus the period of time commencing with the date on which the complaint is filed and ending on the date on which the commissioner issued the order; or

(b) The period of time the complainant was subject to an unlawful wage differential by the employer plus the period of time commencing with the date on which the complaint is filed and ending on the date on which the commissioner issued the order.

(5)(a) The filing of a complaint under ORS 659A.820 by a person alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law does not constitute an election of remedies or a waiver of the right of the person to file a civil action with respect to the same matters, but a civil action may not be filed after a hearing officer has commenced a hearing on the record under this chapter with respect to the allegations of the complaint.

(b) A respondent or complainant named in a complaint filed under ORS 659A.820 or 659A.825 alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law may elect to have the matter heard in circuit court under ORS 659A.885. The election must be made in writing and received by the commissioner within 20 days after service of formal charges under ORS 659A.845. If the respondent or the complainant makes the election, the commissioner shall pursue the matter in court on behalf of the complainant at no cost to the complainant.

(c) If the Attorney General or the commissioner files a complaint under ORS 659A.825, the Attorney General or the commissioner may elect to have the matter heard in circuit court under ORS 659A.885.

(d) If the respondent, the complainant, the Attorney General or the commissioner do not elect to have the matter heard in circuit court, the commissioner may conduct a hearing on the formal charges under ORS 659A.850.

(6) A person who has filed a complaint under ORS 659A.820 need not receive a notice under ORS 659A.880 before commencing a civil action that is based on the same mat-

ters alleged in the complaint filed with the commissioner.

(7) Except as provided in subsections (3) and (5) of this section, this section does not limit or alter in any way the authority or power of the commissioner, or limit or alter in any way any of the rights of an individual complainant, until and unless the complainant commences a civil action. [2001 c.621 §12; 2007 c.903 §12; 2008 c.36 §13; 2015 c.609 §§2,5; 2017 c.197 §§6,7; 2025 c.379 §5]

Note: See note under 659A.830.

659A.875 Time limitations. (1) Except as provided in subsection (2) of this section:

(a) A civil action under ORS 659A.885 alleging an unlawful employment practice other than a violation of ORS 243.323, 659A.030, 659A.082, 659A.112 or 659A.370 must be commenced within one year after the occurrence of the unlawful employment practice unless a complaint has been timely filed under ORS 659A.820.

(b) A civil action under ORS 659A.885 alleging a violation of ORS 243.323, 659A.030, 659A.082, 659A.112 or 659A.370 must be commenced not later than five years after the occurrence of the alleged violation.

(2) A person who has filed a complaint under ORS 659A.820 must commence a civil action under ORS 659A.885 within the applicable time period after a notice is mailed to the complainant under ORS 659A.880. This subsection does not apply to a complainant alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law.

(3) A civil action alleging a violation of ORS 659A.145 or 659A.421 must be commenced not later than two years after the occurrence or the termination of the unlawful practice, or within two years after the breach of any settlement agreement entered into under ORS 659A.840, whichever occurs last. The two-year period shall not include any time during which an administrative proceeding was pending with respect to the unlawful practice.

(4) A civil action under ORS 659A.885 alleging an unlawful practice in violation of ORS 659A.403 or 659A.406 must be commenced within one year of the occurrence of the unlawful practice.

(5) The notice of claim required under ORS 30.275 must be given in any civil action under ORS 659A.885 against a public body, as defined in ORS 30.260, or any officer, employee or agent of a public body as defined in ORS 30.260.

(6) Notwithstanding ORS 30.275 (9):

(a) A civil action under ORS 659A.885 against a public body, as defined in ORS 30.260, or any officer, employee or agent of a public body as defined in ORS 30.260, based on an unlawful employment practice other than a violation of ORS 243.323, 659A.030, 659A.082, 659A.112 or 659A.370 must be commenced within one year after the occurrence of the unlawful employment practice unless a complaint has been timely filed under ORS 659A.820.

(b) A civil action under ORS 659A.885 alleging a violation of ORS 659A.030, 659A.082, 659A.112 or 659A.370 must be commenced not later than five years after the occurrence of the alleged violation unless a complaint has been timely filed under ORS 659A.820.

(c) A civil action under ORS 659A.885 against a public body, as defined in ORS 30.260, or any officer, employee or agent of a public body as defined in ORS 30.260, alleging a violation of ORS 243.323, 659A.030, 659A.082 or 659A.112 must be commenced not later than five years after the occurrence of the alleged violation unless a complaint has been timely filed under ORS 659A.820.

(7) For the purpose of time limitations, a compensation practice that is unlawful under ORS 652.220 occurs each time compensation is paid under a discriminatory compensation decision or other practice.

(8) Notwithstanding ORS 30.275 (2)(b), notice of claim against a public body under ORS 652.220 or 659A.355 must be given within 300 days of discovery of the alleged loss or injury. [2001 c.621 §13; 2005 c.452 §1; 2008 c.36 §14; 2017 c.197 §8; 2019 c.343 §6; 2019 c.463 §6a; 2025 c.379 §6]

Note: See note under 659A.830.

659A.880 Notice informing complainant of right to file civil action. (1) If a complaint is filed under ORS 659A.820 alleging an unlawful practice, the Commissioner of the Bureau of Labor and Industries shall issue a notice to the complainant upon the occurrence of either of the following unless the matter has been resolved by the execution of a settlement agreement:

(a) The commissioner dismisses the complaint within one year after the filing of the complaint, and the dismissal is for any reason other than the fact that a civil action has been filed by the complainant.

(b) The one-year anniversary of the filing of the complaint.

(2) A notice under this section must be in writing and must notify the complainant that a civil action against the respondent under ORS 659A.885 may be filed within the applicable time period established under subsection (3) of this section and that any right to bring a civil action against the respondent under ORS 659A.885 will be lost if the action

is not commenced within the established time period.

(3) When a notice is issued to a complainant under this section, a civil action under ORS 659A.885 must be filed as follows:

(a) If the commissioner has conducted an investigation and made a finding of substantial evidence of a violation, or has not conducted an investigation:

(A) Within 90 days after the date of issuance, if 90 days or less remain on the applicable statute of limitations under ORS 659A.875 at the time of issuance; or

(B) Before the limitations period expires, if more than 90 days remain on the applicable statute of limitations under ORS 659A.875 at the time of issuance.

(b) If the commissioner has conducted an investigation and made a finding of no substantial evidence of a violation:

(A) Within one year after the date of issuance, if more than one year remains on the applicable statute of limitations under ORS 659A.875 at the time of issuance;

(B) Before the limitation period expires, if at least 90 days but not more than one year remain on the applicable statute of limitations under ORS 659A.875 at the time issuance; or

(C) Within 90 days after the date of issuance, if less than 90 days remain on the applicable statute of limitations under ORS 659A.875 at the time of issuance.

(4) This section does not apply to a complainant alleging an unlawful practice under ORS 659A.145, 659A.403, 659A.406 or 659A.421 or discrimination under federal housing law. [2001 c.621 §14; 2008 c.36 §15; 2025 c.379 §3]

Note: See note under 659A.830.

659A.883 Contractual shortening of statute of limitations prohibited. It is an unlawful employment practice for an employer to enter into an agreement with a former, current or prospective employee that has the effect of shortening a statute of limitations with respect to a violation over which the Bureau of Labor and Industries has enforcement authority. [2025 c.379 §2]

659A.885 Civil action. (1) Any person claiming to be aggrieved by an unlawful practice specified in subsection (2) of this section may file a civil action in circuit court. In any action under this subsection, the court may order injunctive relief and any other equitable relief that may be appropriate, including but not limited to reinstatement or the hiring of employees with or without back pay. A court may order back pay in an action under this subsection only for the two-year period immediately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-year period immediately preceding the filing of the action. In any action under this subsection, the court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Except as provided in subsection (3) of this section:

(a) The judge shall determine the facts in an action under this subsection; and

(b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (3).

(2) An action may be brought under subsection (1) of this section alleging a violation of:

(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 468B.519, 475C.285, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 657B.060, 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421; or

(b) ORS 653.470, except an action may not be brought for a claim relating to ORS 653.450.

(3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 657B.060, 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

(a) The court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or $200, whichever is greater, and punitive damages;

(b) At the request of any party, the action shall be tried to a jury;

(c) Upon appeal of any judgment finding a violation, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (1); and

(d) Any attorney fee agreement shall be subject to approval by the court.

(4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section

alleging a violation of ORS 652.220, the court may award punitive damages if:

(a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted with malice or acted with willful and wanton misconduct; or

(b) An employer was previously adjudicated in a proceeding under this section or under ORS 659A.850 for a violation of ORS 652.220.

(5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or $200, whichever is greater.

(6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or $250, whichever is greater.

(7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092, the court may award, in addition to the relief authorized under subsection (1) of this section, a civil penalty in the amount of $720.

(8) Any individual against whom any distinction, discrimination or restriction on account of race, color, religion, sex, sexual orientation, gender identity, national origin, marital status or age, if the individual is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS 659A.400, by any employee or person acting on behalf of the place or by any person aiding or abetting the place or person in violation of ORS 659A.406 may bring an action against the operator or manager of the place, the employee or person acting on behalf of the place or the aider or abettor of the place or person. Notwithstanding subsection (1) of this section, in an action under this subsection:

(a) The court may award, in addition to the relief authorized under subsection (1) of this section, compensatory and punitive damages;

(b) The operator or manager of the place of public accommodation, the employee or person acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all damages awarded in the action;

(c) At the request of any party, the action shall be tried to a jury;

(d) The court shall award reasonable attorney fees to a prevailing plaintiff;

(e) The court may award reasonable attorney fees and expert witness fees incurred by a defendant who prevails only if the court determines that the plaintiff had no objectively reasonable basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court; and

(f) Upon any appeal of a judgment under this subsection, the appellate court shall review the judgment pursuant to the standard established by ORS 19.415 (1).

(9) When the commissioner or the Attorney General has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the rights protected by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner or the Attorney General may file a civil action on behalf of the aggrieved persons in the same manner as a person or group of persons may file a civil action under this section. In a civil action filed under this subsection, the court may assess against the respondent, in addition to the relief authorized under subsections (1) and (3) of this section, a civil penalty:

(a) In an amount not exceeding $50,000 for a first violation; and

(b) In an amount not exceeding $100,000 for any subsequent violation.

(10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to the commissioner if the commissioner prevails in the action. The court may award reasonable attorney fees and expert witness fees incurred by a defendant that prevails in the action if the court determines that the commissioner had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145 or 659A.421 or discrimination under federal housing law:

(a) "Aggrieved person" includes a person who believes that the person:

(A) Has been injured by an unlawful practice or discriminatory housing practice; or

(B) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(b) An aggrieved person in regard to issues to be determined in an action may intervene as of right in the action. The Attorney General may intervene in the ac-

tion if the Attorney General certifies that the case is of general public importance. The court may allow an intervenor prevailing party costs and reasonable attorney fees at trial and on appeal. [2001 c.621 §15; 2003 c.521 §5; 2003 c.522 §1; 2003 c.572 §21; 2003 c.603 §7; 2003 c.637 §18; 2005 c.199 §1; 2007 c.100 §12; 2007 c.180 §8; 2007 c.278 §3; 2007 c.280 §1; 2007 c.525 §4; 2007 c.903 §13; 2008 c.36 §16; 2009 c.378 §4; 2009 c.478 §3; 2009 c.524 §3; 2010 c.102 §3; 2011 c.118 §4; 2011 c.484 §3; 2013 c.519 §8; 2015 c.307 §3; 2015 c.434 §4; 2015 c.457 §5; 2015 c.537 §18; 2015 c.614 §166; 2016 c.73 §5; 2017 c.197 §§9,10; 2017 c.685 §12; 2017 c.691 §13; 2019 c.139 §§5,6; 2019 c.343 §§7,8; 2019 c.463 §§7,8; 2019 c.700 §§57,58; 2019 c.701 §§12,13; 2021 c.367 §§44,45,46; 2022 c.99 §§7,8,9; 2023 c.9 §49]

659A.890 Civil action for violation of ORS 659A.865. (1) Any person aggrieved by a violation of ORS 659A.865 may bring a civil action in the manner provided by ORS 659A.885 (3) and recover the same relief as provided by ORS 659A.885 (3) for unlawful practices.

(2) As a defense to any cause of action arising under this section, the defendant may plead and prove that either:

(a) Subsequent to the defendant's conduct on which the plaintiff bases the cause of action, the complaint under ORS 659A.820 has been dismissed by the Commissioner of the Bureau of Labor and Industries or deputy, or the court, either for want of evidence to proceed to a hearing or for lack of merit after such hearing; or

(b) In the case of the sale of real property, defendant's conduct giving rise to plaintiff's cause of action was neither committed within the first two years after notice by the commissioner or deputy of the filing of the complaint under ORS 659A.820, nor within any extended period of time obtained at the request of respondent for disposition of the case. [Formerly 659.105]

PENALTIES

659A.990 Penalties. Violation of ORS 659A.810 is a Class A misdemeanor. [2001 c.621 §66; 2011 c.597 §274]

Chapter 658

(Partial)

2025 EDITION

NOTE: This publication includes only the portion of ORS chapter 658 relating to farmworker camps.

Farmworker Camps

GENERAL PROVISIONS

658.705 Definitions for ORS 658.705 to 658.850
658.715 Farmworker camp operator requirements
658.717 Notice of farmworker camp operations
658.720 Certain agreements void

FARM LABOR CONTRACTOR INDORSEMENT

658.730 Farm labor contractor indorsement to operate farmworker camp; posting indorsement; rules
658.735 Bond required; claim on bond; procedures; rules
658.740 Revocation, suspension, refusal to issue or renew indorsement

OPERATION OF FARMWORKER CAMPS

658.750 Camp operator registration; procedures; rules
658.755 Farmworker camp operator duties; prohibitions
658.760 Prohibited actions by operator; burden of proof
658.780 Protest of registration
658.785 Revocation or suspension of registration
658.790 Uninhabitable camp
658.800 Service of process on unregistered farmworker camp operator
658.805 Denial of right to court action in certain cases; damages; injunction; attorney fees
658.808 Landowner liability for operation of unregistered farmworker camp on landowner's property; rebuttable presumption

MISCELLANEOUS

658.810 Fees
658.815 Disposition of moneys
658.820 Rules; proceedings
658.825 Determination of violation of other provisions required
658.827 Department to report violations
658.830 Interagency coordination agreement
658.850 Civil penalties

GENERAL PROVISIONS

658.705 Definitions for ORS 658.705 to 658.850. As used in ORS 658.705 to 658.850:

(1) "Applicant" means an individual who proposes to operate a farmworker camp and who is applying for a camp operator indorsement under ORS 658.730.

(2) "Bureau" means the Bureau of Labor and Industries.

(3) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

(4) "Department" means the Department of Consumer and Business Services.

(5) "Director" means the Director of the Department of Consumer and Business Services.

(6) "Farm labor contractor" has the same meaning as that provided in ORS 658.405.

(7) "Farmworker camp" means any place or area of land where sleeping places, manufactured structures or other housing is provided by a farmer, farm labor contractor, employer or any other person in connection with the recruitment or employment of workers to work in the production and harvesting of farm crops or in the reforestation of lands, as described in ORS 658.405. "Farmworker camp" does not include:

(a) A single, isolated dwelling occupied solely by members of the same family, or by five or fewer unrelated individuals; or

(b) A hotel or motel which provides housing with the same characteristics on a commercial basis to the general public on the same terms and conditions as housing is provided to such workers.

(8) "Farmworker camp operator" means any person who operates a farmworker camp.

(9) "Indorsee" means a farm labor contractor licensed under ORS 658.410 who has obtained a camp indorsement under ORS 658.730. [1989 c.962 §2; 1993 c.18 §143; 1993 c.744 §19]

658.715 Farmworker camp operator requirements. (1) A person may not operate a farmworker camp unless the person:

(a) Is a farm labor contractor licensed under ORS 658.405 to 658.511, and the contractor first obtains an indorsement to do so as provided in ORS 658.730;

(b) Has a substantial ownership interest in the real property, subject to farm use special assessment under ORS 308A.050 to 308A.128, on which the camp is located or has any form of ownership interest in a business organization that operates the farmworker camp and files an income tax return reporting farm activity in the preceding tax year; or

(c) Is related by blood or marriage to any person who has a substantial ownership interest in the real property, subject to farm use special assessment under ORS 308A.050 to 308A.128, on which the camp is located or has any form of ownership interest in the business organization that operates the farmworker camp and files an income tax return reporting farm activity in the preceding tax year.

(2) Nothing in ORS 658.705 to 658.850 requires a permanent employee of a farmworker camp operator, who has no financial interest in the camp other than the wages paid to the employee, to obtain a camp indorsement. [1989 c.962 §3; 1991 c.67 §166; 1995 c.79 §335; 1999 c.314 §57; 2005 c.251 §1]

658.717 Notice of farmworker camp operations. Every farmworker camp operator shall:

(1) Post an informational notice, on a form provided by the Department of Consumer and Business Services as set forth in subsection (2) of this section, in an area of the farmworker camp frequented by the occupants.

(2) The notice provided by the department under subsection (1) of this section shall be published in English and in the language or languages used to communicate with the occupants of the farmworker camp and shall contain the following information:

(a) The name and address of the operator.

(b) The address and phone number of the department.

(c) A statement that inquiries regarding health and sanitation matters or the terms and conditions of occupancy may be made to the department.

(d) A statement that the farmworker camp is registered with the department. [1995 c.500 §3]

658.720 Certain agreements void. Agreements by workers purporting to modify their rights under ORS 658.705 to 658.850 shall be void as contrary to public policy. [1989 c.962 §11; 1991 c.67 §167]

FARM LABOR CONTRACTOR INDORSEMENT

658.730 Farm labor contractor indorsement to operate farmworker camp; posting indorsement; rules. (1) In accordance with the applicable provisions of ORS chapter 183, the Commissioner of the Bureau of Labor and Industries, by rule, shall establish an indorsement system for any farm labor contractor who operates a farmworker camp. Such system shall include, but not be limited to, provisions prescribing:

(a) The form and content of and the times and procedures for submitting an application for indorsement issuance or renewal.

(b) The requirements for and the manner of testing the competency of indorsement applicants.

(2) The indorsement shall be posted conspicuously in an exterior area of the camp that is open to all employees and in a manner easily visible to the occupants of and visitors to the camp. [1989 c.962 §4]

658.735 Bond required; claim on bond; procedures; rules. (1) Each applicant shall submit with the application and shall continually maintain thereafter a bond approved by the Commissioner of the Bureau of Labor and Industries. The amount of the bond and the security behind the bond shall be $15,000 or the amount specified in ORS 658.415, whichever is greater. This bond shall satisfy the bond required by ORS 658.415. If there is an unsatisfied judgment of a court or final decision of an administrative agency against an indorsee applicant, the subject of which is any matter which would be covered by the bond referred to in this subsection, the commissioner shall not issue an indorsement to the applicant until the judgment or decision is satisfied. As a condition of indorsement, the commissioner may require the applicant to submit proof of financial ability required by this subsection in an amount up to three times that ordinarily required of an indorsee applicant. In lieu of the bond required by this subsection, each applicant may file with the commissioner, under the same terms and conditions as when a bond is filed, a deposit in cash or negotiable securities acceptable to the commissioner.

(2) All bonds or deposits filed under this section shall be executed to cover liability for the period for which the indorsement is issued. During the period for which executed, no bond can be canceled or otherwise terminated.

(3) Any person who suffers any loss specified in subsection (9) of this section shall have a right of action in the name of the person against the surety upon the bond or against the deposit with the commissioner:

(a) The right of action is assignable and must be included with the claim, or of a judgment thereon.

(b) The right of action shall not be included in any suit or action against the farmworker camp operator but must be exercised independently after first procuring a judgment or other form of adequate proof of liability established by rule establishing the farmworker camp operator's liability for the claim.

(4) The surety company or the commissioner shall make prompt and periodic payments on the farmworker camp operator's liability up to the extent of the total sum of the bond or deposit. Payments shall be made in the following manner:

(a) Payment shall be made based upon priority of wage claims over any other claims.

(b) Payment shall be made in full of all sums due to each person who presents adequate proof of the claim.

(c) If there are insufficient funds to pay in full the person next entitled to payment in full, such person will be paid in part.

(5) No person shall bring any suit or action against the surety company or the commissioner on the bonding obligation or as trustee for the beneficiaries of the indorsee under any deposit made pursuant to this section unless the person has first exhausted the procedures contained in subsections (3) and (6) of this section and contends that the surety company or the commissioner still has funds which are applicable to the person's judgment or acknowledgment.

(6) All claims against the bond or deposit shall be unenforceable unless request for payment of a judgment or other form of adequate proof of liability or a notice of the claim has been made by certified mail to the surety company or the commissioner within six months from the end of the period for which the bond or deposit was executed and made.

(7) If the commissioner has received no notice as provided in subsection (6) of this section within six months after a farm labor contractor is no longer required to provide and maintain a surety bond or deposit, the commissioner shall terminate and surrender any bond or any deposit under the control of the commissioner to the person who is entitled thereto upon receiving appropriate proof of such entitlement.

(8) Every indorsee required by this section to furnish a surety bond, or make a deposit in lieu thereof, shall keep conspicuously posted in an exterior area of the camp which is open to all employees and in a manner easily visible to occupants of and visitors to the camp, a notice in both English and any other language used by the indorsee to communicate with workers specifying the indorsee's compliance with the requirements of this section and specifying the name and Oregon address of the surety on the bond or a notice that a deposit in lieu of the bond has been made with the commissioner, together with the address of the commissioner.

(9) The bond or deposit referred to in subsection (1) of this section shall be payable to the commissioner and shall be conditioned upon:

(a) All sums legally owing to any person when the indorsee or the indorsee's agents have received such sums;

(b) All damages occasioned to any person by reason of any material misrepresentation, fraud, deceit or other unlawful act or omission by the indorsee, or the indorsee's agents or employees acting within the scope of their employment; and

(c) All sums legally owing to any employee of the indorsee. [1989 c.962 §5; 1993 c.723 §2; 2003 c.576 §535]

658.740 Revocation, suspension, refusal to issue or renew indorsement. The Commissioner of the Bureau of Labor and Industries may revoke, suspend, refuse to renew or refuse to issue an indorsement to act as a farmworker camp operator upon the commissioner's own motion or upon complaint by an individual if the:

(1) Indorsee has violated or failed to comply with any provision of ORS 658.705 to 658.850 or any of the rules adopted thereunder;

(2) Conditions under which the indorsement was issued have changed or no longer exist;

(3) Indorsee's character, reliability or competence makes the indorsee unfit to act as a farmworker camp operator; or

(4) Applicant or operator makes any material misrepresentation, false statement or willful concealment in the application for a license. [1989 c.962 §9]

OPERATION OF FARMWORKER CAMPS

658.750 Camp operator registration; procedures; rules. (1) Every farmworker camp operator shall register with the Department of Consumer and Business Services each farmworker camp operated by the operator.

(2) The department shall establish, by rule, procedures for annual registration of farmworker camps. The department may adopt any other rule necessary to implement the provisions of ORS 658.705 to 658.850.

(3) Upon receipt of an initial application for registration, the department shall conduct a preoccupancy consultation with the operator of the farmworker camp if:

(a) The camp was not registered with the department prior to January 1, 1989, and has not been registered with the Commissioner of the Bureau of Labor and Industries or the Director of the Department of Consumer and Business Services in a prior year; or

(b) The camp operator requests a consultation.

(4) If the department has determined that the health and safety conditions existing at the camp are not in conformance with the rules of the department, the department shall not register the camp until the department determines that the camp has been brought into compliance.

(5) Upon registration of a camp, the department shall transmit a copy of the registration to the Bureau of Labor and Industries.

(6) The department shall compile periodically a list of all registered camps and make the list available to the bureau and other interested persons. [1989 c.962 §6; 1991 c.67 §168; 1995 c.500 §1]

658.755 Farmworker camp operator duties; prohibitions. (1) Every farmworker camp operator shall:

(a) If a farm labor contractor, comply with the provisions of ORS 658.405 to 658.511.

(b) Comply with ORS chapter 654 and the administrative rules of the Department of Consumer and Business Services adopted pursuant to ORS chapter 654.

(c) Comply with all applicable building codes and health and safety laws.

(d) Comply with ORS 659A.250 to 659A.262.

(e) Pay or distribute promptly, when due, to individuals entitled thereto, all moneys or other things of value entrusted to the farmworker camp operator, or agents or employees of the operator, by any individual for that purpose.

(f) Comply with the terms and provisions of all legal and valid agreements or contracts entered into in the operator's capacity as an operator of a farmworker camp.

(2) No farmworker camp operator shall:

(a) Operate a camp which is not registered with the department as required by ORS 658.750.

(b) Make any material misrepresentation, false statement or willful concealment in the application for an indorsement or registration.

(c) Willfully make or cause to be made to any person any false, fraudulent or misleading representation concerning the terms and conditions of occupancy in the farmworker camp.

(d) Knowingly publish or circulate any false or misleading information concerning

the terms, conditions or existence of housing or employment at any place.

(e) Assist a person who is not entitled to operate a farmworker camp under ORS 658.705 to 658.850 to act in violation of ORS 658.705 to 658.850 or in violation of ORS 658.405 to 658.511 or ORS chapter 654.

(f) By force, intimidation or threat in any manner whatsoever, induce any occupant of the farmworker camp to give up any part of the compensation the occupant is entitled to by contract or by any state or federal wage payment law.

(g) By force, intimidation or threat in any manner whatsoever, restrain any person who wishes to leave the camp from doing so. [1989 c.962 §7; 1991 c.67 §169; 1995 c.500 §4]

658.760 Prohibited actions by operator; burden of proof. (1) No farmworker camp operator shall discharge, evict or in any other manner discriminate against any person because that person:

(a) Has made a claim against the operator or employer for compensation for the occupant's own personal services.

(b) Has caused to be instituted any proceedings under or related to ORS 658.705 to 658.850.

(c) Has testified or is about to testify in any such proceedings.

(d) Has discussed or consulted with anyone concerning the occupant's rights under ORS 658.405 to 658.511 or 658.705 to 658.850.

(2) The aggrieved person shall have the burden of proving that the discrimination was because of the protected activity. [1989 c.962 §8; 1991 c.67 §170]

658.780 Protest of registration. Any individual may protest the registration of any proposed farmworker camp and the Department of Consumer and Business Services shall give the individual an opportunity to state the reasons for the objection. [1989 c.962 §14; 1995 c.500 §5]

658.785 Revocation or suspension of registration. The Department of Consumer and Business Services may revoke or suspend a registration upon the department's own motion or upon complaint by an aggrieved individual if the:

(1) Camp is no longer in compliance with the provisions of ORS 658.705 to 658.850 or any rules adopted thereunder;

(2) Conditions under which the registration was accepted have changed or no longer exist;

(3) Information supplied by the operator or applicant regarding the farmworker camp included any material misrepresentation, false statement or willful concealment in the registration or in any procedure in the application process; or

(4) The department finds that the camp fails to comply with the requirements of ORS chapter 654 and the regulations adopted thereunder. [1989 c.962 §15; 1995 c.500 §6]

658.790 Uninhabitable camp. (1) If any government agency authorized to enforce building, health or safety standards orders a camp vacated because the camp is not habitable, the camp operator shall provide lodging, without charge, that meets the health and safety standards of the Department of Consumer and Business Services, for seven days or until the camp is made habitable, whichever is less.

(2) The provisions of subsection (1) of this section do not apply if the department determines that the cause of closure was beyond the control of the camp operator.

(3) In addition to other remedies provided by law, the department shall enforce the provisions of subsection (1) of this section. [1989 c.962 §17; 1997 c.27 §1]

658.800 Service of process on unregistered farmworker camp operator. In any action arising out of the activities of a farmworker camp operator who is operating an unregistered farmworker camp within this state and who is not in the state or is otherwise unavailable to accept service of process in this state, the farmworker camp operator may be served by mailing a certified true copy of the summons and complaint to:

(1) The Commissioner of the Bureau of Labor and Industries;

(2) The last-known address, if any, of the farmworker camp operator; and

(3) Any other address, the use of which the plaintiff knows or, on the basis of reasonable inquiry, has reason to believe is most likely to result in actual notice. [2007 c.91 §2]

658.805 Denial of right to court action in certain cases; damages; injunction; attorney fees. (1) Except to appeal from an act or determination of the Commissioner of the Bureau of Labor and Industries or the Department of Consumer and Business Services, no person operating a farmworker camp, as defined in ORS 658.705, is entitled to demand, receive or accept any fee directly or indirectly or maintain any suit or action in the courts of this state involving the farmworker camp, without alleging and proving that the person was registered or indorsed to operate a farmworker camp.

(2) The commissioner, Director of the Department of Consumer and Business Services or any local governmental agency may bring suit in any court of competent jurisdiction to enjoin any person from violating

any of the provisions of ORS 658.705 to 658.850, or rules adopted pursuant thereto, and from committing future violations.

(3) Any aggrieved person may bring suit in any court of competent jurisdiction against any person violating ORS 658.715 (1) or 658.755 (2)(a) who violates any of the provisions of ORS 658.705 to 658.850, or rules adopted pursuant thereto, to recover damages and to enjoin the person from committing future violations.

(4) In actions brought pursuant to this section, the court may award to the prevailing party costs and disbursements and a reasonable attorney fee. In addition, if damages are found, the amount of damages recoverable from a farmworker camp operator who is subject to suit pursuant to subsection (3) of this section who violates ORS 658.705 to 658.850 is actual damages or $2,000, whichever is greater. [1989 c.962 §18; 1991 c.67 §171; 1995 c.500 §7; 2025 c.504 §3]

658.808 Landowner liability for operation of unregistered farmworker camp on landowner's property; rebuttable presumption. (1) As used in this section, "landowner" means any person that has a substantial ownership interest in real property.

(2) A landowner who, at the time of the farmworker camp's operation, knows or should have known that the landowner's property is being used as the site of a farmworker camp shall be jointly and severally liable with the person acting as the farmworker camp operator to the same extent and in the same manner as provided in ORS 658.805 (3) and (4).

(3) There is a rebuttable presumption that a landowner did not know and could not reasonably have known of the operation of an unregistered farmworker camp on the landowner's property if the landowner produces a written lease agreement or a copy thereof that expressly prohibits the operation of an unregistered farmworker camp on the property by the lessee or any other person. The presumption may be rebutted by a preponderance of the evidence that the landowner knew or should have known of the operation of the farmworker camp. [2025 c.504 §2]

MISCELLANEOUS

658.810 Fees. Fees required for farmworker camp indorsements shall be established under ORS 658.413. [1989 c.962 §5a; 1995 c.500 §8; 1999 c.399 §8]

658.815 Disposition of moneys. (1) All farmworker camp indorsement fees received by the Commissioner of the Bureau of Labor and Industries under ORS 658.810 shall be credited to the Bureau of Labor and Industries Account. Notwithstanding ORS 651.160 (1) and 658.413 (4), moneys credited to the account under this subsection are continuously appropriated for the enforcement of ORS 658.705 to 658.850.

(2) Moneys collected from civil penalties imposed by the commissioner pursuant to ORS 658.850 for violations of ORS 658.750 shall be credited to the Agricultural Worker Housing Development Account of the Oregon Housing Fund.

(3) Except as provided in subsection (2) of this section, all moneys other than fees described in ORS 658.413 received by the commissioner under ORS 658.705 to 658.850 shall be credited to the General Fund. [1989 c.962 §12; 1991 c.67 §172; 1999 c.399 §9; 2001 c.310 §6; 2021 c.525 §27]

658.820 Rules; proceedings. (1) The Commissioner of the Bureau of Labor and Industries may adopt rules necessary for the administration of ORS 658.705 to 658.850.

(2) All rules adopted under ORS 658.705 to 658.850 shall be issued in compliance with ORS 183.310 to 183.410.

(3) All proceedings relating to the issuance, revocation, suspension, renewal or refusal to renew an indorsement to act as a farmworker camp operator shall be conducted under ORS 183.310 to 183.497. [1989 c.962 §13; 1991 c.67 §173]

658.825 Determination of violation of other provisions required. The Commissioner of the Bureau of Labor and Industries shall not revoke, suspend or refuse to renew or reissue an indorsement under ORS 658.740 or any rule adopted thereunder, or assess penalties under ORS 658.850 for violations of ORS chapter 654 or any rule adopted thereunder unless the Department of Consumer and Business Services has determined that the operator has failed to comply with ORS chapter 654 or any rules adopted thereunder. [1989 c.962 §19; 1995 c.500 §9]

658.827 Department to report violations. In pursuing its duties under ORS chapter 654, the Department of Consumer and Business Services shall report to the Bureau of Labor and Industries any violation of this chapter observed by department staff. [1989 c.962 §16]

658.830 Interagency coordination agreement. The Department of Consumer and Business Services and the Commissioner of the Bureau of Labor and Industries shall adopt an interagency agreement to coordinate the application of all laws the department and the commissioner are charged with administering with respect to farm labor camps. [1989 c.164 §15]

658.850 Civil penalties. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau of Labor and Industries may assess a civil penalty not to exceed $2,000 for each violation of any provision of ORS 658.705 to 658.850.

(2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(3) The commissioner may suspend a penalty issued under ORS 658.705 to 658.850 if the deficiency is corrected within 15 days of the notice of violation. [1989 c.962 §10; 1991 c.67 §175; 1991 c.734 §62]

INDEX

The following index is derived from the General Index to Oregon Revised Statutes. Some of the statutes cited do not appear in this publication but have been retained for informational purposes. Users should refer to ORS for the text of those statutes.

ABUSE OF PERSONS

Interference with good faith disclosures, 659A.340

ADMINISTRATIVE HEARINGS OVERSIGHT COMMITTEE, OFFICE OF

(Generally), 183.690

ADMINISTRATIVE HEARINGS, OFFICE OF

(Generally), 183.605 et seq.
Administrative law judges, see **ADMINISTRATIVE PROCEDURE**
Expenses, biennial, notification, 183.665
Operating account, 183.660
Petty cash funds, 183.660
Rules, 183.670
Services provided by Employment Department, 183.605

ADMINISTRATIVE PROCEDURE

(Generally), 183.310 et seq.
Adjutant General, exemption, 183.315
Administrative hearings
- Conduct, 183.625
- Contested cases, see **Contested cases**, this topic
- Fees, 183.655

Administrative law judges
- Alternative dispute resolution, effect on, 183.675
- Assignments
  - Change, request, 183.645
  - Expertise, 183.625
- Chief administrative law judge, see **Chief administrative law judge**, this topic
- Contract administrative law judges, 183.620
- Depositions, paid, authority to authorize, 183.630
- Duties, 183.615
- Ethical code, 183.680
- Fees, 183.655
- Powers, 183.605
- Qualifications, 183.615
- Quasi-judicial hearings, political subdivisions, 183.640
- Standards and training program, 183.680
- State agencies required to use judges, exceptions, 183.635
- Workers' compensation, see **WORKERS' COMPENSATION**

Administrative Procedures Act, 183.310 et seq.
Alternative dispute resolution, generally, 183.502
Appeal and review
- Declaratory rulings by agencies, 183.410
- Judicial review, see **Judicial review**, this topic
- Procedure, 183.485, 183.490, 183.500
- Rule review, see **RULES**

ADMINISTRATIVE PROCEDURE (Cont.)

Application of statutes, 183.315, 183.335
Apprenticeship or training agreement, suspension, cancellation, or termination, exemption, 183.315
Boundary commissions, local government, exemption, 183.315
Chief administrative law judge
- (Generally), 183.610
- Administrative Hearings Oversight Committee, Office of, ex officio member, 183.690
- Model rules of procedure advisory group, member, 183.630
- Rules, 183.615, 183.645, 183.670
- Training, 183.680

Civil penalties, generally, 183.745
Compelling agency to act, 183.490
Consumer and Business Services, Department of, exemption, 183.315
Contested cases
- See also **Administrative hearings**, this topic
- (Generally), 183.411 et seq.
- Administrative law judges
  - Conducting, 183.625, 183.630, 183.635
  - Exempted agencies, use, 183.640
  - Fees, 183.655
  - Model rules of procedure, use, 183.630
  - Record, 183.417, 183.615
- Appeals to courts, 183.480, 183.482, 183.485, 183.490, 183.500
- Application of Administrative Procedures Act, 183.315
- Civil penalties, generally, 183.745
- Conclusions of law, 183.460, 183.470
- Cross-examination, 183.450
- Default orders, 183.417
- Defined, 183.310
- Delegation of authority, final orders, 183.411
- Depositions, 183.425, 183.630
- Evidence, generally, 183.417, 183.425, 183.440, 183.445, 183.450, 183.452
- Ex parte communications, 183.417, 183.462, 183.685
- Findings of fact, 183.460, 183.470
- Health Authority, Oregon, 183.453
- Hearings, generally, 183.413, 183.415, 183.417, 183.430, 183.450
- Informal disposition, 183.417
- Judicial notice, 183.450
- Judicial review, 183.480, 183.482, 183.485, 183.490, 183.500, 183.650
- License renewal or suspension, hearings, 183.430
- Military personnel, active duty, rights, 183.413, 183.415
- Notices, 183.413, 183.415, 183.450, 183.460, 183.470, 183.482
- Orders, 183.411, 183.417, 183.450, 183.460, 183.464, 183.470, 183.471, 183.480, 183.650

ADMINISTRATIVE PROCEDURE (Cont.)

Contested cases (Cont.)
Preservation of orders in electronic format, 183.471
Proposed orders, amendment and exemptions, 183.460, 183.464
Records, 183.417, 183.450, 183.462, 183.470, 183.471, 183.482, 183.685
Representation
(Generally), 183.417, 183.457
Agencies, 183.452, 183.453
Labor union representation, certain care providers, 183.459
Nonattorney or out-of-state attorney, certain proceedings, 183.458
Rules, see **RULES**
Subpoenas, 183.425, 183.440, 183.445
Transcription charges, 183.417
Contract administrative law judges, 183.620
Corrections Department, exemptions, 183.310, 183.315
Declaratory ruling by agency on statute or rule, 183.410
Definitions, generally, 183.310
Depositions, contested cases, 183.425, 183.630
Discrimination hearings, 659A.850
Employment Appeals Board, exemption, 183.315
Employment Department, exemption, 183.315
Employment health and safety regulation, 654.290
Exempted agencies, rules, orders, 183.310, 183.315
Farmworker camps, 658.820
Fees
Administrative law judges, 183.655
Electronic copies of orders, 183.471
Governor, exemptions, 183.315
Information, submissions, requests, agency descriptions, 183.330
Judicial notice, rules and executive orders, 183.360
Judicial review
(Generally), 183.400, 183.480
Civil penalties, generally, 183.745
Contested cases, 183.480, 183.482, 183.485, 183.490, 183.500, 183.650
Costs and attorney fees, awarding to petitioner, 183.497
Court of Appeals, 183.485, 183.500
Decision, review court, form and scope, 183.486
Declaratory rulings by agencies, 183.410
Orders other than contested cases, 183.484
Rules, validity, 183.400
Stay, agency enforcement of order, 183.482
Withdrawal of order other than contested case, effect, 183.484
Licenses and permits, general provisions, 183.430, 183.435, 183.700, 183.702, 183.705
Local government boundary commissions, exemption, 183.315
Military personnel, active duty, rights, 183.413, 183.415
Notices
Civil penalties, generally, 183.745
Contested cases, 183.413, 183.415, 183.450, 183.462, 183.470, 183.482
Mailing, 183.335, 183.413, 183.415
Orders, service required, 183.330
Rule notices, intended action, 183.335
Orders
Application of Administrative Procedures Act, 183.315
Contested cases, 183.411, 183.417, 183.450, 183.460, 183.464, 183.470, 183.471, 183.480, 183.650

ADMINISTRATIVE PROCEDURE (Cont.)

Orders (Cont.)
Defined, 183.310
Executive, 183.310, 183.355, 183.360
License suspension, renewal refusal, 183.430
Other than contested case, judicial review, 183.484
Preservation of orders in electronic format, 183.471
Service required, 183.330
Stay, judicial review of contested cases, 183.482
Tax statutes of limitation, extending, 183.360
Writing, final orders, requirement, 183.330
Organization descriptions, agencies, 183.330
Parole and Post-Prison Supervision Board, exemption, 183.315
Permits and licenses, general provisions, 183.430, 183.435, 183.700, 183.702, 183.705
Psychiatric Security Review Board, exemption, 183.315
Records and recording
Contested cases, 183.417, 183.450, 183.462, 183.470, 183.471, 183.482, 183.685
Orders other than contested cases, 183.484
Rule notices, public inspection, 183.335
Rules, see **RULES**, generally
Secretary of State, exemption, 183.315
State Accident Insurance Fund Corporation, exemption, 183.315
Statutes, application, 183.315, 183.335

AFFIRMATIVE ACTION

Promoting, voluntary affirmative action, 659A.800
State Accident Insurance Fund Corporation, application of laws, 656.753
State agencies
(Generally), 659A.012
Labor and Industries, Bureau of, promoting voluntary action, 659A.800
Reports
Contract awards, minority businesses, 659A.015
Objectives, performance, 659A.012

AGRICULTURE AND HORTICULTURE

Corporate officers, workers' compensation, nonsubject workers, 656.027
Farm labor, see **FARM LABOR**, generally
Hazardous chemicals, see **HAZARDOUS SUBSTANCES**
Occupational safety and health, regulations, exemption, certain corporate farms, 654.005

APPRENTICES AND TRAINEES

Cancellation of contracts and agreements, 183.315
Discrimination, employment protections, generally, 659A.030
Funds, employer payment, 659.825, 659.990
Workers' compensation, see **WORKERS' COMPENSATION**

ASSAULT

Health care employees, 654.062, 654.412 et seq.

ASSISTANCE ANIMALS

Discrimination, generally, 659A.143
Harm or theft, damages, 659A.141

ATHLETICS
Discrimination, participation in USOC events, 659.865
Workers' compensation coverage, 656.027

BLACKLISTS
Labor, prohibited, 659.805, 659.990

BREATHALYZER TESTS
Employment, 659.840, 659.990, 659A.300

CHILD CARE
Contested cases, facilities, labor union representation, 183.459
Interference with good faith disclosures, 659A.340
Provision by employer not unlawful practice, 659A.030
Public health emergencies, child care provider closure, family leave, 659A.156, 659A.159, 659A.165, 659A.168

COMPENSATION AND SALARIES
See also LABOR AND EMPLOYMENT
Discrimination, see **DISCRIMINATION**
Nondisclosure agreements, workplace conduct, 659A.370
Salary history, unlawful inquiries, generally, 659A.357
Tips, workers' compensation, inclusion in wages, 656.005
Wage actions and claims
(Generally), 659A.885
Retaliation, 659A.355
Salary history inquiries, generally, 659A.357
Workers' compensation, see **WORKERS' COMPENSATION**, generally

CONSTRUCTION AND CONSTRUCTION CONTRACTORS
Sanitation facilities, construction sites, 654.150, 654.160
Steel erection, fall protection, rules, 654.035
Utility vehicle rentals, occupational health and safety, 654.345
Workers' compensation
Exception for laborers, 656.021
Independent contractors, 656.027

DISCRIMINATION
Affirmative action, see **AFFIRMATIVE ACTION**, generally
Age (generally)
Employment, 659A.009, 659A.030
Public accommodations, 659A.403, 659A.409
Assistance animals, 659A.143
Athletics, participation in United States Olympic Committee event, 659.865
Cease and desist orders, 659A.825, 659A.840, 659A.850, 659A.860
Closed-captioned television receivers, public accommodations, 659A.419
Compensation and salaries, see **Employment**, this topic
Credit history, employment, 659A.320
Currency or coins, refusal to accept, 659A.410
Disabilities, persons with (generally)
Assistance animals, 659A.143

DISCRIMINATION (Cont.)
Disabilities, persons with (generally) (Cont.)
Closed-captioned television receivers, 659A.419
Description of disability, criteria, 659A.104
Employment, see **Employment**, this topic
Housing, 659A.145, 659A.425
Opposition to discrimination, 659A.030
Penalties, 659.990
Policy declaration, 659A.103
Public accommodations, 659A.103, 659A.142, 659A.143, 659A.144, 659A.419
Real property transactions, 659A.145, 659A.425
State government, services, programs, etc., 659A.142
Transient lodging, 659A.144
Education
(Generally), 659.850 et seq.
Employment discrimination, educational basis, 659A.030, 659A.318
Enforcement, sanctions, 659.855, 659.860
Retaliation, student making good faith report, 659.852
Rules, 659.850, 659.855
Employment
(Generally), 659A.003, 659A.006, 659A.030, 659A.800, 659A.805
Academic degrees, religious basis, 659A.318
Affirmative action, see **AFFIRMATIVE ACTION**, generally
Age, generally, 659A.009, 659A.030
Apprenticeship and training programs, generally, 659A.030
Benefit plans, involuntary retirement, 659A.321
Boards and commissions, state, members, 659A.314
Credit history, 659A.320
Criminal background, 659A.360, 659A.362
Disabilities, individuals with
(Generally), 659A.006, 659A.030, 659A.103, 659A.109, 659A.112, 659A.142
Accommodation, reasonable, 659A.118, 659A.121
Application of laws, 659A.106
Conditions not constituting impairment, 659A.122, 659A.130
Construction of law, 659A.139
Description of disability, criteria, 659A.104
Drug usage, illegal, inapplicability of protections, 659A.122, 659A.124
Employer actions permitted, 659A.122, 659A.127
Facilities, reasonable accommodation, 659A.118, 659A.121
Hardship, employers, accommodations, 659A.121
Injunctive relief and damages, 659A.885
Medical examinations, 659A.133, 659A.136
Oregon National Guard, 659A.106
Practices constituting discrimination, 659A.109, 659A.112
Qualification for position, 659A.115
Workers' compensation subjects, 659A.040, 659A.043, 659A.046, 659A.069, 659A.109, 659A.885
Driver license, requiring employee to possess, 659A.347
Education level or attainments, 659A.030, 659A.318
Elections law violations, discrimination for reporting, 659A.228
Employment status, advertisements for job vacancies, 659A.550
Family and medical leave, 659A.096, 659A.183
Family members, 659A.309
Health and safety law complainants, 654.062

Employment (Cont.)
Health benefits, termination for absence, 659A.063
Health care employee reports of violations, abuse, etc., 659A.233, 659A.340
Housing, see **Housing**, this topic
Interns, application of laws, 659A.350
Juvenile record, expungement, 659A.030
Model procedures and policies (BOLI), 659A.375, 659A.377
Nondisclosure and related agreements, 659A.370
Policy declarations, 659A.006, 659A.009, 659A.103
Pregnancy and childbirth, 659A.029, 659A.030, 659A.146, 659A.147, 659A.148
Purpose of statutes, 659A.003
Religious Freedom Act, Oregon Workplace, 659A.033, 659A.036
Seniority systems, 659A.321
Severance or separation agreements, when voidable by employer, 659A.380
Sex and gender
(Generally), 659A.006, 659A.029, 659A.030
Because of sex, defined, 659A.029
State boards and commissions, service, 659A.314
Statutes of limitation, contracts shortening, 659A.883
Victims of certain crimes, 659A.277, 659A.290
Wages
Definitions, 659A.029
Retaliation for wage claim or complaint, 659A.355
Salary history, unlawful inquiries, 659A.357
Whistleblowing, 659A.199 et seq.
Workers' compensation, see **Workers' compensation**, this topic
Written prevention policies, employers, 659A.375
Enforcement (generally)
(Generally), 659A.800 et seq.
Advisory agencies, 659A.815
Appeals to courts, 659A.810
Cease and desist orders, 659A.825, 659A.840, 659A.850, 659A.860
Civil actions, 659A.875, 659A.880, 659A.885
Civil penalties, 659A.855, 659A.885
Commissioner of the Bureau of Labor and Industries
Authority, 659A.830
Complaints, filing, 659A.825
Delegation of powers, effect, 659A.800
Evidence, findings, 659A.835
Orders, 659.990, 659A.810, 659A.825, 659A.840, 659A.850, 659A.860, 659A.990
Rules, adoption, 659A.805
Subpoenas, issuance, 659A.800
Complaints
Aggrieved persons, 659A.820, 659A.885
Attorney General, 659A.825
Commissioner of the Bureau of Labor and Industries, 659A.825
Complainant, action by respondent against, 659A.890
Conciliation, requesting, 659A.820
Dismissal, 659A.830, 659A.870
Evidence, findings, 659A.835
Health, safety law, 654.062
Investigation, 659A.830, 659A.835
Notices, 659A.820, 659A.830, 659A.880
Pendency, actions by respondent, prohibitions, 659A.890
Post-settlement complaints, 659A.840
Respondents, conciliation, requesting, 659A.820
Retaliatory actions, prohibited, 659A.865
Settlement, 659A.840, 659A.860

Enforcement (generally) (Cont.)
Complaints (Cont.)
Time limitation, 659A.820, 659A.830
Conciliation, 659A.820, 659A.850
Damages, generally, 659A.885
Definitions, 659A.001
Election of remedies, 659A.870
Elimination of violations, 659A.800
Evidence, findings, 659A.835
Family members, 659A.309
Financial assistance, Bureau of Labor and Industries, acceptance, 659A.800
Formal charges, filing, 659A.845
Hearings, 659A.030, 659A.850
Injunctions, 659A.885
Interfering with or resisting enforcement, 659.990, 659A.810, 659A.990
Intergroup-relations councils, 659A.815
Investigation, 659A.830, 659A.835
Limitation of actions, see **Limitation of actions**, this topic
Notices, 659A.820, 659A.830, 659A.880
Orders, 659.990, 659A.810, 659A.825, 659A.840, 659A.850, 659A.860, 659A.990
Penalties, 659A.855, 659A.885, 659A.990
Policies, procedures, programs, 659A.815
Recommendations, agencies and councils, 659A.815
Relief, 659A.885
Remedies, election, 659A.870
Retaliatory actions, prohibited, 659A.865
Rules, adopting, 659A.805
Studies, agencies and councils, 659A.815
Subpoenas, issuance by commissioner, 659A.800
Unlawful practice, defined, 659A.001
Voluntary action, 659A.800
Equality Act, Oregon, 659A.004
Health care
(Generally), 659.875, 659A.142
Employee reports of violations, abuse, etc., 659A.233, 659A.340
Reproductive health services, 659.875
Toilet facilities, access, certain medical conditions, 659A.411, 659A.413, 659A.415, 659A.417
Housing
(Generally), 659A.421, 659A.425
Action for damages, 659A.885
Declaration of policy, 659A.006
Disabilities, persons with, 659A.145, 659A.425
Employee housing
Access restriction, 659A.253
Definitions, 659A.250
Eviction, 659A.259
Use regulations, 659A.256
Warrant, persons entitled to access, 659A.262
Facially neutral housing policy, violations based on, 659A.425
Landlord and tenant
(Generally), 659A.421, 659A.425
Disabilities, persons with, 659A.145
Prohibitions, 659A.145, 659A.421, 659A.425
Real property transactions, 659A.145, 659A.421, 659A.425
Sexual orientation, 659A.006
Identification other than Real ID, 659A.343
Limitation of actions
(Generally), 659A.875, 659A.880
Complaints, 659A.820, 659A.830
Employment contracts shortening time period, prohibition, 659A.883
Injunctive relief, 659A.885
Penalties, generally, 659A.855, 659A.885, 659A.990

DISCRIMINATION (Cont.)

Public accommodations
(Generally), 659A.403
Actions for damages, 659A.885
Age, generally, 659A.403, 659A.409
Aiding, abetting, agents, 659A.406, 659A.800
Assistance animals, 659A.143
Closed-captioned television receivers, 659A.419
Currency or coins, refusal to accept, 659A.410
Declaration of policy, 659A.006
Defined, 659A.400
Disabilities, individuals with, 659A.103, 659A.142, 659A.143, 659A.144, 659A.419
Notices of discrimination prohibited, 659A.409
Sexual orientation, 659A.006, 659A.403
Toilet facilities, access, certain medical conditions, 659A.411, 659A.413, 659A.415, 659A.417
Transient lodging, individuals with disabilities, 659A.144
Purpose of statutes, 659A.003
Real property
Housing, see **Housing**, this topic
Selling, renting, or leasing, generally, 659A.421, 659A.425, 659A.800, 659A.805
Rules, generally, 659A.805
Source of income, housing, 659A.421, 659A.425
Television receivers, closed captioning, public accommodations, 659A.419
Transient lodging, individuals with disabilities, 659A.144
U.S. currency or coins, refusal to accept, 659A.410
Workers' compensation
(Generally), 659A.040 et seq.
Applicants, 659A.040, 659A.069, 659A.109
Injunctive relief, 659A.885
No-rehire provisions as settlement condition, 659A.390
Reinstated or reemployed workers, 659A.043, 659A.046

ELECTIONS

Complaints, procedures, 183.315
Discrimination for reporting elections violations, 659A.228
Opinions of employer, communications, 659.780, 659.785
Workers' Compensation Board members, political activities, 656.716

EMPLOYMENT

See LABOR AND EMPLOYMENT, generally

EMPLOYMENT AGENCIES

Disabilities, individuals with, unlawful employment practices, 659A.142
Discriminatory practices prohibited, 659A.030, 659A.142
Employer statement regarding conditions, 659.810, 659.845, 659.990

EQUALITY ACT, OREGON

(Generally), 659A.004

FAMILY AND MEDICAL LEAVE

General provisions
(Generally), 659A.150 et seq.
Accrued leave, use, 659A.174
Benefits continuation, 659A.171
Concurrent leave, 659A.162, 659A.186

FAMILY AND MEDICAL LEAVE (Cont.)

General provisions (Cont.)
Construction of laws, 659A.186
Covered employers, 659A.153
Definitions, 659A.150, 659A.157, 659A.164
Eligible employees, 659A.156
Exclusivity of provisions, 659A.186
Family member, determination, reason of affinity, 659A.157
Job protection, 659A.171
Length of leave, 659A.162, 659A.164
Medical verification, 659A.168
Notices
To employees, 659A.180
To employer, 659A.165
Public health emergencies, 659A.156, 659A.159, 659A.165, 659A.168
Purposes for which leave may be taken, generally, 659A.156, 659A.159
Retaliation, 659A.183
Rules, 659A.157, 659A.162, 659A.164
Teachers, 659A.177
Unlawful practices, 659A.183
Verification, medical, 659A.168
Workers' compensation subjects, refusal of reinstatement or reemployment offer, use of family leave, 659A.043, 659A.046
Military Family Leave Act, Oregon
Definitions, 659A.090
Job protection, benefits, 659A.093
Leave, generally, 659A.093
Notice to employer, 659A.093
Short title, 659A.099
Unlawful practices, employer, 659A.096
Rules
(Generally), 659A.157, 659A.162, 659A.164
Oregon Military Family Leave Act, 659A.093

FARM LABOR

Camps
(Generally), 658.705 et seq.
Administrative Procedures Act, applicability, 658.820
Civil actions, 658.805, 658.808
Civil penalties, 654.086, 658.850
Definitions, 658.705
Fees, 658.810, 658.815
Health and safety
Citations, copy to operator, 654.071
Civil penalties, violations, 654.086
Inspections, see **Inspections, health and safety**, this topic
Place of employment, as, 654.005
Uninhabitable camp, vacating, 658.790
Indorsement to operate
(Generally), 658.730
Bond, 658.735
Fees, 658.810, 658.815
Revocation, suspension, etc., 658.740, 658.820
Informational notices, operator name, address, etc., posting, 658.717
Injunctions, 658.805
Interagency coordination agreement, 658.830
Landowner liability, 658.808
Operation, requirements, 658.715
Penalties, civil, 654.086, 658.850
Registration
(Generally), 658.750
Civil actions, 658.805, 658.808
Landowner not liable for unregistered camp, 658.808

FARM LABOR (Cont.)

Camps (Cont.)
Registration (Cont.)
Operator
Actions prohibited, 658.760
Duties, 658.755
Protest, 658.780
Revocation, etc., 658.785
Rules, 658.750
Rules
(Generally), 658.820
Registration, 658.750
Service of process, unregistered operators, 658.800
Uninhabitable camp, vacating, 658.790
Violations
Civil actions, 658.805, 658.808
Civil penalties, 654.086, 658.850
Determination, 658.825
Reports, 658.827
Worker rights modification, void, 658.720
Health and safety
Camps, see **Camps**, this topic
Definitions, application of laws, 654.005
Hazardous chemicals, see **HAZARDOUS SUBSTANCES**
Inspections, see **Inspections, health and safety**, this topic
Sanitation facilities, providing, 654.174
Injunctions, 658.805
Inspections, health and safety
Camps
(Generally), 654.251
Delivery of notice, report, or citation to operator, 654.071
Exemptions, 654.172
Notices, 654.067, 654.071, 654.251
Sanitation facilities, providing, 654.174

FELLOW SERVANTS

(Generally), 654.330
Workers' compensation, nondefense, 656.020

GENETIC SCREENING

Employment, 659A.300, 659A.303

HAZARDOUS SUBSTANCES

Agricultural use, safety
Basic information, providing employees, 654.770, 654.780
Definitions, 654.750
Equipment and training, rules, 654.760
Information to employees, 654.196

HEALTH INSURANCE

Adopted children, 659.830
Continuation of coverage for injured workers and covered dependents
(Generally), 659A.060
Definitions, 659A.060
Employer continuing, 659A.063
Worker continuing, 659A.066
Discrimination
(Generally), 659.875
Employers, termination of benefits for absence, 659A.063
Reproductive health services, 659.875
Employer-sponsored health insurance
(Generally), 659.830
Dependents, coverage, 659.830, 659.835
Prohibitions and requirements, 659.830

HEALTH INSURANCE (Cont.)

Military personnel, employer obligations, 659A.086
Out-of-wedlock child, 659.830
Social Security eligibility, limiting coverage, employee benefit plans, prohibition, 659.830
Workers' compensation, see **WORKERS' COMPENSATION**

HOSPITALS AND HEALTH CARE FACILITIES

Religious institutions, employment, discrimination exception, 659A.006
Retaliation, employee reports, violations or inappropriate care, 659A.233
Surgical smoke policies, 654.413
Workers' compensation, see **WORKERS' COMPENSATION**
Workplace assaults and violence, 654.062, 654.412 et seq.

HOUSING

Discrimination, see **DISCRIMINATION**
Farm labor camps, see **FARM LABOR**
Housing cost impact statements
(Generally), 183.530
Contents and description, 183.534
Failure to prepare, effect, 183.538

IDENTITY AND IDENTIFICATION

Discrimination based on identification other than Real ID, 659A.343
Whistleblowing employees, disclosure, 659A.218

IMMIGRATION AND NONCITIZENS

State agency rules and regulations, use of term "noncitizen", 183.338
Workers' compensation, 656.232

LABOR AND EMPLOYMENT

Advertising
Employment status, job vacancies, prohibitions, 659A.550
False, labor conditions, 659.815, 659.820, 659.990
Alcohol and drugs
Breathalyzer tests, 659.840, 659.990, 659A.300
Discrimination, illegal drug usage, inapplicability of protections, 659A.122, 659A.124
Workers' compensation, drugs and medicines, providing, 656.245
Bone marrow donations, leave of absence, 659A.312
Breathalyzer tests, 659.840, 659.990, 659A.300
Certificates
Health, employer requirement to furnish, 659A.306
Safety and health professionals, use of titles, 654.400, 654.402
Clothing
Dress code enforcement, discrimination exemption, 659A.030
Religious, discrimination, 659A.033
Complaints
Employee or prospective employee, barring or discharging from employment, 654.062
Health and safety standards, violations, 654.062
Militia members, leave of absence violations, 659A.088, 659A.089
Contracts and agreements
Nondisclosure agreements, 659A.370

Contracts and agreements (Cont.)
Severance or separation agreements, when voidable by employer, 659A.380
Statutes of limitation, contracts shortening, prohibition, 659A.883
Utility vehicle rentals, 654.345
Workers' compensation, see **WORKERS' COMPENSATION**
Credit history, discrimination, 659A.320
Crimes and offenses
(Generally), 659.990
Abuse or mistreatment, good faith disclosures, interference, 659A.340
Fines and penalties, see **Fines and penalties**, this topic
Harassment, see **Harassment and related conduct**, this topic
Health and safety, see **Health and safety**, this topic
Initial interviews, considering conviction, 659A.360, 659A.362
Sex offenses, see **Sex offenses**, this topic
Unlawful employment practices, see **Unlawful employment practices**, this topic
Victims
Leaves of absence, see **Leaves of absence**, this topic
Reasonable safety accommodations, 659A.290
Records, confidentiality, 659A.196, 659A.280, 659A.290
Whistleblowing, employer retaliation, 659A.203
Workers' compensation, 656.990
Death
See also **Health and safety**, this topic
Comprehensive inspections of workplace, 654.067
Employer Liability Law, damage actions, 654.325
Records and reports, work-related deaths, 654.120
Discrimination, see **DISCRIMINATION**
Employer Liability Law
(Generally), 654.305 et seq.
Administrator or executor, suit by, 654.325
Agent of employer, who considered, 654.320
Assumption of risk not defense, 656.020
Comparative negligence, application of laws, 654.336
Contributory negligence, effect, 656.020
Defenses, 654.330, 656.020
Employer responsibility for working conditions, 654.305, 654.310, 654.315
Safety requirements, 654.305, 654.310, 654.315
Surviving spouse or heirs, suit by, 654.325
Workers' Compensation Law, effect, 656.006, 656.018
Wrongful death, persons entitled to sue, 654.325
Employment agencies, see **EMPLOYMENT AGENCIES**, generally
Examinations and tests
Breathalyzer, 659.840, 659.990, 659A.300
Genetic screening, 659A.300, 659A.303
Medical examinations, requiring employee payment, 659A.306
Polygraphs, 659.840, 659.990, 659A.300
Psychological stress, 659A.300
Family and medical leave, see **FAMILY AND MEDICAL LEAVE**, generally
Family members, discrimination, 659A.309
Farm labor, see **FARM LABOR**, generally
Fines and penalties
See also **Crimes and offenses**, this topic
(Generally), 659.990, 659A.885
Farmworker camps, 654.086, 658.850

LABOR AND EMPLOYMENT (Cont.)

Fines and penalties (Cont.)
Health and safety, see **Health and safety**, this topic
Unlawful employment practices, generally, 659A.885
Workers' compensation, see **WORKERS' COMPENSATION**
Genetic screening, 659A.300, 659A.303
Harassment and related conduct
See also **Unlawful employment practices**, this topic
Mediation, information to unrepresented party, 659A.377
Model procedures and policies (BOLI), 659A.375, 659A.377
Nondisclosure and related agreements, 659A.370
Severance or separation agreements, when voidable by employer, 659A.380
State boards and commissions, discrimination against members for service, 659A.314
Written policies and procedures, 659A.375, 659A.377
Hazardous substances, see **HAZARDOUS SUBSTANCES**, generally
Health and safety
See also **Death**, this topic; **Injuries**, this topic
(Generally), 654.001 et seq.
Accident records, reports
(Generally), 654.090, 654.120
Public utilities, 654.715, 654.720
Administrative procedure, 654.290
Agent of employer, who considered, 654.320
Application of statutes, 654.025, 654.295
Citations
(Generally), 654.025, 654.031, 654.071, 654.120
Civil penalties, 654.086
Contesting, procedure, 654.078
Civil penalties, 654.020, 654.025, 654.071, 654.078, 654.086
Complaints, violations, 654.062, 654.120
Compliance with orders, rules, required, time, 654.022, 654.056, 654.078
Confidentiality of records, 654.062, 654.120
Consent orders, admissibility in subsequent proceedings, 654.078
Construction sites, sanitary facilities, 654.150, 654.160
Consultation among employees, documentation, authority to refuse disclosure, 654.101
Contractor responsibility, 654.305, 654.310, 654.315
Contradictory requirements, 654.025, 654.295
Correction of violations, 654.031, 654.078
Crimes and offenses
(Generally), 654.991
Health care employees, workplace violence, 654.062, 654.412 et seq.
Victims, safety accommodations, 659A.290
Definitions, generally, 654.005
Devices, safety, interference prohibited, 654.020, 654.082
Discrimination against complaining employees prohibited, 654.062
Disposition of penalty moneys, 654.086
Effect of law on existing provisions, 654.295
Employer Liability Law, see **Employer Liability Law**, this topic
Enforcement (generally)
(Generally), 654.025
Assistance, 654.251
Equipment, prohibiting use, 654.082
False statements, penalties, 654.086, 654.991
Farm labor, see **FARM LABOR**

Health and safety (Cont.)
Hazardous substances, see **HAZARDOUS SUBSTANCES**, generally
Health and welfare funds, employer payments, 659.825, 659.990
Health care employees
(Generally), 654.062, 654.412 et seq.
Surgical smoke policies, 654.413
Workplace violence
(Generally), 654.062, 654.412 et seq.
Annual reports, Department of Consumer and Business Services, 654.417
Duties of employers, generally, 654.414
Prevention and protection programs, 654.414
Protection of employee after assault, 654.418
Records, 654.416, 654.417
Refusal to treat patients, home health care employees, 654.421
Reporting assaults, protections, 654.062
Security and safety assessments and reviews, 654.414, 654.416
Self-defense, 654.423
Training, 654.414
Hearings
(Generally), 654.025, 654.078, 654.120, 654.290
Admissibility of rules, orders, settlements, 654.078, 654.285
Employer representation, 654.293
Variance from health, safety standards, 654.056
Witnesses, compelling testimony, 654.130
High voltage power lines, 654.165
Inconsistent requirements, 654.025, 654.295
Injunctions, violations, 654.025
Inspections, investigations
(Generally), 654.025, 654.067, 654.071
Complaints by employees, 654.062
Comprehensive inspections, 654.067
Farm labor, see **FARM LABOR**
Records required, 654.120
Rules, 654.035, 654.285, 654.290, 654.295
Surgical smoke, 654.413
Utility vehicles, 654.345
Variance from health and safety standards, 654.056
Warrants, 654.067, 654.202, 654.206, 654.212, 654.216
Witnesses, compelling testimony, 654.130
Labor and Industries, Bureau of, enforcement assistance, 654.251
Loss control program, employers, 654.086, 654.097
Medical and hospital services
Treatment restriction, 654.025
Workers' compensation, 656.245, 656.273
Notices
Civil penalties, 654.071, 654.086
Inspections, 654.067, 654.251
Red warning, unsafe equipment, 654.082
Violations, employees to employers, 654.062
Work-related deaths, to Workers' Compensation Board, 654.120
Occupational Health Sciences, Oregon Institute of, 656.630
Occupational Safety and Health Grant program, 654.191
Orders
Admissibility, enforcement proceedings, 654.285
Consent, settlements, 654.078
Issuance, procedure, 654.022, 654.025, 654.031, 654.035, 654.290
Review, 654.290
Variances, health, safety standards, 654.056
Violations, civil penalties, 654.078, 654.086

LABOR AND EMPLOYMENT (Cont.)

Health and safety (Cont.)
Owner responsibility, 654.305, 654.310, 654.315
Penalties
Civil, 654.020, 654.025, 654.071, 654.078, 654.086
Criminal, 654.991
Presumption of reasonable, lawful safety, health standards, 654.285
Public utilities, accident reports, 654.715, 654.720
Purpose of laws, policy, 654.003
Records required, 654.120
Red warning notices, removal prohibited, 654.082
Removing, damaging safeguards, notices, 654.020, 654.082
Reports
(Generally), 654.062, 654.120
Civil penalties, 654.086
Safety and health consultations, 654.101
Utilities, accidents, 654.715, 654.720
Workplace violence, health care employees, 654.417
Requirements, 654.010, 654.015, 654.022, 654.305, 654.310
Rules
(Generally), 654.022, 654.025, 654.035, 654.056
Accidents, reports to Public Utility Commission, 654.715
Assaults, health care employees, records, 654.416
Deaths, reporting, 654.120
Hazardous chemicals, safety equipment and training, 654.760
Inspections, 654.035, 654.285, 654.290, 654.295
Occupational Safety and Health Grant program, 654.191
Piping systems, 654.196
Retaliation, employee protections, 654.062
Safety committees, 654.182
Sanitation facilities, farm labor, 654.174
Steel erection, fall protection, 654.035
Safe Employment Education and Training Advisory Committee, 654.189
Safety and health professionals, use of titles, 654.400, 654.402
Safety devices
Interference prohibited, 654.020, 654.082
Repair or maintenance work, removal, etc., employer liability, 654.020
Sanitary facilities, construction sites, 654.150, 654.160
Short title (Oregon Safe Employment Act), 654.001
Stairway railings, historic buildings, exemption, 654.170
Statistics, accident, 654.090, 654.120
Steel erection, fall protection, rules, 654.035
Stipulations, admissibility in subsequent proceedings, 654.078
Subcontractor responsibility, 654.305, 654.310, 654.315
Subpoenas, 654.025, 654.130
Surgical smoke policies, 654.413
Titles, use, safety and health professionals, 654.400, 654.402
Trade secrets, protection, enforcement proceedings, 654.120
Utility vehicle rentals, 654.345
Voluntary consultation, employees, documentation, authority to refuse disclosure, 654.101
Warning notices, equipment, removal prohibited, 654.082
Warrants, inspections, 654.067, 654.202, 654.206, 654.212, 654.216

Health and safety (Cont.)
Witnesses, 654.025, 654.130, 654.212
Workers' compensation, see **WORKERS' COMPENSATION**, generally
Workplace safety committees
(Generally), 654.176
Labor organizations, liability immunities, 654.192
Occupational Safety and Health Grant program, 654.191
Rules, 654.182
Safe Employment Education and Training Advisory Committee, 654.189
Injunctions
Farm labor, 658.805
Health and safety violations, 654.025
Unlawful employment practices, generally, 659A.885
Workers' compensation, see **WORKERS' COMPENSATION**
Injuries
Employer Liability Law, see **Employer Liability Law**, this topic
Health and safety, see **Health and safety**, this topic
Injured workers' memorial scholarship, 654.200
Unlawful discrimination, 659A.040 et seq.
Workers' compensation, see **WORKERS' COMPENSATION**, generally
Leaves of absence
Bone marrow donations, 659A.312
Crime victims
Attending proceedings
(Generally), 659A.192
Definitions, 659A.190
Denying leave, 659A.194
Notice to employer, 659A.196
Paid leave, use, 659A.198
Records, confidential, 659A.196
Undue hardship, employers, 659A.192
Domestic violence, harassment, sexual assault, bias, stalking
(Generally), 659A.272
Definitions, 659A.270
Enforcement, remedies, 659A.277
Notice to employer, 659A.280
Paid leave, use, 659A.285
Posting of statutes and rules in workplace, 659A.279
Records, confidential, 659A.280
State employees, 659A.283
Undue hardship, employers, 659A.275
Family and medical leave, see **FAMILY AND MEDICAL LEAVE**, generally
Military service, see **Military and uniformed federal services**, this topic
Religious observances or practices, 659A.033, 659A.036
Sick time, see **Sick time**, this topic
State boards and commissions, requiring member to use leave for service, 659A.314
Vacations, see **Vacations**, this topic
Legislative testimony, discrimination because of, 659A.236
Military and uniformed federal services
Discrimination, generally, 659A.082
Leaves of absence
(Generally), 659A.086, 659A.088
Oregon Military Family Leave Act, see **FAMILY AND MEDICAL LEAVE**
Notice to Director of Veterans' Affairs, certain complaints, 659A.089

LABOR AND EMPLOYMENT (Cont.)

Military and uniformed federal services (Cont.)
Rights, members called to active duty, 659A.086, 659A.088
Nondisclosure agreements, 659A.370
Notices
Family and medical leave
To employees, 659A.180
To employer, 659A.093, 659A.165
Health and safety, see **Health and safety**, this topic
Religious or political opinions of employer, employee rights, 659.785
Workers' compensation, see **WORKERS' COMPENSATION**
Organized labor
Child care services, making financial provision, 659A.030
Disabilities, individuals with, discrimination, 659A.142
Discriminatory practices forbidden, 659A.030
Strikes, false statements concerning existence, 659.815, 659.990
Piping systems, hazards, labeling, 654.196
Polygraph tests, 659.840, 659.990, 659A.300
Privileged and confidential information
Crime victims, 659A.196, 659A.280, 659A.290
Discrimination complaints, settlements, 659A.840
Health and safety records, 654.062, 654.120
Professional employer organizations
(Generally), 656.850, 656.855
Definitions, generally, 656.849, 656.850
Psychological stress tests, 659A.300
Records
Assaults, health care employees, 654.416, 654.417
Crime victims, 659A.196, 659A.280, 659A.290
Health and safety law, 654.062, 654.120
Utility vehicle rentals, 654.345
Workers' compensation, see **WORKERS' COMPENSATION**
Relatives, discrimination, 659A.309
Religion
Academic degrees, 659A.318
Religious communications by employer, prohibitions, 659.780, 659.785
School employees, 659A.033
Workers' compensation, see **WORKERS' COMPENSATION**
Workplace Religious Freedom Act, Oregon, 659A.033, 659A.036
Reports
Abuse or mistreatment, good faith disclosures, interference, 659A.340
Farm labor camp, evaluation, 654.071
Harassment and related conduct, see **Harassment and related conduct**, this topic
Health and safety, see **Health and safety**, this topic
Whistleblowing information and data, 659A.220
Workers' compensation, see **WORKERS' COMPENSATION**
Retaliation
(Generally), 659A.199 et seq.
Civil rights complaints, 659A.030
Criminal reports or civil proceedings, employees, retaliation by employer prohibited, 659A.230
Discrimination complaints, 659A.030
Elections law violations, reporting, 659A.228
Family and medical leave, 659A.096, 659A.183
Legislative testimony, discrimination because of, 659A.236
Public or nonprofit employees (whistleblowing)
(Generally), 659A.203

Retaliation (Cont.)
Public or nonprofit employees (whistleblowing) (Cont.)
Affirmative defense, employees, 659A.210
Authority over employees, effect, 659A.206
Compilation of information and data, reports, 659A.220
Criminal offense, 659A.203
Definitions, 659A.200
Manual of standards and procedures, 659A.219
Name of employee, disclosure without consent, 659A.218
Policy, cooperation with law enforcement, 659A.212
Public record disclosures, effect, 659A.209
Remedies, 659A.203, 659A.215
School employees, public health emergencies, 659A.203
Title of Act, 659A.224
Uniform application, 659A.221
Uniform manual, 659A.219
Religious or political communications, employee participation, 659.780, 659.785
Safe Employment Act, Oregon, 654.062
Victims of certain crimes, 659A.277, 659A.290
Wage claims or complaints, 659A.355
Rules
Civil rights, 659A.805
Farm labor camps, see **FARM LABOR**
Genetic screening, 659A.300
Health and safety, see **Health and safety**, this topic
Housing
(Generally), 659A.262
Use and occupancy, 659A.256
Injured state workers, reemployment, 659A.052
Professional employer organizations, 656.855
Whistleblowing, uniform application, 659A.221
Work-related deaths, reporting, 654.120
Workers' compensation, see **WORKERS' COMPENSATION**
Seniority system, involuntary retirement, requiring, 659A.321
Severance or separation agreements, when voidable by employer, 659A.380
Sex offenses
See also **Crimes and offenses**, this topic; **Harassment and related conduct**, this topic
Model procedures and policies (BOLI), 659A.375, 659A.377
Severance or separation agreements, when voidable by employer, 659A.380
Sick time
Crime victims, 659A.285
Family leave, using sick time, 659A.174
State boards and commissions, requiring member to use leave for service, 659A.314
Workers' compensation, benefits deduction, 656.240
Social media accounts, employee privacy, 659A.330
Strikes, false statements concerning existence, 659.815, 659.990
Surgical smoke, workplace safety, 654.413
Unlawful employment practices
See also **DISCRIMINATION**
(Generally), 659A.030
Abuse or mistreatment reports, interference, 659A.340
Academic degrees, discrimination, 659A.318
Actions and proceedings, generally, 659A.870 et seq.

Unlawful employment practices (Cont.)
Administrative and civil enforcement, 659A.001 et seq.
Advancements, acceptance by employee, 659.845, 659.990
Advertisements
Employment status, job vacancies, 659A.550
False, labor conditions, 659.815, 659.820, 659.990
Blacklisting, blackmailing, 659.805, 659.990
Boards and commissions, state, members, 659A.314
Breathalyzer tests, 659.840, 659A.300
Business activities, employers, attempt to change, 659.800, 659.990
Contractual shortening of statute of limitations, 659A.883
Credit history, discrimination, 659A.320
Crime victims, 659A.194, 659A.277, 659A.290
Criminal background discrimination, 659A.360, 659A.362
Damages, generally, 659A.885
Definitions, 659A.001
Driver license, requiring employee to possess, 659A.347
Elections law violations, discrimination for reporting, 659A.228
Employee benefit plans
Discrimination exception, 659A.321
Employer payments, 659.825, 659.990
Employment status, advertisements for job vacancies, 659A.550
False statements or misrepresentations, 659.810, 659.815, 659.820
Family and medical leave, 659A.096, 659A.183
Fines and penalties, see **Fines and penalties**, this topic
Force or threats, use on employees, 659.800, 659.990
Genetic screening, 659A.300, 659A.303
Harassment, see **Harassment and related conduct**, this topic
Health and safety law proceedings, false statements, 654.086, 654.991
Health and welfare funds, employer payments, 659.825, 659.990
Hospitals and health care facilities, retaliation, 659A.233
Injunctions, generally, 659A.885
Interns, application of laws, 659A.350
Legislative testimony, discrimination because of, 659A.236
Medical examination, employee payment, requiring, 659A.306
Military service, see **Military and uniformed federal services**, this topic
Misrepresentations, use prohibited, 659.800, 659.810, 659.815, 659.990
Opposition or complaint, certain practices, 659A.030
Political opinions of employer, communications, 659.780, 659.785
Polygraph tests, 659.840, 659.990, 659A.300
Preventing employee, securing work, 659.800, 659.805, 659.990
Psychological stress tests, 659A.300
Religion, see **Religion**, this topic
Retaliation, see **Retaliation**, this topic
Seniority system, discrimination exception, 659A.321
Social media accounts, 659A.330
State board or commission members, 659A.314

LABOR AND EMPLOYMENT (Cont.)

Unlawful employment practices (Cont.)
Tobacco, use in nonworking hours, prohibiting, 659A.315
Transportation, accepting without working, 659.845, 659.990
Wages
Advance, acceptance, 659.845, 659.990
Discrimination, see **DISCRIMINATION**
Retaliation, 659A.355
Workers' compensation settlements, no-rehire provisions, 659A.390
Utility vehicle rentals, health and safety, 654.345
Vacations
Crime victims, rights, 659A.198, 659A.272
Employer failure to provide benefits, 659.825
Family leave, using accrued vacation, 659A.174
Religious practices, discrimination, 659A.033
State boards and commissions, requiring member to use leave for service, 659A.314
Wages, see **COMPENSATION AND SALARIES**, generally
Worker leasing companies, see **Professional employer organizations**, this topic
Workers' compensation, see **WORKERS' COMPENSATION**, generally

LABOR AND INDUSTRIES, BUREAU OF

Account, labor contractor fees, 658.815
Model respectful workplace procedures and policies, 659A.375, 659A.377
Public accommodations laws related to U.S. currency or coins, publicizing, 659A.410
Workers' Compensation Board, assisting, 654.251

MONEY

Discrimination, refusal to accept U.S. currency or coins, 659A.410

OCCUPATIONAL HEALTH SCIENCES, OREGON INSTITUTE OF

(Generally), 656.630

OCCUPATIONAL SAFETY AND HEALTH GRANT PROGRAM

(Generally), 654.191

POLYGRAPH EXAMS

Employment, tests prohibited, 659.840, 659.990, 659A.300

PUBLIC ACCOMMODATIONS

Assistance animals, 659A.143
Closed-captioned television receivers, 659A.419
Discrimination, see **DISCRIMINATION**
Employee toilet facilities, customer access
(Generally), 659A.413
Definitions, 659A.411
Liability for damages, 659A.415
Physical changes not required, 659A.415
Violations, 659A.417
Television receivers, closed captioning, 659A.419
U.S. currency or coins, refusal to accept, 659A.410

RULES

(General provisions)
Definitions, generally, 183.310

RULES (Cont.)

(General provisions) (Cont.)
Filing requirements, 183.355, 183.365
Model rules of procedure, 183.341, 183.630
"Noncitizen," use of term, 183.338
Publication and distribution, 183.360, 183.365, 183.370
Readability of public writings, 183.750
Administrative Hearings, Office of, 183.670
Adoption of rules
See also **Review of rules**, this topic
(Generally), 183.325 et seq.
Advisory committees
(Generally), 183.333
Small Business Rules Advisory Committee, 183.407
Amendment or repeal, 183.335
Applicability of rule to petitioner, determination, 183.410
Federal rules
Agency adoption, 183.337
Conformity with state rules, 183.332
Fees, filings, 183.355
Fiscal impact, generally, 183.333, 183.335, 183.405
Hearing, 183.335
Housing cost impact statements, 183.530, 183.534, 183.538
Model rules of procedure, 183.341
"Noncitizen," use of term, 183.338
Notice, intent to adopt, 183.341
Petition, requesting promulgation, amendment, or repeal, 183.390
Public input, seeking, 183.333, 183.335
Racial equity impact statements, 183.335
Rules coordinators, generally, 183.330
Small business impact, 183.333, 183.335, 183.336, 183.405, 183.407, 183.540
Temporary rules, generally, 183.335, 183.403
Validity, 183.341
Civil penalties, administrative procedures, 183.745
Contested cases
(Generally), 183.417
Civil penalties, generally, 183.745
Discovery methods, 183.425
Lay representation, 183.457
Model rules of procedure, use, 183.630
Order by hearing officer, 183.464
Validity, judicial determination, 183.400
Discrimination, generally, 659A.805
Federal rules
Adoption by state agencies, 183.337
Conformity with state rules, policy, 183.332
Labor and employment, see **LABOR AND EMPLOYMENT**
Renewed licenses, extended terms, 183.705
Review of rules
See also **Adoption of rules**, this topic
Agency or advisory committee review, 183.405
Considerations, 183.390
Judicial determination, 183.400
Legislative review
(Generally), 183.710 et seq.
Agency response to determinations, 183.722
Definitions, 183.710
Interim committees
Consideration of determinations and responses, 183.722
Designation, 183.724
Procedure, determinations, 183.720
Reports, 183.403, 183.405, 183.720
Requests for review, 183.720, 183.730

RULES (Cont.)
Review of rules (Cont.)
Legislative review (Cont.)
Submission of rules to Legislative Counsel, 183.355, 183.715
Oregon Sunshine Committee, 183.730
Public comment, 183.390
Reports, 183.403, 183.405, 183.720
Workers' compensation, see **WORKERS' COMPENSATION**

SAFE EMPLOYMENT EDUCATION AND TRAINING ADVISORY COMMITTEE
(Generally), 654.189

SCHOLARSHIPS
Injured workers' memorial scholarship, 654.200

SMALL BUSINESS RULES ADVISORY COMMITTEE
(Generally), 183.407

SOCIAL SECURITY
Health insurance, employee benefit plans, limiting coverage, prohibition, 659.830
Workers' compensation, benefits offset, 656.209, 656.727

STATE ACCIDENT INSURANCE FUND CORPORATION
Audits
(Generally), 656.772
Notice to Secretary of State, response to recommendations, 656.776
Board, 656.751
Contracts, 656.752, 656.753
Creation, 656.751
Emergency Fund, 656.642
Employees, 656.754
Financial administration laws, exemption, 656.753
Functions, 656.752
Manager, 656.754
Petty cash funds, 656.644
Records, disclosure, 656.702
Reports
Activities and operations, 656.751
Annual audit, 656.772
Industrial Accident Fund, financial status, 656.774

STATE AGENCIES
(Note: see separate topics for specific agencies by name.)
Administrative procedure, see **ADMINISTRATIVE PROCEDURE**, generally
Affirmative action, see **AFFIRMATIVE ACTION**
Assistance animals, accommodations, prohibited actions, 659A.143
Public writings, clarity, 183.750
Rules, see **RULES**, generally
Workers' compensation coverage, responsibility, 656.043

SUNSHINE COMMITTEE, OREGON
(Generally), 183.730

TOBACCO, SMOKING, AND INHALANT DELIVERY SYSTEMS
Unlawful practices, prohibiting use during nonworking hours, 659A.315

TOILETS
Construction sites, requirements, 654.150, 654.160
Employee toilet facilities, customer access, see **PUBLIC ACCOMMODATIONS**
Farm laborers, providing, employers, 654.174

WAGES
See COMPENSATION AND SALARIES, generally

WORKERS' BENEFIT FUND
(Generally), 656.605
Advancement of funds to injured workers
Decertified self-insured employer groups, 656.441
Defaulted insurers, 656.445
Claims, reimbursement of expenditures, approval, 656.236, 656.289
Costs, noncomplying employers, liability, 656.054
Employer or third person recovery, procedures, 656.591, 656.593
Reemployment Assistance Program, 656.622
Reports, 656.506, 656.790
Retained moneys, employers, deposits, 656.506
Workers with Disabilities Program, use of funds, 656.628

WORKERS' COMPENSATION
(Generally), 656.001 et seq.
Absence, leaving state incidental to employment, subject worker coverage, 656.126
Acceptance of compensation, effect on hearing right, 656.304
Accidents
Additional, compensation, 656.222
Benefits, medical treatment for injured, 656.012
Experience records, availability to rating organization, 656.702
Insurance coverage, newspaper carriers, coverage exemption requirement, 656.075
Notice, 656.265
Reports, employers, 656.262
Accounts, see **Funds and accounts**, this topic
Actions and proceedings
Appeal and review, see **Appeal and review**, this topic
Attorney fees, see **Attorney fees**, this topic
Attorney General, institution and defense, 656.720
Damages, see **Damages**, this topic
Dispute resolution, see **Dispute resolution**, this topic
Employer Liability Law, employee right of action, nonabrogation, 656.006
Hearings, see **Hearings**, this topic
Immunity, see **Privileges and immunities**, this topic
Injunctions, see **Injunctions**, this topic
Joinder, see **Joinder**, this topic
Limitation, see **Limitation of actions and proceedings**, this topic
Major contributing cause standard, failure to establish, civil negligence action, 656.019
Orders, see **Orders**, this topic
Parties, see **Parties**, this topic
Remedies, see **Remedies**, this topic
Rules, procedural and evidentiary, 183.315, 656.283, 656.704, 656.726

Actions and proceedings (Cont.)
Service, see **Service**, this topic
Subpoenas, see **Subpoenas**, this topic
Third persons and noncomplying employers, recovery against, see **Beneficiaries**, this topic
Transcriptions, see **Transcriptions**, this topic
Witnesses, see **Witnesses**, this topic
Additional accidents, compensation, 656.222
Additional compensation, worsened conditions, entitlement, 656.273
Addresses
Accident notice, employer, 656.265
Cancellation of insurance policy or surety bond, notice, employer address, 656.427
Demand, default, premiums, etc. mailing to employer, 656.560
Hearing request, party, including, 656.283
Administrative costs, see **Costs**, this topic
Administrative Law Judges
(Generally), 656.704, 656.724, 656.725
Administrative Procedures Act, application, 183.315
Appointment, presiding referees, 656.714
Duties, 656.725
Orders
Board review, 656.295, 656.726
Conclusion of hearing or prior thereto, 656.289
Procedure and evidence, common law or statutory rules, not binding, 656.283
Qualifications, 656.724
Removal, 656.724
Scheduling hearings, 656.283
Venue, selection, 656.283
Administrative Procedures Act, application, 183.315
Advisory committees
Medical care, 656.794
Workers' Compensation Management-Labor Advisory Committee, 656.790
Affirmance of orders, board review, 656.295
Aggravation of injury
(Generally), 656.273
Board order or award during hearing request period, own motion status, 656.278
Hearings, see **Hearings**, this topic
Nondisabling injury
Becomes disabling, claim, 656.262
Claim as claim for aggravation, 656.277
Rights of claimant, informing, 656.262
Self-insured employer or insurer, joinder, 656.307
Vocational assistance evaluation, 656.340
Aggression, injury cause, employer liability, 656.018
Agreements, see **Contracts and agreements**, this topic
Altering findings, orders or awards, jurisdiction, 656.278
Amortization, gains and losses, invested capital, Industrial Accident Fund, 656.635
Appeal and review
(Generally), 656.327, 656.704
Administrative Law Judges
Orders, 656.295, 656.726
Removal, 656.724
Attorney fees, see **Attorney fees**, this topic
Board members, removal, 656.714
Closure notice, worker objection, 656.268
Disposition of claim (nonsubject), 656.236
Frivolous, expenses and attorney fees, 656.390
Hearings, Administrative Law Judge orders, board, 656.289, 656.295
Judicial notice, laws, another jurisdiction, 656.126

Appeal and review (Cont.)
Judicial review, board orders, 656.298
Managed care, 656.260
Matters not related to claims, 656.704
Medical services to be provided, 656.245
Medical treatment review, generally, 656.327
Noncomplying employer, order or determination declaring or penalty, 656.740
Own motion, board, orders or awards, 656.278
Panels, 656.268, 656.327
Petition for judicial review, 656.298
Reemployment Assistance Program determinations, 656.622
Rules, procedural, 183.315, 656.283, 656.704, 656.726
Self-insured employers, certificate revocation, 656.440
Stay, hearing or reconsideration, 656.313
Transcribing hearings, request, 656.283
Vocational assistance, 656.340
Application of laws, see **Construction and interpretation**, this topic
Applications
Equipment for hire partner-operators, coverage, 656.140
Inmate coverage, cities or counties, 656.041
Self-insured employer certifications, information to be submitted, rules prescribing, 656.430
Sole proprietors and partners, coverage, 656.128
Volunteer municipal personnel, coverage, 656.031
Apportionment
Assessments, Consumer and Business Services Fund, 656.612
Risk, assigned risk plan, 656.730
Apprentices and trainees
See also **Work experience programs**, this topic
(Generally), 656.138
Death benefits, children, program enrollment, 656.204
Occupationally limited trainees, benefits, 655.605
Approval
Compromise and settlement, actions against third persons and noncomplying employers, 656.587, 656.593
Doctor or nurse practitioner selection, worker, 656.245
Arbitration
(Generally), 656.307
Multiple employers, insurers, etc., determining responsible party, 656.307
Panel of medical arbiters, 656.268, 656.327
Assault, participants, injury, compensability, 656.005
Assessments
See also **Charges**, this topic; **Fees**, this topic; **Premiums**, this topic
Collection, enforcement, etc., SAIF, 656.752
Consumer and Business Services Fund, 656.612
Contracts, persons letting to subject employers, liability, 656.556
Failure or refusal to pay, 656.443, 656.505, 656.745
Inmate Injury Fund, cost of services, 655.550
Interest, payments due, 656.560
Liens, 656.726
Reemployment Assistance Reserve, 656.506, 656.605
Refunds, petty cash funds, 656.644
Reports
Department of Consumer and Business Services, 656.612
Employers, employee hours worked and amounts due, 656.506

Assessments (Cont.)
Reserves, noncomplying employers, claim processing costs award, not included, 656.054
Retroactive Reserve, 656.506, 656.605
Self-Insured Employer Adjustment Reserve, 656.614
Self-Insured Employer Group Adjustment Reserve, 656.614
Self-insured employer groups, 656.430, 656.443
Assigned risk plan
(Generally), 656.730
Continuing coverage, assuring, cancelling insurers, 656.427
Assignments
Beneficiaries, moneys payable, 656.234
Third persons or noncomplying employers, actions against, 656.583, 656.591
Assumed wage rates
Apprentices or trainees, schools, 656.138
Equipment for hire partner-operators, 656.140
Inmates, covered, 656.041
Municipal volunteer personnel, 656.031
Nonsubject workers, employer election to make subject, 656.039
Professional education projects, school directed, 656.033
Sole proprietors and partners, 656.128
Work experience programs, school, 656.033
Assumption of liability, insurers, 656.419
Assumption of risk, nondefense, noncomplying employers, 656.020
Assurance, receipt of compensation, employers to maintain, 656.017
Athletes, amateur, nonsubject workers, 656.027
Attachment, exemption, 656.234
Attorney fees
(Generally), 656.262, 656.382, 656.386, 656.388
Cases prior to decision or after hearing request, 656.383
Claimant, multiple employers, insurers, etc., determining responsible party, 656.307
Delay, acceptance or denial of claim, 656.262
Disposition of claims, negotiation, 656.236
Disputed claim settlements, employer liability, 656.054, 656.262
Employment without coverage, suit to enjoin, 656.052
Frivolous appeals or motions, 656.390
Harassment or hardship, requirement, 656.285
Interest, 656.313
Lien, 656.388
Medical services or vocational rehabilitation cases, 656.385
Noncomplying employers
Fees awarded claimant, liability, 656.054
Nonsubjectivity determination, employee prevailing, 656.740
Proposed order, employer prevailing, 656.740
Reclassification of claim, 656.277, 656.386
Reconsideration proceedings, 656.268
Responsibility denial, prevailing against, 656.308
Schedule, adjustments, 656.388
Temporary disability benefits cases, 656.383
Third persons and noncomplying employers, actions against, 656.593
Attorney General, enforcement proceedings, institution and defense, 656.720
Attorneys
Annual survey, rating Administrative Law Judges, 656.724
Fees, see **Attorney fees**, this topic

Attorneys (Cont.)
Notice, employer contact and medical examinations, 656.331
Audits and auditing
Claim records, self-insured employers, 656.455
Insurer records, 731.475
Medical services, billings, 656.252
State Accident Insurance Fund Corporation, files, periodic audit, validating reimbursements, 656.054
Average weekly wage, defined, 656.211
Bankruptcy
Civil penalties, noncomplying employer, orders and judgments, preferred claim, 656.735
Moneys due, Industrial Accident Fund, preferred claims, 656.562
Beneficiaries
Apprentices or trainees, school, etc. related instruction classes, remedy exclusive, 656.138
Assignment or passage by operation of law, moneys payable, 656.234
Assurance, receipt of compensation, employers maintaining, 656.017
Children, ceasing, 656.204
Claim closure, notice, deceased worker, 656.268
Defined, 656.005
Direct payments, other than injured worker, 656.228
Equipment for hire partner-operators, remedy exclusive, 656.140
Exclusiveness, employer liability, 656.018
Inmates, city or county jails, remedy exclusive, 656.041
Noncitizens residing outside U.S., 656.232
Noncomplying employers and third persons, recovery against
(Generally), 656.576 et seq.
Assignment of cause of action, 656.591
Compromises, paying agency approval, 656.587
Elections, 656.578, 656.583, 656.591, 656.593
Payment of compensation notwithstanding cause of action for damages, 656.580
Procedures, 656.593
Third party actions, entitlement to benefits, not pleadable or admissible in evidence, 656.595
Notice of accident, failure, good cause, establishing, 656.265
Request for reconsideration of claim, deceased worker, 656.268
Reserves, permanent disability or death, 656.636
Self-insured employers, obligations, 656.403
State Accident Insurance Fund Corporation, purpose, claims, handling and processing, 656.752
Subject workers, compensation payable, 656.202
Volunteer municipal personnel, remedy exclusive, 656.031
Workers temporarily in or out of state, 656.126
Benefits, see **Compensation (generally)**, this topic
Bills for medical services
Compensability before claim accepted or denied, 656.247
Denial of claim, submitting bills, 656.313
Medical fee schedules, payments in accordance, 656.248
Blind, work experience trainees who are, 655.605, 655.615
Board, see **Workers' Compensation Board**, this topic
Boats and boating, recreational down-river activities, nonsubject workers, 656.027
Bonds and security
See also **Deposits**, this topic

Bonds and security (Cont.)
Board members, 656.716
Cancellation by insurer, 656.427
Default by employer, 656.443
Direct responsibility employers, qualifying, 656.407
Industrial Accident Fund, protection, 656.552
Injunction, contributing employer requirement failure, 656.554
Liens, property of employer, release, 656.566
Self-insured employer, disposition after certification cancelled or terminated, 656.443
Bonus payments, payroll exclusion, 656.005
Books, see **Records and recording**, this topic
Braces, providing, 656.245
Builders, see **Contractors**, this topic
Burden of proof
Compensability and disability, 656.266
Permanent total disability, 656.206
Burial expenses, see **Funeral expenses**, this topic
Cancellation
See also **Termination**, this topic
Bond or security, Industrial Accident Fund protection, 656.552
Election making nonsubject workers subject, 656.039
Insurance coverage, 656.419, 656.423, 656.427
Longshoremen's and Harbor Workers' Compensation Act, employer insurance, 656.044
Noncitizens residing outside U.S., benefit rights, war, 656.232
Short rate premium, 656.504
Sole proprietorship and partnership coverage, 656.128
Carrier-insured employers
Employer duties and obligations, maintaining assurance as, authorization, 656.017
Qualifying, 656.407
Casual employment, nonsubject, 656.027
Certificates and certification
Claims examiners, 656.780
Extraterritorial coverage, other-state employer, 656.126
Inmates performing authorized employment, list, 656.041
Membership rosters, municipal volunteer personnel, 656.031
Minors, authorization of employment, 656.132
Self-insured employers, see **Self-insured employers and groups**, this topic
Challenge, right to bring third party action, 656.595
Change, findings, orders or awards, jurisdiction, 656.278
Charges
See also **Assessments**, this topic; **Fees**, this topic; **Premiums**, this topic
(Generally), 656.504
Amounts due as preferred claims and taxes due state, 656.562
Liens, 656.564, 656.566
Charitable organizations, services for board and lodging, nonsubject workers, 656.027
Checks
Compensation, acceptance and cashing, hearing right not waived, 656.304
Emergency Fund, disbursements, 656.642
Children, see **Minors**, this topic
Chiropractic physicians
Definitional inclusion, 656.005
Finding of impairment, disability rating, 656.245
Managed care organization authorization, nonmember providers, 656.260

WORKERS' COMPENSATION (Cont.)

Christian Science treatment, 656.010
Cities
Inmates, coverage, 656.041
Population 200,000 or more, equivalent ordinance or charter compensation, nonsubject workers, 656.027
Self-insured employer status, 656.407
Subject workers, coverage, responsibility, 656.043
Volunteer municipal personnel, coverage, 656.031
Civil penalties
(Generally), 656.745
Claims examiners, employers, 656.735
Claims processing deficiencies, service companies, 656.745
Employment data, misrepresentation, 656.758
Employment without coverage, 656.735
Limited liability partnerships, noncomplying employers, 656.735
Managed care services, noncertified providers, 656.260
Noncomplying employers, 656.562, 656.735
Payment failures, 656.443, 656.745
Premium audit program, 737.318
Reporting failures, 656.745
Claims
Aggravation of injury, 656.273
Assignment and reassignment, claims, workers of noncomplying employers, 656.054
Claims examiners, certification and training, 656.780
Closing claims
(Generally), 656.268, 656.307
Permanent total disability, material improvement, 656.206, 656.268
Premature, rescinding order, 656.295
Reconsideration, 656.268
Two or more employers, one injury, 656.307
Worker not medically stationary, prohibition, 656.268
Compensable injury, noncomplying employer, 656.054
Credit or offset, previous benefits, 656.268
Denial, see **Denial**, this topic
Disposition agreements, 656.289
Disputed claim settlement
(Generally), 656.289
Failure to pay, penalties and attorney fees, 656.262
Recovery of costs, noncomplying employers, 656.054
Electronic filing, rules, 656.726
Law of another state, compensation, credit, 656.126
New medical condition claims, 656.262, 656.267
Noncomplying employers, funded liability for claims costs, limitation, 705.148
Nondisabling injury claim procedure, 656.277
Occupational disease, 656.807
Omitted medical condition claims, 656.262, 656.267
Oregon Insurance Guaranty Association payment, insolvency of insurer, 734.570, 734.640
Preferred claims
Civil penalties, noncomplying employer, judgments and orders, 656.735
Moneys due Industrial Accident Fund, 656.562
Processing, 656.262 et seq.
Reclassification of nondisabling claim, 656.277, 656.386
Reconsideration, generally, 656.268
Records
Availability and disposal, 656.455
Confidentiality, 656.360, 656.362
Referral, notifying employer, 656.054

Claims (Cont.)
Reopening, advising insurer or employer, 656.252
Reports to director, 656.264
Responsibility for payment, employers, 656.308
Self-insured employers, administration and payment, primary responsibility, 656.403
Closing claims, see **Claims**, this topic
Cohabitation
(Generally), 656.226
Surviving spouse, after worker's death, 656.204
Collective bargaining agreements
Alternative dispute resolution, 656.170, 656.172
Medical service providers, 656.170, 656.172
Rules, 656.174
Colleges and universities, see **Higher education**, this topic
Combat, participants, injury, compensability, 656.005
Common enterprise, person not engaged in, remedy effect, 656.018
Common law, remedy in lieu, 656.018
Common-law marriage, see **Cohabitation**, this topic
Community colleges, see **Higher education**, this topic
Community service sentence, coverage, 656.041
Commuter ridesharing arrangements, nonsubject workers, 656.025
Compensable injury, defined, 656.005
Compensation (generally)
Claims, see **Claims**, this topic
Death, see **Death**, this topic
Family and medical leave, effect, 657B.030, 659A.043, 659A.046
Palliative care, compensability, 656.245
Payments, see **Payments**, this topic
Permanent disability, see **Permanent disability**, this topic
Permanent partial disability, see **Permanent partial disability**, this topic
Permanent total disability, see **Permanent total disability**, this topic
Remedies, see **Remedies**, this topic
Salaries, see **Salaries and wages**, this topic
Stay, hearing on reconsideration, 656.313
Temporary disability, see **Temporary disability**, this topic
Temporary partial disability, 656.212
Temporary total disability, see **Temporary total disability**, this topic
Competency, vocational experts, rules and regulations, establishing, 656.287
Compromise and settlement
See also **Releases**, this topic
Claim compensability, bona fide dispute, disposition by agreement, 656.289
Disputed claim settlement, see **Claims**, this topic
Judicial review petition, settlement during pendency, 656.298
Mediation or arbitration, agreement among parties, 656.307
No-rehire provisions as condition, 659A.390
Noncomplying employers, costs, liability, 656.054
Notice and reimbursement for medical services, 656.313
Releases, 656.236
Representatives, binding actions, 656.283
Third persons and noncomplying employers, actions against, 656.587, 656.593
Confidential information, see **Privileged and confidential information**, this topic

WORKERS' COMPENSATION (Cont.)

Construction and interpretation
(Generally), 656.202
Definitions, application, 656.003
Employer Liability Law, employee rights, nonabrogation, 656.006
Hearing right, waiver, lump sum award acceptances, 656.304
Judicial notice, laws, another jurisdiction, 656.126
Law in force at time of injury, 656.202
Offsets, federal disability benefits from Social Security, 656.209
Treatment, prayer or spiritual means, 656.010
United States lands and premises, application of Law, 656.008
Consultative services, see **Occupational safety and health consultative services**, this topic
Consumer and Business Services Fund
(Generally), 656.612
Costs, noncomplying employer liability, 656.054
Employer or third person recovery, procedures, 656.591, 656.593
Insurance rate filings investigation costs, 656.612, 737.320
Reserves, see **Reserves**, this topic
Contractors
Independent contractors, see **Independent contractors**, this topic
Persons letting contracts to, liability for contributions, 656.556
Contracts and agreements
(Generally), 656.726
Claim compensability, bona fide dispute, disposition, 656.289
Collective bargaining, see **Collective bargaining agreements**, this topic
Compromise and settlement, see **Compromise and settlement**, this topic
Contractors, see **Contractors**, this topic
Exclusiveness of remedy, agreements or warranties contrary to, void, 656.018
Federal contracts, workers' compensation coverage requirements, employer method for providing, 656.017
Insurance policies, see **Insurance and insurers**, this topic
Jurisdictional conflicts, other states, 656.126
Newspapers carriers, definition, contracting individual, 656.070, 656.075
No-rehire provisions, 659A.390
Self-insured employer groups, liability, compensation payments, 656.430
State Accident Insurance Fund Corporation, 656.752, 656.753
Contribution, claim, assertion by third persons, employer liability, 656.018
Contributory negligence, nondefense, noncomplying employers, 656.020
Control, lump sum payments, minors, 656.132
Cooperation
Duty, injured workers, 656.262
Other states, 656.126
Cooperatives
Reforestation, premium charges, 656.536
Self-insured employer groups, 656.430
Corporations
Cancellation of insurance or surety bond, notice, 656.427
Farm, officers, nonsubject workers, 656.027
Indemnity or contribution claims, public utilities or railroads, 656.018

Corporations (Cont.)
Officers
Civil penalties, noncomplying employer, liability, 656.735
Nonsubject workers, certain, 656.027
Self-insured employer certification, five or more entities, 656.430
Self-insured employer groups, 656.430
Correctional facilities
Adults in custody
City or county jails, 656.041
Incarceration, benefits ineligibility, 656.160
Injury benefits, 655.505 et seq.
Occupational disease claims, officers, 656.802
Youth correction facilities, see **Youth correction facilities**, this topic
Corroborative evidence
Equipment for hire partner-operators, claims, 656.140
Sole proprietorships and partnerships, claims, 656.128
Costs
See also **Expenses and expenditures**, this topic
(Generally), 656.382, 656.386
Accident experience records, making available to rating organization, 656.702
Consumer and Business Services Fund, computing assessments, employers actual claim costs, using, 656.612
Employment without coverage, suit to enjoin, 656.052
Frivolous appeals or motions, 656.390
Inmate Injury Fund, services, assessment, 655.550
Liens, 656.566
Longshoremen's and Harbor Workers' Compensation Act, employer liability under, costs arising, payment, 656.044
Noncomplying employers, claim processing, liability, 656.054
Rate filings, investigation and evaluation, Consumer and Business Services Fund, providing, 656.612
Third persons and noncomplying employers, actions against, 656.593
Transcripts, self-insured employer certificate revocation hearing, appeal, 656.440
Witness fees, appeals of denied claims, 656.386
Counselors and counseling
Reports, medically stationary condition determination, furnishing, 656.268
Safety and health consultative services, see **Occupational safety and health consultative services**, this topic
Counties
Inmates, coverage, 656.041
Self-insured employer status, 656.407
Subject workers, coverage, responsibility, 656.043
Volunteer municipal personnel, coverage, 656.031
Coverage
Applications, see **Applications**, this topic
Contractors, see **Contractors**, this topic
Dates, see **Dates**, this topic
Election, nonsubject workers, 656.039
Electronic filing, proof of coverage, 656.726
Employment without, prohibition, 656.052
Limited liability companies, members, 656.027
Maintaining assurance, employers, 656.017
Subject employers, 656.023
Subject workers, 656.027, 656.043
Temporarily within state, 656.126
Work experience trainees, see **Work experience programs**, this topic

Credit
Industrial Accident Fund surplus dividend distributions, 656.526
Offsets, see **Offsets and deductions**, this topic
Previous benefits, 656.268
Criminal penalties, 656.990
Cross examination
Doctors, deposition or written interrogatories, 656.310
Vocational consultants, reports, 656.287
Custodians, beneficiaries, direct payments, 656.228
Damages
Liens, SAIF, 656.566
Offset against compensation, 656.596
Third persons and noncomplying employers, recovery against, see **Beneficiaries**, this topic
Dates
Cancellation of coverage, effective, 656.423, 656.427
Coverage
Insurance policies, 656.419
Nonsubject workers elected subject, 656.039
Self-insured employers, 656.430
Deaf, Oregon School for the, work experience trainees, 656.135
Death
Claim closure, notice, beneficiary, 656.268
Compensation
(Generally), 656.204
Law in force at time of injury, application, 656.202
Nonassignable, exempt from process, etc., 656.234
Permanent total disability, worker death during, 656.208
Firefighters, occupational disease, 656.802
Funeral expenses, see **Funeral expenses**, this topic
Intentional injuries, worker or employer, 656.156
Minors under age, acceptance of coverage, presumption, 656.132
Newspaper carriers, accidental, insurance coverage, 656.075
Noncomplying employer or third person, recovery against, election of remedies, 656.578
Notice to employer, giving, 656.265
Occupational disease, filing claim, time, 656.807
Prior to final claim disposition, 656.218
Request for reconsideration of claim, beneficiary, 656.268
Reserves, benefits, payment, setting aside, 656.636
Suicide, presumptions, 656.310
Surviving spouses, see **Spouses**, this topic
Temporarily in or out of state worker, coverage, 656.126
Third persons, negligence or wrong, cause, election of remedies, 656.154, 656.578
United States, rule of liability arising out of, nonsubject worker, 656.027
Deductions, see **Offsets and deductions**, this topic
Default
Employers, 656.443, 656.505
Industrial Accident Fund surpluses, dividend distribution, employer ineligibility, 656.526
Insurers, advancement of funds to injured workers, 656.445
Liens, 656.564, 656.566
Premiums, 656.560
Self-insured employers, department expenses, reimbursement, excess insurance coverage policy provision, 656.430
Defenses, noncomplying employers, 656.020

Definitions
(Generally), 656.005
Adult in custody, 656.041
Attending a program of higher education, 656.204
Attending physician, 656.005
Authorized employment, 656.041
Average weekly wage, 656.005, 656.211
Beneficiary, 656.005
Carrier-insured employer, 656.005
Casual, 656.027
Child, 656.005
Claim, 656.005
Compensable injury, 656.005
Compensation, 656.005
Construction of Law, application of definitions, 656.003
Consulting physician, 656.005
Contract review, 656.260
Covered employee, 656.802
Denied claim, 656.386
Dependent, 656.005
Disability, worker with a, 656.628
Disabling compensable injury, 656.005
Dispute resolution, 656.260
Doctor, 656.005
Domestic servant, 656.027
Employer, 656.005
Equipment, 656.027, 656.140
Essential functions, 656.206
Fiscal year, 656.502
Frivolous, 656.390
Health insurance, 656.262, 656.289, 656.313, 731.162
Impairment, 656.214
Independent contractor, 656.262, 656.289, 656.313, 731.162
Insurer, 656.005
Invalid, 656.005
Loss, 656.214
Majority, 656.430
Majority interest, 656.430
Materially improved medically, 656.206
Materially improved vocationally, 656.206
Matters regarding a claim, 656.236
Medical service provider, 656.260, 656.799
Medically stationary, 656.005
Mental disorder, 656.802
Newspaper, 656.070
Newspaper carrier, 656.070
No-rehire provision, 659A.390
Noncomplying employer, 656.005
Nondisabling compensable injury, 656.005
Normal monocular vision, 656.214
Objective findings, 656.005
Occupational disease, 656.802
Palliative care, 656.005
Party, 656.005, 656.236
Paying agency, 656.593
Payroll, 656.005
Peer review, 656.260
Permanent partial disability, 656.214
Permanent total disability, 656.206
Person, 656.005, 656.029
Physician, 656.005
Preexisting condition, 656.005
Preferred worker, 656.622
Prevailing rate of wage, 656.536
Quality assurance, 656.260
Recreational down-river boating activities, 656.027
Regular employment, 656.340
Regular work, 656.214
Regularly employed, 656.210

WORKERS' COMPENSATION (Cont.)

Definitions (Cont.)
Regularly performing work, 656.206
Related services, 656.325
School, 656.135
Self-insured employer, 656.005
Service utilization review, 656.260
Subject employer, 656.005
Subject worker, 656.005
Substantial handicap to employment, 656.340
Suitable employment, 656.340
Suitable occupation, 656.206
Vocational assistance provider, 656.340
Voluntary commuter ridesharing arrangements, 656.025
Wages, 656.005, 656.206
Work disability, 656.214
Worker, 656.005
Worker cooperative, 656.536
Worker with a disability, 656.628
Demand, payroll estimate, 656.505
Denial
(Generally), 656.262
Health benefit plans, duty, 656.247
Major contributing cause standard, failure to establish, civil negligence action, 656.019
Medical services, all or portion of claim, notice, 656.313
Dependents
See also **Minors**, this topic
Death benefits
(Generally), 656.204
Permanent total disability, worker death during, 656.208
Defined, 656.005
Intentional injuries, worker or employer intention, remedies, 656.156
Spiritual treatment, worker, effect, 656.010
Third persons, negligence, injury cause, election of remedies, 656.154, 656.578
Depositions, doctors, cross-examination, 656.310
Deposits
See also **Bonds and security**, this topic
Assessments, 656.506, 656.612
Default in payment, remedy, 656.560
Emergency Fund, 656.642
Employers, annual, 656.504
Industrial Accident Fund, protection, contributing employer requirement, 656.552
Injunction, contributing employer cash deposit failure, 656.554
Insolvency or threatened insolvency, cash, securities or assets, requiring, 656.268
Determination order, 656.268
Dialysis, compensability, 656.245
Direct payments
(Generally), 656.262
Beneficiaries or custodians, 656.228
Disability
Burden of proof, 656.266
Compensation, see **Compensation (generally)**, this topic
Finding of impairment, disability rating, 656.245
Permanent disability, see **Permanent disability**, this topic
Permanent partial disability, see **Permanent partial disability**, this topic
Permanent total disability, see **Permanent total disability**, this topic
Reducing, reasonable effort, worker, 656.325
Temporary disability, see **Temporary disability**, this topic
Temporary partial disability, 656.212

WORKERS' COMPENSATION (Cont.)

Disability (Cont.)
Temporary total disability, see **Temporary total disability**, this topic
Work experience programs, see **Work experience programs**, this topic
Workers with Disabilities Program, 656.628
Disclosure
Medical reporting information, immunity from legal liability, 656.252
Social Security benefits, offsetting, information regarding, 656.727
Discrimination, see **DISCRIMINATION**
Diseases, see **Occupational diseases**, this topic
Dispute resolution
Arbitration, see **Arbitration**, this topic
Collective bargaining agreements, certain, 656.170, 656.172
Defined, 656.260
Disputed claim settlement, see **Claims**, this topic
Medical services, 656.247, 656.248, 656.260
Vocational assistance, 656.340
District attorneys, enforcement actions and proceedings, institution and defense, 656.720
Districts, coverage, subject workers, responsibility, 656.043
Dividends
Industrial Accident Fund surpluses, distribution, 656.526
Insurer combination, experience of group of employers, 746.145
Securities on deposit, employer entitlement, 656.443
Doctors, see **Physicians**, this topic
Domestic service, nonsubject, 656.027
Drugs and medicines, providing, 656.245
Duties, performance, employers to maintain assurance, 656.017
Earning capacity loss, determinations, vocational reports, 656.287
Education service districts, apprentices or trainees, related instruction classes, coverage, 656.138
Elections
Community service, persons sentenced to, coverage, 656.041
Equipment for hire partner-operators, coverage, 656.140
Home Care Commission, providing coverage, 656.039
Inmates, city or county jails, coverage, 656.041
Nonsubject workers, making subject, employer, 656.039
SAIF, providing coverage, 656.039
Sole proprietors and partners, coverage, 656.128
Third persons and noncomplying employers, remedies against, 656.154, 656.578
Volunteer municipal personnel, subject worker coverage, 656.031
Electronic filings, rules, 656.726
Emergency Fund, 656.642
Employer Liability Law, employee rights, nonabrogation, 656.006
Employers
Administration, assessments, premiums, etc., 656.752
Assurance, coverage maintenance and duties performance, 656.017
Carrier-insured, see **Carrier-insured employers**, this topic
Industrial Accident Fund, surpluses, dividend or credit, 656.526
Multiple, determining responsible party, 656.307

WORKERS' COMPENSATION (Cont.)

Employers (Cont.)
Noncomplying, see **Noncomplying employers**, this topic
Notices, proceedings, sending to, 656.263
Occupational safety and health loss control program, 654.086, 654.097, 656.430, 731.480
Payment of compensation, 656.262
Payroll report, failure or refusal to file, estimate, 656.505
Professional employer organizations, see **Professional employer organizations**, this topic
Self-insured, see **Self-insured employers and groups**, this topic
Subject employers, 656.023
Employment
Disclosure of information concerning, 657.665
Modified employment, offer, 656.268
Preferred workers, hiring, employer premium cost reimbursement, 656.622
Professional employer organizations, see **Professional employer organizations**, this topic
Reasonable effort to obtain, burden of proof, permanent total disability status, 656.206
Refusal, prior to claim determination, effect, 656.325
Return
Attending physician or nurse practitioner
Advising insurers and employers, 656.252
Nonapproval, continuance, temporary total disability payments, 656.268
Substantial handicap to employment, defined, 656.340
Suitable employment, defined, 656.340
Estimate, payroll, 656.505
Evidence
Burden of proof
Compensability and disability, 656.266
Permanent total disability, 656.206
Claim closure, lack of substantial evidence, penalty, 656.268
Common law or statutory rules, application, 656.283
Corroborative evidence
Equipment for hire partner-operators, claims, 656.140
Sole proprietorships and partnerships, claims, 656.128
Excess coverage, self-insured employers, 656.430
Extraterritorial coverage, other state employer, certification, 656.126
Judicial notice, laws, other jurisdictions, 656.126
Medical service fees, 656.248
Objective findings
Board review, Administrative Law Judge orders, 656.295
Defined, 656.005
Disability standards, 656.726
Occupational disease, 656.802
Worsened condition, 656.273
Permanent total disability, burden of proof, 656.206
Physician or nurse practitioner certificate, ability to work, prima facie evidence, 659A.043, 659A.046
Sole proprietor and partner, claims, corroborative evidence, 656.128
Third party actions, benefits entitlement, nonadmissible, 656.595
Vocational experts, reports, admissibility, 656.287
Witnesses, see **Witnesses**, this topic
Examinations
Medical, see **Medical examinations and reports**, this topic

Examinations (Cont.)
Records inspection, see **Records and recording**, this topic
Excess insurance coverage, self-insured employers, 656.430
Excess payments beyond compensation required, 656.018
Exclusiveness of remedy, see **Remedies**, this topic
Execution
Civil penalties, noncomplying employer, judgments, 656.735
Exemption, 656.234
Exemptions from liability through coverage and exclusiveness of remedy, 656.018
Expedited claim service, 656.291
Expenses and expenditures
See also **Costs**, this topic
Claim records, examination and audit, payment, self-insured employer, 656.455
Department, payment, Consumer and Business Services Fund providing, 656.612
Director and board, incurring, 656.726
Emergency Fund, 656.642
Industrial Accident Fund, 656.632
Pending claim, medical benefits costs or burial expenses, 656.262
Self-insured employers, insolvency or default, reimbursement to department, excess insurance coverage policy provision requirement, 656.430
Third persons and noncomplying employers, actions against, 656.591, 656.593
Traveling expenses, petty cash fund, 656.644
Experience, group of employers, combining, dividend purposes, insurers, 746.145
Explanation, newspaper carriers, accident insurance coverage requirements, 656.075
Extraterritorial provisions, recognition, other state worker coverage, 656.126
False statements and representations, penalties, 656.990
Family and medical leave, effect, 657B.030, 659A.043, 659A.046
Federal government, see **United States**, this topic
Fees
See also **Assessments**, this topic; **Charges**, this topic; **Premiums**, this topic
Attorney fees, see **Attorney fees**, this topic
Collection, enforcement, SAIF, 656.752
Contracts, persons letting to subject employers, liability, 656.556
Employers, annual, 656.504
Interest, payments due, 656.560
Medical services, 656.247, 656.248
Professional employer organizations, 656.855
Fellow servant doctrine, nondefense, noncomplying employers, 656.020
Findings, legislative policy, 656.012
Fines and penalties
See also **Sanctions**, this topic
(Generally), 656.990
Civil penalties, see **Civil penalties**, this topic
Claim closure decision, lack of substantial evidence, 656.268
Claims and accidents, employer failure to report, 656.262
Default, deposits or contributions, 656.560
Disputed claim settlement, failure to pay, 656.262
Hearings, initiation, delay purpose or vexatious reason, 656.382
Independent medical examination, worker failure to attend, 656.325
Liens, 656.735

Fines and penalties (Cont.)
Medical reporting requirements, 656.254
Minors, under age, employing not in good faith, 656.132
Noncomplying employers
Coverage failure, 656.052, 656.054, 656.735
Order or determination declaring, review, 656.740
Payroll, willful misrepresentations, 656.758
Records, books, payroll, etc., keeping and submitting for inspection, 656.758
Taxes due state, 656.562
Firefighters
Nonsubject workers, 656.027
Occupational disease, 656.802
Fiscal year, defined, 656.502
Foreclosure, liens, 656.564, 656.566
Foreign nationals residing outside U.S., 656.232
Foreign states
Claims, law of another state, credits, 656.126
Injuries and workers, coverage, 656.126
Interstate commerce, certain workers nonsubject, 656.027
Temporary workplace, benefits, 656.126
Forfeiture, fees, medical reporting enforcement sanctions, 656.254
Forms, uniform, injuries, report to employers, 656.265
Foster parent or foster care, nonsubject workers, 656.027
Fraud and deceit, penalties, 656.990
Frivolous appeals or motions, 656.390
Funds and accounts
Consumer and Business Services Fund, see **Consumer and Business Services Fund**, this topic
Emergency Fund, 656.642
Industrial Accident Fund, see **Industrial Accident Fund**, this topic
Inmate Injury Fund, assessments, cost of services, 655.550
Petty cash funds, 656.644
Records, employers, inspection, 656.702
Reserves, see **Reserves**, this topic
Workers' Benefit Fund, see **WORKERS' BENEFIT FUND**, generally
Funeral expenses
(Generally), 656.204
Costs pending claim acceptance or denial, 656.262
Further accidents, compensation, 656.222
Gains and losses, invested capital, Industrial Accident Fund, amortization and reserves, 656.635
Gardening employment, private homes, nonsubject, 656.027
Garnishment, exemption, 656.234
Golf caddies, nonsubject workers, 656.027
Grouping, see **Rates and rating**, this topic
Guardians
Direct payments, 656.228
Election of remedies, recoveries against third persons and noncomplying employers, 656.578
Health consultative services, see **Occupational safety and health consultative services**, this topic
Health insurance
See also **Medical care and services**, this topic
(Generally), 743B.810
Continuation, benefits after covered injury or illness, 743B.342
Defined, 656.313, 731.162
Denial of claim, 656.247, 656.265

Health insurance (Cont.)
Managed care, see **Managed care providers**, this topic
Name and address, claim or accident report, inclusion, 656.262
Notice of claim denial, sending, employer, 656.313
Policy provisions, application, 743.402, 743.459, 743.462
Premiums, consistency, similarly situated active employees, 659A.063
Reimbursement, compensable services, insurer or self-insured employer, 656.313
Utilization review, application of laws, 743B.424
Hearings
(Generally), 656.278, 656.283, 656.704, 656.726
Acceptance of compensation, effect on right to hearing, 656.304
Administration and responsibility, 656.704, 656.726
Administrative Law Judges, see **Administrative Law Judges**, this topic
Administrative Procedures Act, application, 183.315
Aggravation
(Generally), 656.273
Self-insured employer or insurer, joinder, 656.307
Appeal and review, see **Appeal and review**, this topic
Board members, removal, 656.714
Certification of self-insured employer, revocation, 656.434, 656.440
Closed claims, 656.268
Coverage failure, noncomplying employers, 656.052
Death, prior to disposition or before filing request, 656.218
Denial of claim, time limitation, 656.319
Division, see **Hearings Division**, this topic
Doctors reports, notice of offer in evidence, cross examination by deposition or interrogatories, 656.310
Earning capacity, loss, vocational reports, use, 656.287
Extension of time, lack of mental competency, 656.319
Initiating, delay purpose or vexatious reason, penalty, 656.382
Joinder, see **Joinder**, this topic
Limitation of actions, see **Limitation of actions and proceedings**, this topic
Matters not related to claims, 656.704
New or omitted medical condition, claim denial, 656.267
Noncomplying employer, order or determination declaring or penalty, 656.740
Notice of accident, failure to give, establishing good cause, 656.265
Orders, see **Orders**, this topic
Parties, see **Parties**, this topic
Permanent total disability, notice of closure, 656.206
Postponement, rescheduling, 656.283
Prehearing conferences, rules, 656.726
Referees, see **Administrative Law Judges**, this topic
Refusal, medical examinations, treatment, etc. or employment, dispute, hearing request, 656.325
Remand to Administrative Law Judge, board, 656.295
Responsibility for providing and conducting, 656.708
Responsibility hearings, 656.307
Right, informing claimant, 656.262

Hearings (Cont.)
Rules, procedural and evidentiary, application, 183.315, 656.283, 656.704, 656.726
Scheduling, 656.283
Subpoenas, disobedience, 656.732
Time for request, 656.319
Witnesses, refusal to testify, punishing disobedience, 656.732
Hearings Division
(Generally), 656.708, 656.726
Administration and procedural rules, responsibility, 656.704, 656.726
Administrative Procedures Act, application, 183.315
Higher education
Apprentices or trainees, related instruction classes, coverage, 656.138
Death benefits, students, 656.204
Work experience program, trainees, coverage, 656.046
Home care and personal support workers, 656.039, 656.268
Homes, private, employment, certain, nonsubject, 656.027
Hospitals
Care and services
Providing, 656.245
Reopening claim, voluntary, 656.278
Rural
Fee schedules, exclusion, 656.248
Risk assessment formula, 656.256
Husbands, see **Spouses**, this topic
Immunity from liability, see **Privileges and immunities**, this topic
Impairment benefits, permanent partial disability, 656.214
Increased compensation and medical services
Aggravated disability, 656.273
Employer appeal, 656.278
Indemnity, claim, assertion by third persons, employer liability exclusion, 656.018
Independent contractors
Exclusion, 656.029
Limited liability companies
Coverage responsibility, 656.029
Members, coverage, 656.027
Nonsubject workers, presumption, 656.027
Industrial Accident Fund
(Generally), 656.632
Annual fees, deposits and minimum premiums, employers, payment, 656.504
Audit, 656.772
Contracts, persons letting, liability for premiums, fees and assessments, 656.556
Disbursements, administrative expenses, 656.602
Financial status, report, board, State Accident Insurance Fund Corporation, 656.774
Investment, 656.634, 656.635
Liens, premiums payment liability, employers, 656.566
Longshoremen's and Harbor Workers' Compensation Act, employer liability under, claims and costs, payment, 656.044
Nonsubject workers, coverage, election, 656.039
Payroll misrepresentation, civil actions, amounts collected, 656.758
Preferred claims, moneys due, 656.562
Protection; employer cash deposit, bond, or letter of credit, 656.552
Reserves, 656.635, 656.636, 656.640
Solvency, maintenance, rate fixing, 656.508

Industrial Accident Fund (Cont.)
Surpluses, dividend distribution and other disposition, 656.526, 656.634
Trust fund status, 656.634
Vouchers and warrants, disbursements, administrative expenses, 656.602
Informal dispute resolutions, mandatory, 656.283
Informational materials for health care professionals, 656.795, 656.797, 656.798, 656.799
Injunctions
Contributing employer cash deposit or bond requirement, failure, 656.554
Coverage failure, noncomplying employers, 656.052
Discrimination, workers applying for benefits, 659A.109, 659A.885
Self-insured employers, certificate revocation, further employment, 656.434
Inmates, see **Correctional facilities**, this topic
Insolvency
Bankruptcy
Civil penalties, noncomplying employer, orders and judgments, preferred claim, 656.735
Moneys due, Industrial Accident Fund, preferred claims, 656.562
Benefits payment and Retroactive Reserve reimbursement, Insurance Guaranty Association, 656.636
Employer, surety or guarantor, assets deposit, requiring, 656.268
Oregon Insurance Guaranty Association, 734.570, 734.640
Self-insured employers, department expenses, reimbursement, excess insurance coverage policy provision, 656.430
Inspection of records, see **Records and recording**, this topic
Installments
Aggravation claim, first payment, 656.273
First, time, 656.262
Noncomplying employer, subject worker, claim, first installment, 656.054
Insulin therapy, compensability, 656.245
Insurance and insurers
Assigned risk plan, 656.730
Cancellation of coverage, 656.419, 656.423, 656.427
Capital and surplus requirements, 731.554
Consultative services, health and safety, see **Occupational safety and health consultative services**, this topic
Coverage, see **Coverage**, this topic
Defaulted insurers, advancement of funds to injured workers, 656.445
Excess coverage, self-insured employers, 656.430
Group of employers, combining for rating purposes, 737.316
Health insurance, see **Health insurance**, this topic
Insolvency, see **Insolvency**, this topic
Investment income
Rate making and use, consideration, 737.310
Records, maintaining, 737.225
Joinder, proceedings, 656.308
Liens, amounts due from employers, 656.564
Motor vehicle insurance, 742.454, 742.504, 742.526
Multiple, determining responsible party, 656.307
Newspaper carriers, accident insurance coverage, coverage exemption requirement, 656.075
Noncomplying employer, order or determination declaring or penalty, insurer as party, 656.740
Notices, see **Notices**, this topic
Policies
(Generally), 656.419

Insurance and insurers (Cont.)
Policies (Cont.)
Cancellation of coverage, 656.419, 656.423, 656.427
Conditions for issuing, 731.480
Rating organization membership, insurers, 737.265, 737.560
Revocation, issuance authority
Assigned risk plan, refusal of equitable apportionment, 656.730
Failure to comply with contracts, orders or rules, 656.447
Self-insured employers, requirements, 656.430
Policy forms, adherence, insurer members of rating organization, 737.265
Premium audit program, 737.318
Premiums, see **Premiums**, this topic
Rates and rating, see **Rates and rating**, this topic
Reciprocal insurer surplus requirements, 731.566
Records, see **Records and recording**, this topic
Reinsurance, SAIF, 656.752
Remote claims processing, 731.475
Rules
Audits, premiums, 737.318
Combining employers, 737.316
Defaulted insurers, advancement of funds to injured workers, 656.445
Dividends, 746.145
Filing requirement, suspension or modification, 737.235
Rates and rating plans, 737.310, 737.322
Records, storage, 731.475
Remote claims processing, 731.475
Statistical plan, 737.225
Self-insured employers, see **Self-insured employers and groups**, this topic
Spiritual treatment, payments, 656.010
State Accident Insurance Fund Corporation, see **STATE ACCIDENT INSURANCE FUND CORPORATION**, generally
Surety bond, cancellation, 656.427
Intentional injuries, worker or employer intent, 656.156
Interest (money)
Amounts due, taxes due state, 656.562
Attorney fees, 656.313
Hearing on reconsideration, 656.313
Industrial Accident Fund investments, setting aside, reserve accounts, 656.635
Liens, 656.566
Premiums, etc., or deposit defaults, 656.560
Securities on deposit, employer entitlement, 656.443
Interpretation, see **Construction and interpretation**, this topic
Interrogatories, doctors, cross-examination, 656.310
Interstate matters, see **Foreign states**, this topic
Investments, Industrial Accident Fund, 656.634, 656.635
Irregular employment, temporary total disability, 656.210
Joinder
Compromises, actions against third persons or noncomplying employers, paying agency, 656.587
Insurance carriers, allegation of contract coverage, 656.740
Multiple employers, insurers, etc., 656.307
Proceedings, employers and insurers, 656.308
Judgments
Civil penalties, noncomplying employer, order, 656.735

Judgments (Cont.)
Payroll reports or premiums payments, failure, entitlement of SAIF, 656.505
Judicial notice, laws, another jurisdiction, 656.126
Jurisdiction
Aggravation claims, adequacy of medical report, non-jurisdictional, 656.273
Conflicts, agreements, interstate, 656.126
Continuing, modification, change or termination, former findings, orders or awards, 656.278
Expedited claim service, 656.291
Injunction, employers, deposit requirement failures, 656.554
Minors, lump sum payments, control and management, 656.132
Places of employment, board, 654.025
Knowledge of danger, non-defense, noncomplying employers, 656.020
Labor contractors, 658.415, 658.440
Labor dispute, return to employment, refusal, vocational assistance, 656.268
Leaving state temporarily, subject workers, coverage, 656.126
Liability
Assumption by insurers, 656.419
Cancellation of insurance policy or surety bond, effect, 656.427
Compensation, see **Compensation (generally)**, this topic
Employers, exclusive remedy, 656.018
Immunity, see **Privileges and immunities**, this topic
Liens
Attorney fees, 656.388
Civil penalties, 656.735
Default, contributing employers, 656.505
Director, enforcement powers, 656.726
Employers, amounts due, 656.564, 656.566
Premiums due, employer failure or refusal to pay, 656.505
Third party release, payments pursuant to judgment or settlement, 656.593
Third persons and noncomplying employers, actions against, 656.580, 656.593
Life-preserving modalities (insulin therapy, dialysis and transfusion), compensability, 656.245
Limitation of actions and proceedings
Aggravation claim, 656.273
Hearings
Extension of time, lack of mental competency, 656.319
Referee orders, review, board, 656.289
Time for request, 656.319
Major contributing cause standard, failure to establish, civil negligence action, 656.019
Occupational disease claims, 656.807
Reconsideration proceeding, completion period, 656.268
Limitation of liability, employers, 656.018
Limited liability companies
Cancellation of insurance or surety bond, notice, 656.427
Exclusive remedy protection, 656.018
Joint and several liability, civil penalties, 656.735
Members, subject worker status, 656.027, 656.029, 656.128
Limited partnerships and limited liability partnerships, see **Partnerships**, this topic
Local governments, see **Cities**, this topic; **Counties**, this topic

WORKERS' COMPENSATION (Cont.)

Longshoremen's and Harbor Workers' Compensation Act, employer liability, insurance, 656.044
Lump sum payments, see **Payments**, this topic
Mail and mailing
Accident resulting in death or injury, notice to employer, 656.265
Cancellation of insurance or surety bond, notice, 656.427
Claim denial, notice, copy, 656.262
Demand, premiums, 656.505
Hearings, notices, 656.283
Notice of election, action against third persons or noncomplying employers, 656.593
Orders
Hearings, copies, 656.289
Request for board review, 656.295
Premium rates, notice, readjustment, increase or decrease, 656.508
Premium, etc. defaults, demand, 656.560
Maintenance employment, private homes, nonsubject workers, 656.027
Majority interest, defined, 656.430
Managed care providers
Authorization, nonmember providers, 656.245, 656.260
Certification, 656.260
Designation, medical service provider, contract, 656.260
Fee schedule, 656.248
Required medical services, 656.245
Management, lump sum payments, minors, 656.132
Marriage, see **Spouses**, this topic
Mediation, 656.307
Medical care and services
See also **Health insurance**, this topic
(Generally), 656.245
Advice, failure to follow, reduction of benefits, 656.325
Advisory committee, 656.794
Attorney fees, attorneys obtaining settlement, 656.385
Audits, medical service bills, rules, 656.252
Before claim accepted or denied, 656.247, 656.262
Bills, denial of claim, submitting bills, 656.313
Collective bargaining agreements, certain, medical service providers, 656.170, 656.172
Costs pending claim acceptance or denial, 656.247, 656.262
Denial, claim, 656.313
Disputes, resolution, 656.245, 656.247, 656.248, 656.260
Examinations and reports, see **Medical examinations and reports**, this topic
Failure to seek, claim closure, 656.268
Fees, 656.247, 656.248
Hospitals, see **Hospitals**, this topic
Informational materials for health care professionals, 656.795, 656.797, 656.798, 656.799
Managed care providers, see **Managed care providers**, this topic
Manipulation, payment, 656.248
Nurse practitioners, see **Nurse practitioners**, this topic
Objective findings, see **Evidence**, this topic
Palliative care, see **Palliative care**, this topic
Physical therapist services, 656.250, 688.135
Physicians, see **Physicians**, this topic
Prior to acceptance or denial of claim, 656.247, 656.262
Providing, object of Law, 656.012

Medical care and services (Cont.)
Reopening claim, voluntarily, 656.278
Review, medical treatment, generally, 656.327
Rural hospitals
Fee schedules, exclusion, 656.248
Risk assessment formula, 656.256
Settlement, compensability issue, notice and reimbursement, 656.313
Spiritual treatment, 656.010
Temporary disability benefits, work time loss, 656.210
Unscientific or experimental, compensability exclusion, rules, 656.245
Utilization and treatment standards, establishing, 656.248
Volunteers, emergencies, 656.047
Work time loss, benefits, 656.210
Medical examinations and reports
(Generally), 656.252, 656.325
Attorneys, notice, 656.331
Costs, related services, payment, employer, 656.325
Forms and enforcement sanctions, establishing, 656.254
Furnishing worker, 656.268
Further medical services, indication of need as aggravation claim, 656.273
Independent medical examinations, 656.325, 656.328
Medical arbiter examination, failure to cooperate, postponement of reconsideration proceeding, 656.268
Medically stationary condition, 656.268
Number, maximum, worker, 656.325
Permanent total disability recipients, periodic reexaminations, insurers, 656.206
Prima facie evidence, 656.310
Medically stationary condition
(Generally), 656.268
Anticipated date, advising insurer or employer, 656.252
Defined, 656.005
Meetings, public
(Generally), 656.718
Workers' Compensation Board, member, removal, 656.714
Membership rosters, volunteer municipal personnel, furnishing insurer or director, 656.031
Mental or stress disorders, occupational disease, 656.802
Minimum premium, contributing employers, 656.504
Minors
(Generally), 656.132
Death benefits, 656.204
Dependents, see **Dependents**, this topic
Intentional injuries, worker or employer, 656.156
Parents, see **Parents**, this topic
Third persons, negligence or wrong, death cause, election of remedies, 656.154, 656.578
Youth correction facilities, see **Youth correction facilities**, this topic
Motions, own, board, modifications of awards, etc., 656.278
Motor vehicles
Equipment for hire partner-operators, coverage election, 656.140
Motor vehicle insurance, 742.454, 742.504, 742.526
Nonsubject workers
(Generally), 656.027
Commuter ridesharing arrangements, 656.025
Taxicabs and nonemergency medical transportation, 656.027

Multiple employers, insurers, etc., determining responsible party, 656.307
Multiple entities, certification and self-insured employer, 656.430
Municipal employees, see **Cities**, this topic
Names
Civil penalty, persons incurring, recordation, 656.735
Employer willful misrepresentations, payroll, contributions, etc., civil actions, State Accident Insurance Fund, 656.758
Paying agencies, assigned actions, bringing in name of injured worker or beneficiary, 656.591
State Accident Insurance Fund Corporation, acquisitions, leases, rent, etc., own name, 656.752
Suits, board, director, 656.726
Worker election, damage action against employer or third person, notice to paying agency, name of court, 656.593
Naturopathic physicians, definitional inclusion, 656.005
Negligence
Fellow-servant, damage actions against noncomplying employers, non-defense, 656.020
Inmates, city or county jails, exclusiveness of workers' compensation remedy, 656.041
Major contributing cause standard, failure to establish, civil negligence action, 656.019
Professional education projects, school directed, 656.033
School work experience programs, exclusiveness of workers' compensation program, 656.033
Third persons, election of remedies, 656.154, 656.578
Volunteer municipal personnel, exclusiveness of workers' compensation remedy, 656.031
Net worth, self-insured employer, methods for determining and approving, prescribing, 656.430
New medical condition claims, 656.262, 656.267
Newspaper distribution
Carriers
Defined, 656.070
Exemption from coverage, requirements, 656.075
Nonsubject workers, 656.027
Contractors, nonsubject workers, 656.027
Noncitizens residing outside U.S., 656.232
Noncomplying employers
Costs, claims, financing, 705.148
Coverage, effect of failure to comply, 656.052
Injury, subject worker, compensable, 656.054
Order or determination declaring or penalty, review, 656.740
Recovery against, see **Beneficiaries**, this topic
Nondisabling injury
Claim procedure, 656.277
Decision, claimant rights, 656.262
Reclassification of claim, 656.277, 656.386
Nonsubject workers
(Generally), 656.027
Election to make subject, employer, 656.039
Notices
Acceptance or denial of claim, 656.262
Accidents, injury or death, 656.265
Apprentices or trainees, school related instruction classes, number, change, 656.138
Cancellation
Election making nonsubject workers subject, 656.039
Insurance coverage, 656.423, 656.427
Surety bond, 656.427

Notices (Cont.)
Closure of claims, 656.262, 656.268
Consultative services, occupational safety and health, program approval, 654.086, 654.097
Damage action against employer or third person, election, 656.593
Default
Posting notice, employers, 656.560
Use of securities for payments, 656.443
Denial, medical services, all or portion of claim, 656.313
Duties to be performed, injured worker, attending physician or nurse practitioner, 656.325
Election, making nonsubject workers subject, 656.039
Employer and insurer, notices to, 656.263
Final determination, compensability issue, affected medical and health provider, 656.313
Hearings, 656.283
Injured minor worker, parent or guardian, compensation claims, 656.228
Inmates, covered, change in number, 656.041
Longshoremen's and Harbor Workers' Compensation Act employers, insurance coverage, cancellation, 656.044
Medical examinations, more than three, 656.325
Medical information relevant to claim determination, 656.252
Medically stationary condition, 656.268
Newspaper carriers, written explanation, accident insurance coverage requirements, 656.075
Noncomplying employers, coverage failure, 656.052
Nondisabling injury decision, claimant rights, 656.262
Payments to claimant or service provider, 656.202
Premium rates, contributing employers, readjustment, increases or decreases, 656.508
Professional education projects, school directed, persons enrolled, number changes, 656.033
Rates, employers, modification, readjustment, increases or decreases, 656.508
Records, claims, examination and audit, 656.455
Self-insured employer groups, commencement termination by employers in group, 656.430
Self-insured employers, certification, revocation, 656.430, 656.440
Sole proprietorships and partnerships, employment status and cancellation, coverage, 656.128
Subject employers, manner of compliance, posting, 656.056
Suspension or revocation, authority to issue insurance, 656.447
Volunteers, municipal, estimated number changes, 656.031
Warning, machine or equipment use prohibition, failure to post, effect on exclusiveness of remedy, 656.018
Work experience, schools, persons enrolled, number changes, 656.033
Nurse practitioners
See also **Physicians**, this topic
(Generally), 656.245
Informational materials, availability, review, 656.795, 656.797, 656.798
Managed care organization authorization, 656.245, 656.260
Reports, see **Medical examinations and reports**, this topic
Obligations, claims administration and payment, direct responsibility employer, 656.403
Occupational diseases
(Generally), 656.802, 656.804, 656.807

Occupational diseases (Cont.)
Oregon Institute of Occupational Health Sciences, 656.630
Preexisting conditions, compensability, 656.225
Time for filing claims, 656.807
Occupational Health Sciences, Oregon Institute of, 656.630
Occupational safety and health consultative services
Insurers
Compliance failures, suspension or revocation of certificate, 731.418
Furnishing, requirement, 654.086, 654.097, 731.480
Loss control program, employers, 654.086, 654.097, 731.480
Self-insured employers, requirement, 654.086, 654.097, 656.430
Occupations
Classifying, contribution rate fixing, 656.508
Separate, employers, nonsubject employer and worker status, 656.035
Offers of employment, light duty or modified employment, worker refusal, reemployment rights termination, 659A.046
Officers, corporations, nonsubject workers, 656.027
Offsets and deductions
Damages, 656.596
Federal disability benefits from Social Security, 656.209, 656.727
Investments, Industrial Accident Fund, 656.635
Liens, 656.566
Previous benefits, 656.268
Sick leave payments, 656.240
Vocational rehabilitation, sums earned, proportionate reduction, temporary disability compensation, 656.268
Ombudsmen, generally, 656.709
Omitted medical condition claims, 656.262, 656.267
Oral argument, Administrative Law Judge orders, board review, 656.295
Orders
Board review, Administrative Law Judge orders, 656.295, 656.726
Civil penalties, noncomplying employer, assessing, 656.735
Compromises, worker actions against third persons or noncomplying employers, board approval, 656.587
Coverage failure, noncomplying employers, declaration and penalty, 656.052
Determination order, 656.268
Disobedience, punishing, 656.732
Emergency Fund, disbursements, 656.642
Judicial review, board orders, 656.298
Managed care services, noncertified providers, cease and desist orders, 656.260
Matters not related to claims, 656.704
Medical opinion indicating further medical services need, payment, 656.273
Modification, change or termination, board, 656.278
Multiple employers, insurers, etc., claim payment designation, 656.307
Noncomplying employers
Declaring, review, 656.740
Proposed order, contest, 656.740
Subject worker, claim, closing, 656.054
Procedural rules, 183.315, 656.283, 656.704, 656.726
Protective, 656.285

Orphans, death benefits, 656.204
Out-of-state matters, see **Foreign states**, this topic
Overtime pay, payroll exclusion, 656.005
Own motion, board, order or award, modification, etc., 656.278
Palliative care
Compensability, 656.245
Defined, 656.005
Parents
Children, see **Dependents**, this topic; **Minors**, this topic
Death benefits, 656.204
Election of remedies, surviving parent, recoveries against third persons and noncomplying employers, 656.578
Parties
Joinder, see **Joinder**, this topic
Noncomplying employers, order or determination declaring or penalty, review, insurers, 656.740
Orders, issuance prior to conclusion of hearing, concurrence, 656.289
Subpoenas, service, 656.283
Partnerships
Cancellation of insurance or surety bond, notice, 656.427
Coverage election, 656.128
Equipment for hire partner-operators, coverage election, 656.140
Exclusive remedy protection, 656.018
Noncomplying employers, civil penalties, joint and several liabilities, 656.735
Self-insured employer status, 656.430
Subject and nonsubject workers, 656.027
Paying agency, recovery against third persons and noncomplying employers, see **Beneficiaries**, this topic
Payments
(Generally), 656.262
Advancements to workers, Workers' Benefit Fund
Decertified self-insured employer groups, 656.441
Defaulted insurers, 656.445
Assessments, see **Assessments**, this topic
Assurance, employers, maintaining, 656.017
Delay, 656.262
Direct payments
(Generally), 656.262
Beneficiaries or custodians, 656.228
Disputed claim settlement, failure, penalties, 656.262
Employer responsibility, payment of claims, 656.308
Industrial Accident Fund, 656.632
Longshoremen's and Harbor Workers' Compensation Act, employer liability, 656.044
Lump sum payments
Acceptance, hearing right, waiver, 656.304
Minors, control and management, 656.132
Permanent partial disability, 656.230
Multiple employers, insurers, etc., determining responsible party, 656.307
Noncitizens residing outside U.S., 656.232
Notice, claimant or service provider, purpose, time period and amounts not paid, 656.202
Prior to acceptance or denial of claim, 656.247, 656.262
Reports, 656.264
Right, 656.202
Series, 656.593
Stay, request, review or appeal, 656.313
Voluntary, excess of compensation required, 656.018

Payments (Cont.)
Volunteer municipal personnel, contributions, premiums or assessments, 656.031
Payrolls
Employers, records, etc., 656.758
Estimate following failure to file, 656.505
Misrepresenting, willful, 656.758
Penalties, 656.990
Statement, 656.504
Peace officers, see **Police officers**, this topic
Penalties, see **Fines and penalties**, this topic
Permanent disability
Additional accident, 656.222
Awards, procedure for determining, 656.268
Medical services required after determination, providing, 656.245
Reserves, setting aside, 656.268, 656.636
Substantial obstacle to employment, employer assistance, 656.622
Temporary disability, same injury, compensation in addition, 656.216
Permanent partial disability
(Generally), 656.214
Death, worker, continuance of payments to survivors, 656.218
Evaluation of disabilities, criteria, 656.726
Lump sum payments, 656.230
Medical advice, failure to follow, effect, 656.325
Method of compensation, 656.216
Reserves for awards, setting aside, 656.636
Permanent total disability
(Generally), 656.206
Death during, 656.208
Material improvement, claim closure, 656.206, 656.268
Medical advice, failure to follow, effect, 656.325
Social Security benefits, offsetting, 656.209, 656.727
Petty cash fund, 705.155
Physical rehabilitation and restoration
Legislative policy, 656.012
Participation in program, worker failure, suspension of compensation right, 656.325
Purpose of law, 656.268
Services
Agencies, 658.019
Providing, 656.245
Physical therapists, services, allowance or authorization, 656.250, 688.135
Physicians
Certificate, ability to work, prima facie evidence, 659A.043, 659A.046
Chiropractic physicians, see **Chiropractic physicians**, this topic
Choosing and changing, worker, 656.245
Definitions, 656.005
Impairment findings, disability rating, 656.245
Informational materials, availability, review, 656.799
List of qualified providers, independent medical examinations, 656.328
Managed care organization authorization, 656.245, 656.260
Medical advice, failure to follow, reduction of benefits, 656.325
Medical examinations and reports, see **Medical examinations and reports**, this topic
Physician associates
(Generally), 656.245
Definitional inclusion, 656.005
Managed care organization authorization, 656.245, 656.260

Physicians (Cont.)
Return to employment, nonapproval, continuance, temporary total disability payments, 656.268
Sanctions, certain practitioner actions and failures, 656.254
Places of employment, jurisdiction and supervision, 654.025
Pleadings, third party actions, 656.595
Podiatric physicians, definitional inclusion, 656.005
Police officers
Nonsubject workers, 656.027
Occupational disease, 656.802
Policy, legislative findings, 656.012
Posting notice, subject employers, manner of compliance, 656.056
Prayer, treatment, 656.010
Precedence
Actions against third party or employer, 656.595
Attorney fees, amount, determination, 656.388
Dockets, appeals to Court of Appeals, 656.298
Preexisting conditions
Certain compensability, 656.225
Defined, 656.005
Occupational disease, 656.802
Preferred claims
Civil penalties, noncomplying employer, judgments and orders, 656.735
Moneys due Industrial Accident Fund, 656.562
Preferred workers, 656.622
Premiums
See also **Assessments**, this topic; **Charges**, this topic; **Fees**, this topic
(Generally), 656.504
Amounts due, preferred claims, 656.562
Assessment revenues, transfer to Workers' Benefit Fund, 705.148
Collection, enforcement, etc., SAIF, 656.752
Contracts, persons letting to subject employers, liability, 656.556
Deduction, employer compensation payments, 656.262
Failure or refusal to pay, 656.505
Industrial Accident Fund, state, waiver of rights, 656.634
Interest, payments due, 656.560
Liens
Amounts due from employers, 656.564, 656.566
Enforcement, 656.726
Longshoremen's and Harbor Workers' Compensation Act, employers liable, contribution rates, fixing, 656.044
Premium audit billings, appeals, 737.318, 737.505
Projected, quoting, 746.147
Rates, see **Rates and rating**, this topic
Reforestation cooperative workers, 656.536
Refunds, petty cash funds, 656.644
Security for payment, see **Bonds and security**, this topic
Presumptions
Minors under age, acceptance of coverage, 656.132
Notice of injury, self-inflicted injuries and medical, etc. reports, 656.310
Occupational disease, 656.802
Prevailing wage, determination, reforestation cooperative workers premium, 656.536
Prima facie evidence, extraterritorial coverage, other state employer, certificate, 656.126
Private homes, employment, certain, nonsubject, 656.027
Privileged and confidential information
See also **Records and recording**, this topic

Privileged and confidential information (Cont.)
Claims, records, 656.360, 656.362
Medical arbiters or panels, 656.327
Medical reports, disclosure liability, 656.252
Privileges and immunities
Claims, records, disclosure, 656.360, 656.362
Medical information, reporting, 656.252
Process, service, see **Service**, this topic
Processing claims, 656.262 et seq.
Professional employer organizations
(Generally), 656.850, 656.855
Definitions, generally, 656.849, 656.850
Exclusiveness of remedy, 656.018
Profit-sharing agreements (payroll, definition), 656.005
Property tax work-off program, persons performing services, nonsubject workers, 656.027
Prosthetic devices
Injury, compensability, 656.005
Providing, 656.245
Public assistance
Eligibility requirement for public assistance grant, worker, definition exclusion, 656.005
Ombudsman, providing information to small businesses, 656.709
Public meetings, see **Meetings, public**, this topic
Public office holders, salary deemed temporary disability payment, 656.262
Public safety officers
Nonsubject workers, 656.027
Occupational disease, 656.802
Public utilities
Indemnity or contribution claims, 656.018
Self-insurance, excess coverage, 656.430
Qualification, employers, contributing or direct responsibility, 656.017
Rates and rating
(Generally), 737.007 et seq.
Accident experience records, availability, 656.702
Appeal and review, filings, 737.320
Assumed wage rates, see **Assumed wage rates**, this topic
Bureau, establishment, 731.216
Consumer and Business Services Director, review and investigation, rate filings, 656.612
Grouping
Employers, 746.145
Fictitious, 737.600
Insurers
(Generally), 737.310
Approval, rules, 737.322
Filings, plans or systems, application of insurance law, 737.205
Groups of employers, combining for rating purposes, 737.316
Membership, rating organizations, 737.560
Records, maintaining, 737.225
Reinsurance agreements, certain, unfair discrimination, 746.015
Review, 737.320
Statistics, report and rules, 737.225
Investigation costs, 737.320
Medical fee schedules, rule promulgation, 656.248
Method of rate making, exception, 737.310
Permanent partial disability, 656.214
Premiums
(Generally), 656.504
Fixing, 656.508
Modification, 656.508
Rate filings, 737.320
Rating organization membership, 737.265, 737.560
Reclassification, insurance policy, 737.310

Rates and rating (Cont.)
Review, filings, 737.320
Rewarding employers, good loss experience or programs, 737.310
Third party recovery, variable, claims reserving process, 737.310
Real estate licensees
Brokers, coverage, 656.037
Persons contracting to pay remuneration, not employer, 656.037
Statement of legislative purpose, 696.007
Reciprocal insurers, surplus requirements, 731.566
Reciprocity, other states, 656.126
Reclassification, insurance policy, 737.310
Reconsideration of claims, generally, 656.268
Records and recording
See also **Reports**, this topic
Accident experience records, availability, 656.702
Civil penalties, noncomplying employer, order, 656.735
Claims for compensation
Availability and disposal, 656.455
Confidentiality, 656.360, 656.362
Disclosure
Claims for compensation, 656.360, 656.362
Medical reporting information, immunity from legal liability, 656.252
Social Security benefits, offsetting, information regarding, 656.727
Employers, number of workers and wages, keeping, 656.758
Hearings, keeping and transcribing, 656.283
Inspection
(Generally), 656.702
Books, records and payrolls of employers, 656.726, 656.758
Public records disclosure exemptions, 656.702
State Accident Insurance Fund Corporation records, 656.702
Liens, amounts due, 656.566
Proceedings, taking of testimony and recording, authority, 656.726
Storage, examination and audit, insurers, 731.475
Recreational down-river boating activities, nonsubject workers, 656.027
Reducing disability, reasonable effort, worker, 656.325
Reemployment Assistance Program
(Generally), 656.622
Employer assistance available, informing claimant, 656.262
Funding, 656.506, 656.605, 656.622
Reemployment rights, informing worker, 656.340
Referees, see **Administrative Law Judges**, this topic
Referral of claims, notifying employer, 656.054
Reforestation cooperative workers, premium charges, 656.536
Regularly employed, defined, 656.210
Rehabilitation, see **Physical rehabilitation and restoration**, this topic; **Vocational education and rehabilitation**, this topic
Reimbursement
Contributing employers authorized to pay compensation, 656.262
Industrial Accident Fund, costs incurred, claim processing for noncomplying employers, 656.054
Self-insured employers, insolvency or default, department expenses, excess insurance coverage policy provision, 656.430

Reinstatement rights, informing claimant, 656.262
Reinstatement to former position, 659A.043
Reinsurance, SAIF, 656.752
Release of injured worker, advising insurer or employer, 656.252
Releases
See also **Compromise and settlement**, this topic
(Generally), 656.236
Lien against property, employer, 656.566
Social Security, information disclosure, 656.727
Relief organizations, board and lodging services, nonsubject workers, 656.027
Religion
Nonsubject workers, religious organizations, 656.027
Spiritual treatment, 656.010
Remand, Administrative Law Judge orders, 656.295
Remedies
See also **Fines and penalties**, this topic; **Sanctions**, this topic
Damages, see **Damages**, this topic
Election, see **Elections**, this topic
Employer Liability Law, nonabrogation, 656.006
Exclusiveness of remedy
(Generally), 656.018
Apprentices or trainees, school related instruction classes, 656.138
Deaf school work experience trainees, 656.135
Equipment for hire partner-operators, 656.140
Inmates, city or county jails, 656.041
Out-of-state injuries, 656.126
Professional education project trainees, school directed, 656.033
School work experience program trainees, 656.033
Volunteer municipal personnel, 656.031
Injunctions, see **Injunctions**, this topic
Premiums default, 656.560
Remodeling work, private homes, nonsubject, 656.027
Reopened Claims Program
(Generally), 656.625
Assessments, allocation, 656.506, 656.605
Reopening claims, advising insurer or employer, 656.252
Repairs, private homes, employment nonsubject, 656.027
Reports
See also **Records and recording**, this topic
Assessments, see **Assessments**, this topic
Director, reports to, compensable injuries, claim denial or disposition payments, 656.264
Electronic filing, rules, 656.726
Employers
Claims or accidents, 656.262
Employee hours worked, assessment amounts due, 656.506
Industrial Accident Fund, financial status, 656.774
Managed care organizations, denial or termination of provider authorization, 656.260
Medical, see **Medical examinations and reports**, this topic
Nondisabling injury claims, 656.277
Occupational Health Sciences, Oregon Institute of, 656.630
Payroll, 656.504, 656.505
Penalties, 656.745
Sanctions for enforcement, 656.264

Reports (Cont.)
Self-insured employers, occupational safety and health consultative services, requirements, establishing, 656.430
Vocational experts, admissibility, 656.287
Workers' Benefit Fund, 656.506, 656.790
Workers' Compensation Management-Labor Advisory Committee, 656.790
Representation
Expedited claim service, 656.291
False, penalties, 656.990
Reserves
Assessments, noncomplying employers, claim processing costs award, not included, 656.054
Industrial Accident Fund, 656.635, 656.636, 656.640
Reopened Claims Program, see **Reopened Claims Program**, this topic
Retroactive Reserve, 656.506, 656.605, 656.636
Self-Insured Employer Adjustment Reserve, 656.614
Self-Insured Employer Group Adjustment Reserve, 656.614
Setting aside, permanent disability, 656.268, 656.636
Resolution, intent to cover inmates, governing body, 656.041
Responsibility hearings, 656.307
Restoration, see **Physical rehabilitation and restoration**, this topic
Retroactive Reserve, 656.506, 656.605, 656.636
Return to work
Need for assistance, determining, insurer or self-insured employer, 656.340
Other suitable work, 659A.046
Purpose, Workers' Compensation Law, 656.268
Reemployment Assistance Program, see **Reemployment Assistance Program**, this topic
Reemployment rights, informing worker, 656.340
Reinstatement, former position, 659A.043
Release to employment, physician or nurse practitioner, 659A.049
Vocational assistance, see **Vocational assistance**, this topic
Reversal of orders, board review, 656.295
Revocation
Authorization to issue insurance, 656.447, 656.730
Self-insured employer certification, 656.434, 656.440
Ridesharing arrangements, nonsubject workers, 656.025
Risk assessment formula, rural hospitals, 656.256
Roster, membership, volunteer municipal personnel, furnishing insurer or director, 656.031
Rules
(Generally), 656.726
Alternative dispute resolution, certain collective bargaining agreements, 656.174
Attorney fees, 656.262, 656.385
Attorneys, notice, contact and medical examination, 656.331
Audits, medical service bills, 656.252
Cancellation of coverage, 656.504
Certification, managed care organizations, 656.260
Claims
Claims examiners, certification and training, 656.780
Disputed claim settlement, penalty matrix, 656.262
Expedited Claim Service, 656.291
Processing, monthly benefit schedules, 656.262

Rules (Cont.)
Claims (Cont.)
Records, keeping outside state, 656.455
Collective bargaining agreements, certain, 656.174
Compensation hearings, vocational expert reports, admissibility, 656.287
Consultative services, occupational safety and health, 654.086, 654.097
Consumer and Business Services Department director, 705.135
Consumer and Business Services Fund, assessments, 656.612
Default by employer or self-insured employer group, 656.443
Direct responsibility employers, claims rules of director, subject to, 656.403
Dispute resolution, 656.704
Electronic filings, 656.726
Employers, fees and minimum premiums, 656.504
Evidentiary and procedural, 183.315, 656.283, 656.704, 656.726
Expedited claim service, 656.291
Hearings, 183.315, 656.283, 656.704, 656.726
Independent medical examinations, 656.325, 656.328
Injured workers
Disapproval of reimbursement, appealing, 656.054
Representation by attorney, submitting to medical examination, 656.331
Vocational assistance, 656.340
Insurance and insurers, see **Insurance and insurers**, this topic
Longshoremen's and Harbor Workers' Compensation Act, insurance coverage, canceling, 656.044
Medical care advisory committee, composition, 656.794
Medical reports, form and enforcement sanctions, establishing, 656.254
Medical services and treatment, generally, 656.245, 656.248
Monthly benefit schedules, converting to weekly or periodic schedules, 656.262
Noncomplying employers, claim processing, reimbursement, periodic, Industrial Accident Fund, 656.054
Penalty matrix, disputed claim settlements, 656.262
Permanent disability payments, suspension, training, 656.268
Premiums, computation, division of payroll, manual classifications, 737.310
Professional employer organizations, 656.855
Rating and ratemaking, 737.310
Reemployment Assistance Program, 656.622
Reopened Claims Program, requesting reimbursement, 656.625
Reporting requirements, generally, 656.264
Reporting standards, managed care organizations, provider authorizations, 656.260
Reports, medical information relevant to claim determination, 656.252
Responsibility hearings, procedures, 656.307
Self-insured employers, 656.403, 656.430, 656.455
Short rate premiums, providing, 656.504
Social Security, federal disability benefits, offsetting, 656.727
Subject and nonsubject workers, 656.027
Supplemental temporary disability benefits, 656.210
Type A or B rural hospital, considerations, 656.256

Rules (Cont.)
Uniform forms, report of injury, promulgating, 656.265
Vocational assistance, 656.340
Vocational experts, report admissibility and competency, 656.287
Workers not regularly employed, weekly wage determination, 656.210
Workers with Disabilities Program, 656.628
Rural hospitals, see **Hospitals**, this topic
Safe working practices, bonus payments to reward, payroll exclusion, 656.005
Safety and health consultative services, see **Occupational safety and health consultative services**, this topic
SAIF, see **STATE ACCIDENT INSURANCE FUND CORPORATION**, generally
Salaries and wages
Administrative Law Judges, fixing, 656.724
Assumed wage rates, see **Assumed wage rates**, this topic
Definition, wages, 656.005, 656.206
Earning capacity loss, determinations, vocational reports, 656.287
Payrolls, see **Payrolls**, this topic
SAIF, payments from Industrial Accident Fund, 656.632
Sanctions
See also **Fines and penalties**, this topic; **Remedies**, this topic
Default, premiums, fees, assessments, 656.560
Health care practitioners, 656.254
Insurers, failure to comply with contracts, orders or rules, 656.447
Medical reports, establishing, 656.254
Protective orders, hearings, etc., 656.285
Reporting requirements, sanctions, 656.264
Schedules
Attorney fees, 656.388
Medical fees, 656.248
Schools and school districts
Apprentices and trainees, see **Apprentices and trainees**, this topic
Attendance, newspaper carriers, encouraging, 656.075
Death benefits, students, 656.204
Oregon School for the Deaf, work experience trainees, 656.135
Professional training programs, school directed, 656.033
Self-insured employer status, 656.407
Work experience programs, 656.033, 656.135
Securities
Defaulted employers, 656.443
Defaulted insurers, advancement of funds to injured workers, 656.445
Qualifying deposits, self-insured employers, 656.407
Security, see **Bonds and security**, this topic
Seizure, moneys payable, exemption, 656.234
Self-injury, presumptions, 656.310
Self-insured employers and groups
(Generally), 656.430
Assumed wage rates, inmates, fixing and submitting, 656.041
Certification
(Generally), 656.430
Decertified employer groups, advancement of funds to injured workers, 656.441
Revocation or cancellation, 656.434, 656.440, 656.443
Default, 656.443

WORKERS' COMPENSATION (Cont.)

Self-insured employers and groups (Cont.)
Employer duties and obligations, maintaining assurance as, authorization, 656.017
Insurance policies, requirements, 656.430
Occupational safety and health consultative services, 654.086, 654.097, 656.430
Qualifying, proof, adequate staff and financial ability, 656.407
Records, compensation claims, availability and disposal, 656.455
Remote claims processing, 656.455
Responsibility, claims administration and payment, insurance or reinsurance of all or portion of risks, effect, 656.403
Security, disposition after certification cancelled or terminated, 656.443
Self-Insured Employer Adjustment Reserve, 656.614
Self-Insured Employer Group Adjustment Reserve, 656.614
Self-support, restoration of injured worker, purpose of law, 656.268
Senior Companion Program, volunteers, nonsubject workers, 656.027
Separate occupations, employers, nonsubject employer and worker status, 656.035
Series payments, 656.593
Service
Revocation of certification, self-insured employers, 656.440
Subpoenas, 656.283
Third persons and noncomplying employers, actions against, notice of election, 656.593
Service utilization review, 656.260
Setoffs, see **Offsets and deductions**, this topic
Settlements, see **Compromise and settlement**, this topic
Short rate premium, cancellation of coverage, 656.504
Short title (Workers' Compensation Law), 656.001
Sick leave payments, benefits deduction, 656.240
Ski activity services, volunteer, nonsubject workers, 656.027
Small businesses, information and assistance, ombudsman, 656.709
Soccer referees, nonsubject workers, 656.027
Social Security, federal disability benefits, offsetting, 656.209, 656.727
Sole proprietors
Coverage election, 656.128
Nonsubject workers, 656.027
Spiritual treatment, 656.010
Spouses
Cohabitants, see **Cohabitation**, this topic
Surviving spouses
(Generally), 656.204
Intentional injuries, worker or employer, 656.156
Third persons, negligence or wrong, injury cause, election of remedy, 656.154, 656.578
Worker death during permanent total disability, 656.208
Standards
Consultative services, occupational safety and health, 654.086, 654.097
Evaluation of disabilities, criteria, 656.726
State Accident Insurance Fund Corporation, see **STATE ACCIDENT INSURANCE FUND CORPORATION**, generally
State agencies, coverage, subject workers, responsibility, 656.043

Statements
See also **Writings**, this topic
Accident involving compensable injury, secured from worker or doctor, considered notice, 656.265
Attorneys, written statement of services, fee disputes, 656.388
Board orders, review of Administrative Law Judge orders, rights of parties, 656.295
Gross annual income, filing, workers receiving permanent total disability benefits, 656.206
Hearing orders, rights of parties, 656.289
Lien claims, employer amounts due, filing, 656.564
Payroll, forwarding to SAIF, 656.504
Statutes, construction, see **Construction and interpretation**, this topic
Stay of compensation, request, review or court appeal, 656.313
Stress disorders, occupational disease, 656.802
Subject employers, 656.023
Subject workers, generally, 656.027
Subpoenas
Enforcement, 656.732
Hearings, 656.283
Issuance and service authority, director, 656.726
Sui juris, minors, 656.132
Suicide, presumptions, 656.310
Support obligations, 656.234
Sureties, see **Bonds and security**, this topic
Surpluses, Industrial Accident Fund, dividend and other distribution, 656.526, 656.634
Surviving spouses, see **Spouses**, this topic
Suspension
Authorization to issue insurance, 656.447
Medical exam refusal, right to compensation, 656.325
Taxicab operators, nonsubject workers, 656.027
Temporarily within state, worker, coverage, 656.126
Temporary disability
Additional accident, compensation, 656.222
Attorney fees, 656.383
Benefits, work time loss, 656.210
Claims closure, condition not medically stationary, prohibition, 656.268
Medical report, requesting, insurer or employer, 656.252
Payments, time, 656.262
Permanent disability, same injury, prior receipt of benefits, 656.216
Public office holders, salary deemed payment, 656.262
Training, worker actively engaged, 656.340
Worsening of compensable injury, hospitalization, 656.278
Temporary partial disability, 656.212
Temporary service providers
See also **Professional employer organizations**, this topic
Defined, 656.849, 656.850
Exclusiveness of remedy, 656.018
Temporary total disability
(Generally), 656.210
Amount and duration, 656.268
Average weekly wage, defined, 656.211
School work experience or professional education program trainees, 656.033
Termination
See also **Cancellation**, this topic
Former findings, orders or awards, jurisdiction, 656.278
Self-insured employer groups, employer membership, 656.430

Third persons
Claims, releasing paying agency, lien cancellation, 656.593
Contribution or indemnity claims, effect of coverage, 656.018
Emergency Fund, distribution, certain moneys recovered, 656.642
Negligence or wrong, injury cause, remedy, election, 656.154, 656.578
Recovery against, see **Beneficiaries**, this topic
Third party recovery, variable, claims reserving process, 737.310
Timber corporations, officers, family relationship, nonsubject worker election, 656.027
Time limitations, see **Limitation of actions and proceedings**, this topic
Tips, inclusion, wages, 656.005
Trainees, see **Apprentices and trainees**, this topic
Transcriptions
Board review, Administrative Law Judge orders, 656.295
Hearings, 656.283
Self-insured employers, revocation of certification, appeal hearing, 656.440
Transfusions, compensability, 656.245
Translators, nonsubject workers, 656.027
Transportation
Body, funeral expenses, payment, 656.204
Motor vehicles, see **Motor vehicles**, this topic
Nonsubject workers, 656.027
Traveling expenses, petty cash funds, advances, 656.644
Treasurer, State
Emergency Fund, deposits and maintenance, 656.642
Industrial Accident Fund, holding and deposits, 656.632
Treatment, see **Medical care and services**, this topic
Trust fund status, Industrial Accident Fund, 656.634
Uniform forms, injuries, report to employers, promulgating, 656.265
United States
Agencies, coverage required by, employer method of providing, 656.017
Lands and premises, application of Law, 656.008
Longshoremen's and Harbor Workers' Compensation Act, 656.044
Rule of liability, death or injury in course of employment, nonsubject workers, 656.027
Social Security benefits, offsetting, 656.209, 656.727
Vacation pay, payroll exclusion, 656.005
Venue, hearings, 656.283
Vocational assistance
(Generally), 656.268, 656.340
Compensation payable, application of law, 656.202
Payments, vocational assistance provider, insurer or self-insured employer, 656.258
Providers, certification and registration, 656.340
Resolution of disputes, 656.340
Rules, 656.340
Stay of compensation, pending request for review, 656.313
Vocational education and rehabilitation
Attorney fees, attorneys obtaining settlement, 656.385
Experts, reports, evidence admissibility, 656.287
Labor dispute, refusal to return to employment, vocational assistance, 656.268
Physical rehabilitation, see **Physical rehabilitation and restoration**, this topic

WORKERS' COMPENSATION (Cont.)

Vocational education and rehabilitation (Cont.)
Work experience programs, see **Work experience programs**, this topic
Volunteers
Health care services, emergencies, 656.047
Municipal personnel, 656.031
Nonsubject workers, 656.027
Payments, excess of compensation required, 656.018
Wages, see **Salaries and wages**, this topic
Waiver
Lump sum awards, acceptance, hearing right, 656.230, 656.304
Question of compensation amount, acceptance of compensation not constituting, 656.262
State, rights, Industrial Accident Fund, 656.634
War, cancellation of benefit rights, noncitizens residing outside U.S., 656.232
Warning notice, machine or equipment use prohibited, failure to post, effect on exclusiveness of remedy, 656.018
Welfare, see **Public assistance**, this topic
Widows and widowers, see **Spouses**, this topic
Willful aggression, exclusiveness of remedy, effect, 656.018
Witnesses
Doctors, medical or surgical reports, cross-examination by deposition or interrogatories, 656.310
Employment places, claims proceedings, 654.025, 654.130
Fees, recovery, appeals of denied claims, 656.386
Protective orders, 656.285
Refusal to testify, punishing disobedience, 656.732
Vocational experts, 656.287
Wives, see **Spouses**, this topic
Work experience programs
See also **Apprentices and trainees**, this topic
College programs, 656.046
Occupationally limited trainees, 655.605, 655.615
Oregon School for the Deaf, 656.135
School districts, trainees, subject workers, 656.033
Work time loss, medical treatment, temporary disability benefits, 656.210
Worker leasing companies, see **Professional employer organizations**, this topic
Workers' Benefit Fund, see **WORKERS' BENEFIT FUND**, generally
Workers' Compensation Board
Administrative Procedures Act, applicability, 654.290
Advisory committee, medical care, 656.794
Appointment, members, 656.712
Assistants, 656.722, 656.726
Bond, members, 656.716
Business activity, members, 656.716
Chairperson, 656.718
Creation, 656.712

WORKERS' COMPENSATION (Cont.)

Workers' Compensation Board (Cont.)
Duties and powers, 656.726
Employees, 656.722, 656.724, 656.726
Expenses, incurring, 656.726
Meetings, 656.718
Members, 656.712, 656.714, 656.716, 656.718
Oaths
Administering, 654.025, 656.726
Employees, 656.716, 656.722, 656.724, 656.726
Members, 656.716
Panels, 656.718
Petty cash fund, 705.155
Places of employment, jurisdiction and supervision, 654.025
Political activity, members, 656.716
Qualifications, members, 656.712
Quorum, members, 656.718
Removal of members, 656.712
Seal, 656.726
Terms, members, 656.712
Vacancies, membership, 656.712, 656.718
Workers' Compensation Management-Labor Advisory Committee, 656.790
Workers with Disabilities Program, 656.628
Worsened conditions, compensation, 656.273
Writings
See also **Statements**, this topic
Board review, Administrative Law Judge orders, argument, 656.295
Cancellation of insurance coverage, notice, 656.423, 656.427
Compromises, worker actions against third persons or noncomplying employers, approval, 656.587
Defaults, premiums, etc., demand, 656.560
Explanation, newspaper carriers, accident insurance coverage requirements, 656.075
Hearing request and transcript, 656.283
Interrogatories, doctors, cross-examination, 656.310
Lien claims, amounts, 656.564
Notice of acceptance or denial of claim, furnishing claimant or employer, 656.262
Notice of accident from worker, 656.265
Revocation, self-insured employer coverage certification, notice, 656.430
Youth correction facilities
Injuries, benefits, 655.505 et seq.
Occupational disease claims, officers, 656.802
Youths, see **Minors**, this topic

WORKERS' MEMORIAL SCHOLARSHIP ACCOUNT

(Generally), 654.200

WORKPLACE RELIGIOUS FREEDOM ACT, OREGON

(Generally), 659A.033, 659A.036