



What employers need to know about Oregon's new domestic partner and anti-discrimination laws

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Governor Kulongoski is expected to sign into law two new pieces of legislation which will grant legal rights to same-sex domestic partners and prohibit discrimination based on sexual orientation. Both laws will go into effect January 1, 2008, and, unless the employer is already complying with similar municipal laws (in Portland, Eugene and Bend, among others), these laws will have a significant impact on employer practices and procedures in the workplace.

Key Provisions. Oregon's domestic partner law (HB 2007) authorizes county clerks to issue Declarations of Domestic Partnership for registered same sex couples, and confers upon registered domestic partners rights and responsibilities equivalent to those granted to married couples under Oregon law. For example, Oregon's Family Leave Act (OFLA) requires employers to provide family leave for an employee to care for a sick spouse. The effect of the law will be to give employees the same right to family leave in order to care for a domestic partner. The bill recognizes, however, that it cannot modify federal law and expressly states that employee benefit plans subject to the federal law of ERISA are not subject to domestic partner requirements. Similarly, any family leave provided under the *federal* Family and Medical Leave Act (FMLA) will not be extended to domestic partners.

The second law, SB 2, prohibits discrimination based on sexual orientation, broadly defined to include "an individual's actual or perceived heterosexuality, homosexuality, bisexuality, or gender identity..." The bill affords the same right to be free from discrimination and retaliation provided to other protected classes (e.g. race, national origin, gender, disability). The law does not, however, prohibit an employer from enforcing an otherwise valid dress code as long as the employer provides, on a case by case basis, for reasonable accommodation of the employee based on the employee's health and safety needs. The law also exempts church employers from compliance as long as the employment position at issue is closely connected with or related to the primary purposes of the church and not connected with a commercial or business activity that has no necessary relationship to the church.

Preparing for Change. Although these laws do not go into effect until January 1, 2008, employers would do well to prepare for these changes now by updating their employee handbook and revising employee policies and procedures to ensure future compliance.

It should be emphasized that the foregoing is only a summary of the impact these laws will have on employers, and does not detail all of the changes an employer may need to make to ensure compliance. Full copies of the legislation can be found at http://www.leg.state.or.us/07reg/measures/hb2000_dir/hb2007.en.html and http://www.leg.state.or.us/07reg/measures/sb0001_dir/sb0002.en.html. Our employment and employee benefits attorneys will be happy to work with you in ensuring that your employee policies are compliant with the new laws as well as to answer any questions you may have.

Katherine S. Somervell's practice focuses on employee benefits and regulatory issues related to life, health and disability insurance. Clay D. Creps represents employers, both in litigation and through providing employment counseling on a day-to-day basis. Both are shareholders in Bullivant's Portland office and can be reached by visiting www.bullivant.com.



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