

Oregon
Employment Law



What You Don't Know Might Hurt You: New 2017 Oregon Employment Laws

July 13, 2017

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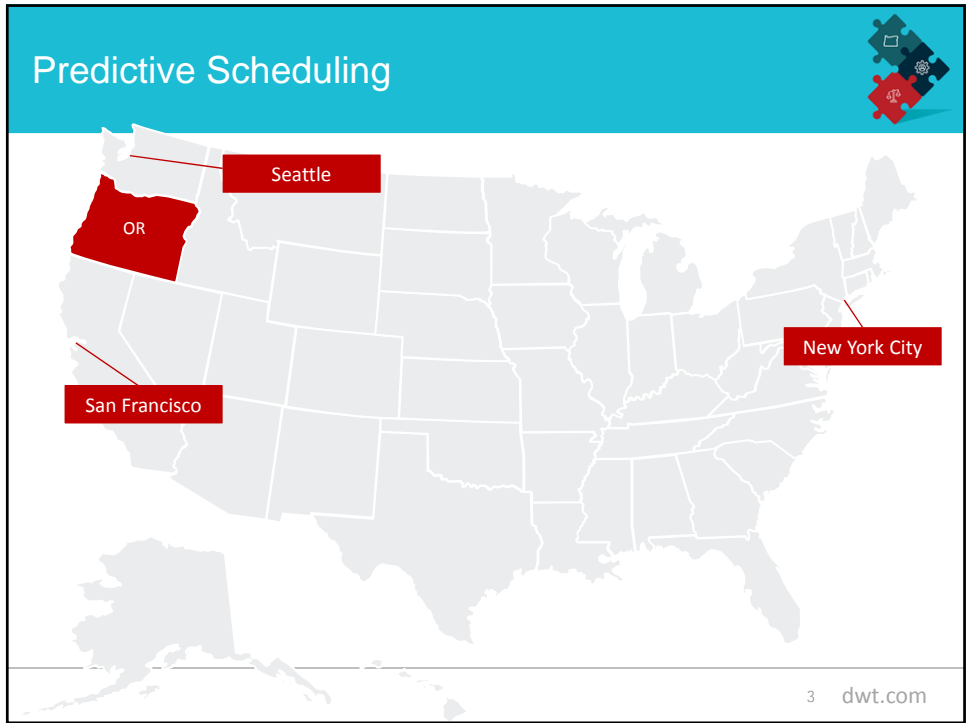


NEW EMPLOYMENT LAWS



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Predictive Scheduling



A map of the United States with three red callout boxes pointing to specific locations: Seattle in the Pacific Northwest, San Francisco on the West Coast, and New York City in the Northeast. The state of Oregon is highlighted in a solid red color. In the top right corner of the slide, there is a graphic of interlocking puzzle pieces in various colors (blue, red, black).

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Predictive Scheduling (Retail, Hospitality, Food Service)

- New legislation – not yet law
 - Passed legislature (SB 828)
 - Awaiting Governor Brown’s signature
- Covers retail, hospitality, and food service industries
- Requires advance notice of employee schedules



An illustration of a white scroll or document rolled up, with a grey shadow cast to the right, set against a teal square background.

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Predictive Scheduling – Coverage



- Which employees?

- Retail
- Hospitality
- Food service
- NOT salaried



- Which employers?

- 500 or more employees worldwide
- Includes “chains” and “integrated enterprises”



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Predictive Scheduling – Advance Notice



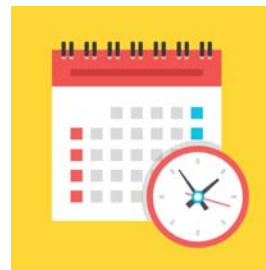
- Written work schedule in advance

- 7 days – beginning July 1, 2018
- 14 days – beginning July 1, 2020

- Must include all work shifts and on-call shifts

- Employee right to identify limitations or changes in their schedule

- Employer not required to grant the request
- However, employer may not retaliate



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Predictive Scheduling – New Hires



- New hires must get a written, good faith estimate of the employee’s work schedule
 - Given at the time of hiring
- Notice must:
 - Estimate of an average month
 - Explain the voluntary standby list and policies



Predictive Scheduling – Right to Rest



10 hours after shift = “rest period”



Cannot schedule or require work:

- 10 hours after end of shift
- UNLESS employee requests or consents
- Work during rest period = 1.5 x pay

Predictive Scheduling – Voluntary Standby List



- List of employees whom the employer may request to work additional hours
- Employees may decline to accept the additional hours
- Employers may not retaliate against employee declining to be on the list



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Predictive Scheduling – Changes without Notice



- Employee entitled to 1 extra hour's worth of pay:
 - Employer adds time to an employee's shift (more than 30 minutes)
 - Employer changes the date or time of the shift, with no net loss of hours
 - Employer schedules additional work or on-call shift
- Employee entitled to half-time for when:
 - Employer subtracts hours before or after the employee reports for duty
 - Employer changes the date or time of the shift, with a net loss of hours
 - Employer cancels the employee's work shift



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Predictive Scheduling – Changes without Notice (cont'd)



- Employee entitled to regular pay only:
 - Changes to start or end time by 30 minutes or less
 - Employee-initiated shift swaps
 - Employee-requested changes (documented in writing)
 - Subtracting hours for discipline
 - Health, safety, or ticketed event changes outside employer’s control
 - Requests made under voluntary standby list policy



Predictive Scheduling – Additional Requirements



Notice requirements
(BOLI poster)



Recordkeeping requirements
(3 years)

Predictive Scheduling – Penalties



- Employees can file lawsuit as of January 1, 2019
- BOLI penalties from \$500 to \$1,000
- Violations related to volunteer standby list of up to \$2,000 per day

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No More Double Overtime (manufacturing) (HB 3458)



- *Law:*
 - OT for >40 hours/week
 - OT for 10-13 hours/day (mill/factory/manufacturing)
 - *Longtime rule* = pay whichever is higher
- 2016-2017 – BOLI (and plaintiffs) say pay both
- *July 2017:* Pay whichever is higher

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New Maximum Work Hours (manufacturing) (HB 3458)



- **Law:**
 - Maximum 55 hours per work week
 - Exceptions:
 - 60 hours per work week - if written consent
 - 80/84 hours per work week - if approved undue hardship for limited time
 - Other exceptions – job duties, emergency repairs
- **What to do:**
 - Determine who is covered
 - Create form for 60-hour consent
 - Avoid coercion of 60-hour work week (penalties)
 - Consider undue hardship process (perishable products)

New Pay Equity (HB 2005)



- **Law:** Pay-based discrimination prohibited based on 10 protected classes:
 - Race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability, age
- **When:**
 - January 1, 2019



New Pay Equity (HB 2005) (cont'd)



- *Details:*
 - Different pay for comparable work allowed for “bona fide reasons”
 - *Examples:* seniority system, merit system, production quality/quantity measurements, workplace locations, travel requirements, education, training, experience
 - Cannot reduce comp for an employee to comply with law
 - Unlawful differences in pay constitute “unpaid wages”
- *What to do:*
 - Don’t discriminate!
 - Post required notice
 - Consider conducting equal pay analysis (*privileged?*)

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No Asking for Pay History (HB 2005)



- *Law: Cannot:*
 - 1. “Screen job applicants based on current or past compensation”
 - 2. “Determine compensation for a position based on current or past compensation of a prospective employee.”
 - *Exception:* can consider current employee’s comp when transferring
- *When:*
 - October 2017



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No Asking for Pay History (cont.) (HB 2005)



- *Details:*
 - Compensation = wages, salary, bonuses, benefits, fringe benefits, equity-based compensation
 - Cannot seek from employee or the employer
 - Can request written authorization from prospective employee to confirm prior compensation after employment offer made with compensation amount
- *What to do:*
 - Revise applications
 - Revise interview scripts
 - Train interviewers

New minimum wage



Reminder: minimum wage increased July 1:

Date	Standard	Portland Metro	Nonurban Counties
January 1, 2016	\$9.25	\$9.25	\$9.25
July 1, 2016	\$9.75	\$9.75	\$9.50
July 1, 2017	\$10.25	\$11.25	\$10.00
July 1, 2018	\$10.75	\$12.00	\$10.50
July 1, 2019	\$11.25	\$12.50	\$11.00
July 1, 2020	\$12.00	\$13.25	\$11.50
July 1, 2021	\$12.75	\$14.00	\$12.00
July 1, 2022	\$13.50	\$14.75	\$12.50
July 1, 2023	Adjusted annually based on the increase, if any, to the US City average Consumer Price Index for All Urban Consumers	\$1.25 over the standard minimum wage	\$1 less than the standard minimum wage

No False Employment Records (!)



- *Law:*
 - Prohibits employer from inducing or requiring employee to create/file/sign documents containing information the employer knows is false, relating to hours worked or compensation received by the employee
 - Allows employees to file lawsuits; BOLI penalties
- *When:* January 1, 2018

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Washington – New Paid Leave Benefits (2019-2020)



- *Law:*
 - 12-18 weeks of paid medical/family coverage
 - Funded by employees (<50 ees); employers and employees (>50 ees)
 - 8-hour increments
 - Job protection mirrors FMLA
- *When:*
 - January 1, 2019 – premiums collected
 - January 1, 2020 – benefits available

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Washington – New Paid Sick Leave (2018)



- *Law:*
 - Up to 40 hours paid sick time
 - Rulemaking underway
- *When:*
 - January 1, 2018



Thank You!



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