

WHICH EMPLOYMENT LAWS APPLY TO MY BUSINESS?

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If you run a small business, you should be aware that there are many laws and regulations that impose requirements on employers. Not all of those laws apply to all employers, however. Some only apply to larger employers that are, presumably, better able to meet those requirements (such as giving an employee protected family leave) than are smaller businesses. This week we examine several of the more common thresholds applicable to businesses of different sizes. Before you add that next employee, be aware that with him or her may come some additional requirements.

1-5 Employees:

Employers in this category are bound by most of the wage and hour laws governing paydays, minimum wage and overtime, working conditions and the like. In addition, most discrimination laws protecting certain special classes of employees apply to all employers. Such classes include race, color, religion, sex, sexual orientation, national origin, marital status and age. Note that the federal Age Discrimination in Employment Act applies to employers of 20 or more employees, but the state law applies to all employers and protects all adult employees from age discrimination. All Oregon employers have obligations to employees who are victims of domestic violence, sexual assault or stalking. Also, all US employers regardless of the number of employees are required to verify employment eligibility on form I-9, and to comply with new-hire reporting requirements.

6-20 Employees:

In addition to laws applicable to employers of 5 or fewer employees, there are two noteworthy laws that cover employers of 6 or more employees. Although the Americans with Disabilities Act applies to employers of 15 or more employees, the counterpart under state law applies to employers of 6 or more. This law requires employers to make reasonable accommodation for employees with disabilities. Another law applicable to employers of 6 or more employees requires them to re-employ injured workers to an available, suitable light duty position within three years of the date of injury. Employers of more than 10 employees are subject to

certain OSHA recordkeeping requirements involving the recording of work-related injuries and illnesses.

21-24 Employees:

At the 21 employee threshold, employers of injured workers are obligated to reinstate those workers who obtain a full-duty release to the original position held when the injury occurred. This obligation remains for up to three years from the date of injury.

25-49 Employees:

The Oregon Family Leave Act (OFLA) and the Oregon Military Family Leave Act (OMFLA) apply to employers of 25 or more employees for each working day of 20 or more calendar work weeks (not necessarily consecutive) in the year in which leave is taken or in the previous calendar year. Protected leave is available under OFLA to employees who meet eligibility criteria and for certain qualifying circumstances, such as the employee's own or a covered family member's serious health condition, parental leave or sick child leave. Protected leave is available under OMFLA for spouses and same-sex domestic partners of military members who are called to active duty or who are on leave from duty during a defined period of military conflict.

50-99 Employees:

These employers are covered by the federal counterpart to OFLA, the Family and Medical Leave Act (FMLA). It is similar to OFLA and also incorporates provisions somewhat like those in OMFLA, called military caregivers leave and qualifying exigency leave. Federal contractors with at least 50 employees are subject to certain recordkeeping and filing requirements, including the Employer Information Report, commonly known as the EEO-1.

100 or more Employees:

All employers at this threshold are required to file the EEO-1, even if they are not federal contractors. In addition, most employers of 100 or more employees are subject to the WARN Act requiring 60 days' advance notice of plant closings and mass layoffs.

By no means is this list of laws that cover employers based on the number of employees exhaustive, but it is important for businesses to know that as they grow there are additional regulatory requirements that must be met to stay in compliance with the law.

For additional information on this and other topics of interest to Oregon employers, or to order copies of our handbooks and other publications, please visit our website at www.oregon.gov/boli/ta or attend one of our upcoming seminars. You can also reach us at 971-673-0824 or by email at BOLITA@boli.state.or.us.