

## Official statement from BOLI regarding how it intends to enforce certain elements of the law

"In the 2017 session the legislature passed House Bill 2005 requiring pay equity for work of comparable character between protected classes of employees. BOLI has conducted a process to adopt rules which interpret, but must be consistent with, the new law, some, but not all of which becomes effective January 1, 2019. BOLI's administrative rules implementing parts of the law that become effective January 1 have been finalized, and will also be effective January 1.

As with all administrative rules, BOLI's rules interpret parts of the new law where such interpretation was helpful and legislative intent was clear, such as in the area of factors to be considered in determining work of comparable character. Many interested parties, including numerous industry sectors, have been closely engaged in the rulemaking process. In fact, at the request of these industry sectors, the rulemaking process timeline was extended to provide the opportunity for even more input from them.

Some provisions in the new law, like that which restrict *court* awards of compensatory and punitive damages against employers that perform pay-equity analyses, are outside BOLI's jurisdiction and are not covered by these rules. BOLI has no rulemaking authority over these analyses, and the legislature was silent on how they should be conducted. With no clear legislative intent and no jurisdiction to oversee these analyses, this was not an appropriate area for rulemaking by BOLI.

While BOLI is committed to helping employers understand the new law and helping victims of discrimination find justice, it should be noted that existing laws *already prohibit* discriminating against employees based on their protected classes. This new law does not provide a new obligation for employers to ensure equal pay between protected classes. This obligation has existed under ORS 659.030, the state employment discrimination law, which prohibits treating someone differently because of their protected class. That includes paying someone less because of their gender, race or other protected status.

If employers have questions about the law, they should contact the bureau's Technical Assistance for Employers Program at 971-673-0824."



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