

2005 Legislative Summary

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Bill Number	Description	Effective Date	2005 Oregon Session Laws	Affected ORS	Affected OAR 436 / Bulletins / Forms
HB 2091	Modifies review process of certain decisions by Director of Department of Consumer and Business Services in workers' compensation claims.	1/1/06 (applies to hearings held on/after 1/2/06)	Chapter 26	Sec. 1 – 656.054 Sec. 2 – 656.170 Sec. 3 – 656.245 Sec. 4 – 656.245 (sunset) Sec. 5 – 656.247 Sec. 6 – 656.248 Sec. 7 – 656.254 Sec. 8 – 656.260 Sec. 9 – 656.262 Sec. 10 – 656.262 (sunset) Sec. 11 – 656.283 Sec. 12 – 656.327 Sec. 13 – 656.385 Sec. 14 – 656.440 Sec. 15 – 656.704 Sec. 16 – 656.726 Sec. 17 – 656.726 (sunset) Sec. 18 – 183.635	OAR 436-001 & OAR 436, divisions/rules: 009-0008, 010-0005, 0008, 0220, 015-0008, 045-0008, 050-0008, 055-0008, 060-0008, 070-0008, 075-0008, 085-0008, 120-0008, 130-0050, 140-0008, 150-0008, Bulletin 285, Form 2839
HB 2206	Modifies laws governing procedure for amending administrative rules. Requires that notice of proposed rule amendment show changes by striking through material to be deleted and underlining new material, or by other method that clearly shows new and deleted material. Imposes similar requirement for amended rules submitted to Legislative Counsel.	1/1/06	Chapter 18	Sec. 1 - 183.335 Sec. 2 - 183.715	WCD will use <u>bold/underline</u> for new text and strike-through for deleted text, on a trial basis.

Bill Number	Description	Effective Date	2005 Oregon Session Laws	Affected ORS	Affected OAR 436 / Bulletins / Forms
HB 2294	Clarifies procedures related to workers' compensation claims for new or omitted medical conditions. Establishes hearing rights for orders issued under own motion authority of Workers' Compensation Board.	1/1/06 (all claims, regardless of DOI, unless order is final)	Chapter 188	Sec. 1 – 656.267 Sec. 2 – 656.278 Sec. 3 – 656.298	No effect on chapter 436. However, due to effect on Workers' Compensation Board rules (OAR chapter 438) Bulletin 195 and Forms 1966, 2066, and 3501 have been updated.
HB 2404	Modifies provisions under which insurer or self-insured employer may not be assessed penalty upon reconsideration of closure of workers' compensation claim.	1/1/06	Chapter 569	Sec. 1 – 656.268 Sec. 2 – 656.268 (sunset)	436-030-0175(2)
HB 2405	Revises process to start an aggravation claim. Upon receipt of an aggravation form (Form 440-827), the insurer or self-insured employer must process the claim.	1/1/06	Chapter 50	Sec. 1 – 656.273	436-010-0240 436-060-0140 and 0150 Bulletin 292 Form 827
HB 2408	Modifies provisions relating to impairment and permanent partial disability for purposes of workers' compensation benefits. Directs Department of Consumer and Business Services to collect data and report to Legislative Assembly on impact on permanent partial disability awards due to changes in law.	1/1/06	Chapter 653	Sec. 1 – 656.726 Sec. 2 – 656.726 (sunset) Sec. 2a – 656.726 (conflict amd. with HB 2091, repeals sec. 2 of HB 2408, replaces it with Sec. 2a of HB 2408) Sec. 3 – 656.214 Sec. 4 – 656.214 (sunset) Sec. 5 – applicability (DOI after 1/1/06) Sec. 6 – applicability of sunset language (1/1/08) Sec. 6a – conflict amd. with HB 2091 Sec. 7 – DCBS study of PPD and report to 2007 legislature.	OAR 436-035-0009 and OAR 436-030-0575(3) Bulletin 139 Form 2807

Bill Number	Description	Effective Date	2005 Oregon Session Laws	Affected ORS	Affected OAR 436 / Bulletins / Forms
HB 2717	Requires that postponed workers' compensation hearing be held no later than 120 days after date of postponed hearing. Provides exceptions. Extends time period and provides exceptions for required prior notice of time and place of hearing. Increases limitation on biennial expenditures for purposes of Act by Department of Consumer and Business Services from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by department.	1/1/06	Chapter 624	Sec. 1 – 656.283 Sec. 2 – applic. clause Sec. 3 –appropriation	No effect on OAR chapter 436.
HB 2718	Authorizes certain public utilities to obtain workers' compensation excess insurance coverage from eligible surplus lines insurers.	1/1/06	Chapter 189	Sec. 1 – 656.430	OAR 436-050-0170(1)
HB 3238	Establishes requirements for proposed rule statement of cost of compliance effects on small businesses. Requires that agency review rule within five years after adoption of rule. Establishes procedure for review by agency advisory committee of fiscal impact of proposed rule. Makes other changes regarding adoption of rules.	1/1/06	Chapter 807	Sec. 1 – new law (ch. 183) Sec. 2 – new law (ch. 183) Sec. 3 – new law (ch. 183) Sec. 4 – 183.333 Sec. 5 – 183.335 Sec. 6 – 183.540 Sec. 7 – applicability	Affects all State of Oregon rule-making
HB 3318	Increases amount employer may pay for medical services in nondisabling claim from \$500 to \$1,500.	1/1/06	Chapter 511	Sec. 1 –656.262 Sec. 2 – 656.262 (sunset)	OAR 436-060-0055 Bulletin 209
SB 119	Authorizes Director of Department of Consumer and Business Services to provide assistance directly to certain injured workers through Reemployment Assistance Program. Provides for reimbursement from the Workers' Benefit Fund of the insurer's vocational assistance costs incurred after the insurer appeals an administrative order to provide such assistance (if the insurer prevails).	1/1/06	Chapter 588	Sec. 1 – 656.622 Sec. 2 –656.262 Sec. 3 – 656.262 (sunset) Sec. 4 – 656.313 Sec. 5 – 656.605	OAR 436-110-0002 OAR 436-120-0755

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SB 172	Changes date for beginning reconsideration period for workers' compensation claim when reconsideration is requested by insurer or self-insured employer. Authorizes Director of Department of Consumer and Business Services to impose civil penalty for violation of certain statutes. Repeals authority of employer to require preemployment physical by doctor designated by director.	1/1/06 (amendments to 656.268 apply to notices of closure on/after 1/1/06)	Chapter 221	Sec. 1 –656.268 Sec. 2 –656.268 (sunset) Sec. 3 – 656.745 Sec. 4 –656.806 (repealed) Sec. 5 – applicability	OAR Chapter 436 will be updated on an ongoing basis to reflect the director's authority to enforce statutes.
SB 311	Requires Director of Department of Consumer and Business Services to adopt rules applicable to independent medical examinations for workers' compensation claims. Requires director to develop or approve training curriculum used by insurers, self-insured employers and third party administrators that is related to interactions with independent medical examination providers. Requires director to maintain list of providers authorized to perform independent medical examinations for workers' compensation claims. Requires director to adopt rules relating to professional licensing training requirements and educational materials for physicians participating in workers' compensation system and conducting required medical examinations. Requires director to adopt process for investigation of complaints about medical examinations. Increases limitation on expenditures for Department of Consumer and Business Services for biennium beginning July 1, 2005, for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by department for specified purposes.	1/1/06 (registry operative 7/1/06)	Chapter 675	Sec. 1 – 656.325 Sec. 2 – 656.325 (sunset) Sec. 3 – 656.780 Sec. 4 – (adds sec. 5 to chapter 656) Sec. 5 – new language Sec. 6 – Operative date for Sec. 5 7/1/06 Sec. 7 – Authorizes DCBS to start working on registry before 7/1/06 Sec. 8 – Applicability to exams scheduled on or after 1/1/06 Sec. 9 – Expenditure limitation	436- 010 (especially rule 0265) 436-055 436-060 (especially rule 0095) Bulletin 112 Bulletin 252 Form 2333 Potential for new forms, bulletins, and other publications

Bill Number	Description	Effective Date	2005 Oregon Session Laws	Affected ORS	Affected OAR 436 / Bulletins / Forms
SB 323	Redefines 'independent contractor' for laws relating to income tax, workers' compensation, unemployment insurance, architects, landscape contractors, construction contractors and others. Specifies that for purposes of unemployment insurance provisions, 'employment' does not include services performed by certain media personnel. Establishes process for interim legislative committee to study and develop criteria for exempting other employees from definition of 'employment' in unemployment insurance statutes.	1/1/06	Chapter 533	Sec. 1 –670.600 Sec. 2 –670.600 (sunset) Sec. 3 – 670.605 Sec. 3a - (conflict amendment for 670.605) Sec. 4 –657.040 Sec. 5 – Repeals 314.013 Sec. 6 –310.800 Sec. 7 – 316.162 Sec. 8 – new language for chapter 657 Sec. 9 – new language for chapter 657 Sec. 10 –applicability clause Sec. 11 – interim committee study	This bill will not directly affect OAR chapter 436. However, the Workers' Compensation Division will participate on the implementation steering committee with its sister agencies.
SB 386	Modifies process for reexamination of claim in which permanent total disability benefits are being paid and criteria for termination of those benefits. Requires that medical examinations or vocational evaluations used to support termination of benefits include at least one report in which author personally observed worker. Authorizes Administrative Law Judge to request medical arbiter examination. Establishes eligibility for vocational benefits for worker when permanent total disability benefits are terminated.	1/1/06 (all claims regardless of date of injury)	Chapter 461	Sec. 1 – 656.206 Sec. 2 – 656.206 (sunset) Sec. 3 –656.268 Sec. 4 – 656.268 (sunset) Sec. 5 –656.605 Sec. 6 –656.319 Sec. 7 – applicability clause	436-030 436-060-0510 436-120-0320(11) Bulletin 139 Form 1644p

Bill Number	Description	Effective Date	2005 Oregon Session Laws	Affected ORS	Affected OAR 436 / Bulletins / Forms
SB 433	Makes owners or leaseholders of certain motor vehicles used for transportation of property nonsubject workers for purposes of workers' compensation statutes.	1/1/06	Chapter 167	Sec. 1 – 656.027	The statute is sufficient; no rule impact.
SB 670	Requires Director of Department of Consumer and Business Services to review and approve certain treatment standards for care provided to injured workers by managed care organization. Requires managed care organization plan to allow attending physician to advocate for medical services and temporary disability benefits for certain injured workers as prerequisite for certification.	1/1/06	Chapter 364	Sec. 1 –656.260	OAR 436-015