

Bureau of Labor and Industries

Val Hoyle Commissioner

The Oregon Secretary of State Attn: Administrative Rules Section 800 NE Summer St., Salem, OR 97310

RE: 5-year rule-review

FILED

FED 08 2019

ARCHIVES DIVISION SECRETARY OF STATE

To whom it may concern,

Please find attached 5-year rule reviews for OAR's 839-003-0031, 839-005-0060 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839-005-0135, 839-005-0138, 839-005-0140, 839-005-0160, 839-005-0170, 839-005-0206, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400, 839-006-0291, 839-006-0292, 839-006-0340, 839-006-0345, 839-006-0350, 839-006-0480, 839-009-0265, 839-009-0370, 839-009-0380, 839-009-0390, 839-009-0400, 839-009-0410, 839-009-0420, 839-009-0430, 839-009-0440, 839-009-0450, 839-009-0460, 839-010-0300, 839-010-0305, and 839-010-0310 in compliance with ORS 183-405.

Sincerely,

Benedikt Springer

CC: Small Business Advisory Committee, Rulemaking Advisory Committees

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97732-2180 (971) 673-0761 Fax (971) 673-0762

SALEM 3865 Wolverine St. NF; E-1 Salem, OR 97305-1268 (503) 378-3292 Fax (503) 373-7636 EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435 Pax (541) 389-8265

Oregon Relay TTY:711

www.oregon.gov/boli AN EQUAL OPPORTUNITY EMPLOYER MEDFORD Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0140

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes

- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to he repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

BOLI100

Effective: (Rev. 8/18)

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached co	opies* are true, full and correct copies of the PERMANENT Rule(s) adopted	on February 24, 2010 by
Bureau of Labor and Indust	tries, Civil Rights Division	839
Agency and Division		ive Rules Chapter Number
Marcia Ohlemiller,	800 NE Oregon St. Suite 1045, Portland, OR 97232-2180	971-673-078
Rules Coordinator to become effective Februar	Address ry 24, 2010. Rulemaking Notice was published in the December 2009 Orego	Telephone n Bulletin.**
•	RULE CAPTION	
Implementing protections for disabilities,	or religious worship and child support obligors; requiring physical accommod	dations for eligible
Not more than 15 words th	nat reasonably identifies the subject matter of the agency's intended acti	on.
	RULEMAKING ACTION	
Secure approval of nev	List each rule number separately (000-000-0000) w rule numbers (Adopted or Renumbered rules) with the Administrative Rule	es I Init prior to filing
Service of the servic		out prof to hing,
ADOPT: OAR 839-006-033	32; 839-005-0138; 839-005-0140; 839-005-0160; 839-005-0170;	
•		
Stat. Auth.: ORS 659A.805		
Other Auth.: ORS 25.424(3)	; HB 2600, and SB 786, Oregon Legislative Assembly 2009.	
	i.424(3) (prohibiting employer discrimination against child support obligors) ies in transient lodging), SB 786 (requiring accommodation of religious leav	
The proposed rules would in employment practice. (ORS	RULE SUMMARY aplement statutes making discrimination by employers against child support 25.424(3))	obligors an unlawful
The proposed rules would in clothing and leave for religio	aplement newly enacted statutes requiring employers to reasonably accommons practices. (SB 786)	odate wearing of religious
The proposed rules would in individuals with disabilities.	aplement newly enacted statutes requiring transient lodging of 175 or more u. (HB 3256)	nits to provide lifts for
2.1		
Bland	Brad Avakian	2/24/10
Authorized Signer	Printed name	Date
*With this original, file one t	photocopy of certificate, one paper copy of rules listed in Rulemaking Action	is, and electronic conv of

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

**The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division 839

Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon St. #1045, Portland, OR 97232 971-673-0784

Rules Coordinator Address Telephone

RULE CAPTION

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: OAR 839-005-0138, implementing statutes prohibiting employer discrimination against child support obligors; OAR 839-005-0140, implementing statutes requiring employer accommodation of religious leave and clothing; OAR 839-006-0331, implementing statutes requiring transient housing to provide lifts for individuals with disabilities. OAR 839-006-0332, implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions. AMEND: Division 5 rules to conform and cross reference with new rules implementing statute prohibiting employer discrimination against child support obligors and implementing statutes prohibiting employer discrimination against uniformed service members.

Division 6 rules to conform and cross reference with new rules implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions and implementing statutes requiring transient housing to provide lifts for individuals with disabilities.

Stat. Auth.: ORS 659A.805

Other Auth.: ORS 25.424(3), HB 2600, SB 786 and SB 277, Oregon Legislative Assembly 2009.

Stats: Implemented: ORS 25:424(3) (prohibiting employer discrimination against child support obligors), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 786 (requiring accommodation of religious leave) SB 277 (requiring toilet access for customers with eligible medical conditions in places of public accommodation).

RULE SUMMARY

The proposed rules would implement statutes making discrimination by employers against child support obligors an unlawful employment practice. (ORS 25.424(3)

The proposed rules would implement newly enacted statutes requiring places of public accommodation to provide access to employee toilets for customers with eligible medical conditions. (SB 277)

The proposed rules would implement newly enacted statutes requiring employers to reasonably accommodate wearing of religious clothing and leave for religious practices. (SB 786)

The proposed rules would implement newly enacted statutes requiring transient lodging of 175 or more units to provide lifts for individuals with disabilities. (HB 3256)

The agency requests public comment-on-whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

December 7, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

October 15, 2009

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing new statutes protecting religious worship by employees; making discrimination against child support obligors an unlawful employment practice; requiring access to toilets in places of public accommodation for individuals with eligible medical conditions; requiring lifts for individuals with disabilities in transient housing.

Statutory Authority: ORS 659A.805

Other Authority: ORS 25.424(3); HB 2600, SB 277 and SB 786, Oregon Legislative Assembly, 2009

Stats. Implemented: ORS 25.424(3) (making discrimination against child support obligors an unlawful employment practice), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 277 (requiring access to toilets in places of public accommodation for individuals with eligible medical conditions), and SB 786 (requiring employer accommodation of leave and clothing for religious worship)

Need for the Rule(s): The proposed rules and amendments would implement statutes (1) prohibiting discrimination on the basis of child support obligations, (2) requiring employer accommodation of religious leave and dress; (3) requiring access to toilets in places of public accommodation for individuals with eligible medical conditions, (4) requiring lifts in transient lodging for individuals with disabilities; and would clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: ORS 25.424(3); HB 2600, SB 277, SB 786 2009; available on Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The laws that the proposed rules would implement are in current law or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal and economic impact for public and private employers because the proposed rule amendments would clarify laws, making it less likely that covered employers will inadvertently violate them

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules is anticipated because the statutory amendments the rules for the most part would implement are or will be in laws over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the rules for the most part would implement statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to public bodies and certain business owners, housing providers and employers and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Oregon discrimination laws apply to Oregon employers generally. Thus the proposed rules would apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules. Lift requirements in transient lodging would apply to facilities with 175 or more units. Toilet access requirements would apply to all Oregon places of public accommodation with 3 or more employees.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules.

e. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules. How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisory Committee consulted?: Yes.

Army K. Klare, Administrator, Civil Rights Division October 15, 2009

. Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Veterans' Affairs Virtual Advisory Committee

Tino E. Ornelas, Chair Advisory Committee to the Director of Veterans' Affairs 228 SW Meadow Dr. Beaverton, OR 97006

Irv Fletcher, Vice-Chair Advisory Committee to the Director of Veterans' Affairs 1272 Mayanna Dr. Woodburn, OR 97071

Evelyn F. Anderson 156 Killdeer St. Roseburg, OR 97470-2337

Charles E. Schmidt P.O. Box 1394 Hines, OR 97738

Kurt F. Hanson Schwabe, Williamson & Wyatt, PC 1211 SW 5th Ave. Suite 1150 Portland, OR 97204

Travis Hall
Bateman, Seidel, Miner, Blomgren, Chellis & Gram, PC
888 SW 5th Ave. Suite 1150
Portland, OR 97204

Paula Brown, Deputy Director Oregon Department of Veterans' Affairs 700 Summer St. NE Salem, OR 97301-1285

Disability Rights Virtual Advisory Committee

Max Brown, Ph.D Legislation and Policy Analyst Seniors and People with Disabilities Oregon Department of Human Services 500 Summer Street NE Salem, OR 97301 (503) 945-6993

Bill Lynch, Chair Oregon Disabilities Commission prefers to receive mail at: Bill.F.Lynch@state.or.us

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Disability Rights Oregon Kathy Wilde, Litigation Director 620 SW 5th Ave. 5th Floor Portland, OR 97204

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Roger Hennagin PC
8 N State St Ste 300
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621 SW Morrison St Ste 1025 Portland OR 97205

OSB Administrative Law Section Chair Christopher Cauble Cauble Dole Sorenson & Ransom 111 SE 6th St PO Box 398 Grants Pass OR 97528

OSB Disability Law Section Chair Lana L Traynor Lana L Traynor LLC 1221 SW Yamhill St Ste 290 Portland OR 97205

AOI President & CEO JAY M. CLEMENS 1149 Court Street NE Salem, OR 97301-4030

Richard R Meneghello Fisher & Phillips LLP 111 SW 5th Ave Ste 1250 Portland OR 97204

Richard C Busse Busse & Hunt 621 SW Morrison St #521 Portland OR 97205

Scott N Hunt Busse & Hunt 621 SW Morrison St #521 Portland OR 97205

Steve Hunt, EEOC Federal Office Building 909 First Ave. Suite 400 Seattle, WA 98104-1061

OSB Labor and Employment Section Allyson S Krueger Hitt Hiller Monfils 411 SW 2nd Ave Ste 400 Portland OR 97204

Kristine M Cienfuegos TOC Management Services 6825 SW Sandburg St Tigard OR 97223

City Attorney's Office Catherine Riffe 1221 SW 4th Ave Ste 430 Portland OR 97204

Multnomah County Attorney Agnes Sowle 501 SE Hawthorne Blvd. Suite 500 Portland OR 97214

Department of Administrative Services Consult Mark Rasmussen 155 Cottage St. NE U-30 Salem, OR 97301-3967

Oregon Commission for the Blind Linda Mock, Administrator 535 SE 12th Avc. Portland, Oregon 97214-2488 Senate Judiciary Committee Chair Sen. Floyd Prozanski PO Box 11511 Eugene, OR 97440

Senate Judiciary Committee Counsel Anna Braun 900 Court Street NE, Room 354 Salem, OR 97301

House Judiciary Committee Chair Rep. Jeff Barker 900 Court St. NE, H-476 Salem, OR 97301

House Judiciary Committee Counsel Bill Taylor 900 Court Street NE, Room 354 Salem, OR 97301

House Human Services Committee Chair Rep. Carolyn Tomei PO Box 22147 Milwaukic, OR 97269

House Human Services Committee Administrator Sandy Thiele-Cirka 900 Court Street NE, Room 354 Salem, OR 97301

Senate Rules Committee Chair Sen. Richard Devlin 900 Court St. NE, S-316 Salem, OR 97301

Senate Rules Committee Administrator Erin Seiler 900 Court Street NE, Room 453 Salem, OR 97301

Rep. Brian Clem 900 Court St. NE, H-278 Salem, OR 97301 Rep. Mitch Greenlick 712 NW Spring Ave. Portland, OR 97229

Sen. Bill Morrisette 900 Court St. NE, S-309 Salem, OR 97301

Rep. Dave Hunt 900 Court St. NE, H-295 Salem, OR 97301

Rep. Vicki Berger 900 Court St. NE, H-479 Salem, OR 97301

Rep. Deborah Boone 900 Court St. NE, H-375 Salem, OR 97301

Rep. Scott Bruun 198 Willamette Falls Dr. Suite 120 PMB 160 West Linn, OR 97068

Rep. Ben Cannon 900 Court St. NE, H-484 Salem, OR 97301

Rep. David Edwards 22115 NW Imbrie Dr. #328 Hillsboro, OR 97124

Scn. Chris Edwards 900 Court St. NE, S-309 Salem, OR 97301

Rep. Sara Gelser 900 Court St. NE, H-479 Salem, OR 97301

Rep. George Gilman 3695 Dodson Drive Medford, OR 97504

Rep. Tobias Read

PO Box 2101 Beaverton, OR 97075 Rep. Arnie Roblan 900 Court St. NE, H-292 Salem, OR 97301

Sen. David Nelson 900 Court St. NE, S-211 Salem, OR 97301

Sen. Jeff Kruse 636 Wild Iris Ln. Roseburg, OR 97470

Sen. Laurie Monnes Anderson 900 Court St. NE, S-413 Salem, OR 97301

Sen. Bruce Starr 22115 NW Imbrie Dr. #290 Hillsboro, OR 97124

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, for	ili and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing</u> by the	
Bureau of Labor and Industries	839	<u> </u>
Agency and Division	Administrative Rules Chapter Number	37
Marcia Ohlemiller Rules Coordinator		• • • • • • • • • • • • • • • • • • • •
800 NE Oregon St., Ste. 1045, Portland, Ol	Telephone	
Address	(9/232	
	ng Notice was published in the <u>October 2014</u> Oregon Bulletin.	
	RULE CAPTION	
Amendments to clarify, conform with author	ities, correct citations; adoption to implement new statute.	
Not more than 15 words that reasonably identifie	s the subject matter of the agency's intended action.	
Secure appr ADOPT: 839-005-0036	RULEMAKING ACTION roval of new rule numbers with the Administrative Rules Unit prior to filling.	
-005-0030, 839-005-0031, 839-005-0060, 83 -005-0135, 839-005-0138, 839-005-0140, 83	5, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026 89-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 83 89-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 83 89-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 83	9 9
REPEAL:		
RENUMBER:		
AMEND AND RENUMBER:		
Statutory Authority:		
ORS 659A.805; 651.061		
Other Authority:		
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345,010); ORS 659.850	
	RULE SUMMARY	
'aggrieved person" in conformance with statu	authorities, correct citations. The purposes of the amendments are to replace "complainant" of te; conform career school rules by editing in new statutory definition for "agent;" clarify that employer does not preclude discrimination complaint regarding hiring. Adoption of rule to ed on employment status.	with
Marcia Ohlemiller	Marcia,L.Ohlemiller@state.or.us	
Rules Coordinator Name	Email Address	

· NPRA & Fiscal Impact missign BCI 11-2015 8-4-15

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0085

Date Rule Became Effective: July 1, 2010

Date Review Due:

July 1, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- 1) Has the rule had the intended effect? Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15 BLI 14-2013, f. & cert. cf. 12-30-13

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

BOLI100 Effective: (Rev. 8/18)

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregou State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Advisory Committee

JK Wilson jlwilson@aoi.com

Jim Craven jim craven@aeanet.org

Paul Cosgrove pcosgrove@lindsayhart.com

Bartholomew jonb@ospirg.org

Angela Martin angela@ouroregon.org

Shepard duke@oragicio.org

Hoffman margi@theresiddercompany.com

Secretary of State NOTICE OF PROPOSED RULEMAKING HEARING* A Statement of Need and Fiscal Impact accompanies this form.

reau of Labor and Industr	ries, Civil Rights Division		839
Agency and Division		Adminis	trative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. 8	Suite 1045, Portland, OR 97232-2180	971-673-0784
Rules Coordinator	Address		Telephone
Involumenting eletatory ener		RULE CAPTION ployec's credit history for employment purp	.prot
. <u></u>		e subject matter of the agency's intended	
)	int reasonably mentites in	subject matter of the agency sometimes	activiti
Mon., May 3 rd , 3:30 pm to 5	i:30 pm Portland State Office	Building, 800 NE Oregon St. Portland, OR	Rm 1-B Stefanie Plebanek
Hearing site is accessibl		ities. Anxiliary aids for individuats with dis -673-0784 no later than 10 days prior to he	
	RUL	EMAKING ACTION	
Secure approval of new ADOPT: Division 5 rule no	w mie numbers (Adopted or l	Renumbered rules) with the Administrative	Rules Unit prior to filing.
AMEND: Division 5 rule m	umbers as needed.		
RENUMBER: Division 5 r	ule numbers as needed.		
AMEND & RENUMBER:	Division 5 rule numbers as r	needed.	
Stat. Auth.: ORS 659A.803			
her Auth.; SB 1045, Oreg	on Legislative Assembly 201	10	
Stats. Implemented: SB 104	5 (relating to use of credit his	story for employment purposes), Oregon Le	gislative Assembly 2010
	R	ULE SUMMARY	
employment practice, excep use individual credit history	t for employers that are feder	its making discrimination on the basis of creally insured banks or credit unions; state or ow enforcement units employing public safeted.	federal employers required to
while reducing the negative May 3, 2010 at 5:30 pm	economic impact of the rule	ten comments to the Rules Coordinator)	
1616.16		Amy K. Klare	March 12, 2010
Signature		Printed name	Dale
		be submitted by 5:00 pm on the 15th day of high the deadline is 5:00 pm the preceding y	

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Jareau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing statutory enactments restricting use of employees' credit history for employment purposes.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Rules regulating the use of credit history in employment.

Statutory Authority: ORS 659A,805

Other Authority: SB 1045, Oregon Legislative Assembly 2010

Stats. Implemented: SB 1045 (relating to use of credit history for employment purposes), Oregon Legislative Assembly 2010

Need for the Rule(s): The rules are needed to implement the legislation.

Documents Relied Upon, and where they are available: SB 1045, available on the Oregon Legislature website.

Fiscal and Economic Impact: No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted laws that the proposed rules would implement will be in statutes on July 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for employers, because the proposed rule adoptions and amendments would implement and clarify laws already enacted, making it less likely that employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory adoptions and amendments the rules for the most part would implement will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers, and not to the general public,

- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. The proposed rules would merely implement provisions of previously-enacted laws, not add additional requirements
- c. Equipment, supplies, labor and increased administration required for compliance: No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule? Small business representatives are being asked to comment on drafts of proposed rules.

Administrative Rule Advisory Committee consulted?: Yes

Amy K. Klare

March 12, 2010

gnaturė

Printed name

Date

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies*	are true, full and correct copies of the PERMANE	NT Rule(s) adopted on June 1, 2010 by the
Bureau of Labor and Industries, (Civil Rights Division	839
Agency and Division		Administrative Rules Chapter Number
Marcia L. Ohlemiller	800 NE Oregon Street, Suite 1045, Portland, Or	egon 97232 971-673-0784
Rules Coordinator	Address	Telephone
to become effective July 1, 2010.	Rulemaking Notice was published in the Apri	l 2010 Oregon Bullefin. **
	RULE CAPTION ts restricting use of employee's credit history for e	
Not more than 15 words that re	asonably identifies the subject matter of the age	ncy's intended action.
Secure approval of new rule	RULEMAKING ACTION List each rule number separately (000-000- numbers (Adopted or Renumbered rules) with the	
ADOPT: 839-005-0060; 839-005	i-0065; 839-005-0070; 839-005-0080; 839-005-008	8 JIM CHOUSE E
Stat. Auth.: ORS 659A.805		18 RECOUNTS
Other Auth.: SB 1045, Oregon L	egislative Assembly 2010	E de alle
Stats. Implemented: SB 1045 (rel	ating to use of credit history for employment purpo	ses), Oregon Legislative Assembly 2010
	RULE SUMMARY	
employment practice, except for e use individual credit history for ea	nent statutory concuments making discrimination or employers that are federally insured banks or credit imployment purposes; law enforcement units emplo 's credit history is substantially job-related.	unions; state or federal employers required to
120		·
1900	Brad Avakian	June 1, 2010
rules. **The Oregon Bulletin is p in Bulletin, rule and notice filings	Printed name properties of copy of certificate, one paper copy of rules listed in a sublished the 1st of each month and updates rules for must be submitted by 5:00 pm on the 15th day of the filings are accepted until 5:00 pm on the precedure.	und in the OAR Compilation. For publication the preceding month unless this deadline falls

JUN 1 0 2010

Employer Obtainment or Use of Credit History Information

839-005-0060

Purpose and Scope

- (1) It is the policy of the State of Oregon to guarantee individuals the fullest possible participation in the social and economic life of the state, including employment. Obtainment or use by an employer of information in an applicant's credit history impacts the individual's privacy, and must relate only to the position for which the individual is being considered or holds. The people of Oregon have the right to employment without unlawful discrimination on the basis of credit history.
- (2) Prohibited discrimination is a basis of unlawful practices described in ORS chapter 659A and other chapters of the Oregon statutes.
- (3) Any individual claiming to be aggrieved by an unlawful practice including a violation of OL 2010, Ch. 102 may file a complaint under ORS 659A.820 or may bring a civil action under ORS 659A.885.
- (4) The Civil Rights Division of the Bureau of Labor and Industries enforces Oregon Law 2010, Chapter 102 (OL 2010, Ch. 102). These rules implement and interpret OL 2010, Ch. 102.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805 Stats. Implemented: OL 2010, Ch. 102

839-005-0065

Definitions

- (1) "Applicant" means an individual who has submitted information for the purpose of gaining employment.
- (2) "Credit history" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's credit worthiness, credit standing or credit capacity.
- (3) "Division" means the Civil Rights Division of the Bureau of Labor and Industries.
- (4) "Employer" means any person who in this state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed.
- (5) "Respondent" includes any person against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).
- (6) "Substantially job-related" is defined in OAR 839-005-0080.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

839-005-0070

Unlawful Discrimination

- (1) It is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.
- (2) Obtainment or use of credit history information may not be conducted in a manner that results in adverse impact discrimination as prohibited by 42 U.S.C. § 2000e-2, ORS 659A.030 and OAR 839-005-0010. A finding of adverse impact discrimination does not require establishment of intentional discrimination.
- (3) OL 2010, Ch. 102 permits an employer to obtain or use for employment purposes information contained in the credit history of an applicant or employee under circumstances described at OL 2010, Ch. 102(2). OL 2010(2)(d) permits an employer to obtain or use information contained in the credit history of an applicant or employee if the credit history information is substantially job-related, and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.
- (a) The hurden of proving the employer's disclosure to the employee of its reasons for the use of such information rests with the employer.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

839-005-0080

Substantially Job-Related

- (1) The determination of whether credit history information is substantially jobrelated must be evaluated with respect to the position for which the individual is being considered or holds.
- (2) Credit history information of an applicant or employee is substantially jobrelated if:
- (a) An essential function of the position at issue requires access to financial information not customarily provided in a retail transaction that is not a loan or extension of credit;

- (A) Financial information customarily provided in a retail transaction includes information related to the exchange of cash, checks and credit or debit card numbers; or
- (b) The position at issue is one for which an employer is required to obtain credit history as a condition of obtaining insurance or a surety or fidelity bond.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

839-005-0085

Enforcement & Retaliation

- (1) An employer's duties and obligations under OL 2010, Ch. 102 extend to an employer that is a successor in interest as defined in OAR 839-005-0014.
- (2) An applicant or employee claiming a violation of OL 2010, Ch. 102 or these rules may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.
- (3) An applicant or employee claiming a violation of OL 2010, Ch. 102 may bring a civil action under ORS 659A.885.
- (4) Pursuant to ORS 659A.030(1)(f), it is an unlawful employment practice for an employer to discharge, expel or otherwise discriminate against any person because the person has filed a complaint, testified or assisted in any proceeding in connection with OL 2010, Ch. 102.
- (5) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of OL 2010, Ch. 102, or to attempt to do so.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Rog. Session (Or. 2013) https://olis.log.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Rog. Session (Or. 2013) https://olis.log.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Piscal and Economic Impact;

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination taws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services;
- No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PEF	RMANENT Rule(s) adopted on <u>Upon filling,</u> by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemillor	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Porlland, OR 97232	
Address	

To become effective Upon filling. Rutemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND

839-005-0003, 839-005-0011, 639-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0076, 839-005-0080, 839-005-0085, 839-005-0170, 839-005-0200, 839-005-0200

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority: ORS 859A.805

Other Authority:

Ĺ

Statutes Implemented:

ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.308, and 695A.315 to Interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOL1 and clarify the BOL1's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0080, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly enacted (egislation.

Amendments to 839-005-0160 make the definition of Vicilm of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-005-0160 and 839-005-0170 implement newly enacted legislation.

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

Marcia Ohlemiller

Marcie.L.Ohlemiller@state.or.us

Rules Coordinator Name

Email Address

Secretary of State NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries		839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
	RULE CAPTION	•
Amending, adopting 839-005 rules regarding career schools, sooial media, interns, substantial evidence, commissioner complaints		
Not more than 15 words that rea	sonably identifies the subject matter of the agency	s intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 839-005-0400

AMEND: 839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0206 and other rules as necessary in chapter 839-005

		•		
REPEAL:			•	
RENUMBER:				

AMEND & RENUMBER:

Stat. Auth.: ORS 659A.805

Other Auth,:

Stats, Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggreeved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A,320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Sints. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

Need for the Rule(s);

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345,240,

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(B)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336);
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

•	and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR	87232
Address To become effective <u>Upon filing.</u> Rulemaking	Notice was published in the <u>October 2014</u> Oregon Bulletin.
	RULE CAPTION
Amendments to clarify, conform with authorit	es, correct citations; adoption to implement new statute.
Not more than 15 words that reasonably identifies	he subject matter of the agency's intended action.
Secure appro	RULEMAKING ACTION val of new rule numbers with the Administrative Rules Unit prior to filling.
ADOPT:	
839-005-0036	
AMEND:	
-005-0030, 839-005-0031, 839-005-0060, 839-005-0135, 839-005-0138, 839-005-0140, 839	839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 8 0-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 0-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0208, 839 0-005-0300, 839-005-0305, 838-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 859A.805, 651.061	
Other Authority:	
Statutes Implemented: ORS 659A.650; ORS 345.240; ORS 345.010	ORS 659,860
	RULE SUMMARY
'aggrieved person" in conformance with statut	uthorities, correct citations. The purposes of the amendments are to replace "complainant" wi a; conform career school rules by editing in new statutory definition for "agent;" clarify that employer does not preclude discrimination complaint regarding hiring. Adoption of rule to ed on employment status.
· ·	
Marcia Ohlemiller	Marcia.lOhiemiller@state.or.us
Rules Coordinator Name	Email Address

NPRM8 Fiscal Impact missing BL1 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0160

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the mcmbcrs.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- 1) Has the rule had the intended effect? Yes
- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) . Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLJ 11-2015, f. & cert. ef. 8-4-15

BLI 14-2013, f. & cert. ef. 12-30-13

BLI 3-2012, f. & cert. ef. 2-8-12

BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12

Is the rule still needed? 4)

Yes

What impacts has the rule had on small business? 5) No known impact.

BOLI100 Effective: (Rev. 8/18) Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
 - Advisory committee members who participated in the original rulemaking process.
 - The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
 - The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

	pies* arè true, full and correct copies of the PERMANEN	
Bureau of Labor and Industr	ries, Civil Rights Division	839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller,	800 NE Oregon St. Suite 1045, Portland, OR 972	232-2180 971-673-078
Rules Coordinator to become effective Fehruar	Address y 24, 2010. Rulemaking Notice was published in the Dec	Telephone ember 2009 Oregon Bulletin.**
	RULE CAPTION	
Implementing protections for disabilities.	r religious worship and child support obligors; requiring	physical accommodations for eligible
Not more than 15 words th	at reasonably identifies the subject matter of the agen RULEMAKING ACTION	
Secure approval of new	List each rule number separately (000-000-0 rule numbers (Adopted or Renumbered rules) with the A	
ADOPT: OAR 839-006-033	2; 839-005-0138; 839-005-0140; 839-005-0160; 839-005	5-0170;
Stat. Auth.; ORS 659A.805		
Other Auth.: ORS 25.424(3)	HB 2600, and SB 786, Oregon Legislative Assembly 20	09.
	424(3) (prohibiting employer discrimination against childes in transient lodging), SB 786 (requiring accommodation	
	RULE SUMMARY	
The proposed rules would im employment practice. (ORS 2	plement statutes making discrimination by employers aga	ninst child support obligors an unlawful
The proposed rules would im clothing and leave for religion	plement newly enacted statutes requiring employers to re- us practices. (SB 786)	asonably accommodate wearing of religious
The proposed rules would im individuals with disabilities. (plement newly enacted statutes requiring transient lodging	g of 175 or more units to provide lifts for
Below	Brad Avakian	2/14/10

Authorized Signer Printed name Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

**The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division		839	
Agency and Division		Administrative Rules Chapter Number	
Marcia Ohlemiller	800 NE Oregon St. #1045, Portland, OR. 97232	971-673-0784	
Rules Coordinator	Address	Telephone	
•			

RULE CAPTION

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: OAR 839-005-0138, implementing statutes prohibiting employer discrimination against child support obligors; OAR 839-005-0140, implementing statutes requiring employer accommodation of religious leave and clothing; OAR 839-006-0331, implementing statutes requiring transient bousing to provide lifts for individuals with disabilities. OAR 839-006-0332, implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions. AMEND: Division 5 rules to conform and cross reference with new rules implementing statute prohibiting employer discrimination against uniformed service members.

Division 6 rules to conform and cross reference with new rules implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions and implementing statutes requiring transient housing to provide lifts for individuals with disabilities.

Stat. Auth.: ORS 659A.805

Other Auth.: ORS 25.424(3); HB 2600, SB 786 and SB 277, Oregon Legislative Assembly 2009.

Stats: Implemented: ORS 25:424(3) (prohibiting employer discrimination against child support obligors), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 786 (requiring accommodation of religious leave) SB 277 (requiring toilet access for customers with eligible medical conditions in places of public accommodation).

RULE SUMMARY

The proposed mics would implement statutes making discrimination by employers against child support obligors an unlawful employment practice. (ORS 25.424(3)

The proposed rules would implement newly enacted statutes requiring places of public accommodation to provide access to employee toilets for customers with eligible medical conditions. (SB 277)

The proposed rules would implement newly enacted statutes requiring employers to reasonably accommodate wearing of religious clothing and leave for religious practices. (SB 786)

The proposed rules would implement newly enacted statutes requiring transient lodging of 175 or more units to provide lifts for individuals with disabilities. (HB 3256)

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

December 7, 2009	
	I be been a second Dale Occasion &
I set Day for Public (omment (Last day to s)	abmit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division
Printed name

October 15, 2009

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries -- Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing new statutes protecting religious worship by employees; making discrimination against child support obligors an unlawful employment practice; requiring access to toilets in places of public accommodation for individuals with eligible medical conditions; requiring lifts for individuals with disabilities in transient housing.

Statutory Authority: ORS 659A.805

Other Authority: ORS 25.424(3); HB 2600, SB 277 and SB 786, Oregon Legislative Assembly, 2009

Stats. Implemented: ORS 25.424(3) (making discrimination against child support obligors an unlawful employment practice), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 277 (requiring access to toilets in places of public accommodation for individuals with eligible medical conditions), and SB 786 (requiring employer accommodation of leave and clothing for religious worship)

Need for the Rule(s): The proposed rules and amendments would implement statutes (1) prohibiting discrimination on the basis of child support obligations, (2) requiring employer accommodation of religious leave and dress; (3) requiring access to toilets in places of public accommodation for individuals with eligible medical conditions, (4) requiring lifts in transient lodging for individuals with disabilities; and would clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: ORS 25.424(3); HB 2600, SB 277, SB 786 2009; available on Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The laws that the proposed rules would implement are in current law or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal and economic impact for public and private employers because the proposed rule amendments would clarify laws, making it less likely that covered employers will inadvertently violate them

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules is anticipated because the statutory amendments the rules for the most part would implement are or will be in laws over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the rules for the most part would implement statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to public bodies and certain business owners, housing providers and employers and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Oregon discrimination laws apply to Oregon employers generally. Thus the proposed rules would apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules. Lift requirements in transient lodging would apply to facilities with 175 or more—units. Toilet access requirements would apply to all Oregon places of public accommodation with 3 or-more employees.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules. How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisory Committee consulted?: Yes.

Arny K. Klare, Administrator, Civil Rights Division October 15, 2009

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310, ARC 925-2007

Veterans' Affairs Virtual Advisory Committee

Tino E. Ornelas, Chair Advisory Committee to the Director of Veterans' Affairs 228 SW Meadow Dr. Beaverton, OR 97006

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Paula Brown, Deputy Director Oregon Department of Veterans' Affairs 700 Summer St. NE Salem, OR 97301-1285

<u>Disability Rights Virtual Advisory</u> Committee

Max Brown, Ph.D Legislation and Policy Analyst Seniors and People with Disabilities Oregon Department of Human Services 500 Summer Street NE Salem, OR 97301 (503) 945-6993

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Steve Hunt, EEOC Federal Office Building 909 First Avc. Suite 400 Seattle, WA 98104-1061

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House Judiciary Committee Counsel Bill Taylor 900 Court Street NE, Room 354 Salem, OR 97301

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Sen. Chris Edwards 900 Court St. NE, S-309 Salem, OR 97301

Rep. Sara Gelser 900 Court St. NE, H-479 Salem, OR 97301

Rep. George Gilman 3695 Dodson Drive Medford, OR 97504

Rep. Tobias Read

PO Box 2101 Beaverton, OR 97075 Rep. Arnie Roblan 900 Court St. NE, H-292 Salem, OR 97301

Sen. David Nelson 900 Court St. NE, S-211 Salem, OR 97301

Sen. Jeff Kruse 636 Wild Iris Ln. Roseburg, OR 97470

Scn. Laurie Monnes Anderson 900 Court St. NE, S-413 Salem, OR 97301

Sen. Bruce Starr 22115 NW Imbrie Dr. #290 Hillsboro, OR 97124

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on December 30, 2011 by the

Date prior to or same as filing date

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. Suite 1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

to become effective January 1, 2012.

Rulemaking Notice was published in the November 2011 Oregon Bulletin.**

Month and Year

Date upon filing or later

RULE CAPTION

Conforms civil rights rules to provisions of IIB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to fliing.

ADOPT: 839-005-0075, 839-005-0125, 839-005-0130, 839-005-0135, 839-005-0175, 839-009-0364

AMEND: 839-005-0160, 839-005-0170, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0345, 839-009-0355, 839-009-

0360, 839-009-0362, 839-009-0365

RENUMBER: 839-005-0033 to 839-005-0125

Stat, Auth.: ORS 659A.805

Other Auth.: HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Stats. Implemented: ITB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), and HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The new rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment and clarifies exceptions to the prohibition on the use of credit history information in employment.

The new rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to serve as juror and the employee notified the employer of election to have coverage continue.

The new rules would implement provisions of HB 3482, anding harassment to crime victim protections.

Brad Avakian

December 30, 2011

Authorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. *** ARC 930-2005

CORRECTED

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marda Ohlemiller	(971) 573-0784
Rules Coordinator	Telephone
Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	•
RULE CAPTION	
Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).	· · · · · · · · · · · · · · · · · · ·

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit orior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364 839-005-0075

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0250; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0307; 839-006-0310; 839-006-0320; 839-006-0330; 839-006-0332; 839-006-0335 and other Division 6 rules as necessary; 839-009-0325; 839-009-0355; 839-009-0355; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

ENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary, Division 6 rules as necessary, Division 9 rules as necessary,

Statuatory Authority:

OR\$ 659A,805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected feave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2628 (Creates untawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A 106 that relate to employment to refer only to employment-related disability statutes (ORS 659A 112-659A 139); 2) allows BOU to enforce law providing protected leave to attend a criminal proceeding (ORS 659A 194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to erve as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of H8 3482, adding "harassment" to crime victim protections, and allows a state employee in

ு பாய்களையும் எ கள்ளுடிகளை, who is not a comidernial managerial of supervisory வரஸ்கூ, முக கண்டிகள்ல by an moreodal இதிக்கி by the victimized employee to be present during an interview between the employer and employee.

A public relemaking bearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailting list, whichever is later. It sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business	Marcia Ohlemiller	Marcia L Ohlemiller@state.or.us	11-10-11 1:10p.m.	
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed	
for public command				

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Conforming civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Statuatory Authority:

ORS 659A.805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legisletive Assembly 2011.

Stats, implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & ctarities that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates uniawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

Need for the Rule(s):

The proposed rules and amendments would implement newly-enacted statutes clarifying and expanding civil rights in employment relating to invors, crime victims, disability, credit history and attending criminal proceedings.

Documents Relied Upon, and where they are available:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; and clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), and HB 3482 (adds "harassment" to Crime Victim leave and discomination provisions), available on Oregon Legislature website; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885, available in ORS publications.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The newly enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2012 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public and private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

- impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
- State agencies and units of local government will be subject to rules implementing H8 2036, H8 2828 and H8 3482. Fiscal or economic impact would result from those laws, and not the proposed rulemaking. A positive impact is anticipated for the public, expanding protections for employees who are serving on juries and who are victims of criminal harassment.
 - 2. Cost of compliance effect on small business (ORS 183.336);
- a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

 Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated because the proposed changes implement provisions of existing law. Existing crime victims rules call for some additional recordkeeping, but the newly enacted laws are not anticipated to substantially increase this.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule? If not, why?:

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?:

No

The proposed rule amendments and adoptions would implement statutory specifications over which BOLI has no discretion,

12-30-2011 Close of Business	Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us	11-10-11 1:10 PM
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed
for public comment		·	
Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-			ARC 925-2007

Secretary of State Certificate and Order for Filing

FEB **2 2** 2012

PERMANENT ADMINISTRATIVE RULES

CIVIL RIGHTS DIVISION PORTLAND OFFICE

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 7, 2012 by

Date prior to or same as filing date

Bureau of Labor and Industries

839---

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. Suite 1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 8, 2012.

Date upon filing or later

Rulemaking Notice was published in the November 2011 Oregon Bulletin ** Month and Year

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-005-0075, 839-005-0130, 839-005-0135, 939-009

AMCEND: 839-005-0160, 839-005-0170, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0345, 839-0

0360, 839-009-0362, 839-009-0365

RENIJMBER: 839-005-0033 to 839-005-0125

659A.303; ORS 659A.855; ORS 659A.885.

Stat. Auth.: ORS 659A.805

Other Auth.; HB 2036, HB 2828, IIB 3482, Oregon Legislative Assembly 2011.

ative Coonsel's Office Stats. Implemented; HB 2036 (corrects references that relate to employment to refer only to employment-felated disability statutes; allows ROLI to enforce law providing protected leave to attend a criminal proceeding; clarifies that an employer that your consider the credit history of applicants for public safety officer employment), HB 2828 (creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), and HB 3482 (adds "harassment" to Crime Victim leave &

RULE SUMMARY

discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS

The new rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment and clarifies exceptions to the prohibition on the use of credit history information in employment.

The new rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to serve as juror and the employee notified the employer of election to have coverage continue.

The new rules would implement provisions of HB 3482, adding harassment to crime victim protections.

Brad Avakian

February 7, 2012

Printed name

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

CORRECTED

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Agency and Division
Administrative Rules Chapter Number

Marcia Ohlemiller

Rules Coordinator

Rules Coordinator

Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonablly identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364 839-005-0075

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0208; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0307; 839-006-0310; 839-006-0320; 839-006-0330; 839-008-0332; 839-006-0335 and other Division 6 rules as necessary; 839-009-0325; 839-009-0330; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

ENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary, Division 6 rules as necessary; Division 9 rules as necessary.

Statuatory Authority:

ORS 659A,805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOL! to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 ~ 659A.139; ORS 658A.270 ~ 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A,106 that relate to employment to refer only to employment-related disability statutes (ORS 659A,112-659A,139); 2) allows BOU to enforce law providing protected leave to attend a criminal proceeding (ORS 659A,194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or specific ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to have as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in an undescribed or exempt profile with its not a confidential managerial or exempt amplitude to be accompanied by an individual

an unclassined or exempt posteon, who is not a commentar, manageneror sopervisory employee, to be accompanied by antinomicoal selected by the victimized employee to be present during an interview between the employer and employee.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business	Marcia Ohlemiller	Marcia L Ohlemiller@state.or.us	11-10-11 1:10p.m.
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed
for public comment			

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline fails on a Saturday, Simday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	
RULE CAPTION	
Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).	
Not more than 15 words that reasonablly identifies the subject matter of the agency's intended action.	

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0250; 639-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0307; 839-006-0310; 839-006-0320; 839-006-0330; 839-006-0332; 839-006-0335 and other Division 6 rules as necessary; 839-009-0325; 839-009-0330; 839-009-0345; 839-009-0345; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365 and other Division 9 rules as necessary.

REPEAL;

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary.

Statuatory Authority:

ORS 659A.805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139, ORS 659A.270 - 859A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protocted leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or gore people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to have as jurgr and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in an unclassified or exempt position, who is not a confidential managed less unequisions employee, to be accompanied by an individual

arronciassined or exempt position, who is not a confidential, managerial or supervisory employee, to be accompanied by an individual selected by the victimized employee to be present during an interview between the employer and employee.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business	Mercia Ohlemitler	Marcia.L.Ohlemiller@state.or.us	11-10-11 1:10p.m.
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed
for public comment			

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PER	MANENT Rule(s) adopted on <u>Upon filling,</u> by the
Bureau of Labor and Industries	
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Talephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	

To become effective Upon filing, Rulemaking Notice was published in the November 2013 Oregon Bullelin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839 -005-0160, 839-005-0170, 839-005-0200, 839-005-0208

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 859A.805

Other Authority:

Statutes Implemented:

ORS chapter 659A, H.B. 2669, 77th Lag., Reg. Session (Or. 2013), H.B. 2654, 77th Lag., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggreeved persons

Amendments to 839-005-0003 implement newly anacted legislation extending employee protections under ORS 695A.030, 695A.082, 665A.109, 695A.112, 695A.136, 695A.142, 695A.199, 696A.230, 695A.233, 895A.236, 695A.290, 695A.300, 695A.303, 695A.308, and 695A,315 to Interns.

Amendments to 839-005-0208 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-006-0320, 839-005-0326 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 reptace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly exacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Statking.

Amendments to 839-005-0160 and 639-005-0170 implement newly enacted legislation.

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

Marcia Ohlemiller
Rules Coordinator Name

Marcia.t.,Ohlemiller@state.or.us Email Address

(

Secretary of State NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries	S	839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemišler	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
Amending, adopting 839-005 complaints	RULE CAPTION rules regarding career schools, social media, interns, sub	stantial evidence, commissioner
	reasonably identifies the subject matter of the agency	s Intended action.
	RULEMAKING ACTION	
Secure approval of new ri ADOPT: 839-005-0300, 839-0 839-005-0400	ule numbers (Adopted or Renumbered rules) with the Adn 95-0305, 839-005-0310, 839-005-0315, 839-005-0320, 83	ninistrative Rules Unit prior to filing 19-0 05 -0325
AMEND: 839-005-0003, 839-0 0080, 839-005-0085, 839-005-0	005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 0206 and other rules as necessary in chapter 839-005	39-005-0070, 839-005-0075, 839-005-
REPEAL:	•	
RENUMBER:		
AMEND & RENUMBER:	·	
Stat. Auth.: ORS 659A,805		
Other Auth.;		
Stats, Implemented: ORS chapte 2013), ORS 345.240, ORS 659/	er 659A, H.B. 2669, 77 th Leg., Reg. Session (Or. 2013), H A.320	.B. 2654, 77 th Leg., Reg. Session (Or.

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, Interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.

2. Cost of compliance effect on small business (ORS 183.336):

- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

c. Equipment, supplies, labor and increased administration required for compliance:

and the second of the second o

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marsia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the P	ERMANENT Rule(s) adopted on Upon filing, by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	
To become effective <u>Upon filing.</u> Rulemaking Notice was published in the	ne <u>October 2014</u> Oregan Bulletin.
RULE CA	
Amendments to clarify, conform with authorities, correct citations; adopti	on to implement new statute.
Not more than 15 words that reasonably identifies the subject matter of the agenc	cy's intended action.
RULEMAKIN Secure approval of new rule numbers with the	
ADOPT: 839-005-0036	
AMEND:	
839-005-0000, 839-005-0003, 839-005-0005, 839-005-0010, 839-005-00 -005-0030, 839-005-0031, 839-005-0080, 839-005-0085, 839-005-0070, -005-0135, 839-005-0138, 839-005-0140, 839-005-0160, 839-005-0170, -005-0210, 839-005-0215, 839-005-0220, 838-005-0300, 839-005-0305, -005-0400	839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Slatutory Authority:	
ORS 659A.805; 651.061	
Other Authority:	
Statutes Implemented: ORS 659A,550; ORS 345,240; ORS 345,010; ORS 659,850	· .
DIN E OTHE	MARY
RULE SUM!	
Amendments to rules to clarify, conform with authorities, correct citations, aggrieved person" in conformance with statute; conform career school rul reteran preference voluntary hiring by private employer does not preclude implement ORS 659A.550, discrimination based on employment status.	les by editing in new statutory definition for "agent;" clarify that

Marcia Ohlemiller

Marcia.L.Ohlemiller@state.or.us

Rules Coordinator Name

Email Address

NPRM & Fiscal Impact missing.
BL1 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0138

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- Has the rule had the intended effect?
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small husiness? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

BOLI100 Effective: (Rev. 8/18)

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000) Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing,

ADOPT: OAR 839-006-0332; 839-005-0138; 839-005-0140; 839-005-0160; 839-005-0170;

Stat. Auth.; ORS 659A.805

Other Auth.: ORS 25.424(3); HB 2600, and SB 786, Oregon Legislative Assembly 2009.

Stats. Implemented: ORS 25.424(3) (prohibiting employer discrimination against child support obligors), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 786 (requiring accommodation of religious leave).

RULE SUMMARY

The proposed rules would implement statutes making discrimination by employers against child support obligors an unlawful employment practice, (ORS 25.424(3))

The proposed rules would implement newly chacted statutes requiring employers to reasonably accommodate wearing of religious clothing and leave for religious practices. (SB 786)

The proposed rules would implement newly enacted statutes requiring transient lodging of 175 or more units to provide lifts for individuals with disabilities. (HB 3256)

Brad Avakian

Authorized Signer

Printed name

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of

**The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division 839

Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller 800 NE Oregon St. #1045, Portland, OR 97232 971-673-0784

Rules Coordinator Address Telephone

RULE CAPTION

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: OAR 839-005-0138, implementing statutes prohibiting employer discrimination against child support obligors; OAR 839-005-0140, implementing statutes requiring employer accommodation of religious leave and clothing; OAR 839-006-0331, implementing statutes requiring transient bousing to provide lifts for individuals with disabilities. OAR 839-006-0332, implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions. AMEND: Division 5 rules to conform and cross reference with new rules implementing statute prohibiting employer discrimination against child support obligors and implementing statutes prohibiting employer discrimination against uniformed service members.

Division 6 rules to conform and cross reference with new rules implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions and implementing statutes requiring transient housing to provide lifts for individuals with disabilities.

Stat. Auth.; ORS 659A.805

Other Auth.: ORS 25.424(3); HB 2600, SB 786 and SB 277, Oregon Legislative Assembly 2009.

Stats. Implemented: ORS 25:424(3) (prohibiting employer discrimination against child support obligors), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 786 (requiring accommodation of religious leave) SB 277 (requiring toilet access for customers with eligible medical conditions in places of public accommodation).

RULE SUMMARY

The proposed rules would implement statutes making discrimination by employers against child support obligors an unlawful employment practice. (ORS 25.424(3)

The proposed rules would implement newly enacted statutes requiring places of public accommodation to provide access to employee toilets for customers with eligible medical conditions. (SB 277)

The proposed rules would implement newly enacted statutes requiring employers to reasonably accommodate wearing of religious clothing and leave for religious practices. (SB 786)

The proposed rules would implement newly enacted statutes requiring transient lodging of 175 or more units to provide lifts for individuals with disabilities. (HB 3256)

The agency requests public-comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

December 7, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

October 15, 2009

Signature *Polemel Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the bearing.

ARC 923-2005

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing new statutes protecting religious worship by employees; making discrimination against child support obligors an unlawful employment practice; requiring access to toilets in places of public accommodation for individuals with eligible medical conditions; requiring lifts for individuals with disabilities in transient housing.

Statutory Authority: ORS 659A.805

Other Authority: ORS 25.424(3); HB 2600, SB 277 and SB 786, Oregon Legislative Assembly, 2009

Stats. Implemented: ORS 25.424(3) (making discrimination against child support obligors an unlawful employment practice), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 277 (requiring access to toilets in places of public accommodation for individuals with eligible medical conditions), and SB 786 (requiring employer accommodation of leave and clothing for religious worship)

Need for the Rule(s): The proposed rules and amendments would implement statutes (1) prohibiting discrimination on the basis of child support obligations, (2) requiring employer accommodation of religious leave and dress; (3) requiring access to toilets in places of public accommodation for individuals with eligible medical conditions, (4) requiring lifts in transient lodging for individuals with disabilities; and would clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: ORS 25.424(3); HB 2600, SB 277, SB 786 2009; available on Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The laws that the proposed rules would implement are in current law or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal and economic impact for public and private employers because the proposed rule amendments would clarify laws, making it less likely that covered employers will inadvertently violate them Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules is anticipated because the statutory amendments the rules for the most part would implement are or will be in laws over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the rules for the most part would implement statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to public bodies and certain business owners, housing providers and employers and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Oregon discrimination laws apply to Oregon employers generally. Thus the proposed rules would apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules. Lift requirements in transient lodging would apply to facilities with 175 or more units. Toilet access requirements would apply to all Oregon places of public accommodation with 3 or more employees.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
 No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules. How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisory Committee consulted?: Yes.

Amy K. Klare, Administrator, Civil Rights Division October 15, 2009

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Veterans' Affairs Virtual Advisory Committee

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<u>Disability Rights Virtual Advisory</u> Committee

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Multnomah County Attorney Agnes Sowle 501 SE Hawthorne Blvd. Suite 500 Portland OR 97214

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Sen. Bruce Starr 22115 NW Imbrie Dr. #290 Hillsboro, OR 97124

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

Bureau of Labor and Industries Agency and Division	839 Administrative Rules Chapter Number
Marcia Ohtemilter	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	,
Address	
To become effective <u>Upon filing.</u> Rulemaking Notice was public	Ished in the October 2014 Oregon Bulletin.
	RULE CAPTION
Amendments to clarify, conform with authorities, correct citation	ns; adoption to implement new statute.
Not more than 15 words that reasonably identifies the subject matter of	of the agency's intended action.
· RU	LEMAKING ACTION
• •	bers with the Administrative Rules Unit prior to filing.
ADOPT:	
839-005-0036	
-005-0030, 839-005-0031, 839-005-0050, 839-005-0065, 839- -005-0135, 839-005-0138, 839-005-0140, 839-005-0160, 839-	39-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839-005-0305, 839-005-0315, 839-005-0320, 839-005-0326, 839-005-005-005-005-005-005-005
REPEAL;	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority:	
ORS 659A.805; 651.061	
Other Authority:	•
Statutes implemented:	
ORS 659A.550; ORS 345.240; ORS 345.010; ORS 659.850	
R	ULE SUMMARY
Amendments to rules to clarify, conform with authorities, correct	citations. The purposes of the amendments are to replace "complainant" with

Marcia Ohlemiller

implement ORS 659A,550, discrimination based on employment status.

Marcia.L.Ohlemiller@state.or.us

"aggrieved person" in conformance with statute; conform career school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring. Adoption of rule to

Rules Coordinator Name

Email Address

NPRM & Fiscal Impact missing BL1 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0206

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? -X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- 1) Has the rule had the intended effect? Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15 BLI 14-2013, f. & cert. ef. 12-30-13 BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

BOLI100 Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State **CORRECTED** Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FEB 24 2010

ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin. **

RULE CAPTION

Implementing statutory enactments and amendments regarding disability, veterans' preference and discrimination based on uniformed service.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-006-0307; 839-006-0480; 839-006-0202; 839-005-0206

AMEND: 839-005-0000; 839-005-0003; 839-005-0005; 839-005-0010; 839-005-0021; 839-005-0195; 839-005-0200; 839-005-0205; 839-005-0215; 839-005-0220; 839-006-0200; 839-006-205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0250; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0330; 839-006-0335; 839-006-0435; 839-006-0440; 839-006-0445; 839-006-0450; 839-006-0455; 839-006-0460; 839-006-0465; 839-006-0470

Stat. Auth.: ORS 659A,805

Other Auth.: HB 3256, HB 2510 and SB 874, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2510 (removing restrictions on civil service Veterans' Preference); HB 3256 (making discrimination on the basis of uniformed service an unlawful employment practice); SB 874 (conforming Oregon disability discrimination law to federal Americans with Disabilities Act Amendments Act of 2008).

RULE SUMMARY

The proposed rules and amendments would implement amendments to statutes providing for employment preference for veterans. (HB 2510).

The proposed rules and amendments would implement amendments to disability discrimination statutes to conform them to the federal Americans with Disabilities Act Amendments Act of 2008. (SB 874).

The proposed rules would implement newly enacted statutes prohibiting discrimination in employment on the basis of uniformed service. (HB 3256),

Brad Avakiao

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of

**The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005 NPRM8 Fival Impacd Missing BL1-8-2010 2-24-10

Veterans' Affairs Virtual Advisory Committee

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Disability Rights Virtual Advisory Committee

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Sen. Jeff Kruse 636 Wild Iris Ln. Roseburg, OR 97470

Sen. Laurie Monnes Anderson 900 Court St. NE, S-413 Salem, OR 97301

Sen. Bruce Starr 22115 NW Imbrie Dr. #290 Hillsboro, OR 97124 Amendment Missing

BL18-2010 1.8 at 2-24-10

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

t certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filling</u>, by the Bureau of Labor and Industries Administrative Rules Chapter Number Agency and Division Marcia Ohlemilter (971) 673-0784 Rules Coordinator Темпропе

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

To become effective Upon filing. Rutemaking Notice was published in the November 2013 Oragon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0306, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839 -005-0160, 839-005-0170, 839-005-0200, 839-005-0206

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 659A.805

Other Authority:

Statutes Implemented:

ORS chapter 859A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2019), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, G95A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 895A.300, 695A.303, 695A.308, and 695A.315 to Interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-006-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rutes reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly enacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-005-0160 and 839-005-0170 implement newly enacted legislation.

Marcia Ohlemiller Marcia L. Ohlemilier@state.or.us

Rules Coordinator Name Email Address

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries		B39	
Agency and Division		Administrative Rules Chapter Number	
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784	
Rules Coordinator	Address RULE CAPTION	Telephone	
Amending, adopting \$39-003 complaints	5 rules regarding career schools, social media, interns, subs	tantial evidence, commissioner	
Not more than 15 words the	at reasonably identifies the subject matter of the agency's	intended action.	
ADOPT: 839-005-0300, 839- 839-005-0400 AMEND: 839-005-0003, 839	RULEMAKING ACTION rule numbers (Adopted or Renumbered rules) with the Admi-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-03011, 839-005-0030, 839-005-0060, 839-005-0065, 839-0206 and other rules as necessary in chapter 839-005	- 005-0325	
REPEAL;			
RENUMBER:			
AMEND & RENUMBER:			
Stat. Auth.: ORS 659A.805			
Other Auth.:			
Stets, Implemented; ORS chap 2013), ORS 345,240, ORS 65	pter 659A, H.B. 2669, 77 th Leg., Reg. Session (Or. 2013), H.J 9A.320	3. 2654, 77 th Leg., Reg. Session (Or.	

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Warcia Ohlemiller

Marcia Ohlemiller

Signature

Marcia Ohlemiller

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's Intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Piscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336);
- a, Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemilier

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the PERMANENT Ru	le(s) adopted on Upon filing, by the
Bureau of Labor and Industries	839
Agency and Division	. Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	
To become effective <u>Upon filing</u> . Rulemaking Notice was published in the <u>October 2014</u>	Oregon Bulletin.
RULE CAPTION	
Amendments to clarify, conform with authorities, correct citations; adoption to implement	new statute.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action	L
RULEMAKING ACTION	
Secure approval of new rule numbers with the Administrative R	tules Unit prior to filing.
ADOPT:	
839-005-0036	
AMEND: 839-005-0000, 839-005-0003, 839-005-0005, 839-005-0010, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0011, 839-005-0111, 839-005-0	39-005-0080, 839-005-0085, 839-005-0130, 839 39-005-0200, 839-005-0205, 839-005-0206, 839
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority:	
ORS 659A.805; 651.061	
Other Authority:	
Statutes Implemented:	
ORS 659A.550; ORS 345,240; ORS 345,010; ORS 659.850	•
RULE SUMMARY	
Amendments to rules to clarify, conform with authorities, correct citations. The purposes of	f the amendments are to replace "complainant" with
aggrieved person" in conformance with statute; conform career school rules by editing in neteran preference voluntary hiring by private employer does not preclude discrimination of mplement ORS 659A.550, discrimination based on employment status.	new statutory definition for "agent;" clarify that properties or properties to properties to the state of the

Marcia Ohlemiller

Marcia.L.Ohlemillar@state.or.us

Rules Coordinator Name

Email Address

NPRM8 Fiscal Impact missing BC1 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0170

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- Has the rule had the intended effect?

 Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15

BLI 14-2013, f. & cert. ef. 12-30-13

BLI 3-2012, f. & cert. ef. 2-8-12

BLI 14-2011, f. 12-30-11, cert. ef. 1-1-12

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

839

Administrative Rules Chapter Number

Agency and Division

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Marcia Ohlemiller,

The Oregon Be. Oute 1045 a Great

2/1-0/3-0/0

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action. RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: OAR 839-006-0332; 839-005-0138; 839-005-0140; 839-005-0160; 839-005-0170;

Stat. Auth.: ORS 659A.805

Other Auth.: ORS 25.424(3); HB 2600, and SB 786, Oregon Legislative Assembly 2009.

Stats. Implemented: ORS 25.424(3) (prohibiting employer discrimination against child support obligors), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 786 (requiring accommodation of religious leave).

RULE SUMMARY

The proposed rules would implement statutes making discrimination by employers against child support obligors an unlawful employment practice. (ORS 25.424(3))

The proposed rules would implement newly enacted statutes requiring employers to reasonably accommodate wearing of religious clothing and leave for religious practices. (SB 786)

The proposed rules would implement newly enacted statutes requiring transient lodging of 175 or more units to provide lifts for individuals with disabilities. (HB 3256)

Authorized Signer

Brad Avakian
Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

**The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlerniller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: OAR 839-005-0138, implementing statutes prohibiting employer discrimination against child support obligors; OAR 839-005-0140, implementing statutes requiring employer accommodation of religious leave and clothing; OAR 839-006-0331, implementing statutes requiring transient housing to provide lifts for individuals with disabilities. OAR 839-006-0332, implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions. AMEND: Division 5 rules to conform and cross reference with new rules implementing statute prohibiting employer discrimination against uniformed service members.

Division 6 rules to conform and cross reference with new rules implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions and implementing statutes requiring transient housing to provide lifts for individuals with disabilities.

Stat. Auth.: ORS 659A.805

Other Auth.: ORS 25.424(3); HB 2600, SB 786 and SB 277, Oregon Legislative Assembly 2009.

Stats. Implemented: ORS 25:424(3) (prohibiting employer discrimination against child support obligors), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 786 (requiring accommodation of religious leave) SB 277 (requiring toilet access for customers with eligible medical conditions in places of public accommodation).

RULE SUMMARY

The proposed rules would implement statutes making discrimination by employers against child support obligors an unlawful employment practice. (ORS 25.424(3)

The proposed rules would implement newly enacted statutes requiring places of public accommodation to provide access to employee toilets for customers with eligible medical conditions. (SB 277)

The proposed rules would implement newly enacted statutes requiring employers to reasonably accommodate wearing of religious clothing and leave for religious practices. (SB 786)

The proposed rules would implement newly enacted statutes requiring transient lodging of 175 or more units to provide lifts for individuals with disabilities. (HB 3256)

The agency requests public comment-on-whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

December 7, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

October 15, 2009

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing new statutes protecting religious worship by employees; making discrimination against child support obligors an unlawful employment practice; requiring access to toilets in places of public accommodation for individuals with eligible medical conditions; requiring lifts for individuals with disabilities in transient housing.

Statutory Authority: ORS 659A.805

Other Authority: ORS 25.424(3); HB 2600, SB 277 and SB 786, Oregon Legislative Assembly, 2009

Stats. Implemented: ORS 25.424(3) (making discrimination against child support obligors an unlawful employment practice), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 277 (requiring access to toilets in places of public accommodation for individuals with eligible medical conditions), and SB 786 (requiring employer accommodation of leave and clothing for religious worship)

Need for the Rule(s): The proposed rules and amendments would implement statutes (1) prohibiting discrimination on the basis of child support obligations, (2) requiring employer accommodation of religious leave and dress; (3) requiring access to toilets in places of public accommodation for individuals with eligible medical conditions, (4) requiring lifts in transient lodging for individuals with disabilities; and would clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: ORS 25.424(3); HB 2600, SB 277, SB 786 2009; available on Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The laws that the proposed rules would implement are in current law or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal and economic impact for public and private employers because the proposed rule amendments would clarify laws, making it less likely that covered employers will inadvertently violate them

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules is anticipated because the statutory amendments the rules for the most part would implement are or will be in laws over which the Bureau currently bas enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the rules for the most part would implement statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to public bodies and certain business owners, housing providers and employers and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Oregon discrimination laws apply to Oregon employers generally. Thus the proposed rules would apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules. Lift requirements in transient lodging would apply to facilities with 175 or more emits. Toilet access requirements would apply to all Oregon places of public accommodation with 3 or more employees.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules. How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisory Committee consulted?: Yes.

Amy K. Klare, Administrator, Civil Rights Division October 15, 2009

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Veterans' Affairs Virtual Advisory Committee

Tino E. Omelas, Chair Advisory Committee to the Director of Veterans' Affairs 228 SW Meadow Dr. Beaverton, OR 97006

Irv Fletcher, Vice-Chair Advisory Committee to the Director of Veterans' Affairs 1272 Mayanna Dr. Woodburn, OR 97071

Evelyn F. Anderson 156 Killdeer St. Roseburg, OR 97470-2337

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Paula Brown, Deputy Director Oregon Department of Veterans' Affairs 700 Summer St. NE Salem, OR 97301-1285

Disability Rights Virtual Advisory Committee

Max Brown, Ph.D
Legislation and Policy Analyst
Seniors and People with Disabilities
Oregon Department of Human Services
500 Summer Street NE
Salem, OR 97301
(503) 945-6993

Bill Lynch, Chair Oregon Disabilities Commission prefers to receive mail at: Bill.F.Lynch@state.or.us

Robert C Joondeph Disability Rights Oregon 620 SW 5th Ave 5th Fir Portland OR 97204

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Richard R Meneghello Fisher & Phillips LLP 111 SW 5th Ave Ste 1250 Portland OR 97204

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Scott N Hunt Busse & Hunt 621 SW Morrison St #521 Portland OR 97205

Steve Hunt, EEOC Federal Office Building 909 First Ave. Suite 400 Seattle, WA 98104-1061

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Kristine M Cienfuegos TOC Management Services 6825 SW Sandburg St Tigard OR 97223

City Attorney's Office Catherine Riffe 1221 SW 4th Ave Ste 430 Portland OR 97204

Multnomah County Attorney
Agnes Sowle
501 SE Hawthorne Blvd. Suite 500
Portland OR 97214

Department of Administrative Services Consult Mark Rasmussen 155 Cottage St. NE U-30 Salem, OR 97301-3967

Oregon Commission for the Blind Linda Mock, Administrator 535 SE 12th Ave. Portland, Oregon 97214-2488 Senate Judiciary Committee Chair Sen. Floyd Prozanski PO Box 11511 Eugene, OR 97440

Senate Judiciary Committee Counsel Anna Braun 900 Court Street NE, Room 354 Salem, OR 97301

House Judiciary Committee Chair Rep. Jeff Barker 900 Court St. NE, H-476 Salem, OR 97301

House Judiciary Committee Counsel Bill Taylor 900 Court Street NE, Room 354 Salem, OR 97301

House Human Services Committee Chair Rep. Carolyn Tomei PO Box 22147 Milwaukie, OR 97269

House Human Services Committee Administrator Sandy Thiele-Cirka 900 Court Street NE, Room 354 Salem, OR 97301

Senate Rules Committee Chair Sen. Richard Devlin 900 Court St. NE, S-316 Salem, OR 97301

Senate Rules Committee Administrator Erin Seiler 900 Court Street NE, Room 453 Salem, OR 97301

Rep. Brian Clem 900 Court St. NE, H-278 Salem, OR 97301 Rep. Mitch Greenlick 712 NW Spring Ave. Portland, OR 97229

Sen. Bill Morrisette 900 Court St. NE, S-309 Salem, OR 97301

Rep. Dave Hunt 900 Court St. NE, H-295 Salem, OR 97301

Rep. Vicki Berger 900 Court St. NE, H-479 Salem, OR 97301

Rep. Deborah Boone 900 Court St. NE, H-375 Salem, OR 97301

Rep. Scott Bruun 198 Willamette Falls Dr. Suite 120 PMB 160 West Linn, OR 97068

Rcp. Ben Cannon 900 Court St. NE, H-484 Salem, OR 97301

Rep. David Edwards 22115 NW Imbrie Dr. #328 Hillsboro, OR 97124

Sen. Chris Edwards 900 Court St. NE, S-309 Salem, OR 97301

Rep. Sara Gelser 900 Court St. NE, H-479 Salem, OR 97301

Rep. George Gilman 3695 Dodson Drive Medford, OR 97504

Rep. Tobias Read

PO Box 2101 Beaverton, OR 97075 Rep: Arnie Roblan 900 Court St. NE, H-292 Salem, OR 97301

Sen. David Nelson 900 Court St. NE, S-211 Salem, OR 97301

Sen. Jeff Kruse 636 Wild Iris Ln. Roseburg, OR 97470

Sen. Laurie Monnes Anderson 900 Court St. NE, S-413 Salem, OR 97301

Sen. Bruce Starr 22115 NW Imbrie Dr. #290 Hillsboro, OR 97124

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on December 30, 2011 by the

Date prior to or same as filing date

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemilier

800 NE Oregon St. Suite 1045, Portland, OR 97232

. 971-673-0784

Rules Coordinator

Address

Telephone

to become effective January 1, 2012.

Rulemaking Notice was published in the November 2011 Oregon Bulletin.**

Month and Year

Date upon filing or later

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filling.

ADOPT: 839-005-0075, 839-005-0125, 839-005-0130, 839-005-0135, 839-005-0175, 839-009-0364

AMDEND: 839-005-0160, 839-005-0170, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0345, 839-009-0355, 839-009-

. 0360, 839-009-0362, 839-009-0365

RENUMBER: 839-005-0033 to 839-005-0125

Stat. Auth.: ORS 659A.805

Other Auth.; HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Stats Implemented: HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), and HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.885.

RULE SUMMARY

The new rules would implement IIB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A 194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment and clarifies exceptions to the prohibition on the use of credit history information in employment.

The new rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to serve as juror and the employee notified the employer of election to have coverage continue.

The new rules would implement provisions of HB 3482, adding harassment to crime victim protections.

Brad Avakian

December 30, 2011

Authorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

CORRECTED

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1	045, Portland, OR 97232
Address	•
	RULE CAPTION
Conforms civil rights rules to provisions of HB 2036, HB 28	28 and HB 3482 (2011).
Not more than 15 words that reasonablly identifies the subject me	atter of the agency's intended action.

RULEMAKING ACTION

Secure gonroyal of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364 839-005-0075

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 miles as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0255; 839-006-0255; 839-006-0255; 839-006-0270; 839-005-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0307; 839-006-0310; 839-005-0320; 839-006-0330; 839-006-0332; 839-006-0335 and other Division 6 rules as necessary; 839-009-0325; 839-009-0335; 839-009-0345; 839-009-0355; 839-009-0355; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

LENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary, Division 6 rules as necessary, Division 9 rules as necessary.

Statuatory Authority:

ORS 659A,805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding, & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as jurgr), & HB 3482 (adds "haressment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A 106 that relate to employment to refer only to employment-related disability statutes (ORS 659A 112-659A 139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A 194(2); and 3) darifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to erve as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in an understified or exempt coefficial who is not a confidential managed at the proposed to be accompanied by an individual

an unuessmed or exempt position, who is not a combenius, managener of supervisory employee, to be accompanied by an moreoted believed by the victimized employee to be present during an interview between the employer and employee.

A public colorishing hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the nulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

The Agency requests public comment on whether other options should be considered for achieving the tule's substantive goals while reducing regative economic impact of the rule on business.

12-30-2011 Close of Business	Marda Ohlemiller	Marcia.L Ohlemiller@state.or.us	11-10-11 1:10p.m.
Last Day <i>(m/d/yyyy)</i> and Time	Printed Name	Email Address	Date Filed
farmed the many			

"The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Saleta, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Schurdwy, Sunday or legal holiday when Nuisce forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Conforming civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Statuatory Authority:

QRS 659A,805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Stats, Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 669A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

Need for the Rule(s):

The proposed rules and amendments would implement newly-enacted statutes clarifying and expanding civil rights in employment relating to incress, crime victims, disability, credit history and attending criminal proceedings.

Documents Relied Upon, and where they are available:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; and clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), and HB 3482 (adds "harassment" to Crime Victim leave and discrimination provisions), available on Oregon Legislature website; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885, available in ORS publications.

Fiscal and Economic Impact.

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The newly enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2012 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public and private employers because the proposed rule amendments would implement and clarity laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

, 1. Impact on state agencies, units of local government and the public (ORS 183,335(2)(b)(E)):

State agencies and units of local government will be subject to rules implementing HB 2036, HB 2828 and HB 3482. Fiscal or economic impact would result from those laws, and not the proposed rulemaking. A positive impact is anticipated for the public, expanding protections for employees who are serving on juries and who are victims of criminal harassment.

- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule. Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- and new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated because the proposed changes implement provisions of existing law. Existing crime victims rules call for some additional recordkeeping, but the newly enacted laws are not anticipated to substantially increase this.

c. Equipment, supplies, labor and increased administration required for compliance;
 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule? If not, why?:

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?:

Nο

The proposed rule amendments and adoptions would implement statutory specifications over which BOLI has no discretion.

12-30-2011 Close of Business Marcia Ohlemiller Marcia II. Ohlemiller@state.or.us 11-10-11 1:10 PM

Last Day (m/d/yyyy) and Time Printed Name Email Address Date Filed for public comment

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

ARC 925-2007

RECEIVED

Secretary of State Certificate and Order for Filing

FEB 2 2 2012

PERMANENT ADMINISTRATIVE RULES

CIVIL RIGHTS DIVISION PORTLAND OFFICE

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 7, 2012	Бy
the	

Date prior to or same as filing date

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. Suite 1045, Portland, OR 97232

971-673-0784

nye Coonsel's

Rules Coordinator

Address

Telephone

to become effective February 8, 2012.

Rulemaking Notice was published in the November 2011 Oregon Bulletin.**

Month and Year

Date upon filing or later

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-005-0075, 839-005-0130, 839-005-0135, 839-009-0364

AMEND: 839-005-0160, 839-005-0170, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0345, 839-

0360, 839-009-0362, 839-009-0365

RENUMBER: 839-005-0033 to 839-005-0125

Stat. Auth.; ORS 659A, 805

Other Auth.: HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Stats, Implemented: HB 2036 (corrects references that relate to employment to refer only to employment related disability stantes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), and HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The new rules would implement HB 2036, which 1) corrects references in ORS 659A,106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment and clarifies exceptions to the prohibition on the use of credit history information in employment.

The new rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to serve as juror and the employee notified the employer of election to have coverage continue.

The new rules would implement provisions of HB 3482, adding harassment to crime victim protections.

Brad Avakian

February 7, 2012

Authorized Signer

Printed name

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice fillings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

CORRECTED

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries 839

Ageocy and Division Administrative Rules Chapter Number

Marcia Ohlemiller (971) 673-0784

Rules Coordinator Telephone

Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonablly identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 639-005-0175; 839-009-0364 839-005-0175

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary, 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0250; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0290; 839-006-0290; 839-006-0300; 839-006-0300; 839-006-0307; 839-006-0310; 839-006-0320; 839-006-0330; 839-006-0335; 839-006-0355; 839-009-0355; 839-009-0355; 839-009-0360; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

ENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filling, OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary.

Statuatory Authority:

OR\$ \$59A,805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A,106 that relate to employment to refer only to employment-related disability statutes (ORS 659A,112-659A,139); 2) allows BOLI to enforce law providing profected leave to attend a criminal proceeding (ORS 659A,194(2), and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or space people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to have as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3462, adding "harassment" to crime victim protections, and allows a state employee in an unclose like or execut position, who is not a confidential managerial or executions, amplitude to be accompanied by an individual

arroncessmed or exempt position, who is not a confidential, management in supervisory employed, to be eccompanied by an individual selected by the victimized employed to be present during an interview between the employer and employee.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business	Marcia Ohlemiller	Marcia, LOhlemiller@state,or.us	11-10-11 1:10p.m.
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed
for oublie commant			

*The Oregon Butletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Butles Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries 839

Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller (971) 673-0784

Rules Coordinator Telephone

Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonablly identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0250; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0300; 839-006-0300; 839-006-0330; 839-006-0330; 839-006-0335 and other Division 6 rules as necessary; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary.

Statuatory Authority:

ORS 659A.805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to lerve as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in an implement position, who is not a confidential managerial of supervision employee, to be accompanied by an individual

an unclassified or exempt position, who is not a combismial, managerial or supervisory employee, to be accompanied by an individual selected by the victimized employee to be present during an interview between the employer and employee.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business	Marcla Ohlemiller	Marcia.L.Oh)emiller@state.or.us	<u>11-10-11 1:10p.m</u>
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed
for public comment			

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certily that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Unon filing, by the Bureau of Labor and Industries Administrative Rules Chapter Number Agency and Division (971) 673-0784 Marcla Ohlemiller Telephone Rules Coordinator 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

To become effective Upon filing. Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissionar complaints Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0070, -005-0160, 839-005-0170, 839-005-0200, 839-005-0208

REPEAL:

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RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 658A,805

Other Authority:

Statutes Implemented:

ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2854, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "appriaved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly snacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A,109, 695A,112, 695A,136, 695A,142, 895A,199, 695A,230, 695A,233, 695A,236, 695A,290, 695A,300, 695A,303, 695A,308, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal lews and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 639-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 replace the Oregon Laws citation with ORS 659A.32D, the statutory citation for limitations on the lawful use of credit history in employment.

<u> 2000 JA AMBERT TIMETAKEKEN. IT 100 JOHN TAMERIN</u> ODBIG MADAGAMAN TAMETAKET KANDAN MADAGAMAN TAMETAKAN MERINAN ME

Amendments to 839-005-0200 change the definition of substentially limits consistent with newly enacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-005-0160 and 839-005-0170 implement newly enacted legislation.

Marcia Chlemiller Marcia L.Ohlemiller@state.or.us

Rules Coordinator Name Email Address

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries		839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address Telepho	
	RULE CAPTION	
Amending, adopting \$39-005 rule complaints	s regarding career schools, social media, interns, sub	ostantial evidence, commissioner
Not more than 15 words that rea	sonably identifies the subject matter of the agency	s intended action,
	RULEMAKING ACTION	
Secure approval of new rule:	numbers (Adopted or Renumbered rules) with the Ado	ninistrative Rules Unit prior to filing
ADOPT: 839-005-0300, 839-005- 839-005-0400	0305, 839-005-0310, 839-005-0315, 839-005-0320, 83	39-005-032 5
AMEND: 839-005-0003, 839-005-0080, 839-005-0085, 839-005-0200	-0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 6 and other rules as necessary in chapter 839-005	39-005-0070, 839-005-0075, 839-005-
REPEAL:		
RENUMBER:		

Other Auth.;

AMEND & RENUMBER;

Stat. Auth.: ORS 659A.805

Stats, Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Carcer Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia	Ohlamiller	
L	Marcia Ohlemiller	10/15/2013
Signature	Printed name	Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority;

Stats, Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0014 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183,336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?; No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

Bureau of Labor and Industries Agency and Division	839 Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784 ·
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	· ·
Address	
To become effective <u>Upon filling.</u> Rulemaking Notice was published in t	he <u>October 2014</u> Oregon Bulletin.
RULE C	APTION
Amendments to clarify, conform with authorities, correct citations; adopt	ion to implement new statute.
Not more than 15 words that reasonably identifies the subject matter of the agen	cy's intended action.
RULEMAKIN Secure approval of new rule numbers with the	· , -
ADOPT:	
839-005-0036	
AMEND: 839-005-0000, 839-005-0003, 839-005-0005, 839-005-0010, 839-005-0 -005-0030, 839-005-0031, 839-005-0060, 839-005-0065, 839-005-0070 -005-0135, 839-005-0138, 839-005-0140, 839-005-0160, 839-005-0170 -005-0210, 839-005-0215, 839-005-0220, 839-005-0300, 839-005-0305 -005-0400	, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 , 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 651.061	
Other Authority:	
Statutes Implemented: ORS 659A,550; ORS 345,240; ORS 345,010; ORS 659,850	
RULE SUM	MARY
Amendments to rules to clarify, conform with authorities, correct citations aggrieved person" in conformance with statute; conform career school ru reteran preference voluntary hiring by private employer does not precluding mplement ORS 659A 550, discrimination besed on employment status,	ules by editing in new statutory definition for "agent;" clarify that

Marcia.L.Ohlemiller@state.or.us

Email Address

Marcia Ohlemiller

Rules Coordinator Name

NPRM & Fiscal Impact missing BLI 11-2015 8-4-15

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0065

Date Rule Became Effective: July 1, 2010

Date Review Duc:

July 1, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? _X_Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes

- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15

BLI 14-2013, f. & cert. ef. 12-30-13

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

BOLI100 Effective: (Rev. 8/18)

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Advisory Committee

JK Wilson jlwilson@aoi.com

Jim Craven jim craven@aeanet.org

Paul Cosgrove pcosgrove@lindsayhart.com

Bartholomew jonb@ospirg.org

Angela Martin angela@ouroregon.org

Shepard duke@oraglcio.org

Hoffman margi@theresiddercompany.com

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

rean of Labor and Industri	ies. Civil Rights Division		839
Agency and Division		Administ	rative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Sui	te 1045, Portland, OR 97232-2180	971-673-0784
Rules Coordinator	Address		Telephone
Implementing statutory enac		LE CAPTION yee's credit history for employment purpo	oses.
Not more than 15 words th	nt reasonably identifies the su	ibject matter of the agency's intended a	etion.
Man May 3rd 3-3ft pp. to 50	30 nm Portland State Office Bi	nilding, 800 NE Oregon St. Portland, OR	Rm 1-B Stefanie Plebanek
Hearing Date T	ine Location		Hearings Officer
Hearing site is accessible	to Individuals with disabilities o Rules Coordinator at 971-67	s. Auxiliary aids for individuals with disa 3-0784 no later than 10 days prior to hea	ibilities are avallable upon uring date.
Secure approval of new ADOPT: Division 5 rule nur	rule numbers (Adopted or Rei	IAKING ACTION numbered rules) with the Administrative I	Rules Unit prior to filing.
AMEND: Division 5 rule ma	mbors as needed.		
RENUMBER: Division 5 re	de numbers as needed.		
AMEND & RENUMBER:	Division 5 rule numbers as nee	ded.	
Stat. Auth.: ORS 659A,805			
ner Auth.: SB 1045, Orego	on Legislative Assembly 2010	·	
Stats. Implemented: SB 104	5 (relating to use of credit lusto	ry for employment purposes), Oregon Leg	gislative Assembly 2010
	RUI	LE SUMMARY	
employment practice, exceptuse individual credit history	t for employers that are federall	making discrimination on the basis of creaty insured banks or credit unions; state or cuforcement units employing public safety.	federal employers required to
The Agency requests public	comment on whether other opt	ions should be considered for achieving ()	he rulc's substantive goals
	economic impact of the rule on	business.	
May 3, 2010 at 5:30 pm	neut (Last day to submit writter	comments to the Rules Coordinator)	
And Day 101 3 Rose Collin	1.1		
1216.16	1	Amy K. Klare	March 12, 2010
Signature		Printed name	Date
*Hearing Notices published 3 deadline falls on a week	in the Oregon Bulletin must be end or legal holiday, upon whic	submitted by 5:00 pm on the 15th day of the deadline is 5:00 pm the preceding w	the preceding month unless workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

areau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing statutory enactments restricting use of employees' credit history for employment purposes.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Rules regulating the use of credit history in employment.

Statutory Authority: ORS 659A.805

Other Authority: SB 1045, Oregon Legislative Assembly 2010

Stats. Implemented: SB 1045 (relating to use of credit history for employment purposes), Oregon Legislative Assembly 2010

Need for the Rule(s): The rules are needed to implement the legislation.

Documents Relied Upon, and where they are available: SB 1045, available on the Oregon Legislature website.

Fiscal and Economic Impact: No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted laws that the proposed rules would implement will be in stantes on July 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for employers, because the proposed rule adoptions and amendments would implement and clarify laws already enacted, making it less likely that employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory adoptions and amendments the rules for the most part would implement will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers, and not to the general public.

- 2. Cost of compliance effect on small business (ORS 183,336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. The proposed rules would merely implement provisions of previously-enacted laws, not add additional requirements
- c. Equipment, supplies, labor and increased administration required for compliance: No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule? Small business representatives are being asked to comment on drafts of proposed rules.

Administrative Rule Advisory Committee consulted?: Yes

Amy K. Klare

March 12, 2010

.gnature

Printed name

Date

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on June 1, 2010 by the

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Mercia L. Ohlemiller

800 NB Oregon Street, Suite 1045, Portland, Oregon 97232

971-673-0784

Rules Coordinator

Address

Telephone

to become effective July 1, 2010.

Rulemaking Notice was published in the April 2010 Oregon Bulletin.

RULE CAPTION

Implementing statutory enactments restricting use of employee's credit history for employment purposes.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Bales: Unit prior to filing

ADOPT: 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085

Stat, Auth.: ORS 659A.805

Other Auth.: SB 1045, Oregon Legislative Assembly 2010

Stats. Implemented: SB 1045 (relating to use of credit history for employment purposes), Oregon Legislative Assembly 2010

RULE SUMMARY

The proposed rules would implement statutory enactments making discrimination on the basis of credit history an unlawful employment practice, except for employers that are federally insured banks or credit unions; state or federal employers required to use individual credit history for employment purposes; law enforcement units employing public safety officers; and positions for which an applicant's or employee's credit history is substantially job-related.

Brad Avakian

June 1, 2010

Authorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of cach month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

JUN 1 0 2010

CIVIL RIGHTS GIVISION
POSTLAND OF LIGE

Employer Obtainment or Use of Credit History Information

839-005-0060

Purpose and Scope

- (1) It is the policy of the State of Oregon to guarantee individuals the fullest possible participation in the social and economic life of the state, including employment. Obtainment or use by an employer of information in an applicant's credit history impacts the individual's privacy, and must relate only to the position for which the individual is being considered or holds. The people of Oregon have the right to employment without unlawful discrimination on the basis of credit history.
- (2) Prohibited discrimination is a basis of unlawful practices described in ORS chapter 659A and other chapters of the Oregon statutes.
- (3) Any individual claiming to be aggrieved by an unlawful practice including a violation of OL 2010, Ch. 102 may file a complaint under ORS 659A.820 or may bring a civil action under ORS 659A.885.
- (4) The Civil Rights Division of the Bureau of Labor and Industries enforces Oregon Law 2010, Chapter 102 (OL 2010, Ch. 102). These rules implement and interpret OL 2010, Ch. 102.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805 Stats. Implemented: OL 2010, Ch. 102

839-005-0065

Definitions

- (1) "Applicant" means an individual who has submitted information for the purpose of gaining employment.
- (2) "Credit history" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing or credit capacity.
- (3) "Division" means the Civil Rights Division of the Bureau of Labor and Industries.
- (4) "Employer" means any person who in this state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed.
- (5) "Respondent" includes any person against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).
- (6) "Substantially job-related" is defined in OAR 839-005-0080.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

839-005-0070

Unlawful Discrimination

- (1) It is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.
- (2) Obtainment or use of credit history information may not be conducted in a manner that results in adverse impact discrimination as prohibited by 42 U.S.C. § 2000e-2, ORS 659A.030 and OAR 839-005-0010. A finding of adverse impact discrimination does not require establishment of intentional discrimination.
- (3) OL 2010, Ch. 102 permits an employer to obtain or use for employment purposes information contained in the credit history of an applicant or employee under circumstances described at OL 2010, Ch. 102(2). OL 2010(2)(d) permits an employer to obtain or use information contained in the credit history of an applicant or employee if the credit history information is substantially job-related, and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.
- (a) The burden of proving the employer's disclosure to the employee of its reasons for the use of such information rests with the employer.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

<u>839-005-0080</u>

Substantially Job-Related

- (1) The determination of whether credit history information is substantially jobrelated must be evaluated with respect to the position for which the individual is being considered or holds.
- (2) Credit history information of an applicant or employee is substantially jobrelated if:
- (a) An essential function of the position at issue requires access to financial information not customarily provided in a retail transaction that is not a loan or extension of credit;

- (A) Financial information customarily provided in a retail transaction includes information related to the exchange of cash, checks and credit or debit card numbers; or
- (b) The position at issue is one for which an employer is required to obtain credit history as a condition of obtaining insurance or a surety or fidelity bond.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805 Stats. Implemented: OL 2010, Ch. 102

839-005-0085

Enforcement & Retaliation

- (1) An employer's duties and obligations under OL 2010, Ch. 102 extend to an employer that is a successor in interest as defined in OAR 839-005-0014.
- (2) An applicant or employee claiming a violation of OL 2010, Ch. 102 or these rules may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.
- (3) An applicant or employee claiming a violation of OL 2010, Ch. 102 may bring a civil action under ORS 659A.885.
- (4) Pursuant to ORS 659A.030(1)(f), it is an unlawful employment practice for an employer to discharge, expel or otherwise discriminate against any person because the person has filed a complaint, testified or assisted in any proceeding in connection with OL 2010, Ch. 102.
- (5) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of OL 2010, Ch. 102, or to attempt to do so.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

839 Bureau of Labor and Industries Agency and Division Administrative Rules Chapter Number Marcia Ohlemiller 800 NE Oregon St. Ste. 1045 Portland, OR 97232 971-673-0784 Rules Coordinator Address. Telephone **RULE CAPTION** Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints Not more than 15 words that reasonably identifies the subject matter of the agency's intended action. RULEMAKING ACTION Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 839-005-0400 AMEND: 839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0206 and other rules as necessary in chapter 839-005 REPEAL: RENUMBER: AMEND & RENUMBER: Stat. Auth.: ORS 659A.805 Other Auth.: Stats, Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A.320

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 339-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/fiz/2013R1/Mcasures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.

2. Cost of compliance effect on small business (ORS 183.336):

- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salom, Oregon 97310.

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

I cartify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filling</u>, by the <u>Bureau of Labor and Industries</u> 839

Agency and Olvision Administrative Rules Chapter Number

Marcia Ohiemitter (971) 673-0784

Rules Coordinator Telephone

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

To become effective <u>Upon filling.</u> Rulemaking Notice was published in the <u>November 2013</u> Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules, regarding career schools, social media, interns, substantial evidence, commissioner complaints.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0076, 839-005-0080, 839-005-0085, 839-005-0160, 839-005-0170, 839-005-0200, 839-005-0206

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority: ORS 659A.805

Other Authority:

Statutes implemented:

ORS chapter 659A, H.B. 2869, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 668A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Alterney General may bring complaints on behalf of aggreeved persons

Amendments to 838-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, - 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLt and clarify the BOLt's standards and procedures.

Adoption of 839-005-0400 addresses unlawful amployment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 replace the Oregon Laws citation with ORS 669A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly enacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Haresement consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-005-0180 and 839-005-0170 implement newly enacted legislation.

Marcia Chiemiller Mercia.L.Ohlemiller@state.or.us
Rules Coordinator Name Email Address

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION SECRETARY OF STATE

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon fiting, by the Bureau of Labor and Industries Agency and Division Administrative Rules Chapter Number Marcia Ohlemiller (971) 673-0784 Rules Coordinator Telephone 800 NE Oregon St., Ste. 1045, Portland, OR 97232

To become effective <u>Upon filing.</u> Rulemaking Notice was published in the <u>October 2014</u> Oregon Bulletin.

RULE CAPTION

Amendments to clarify, conform with authorities, correct citations; edoption to implement new statute,

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing,

ADOPT:

B39-005-0036

AMEND:

839-005-0000, 839-005-0003, 839-005-0005, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839 -005-0030, 839-005-0031, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839-005-0080, 839-0080, 839-005-0135, 839-005-0138, 839-005-0140, 839-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839 -005-0210, 839-005-0215, 839-005-0220, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839 -005-0400

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority: ORS 659A,805; 651,061

Other Authority:

Statutes Implemented:

ORS 659A.550; ORS 345.240; ORS 345.010; ORS 659.850

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to replace "complainant" with "aggrieved person" in conformance with statute; conform career school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring. Adoption of rule to implement ORS 659A.550, discrimination based on employment status.

Marcia Ohlemiller	Marcía.L.Ohlemiller@state.or.⊍s	
Rules Coordinator Name	Email Address	

NPRMS Fiscal Impact missing BLI 11-2015 8-4-15

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0080

Date Rule Became Effective: July 1, 2010

Date Review Due:

July 1, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- Has the rule had the intended effect?

 Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15

BLI 14-2013, f. & cert. ef. 12-30-13

BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

4) Is the rule still needed?

Yes.

5) What impacts has the rule had on small business? No known impact.

BOLI100 Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their small or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NB, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Advisory Committee

JK Wilson jlwilson@aoi.com

Jim Craven jim craven@aeanet.org

Paul Cosgrove pcosgrove@lindsayhart.com

Bartholomew jonb@ospirg.org

Angela Martin angela@ouroregon.org

Shepard <u>duke@oraglcio.org</u>

Hoffman margi@theresiddercompany.com

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

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reau of Labor and Industrie	s, Civil Rights Division		839
Agency and Division		Admir	nistrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. St	nite 1045, Portland, OR 97232-2180	971-673-0784
Rules Coordinator	Address		Telephone
F 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		ULE CAPTION loyer's credit history for employment pu	פיפחינו
Not more than 15 words tha	reasonably identifies the	subject matter of the agency's intende	d action.
		Building, 800 NE Oregon St. Portland, C	OR Rm 1-B Stelamic Plebanck Hearings Officer
Hearing Date Tin Hearing site is accessible request to	to individuals with disubiliti	es. Auxiliary alds for individuals with 6 573-0784 no later than 10 days prior to	lisabilities ave avallable upon
Secure approval of new ADOPT: Division 5 rule num	mle numbers (Adopted or R	MAKING ACTION enumbered rules) with the Administrative	ve Rules Unit prior to filing.
AMEND: Division 5 rule nut	nbers as needed.		
RENUMBER: Division 5 rul	e munbers as needed.		
AMEND & RENUMBER: I	Division 5 rule numbers as ne	eeded.	
Stat. Auth. ; ORS 659A.805		· · · · · · · · · · · · · · · · · · ·	
her Auth.: SB 1045, Orego	n Legislative Assembly 2010	0	
Stats. Implemented: SB 1045	(relating to use of credit his	tory for employment purposes), Oregon	Legislative Assembly 2010
	RI	ULE SUMMARY	
annilosument practice except	for employers that are federa or employment purposes; lar	s making discrimination on the basis of ally insured banks or credit unions; state wenforcement units employing public said.	or federal employers required to
The American property public of	ownsent on whether other o	ptions should be considered for achievin	o the rule's substantive goals
while reducing the negative e	conomic impact of the rule	on business.	S
May 3, 2010 at 5:30 pm		A A R. B. D. D. A R. C. S.	
Last Day for Public Commo	ent (Last day to submit writt	on comments to the Rules Coordinator)	
1 1 9/1/1/	1—	Amy K. Klare	March 12, 2010
Signature		Printed name	Date
"Yearing Notices published is deadline falls on a weeks	n the Oregon Bulletin must b and or legal holiday, upon w	be submitted by 5:00 pm on the 15th day hich the deadline is 5:00 pm the precedin	y of the preceding month unlessing workday. ARC 920-2005

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

. areau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing statutory enactments restricting use of employees' credit history for employment purposes.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Rules regulating the use of credit history in employment.

Statutory Authority: ORS 659A.805

Other Authority: SB 1045, Oregon Legislative Assembly 2010

Stats, Implemented: SB 1045 (relating to use of credit history for employment purposes), Oregon Legislative Assembly 2010

Need for the Rule(s): The rules are needed to implement the legislation.

Documents Relied Upon, and where they are available: SB 1045, available on the Oregon Legislature website.

Fiscal and Economic Impact: No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted laws that the proposed rules would implement will be in statutes on July 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for employers, because the proposed rule adoptions and amendments would implement and clarify laws already enacted, making it less likely that employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory adoptions and amendments the rules for the most part would implement will be standary requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers, and not to the general public.

- 2. Cost of compliance effect on small business (ORS 183,336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. The proposed rules would merely implement provisions of previously-enacted laws, not add additional requirements
- c. Equipment, supplies, labor and increased administration required for compliance: No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule? Small business representatives are being asked to comment on drafts of proposed rules.

Administrative Rule Advisory Commuttee consulted?: Yes

Amy K. Klare

Merch 12, 2010

gnature

Printed name

Date

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on June 1, 2010 by the

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia L. Ohlemiller

800 NE Oregon Street, Suite 1045, Portland, Oregon 97232

971-673-0784

Rules Coordinator

Address

Telephone

to become effective July 1, 2010.

Rulemaking Notice was published in the April 2010 Oregon Bullefin. **

RULE CAPTION

Implementing statutory enactments restricting use of employee's credit history for employment purposes.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADORT; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085

Stat. Auth.: ORS 659A.805

Other Auth.: SB 1045, Oregon Legislative Assembly 2010

Stats, Implemented: SB 1045 (relating to use of credit history for employment purposes), Oregon Legislative Assembly 2010

RIJLE SUMMARY

The proposed rules would implement statutory enactments making discrimination on the basis of credit history an unlawful employment practice, except for employers that are federally insured banks or credit unions; state or federal employers required to use individual credit history for employment purposes; law enforcement units employing public safety officers; and positions for which an applicant's or employee's credit history is substantially job-related.

Brad Avakiau

June 1, 2010

Authorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

JUN 10 2010

CIVIL PROCESS SEVENION
PORTLAND OF FIGURE

Employer Obtainment or Use of Credit History Information

839-005-0060

Purpose and Scope

- (1) It is the policy of the State of Oregon to guarantee individuals the fullest possible participation in the social and economic life of the state, including employment. Obtainment or use by an employer of information in an applicant's credit history impacts the individual's privacy, and must relate only to the position for which the individual is being considered or holds. The people of Oregon have the right to employment without unlawful discrimination on the basis of credit history.
- (2) Prohibited discrimination is a basis of unlawful practices described in ORS chapter 659A and other chapters of the Oregon statutes.
- (3) Any individual claiming to be aggrieved by an unlawful practice including a violation of OL 2010, Ch. 102 may file a complaint under ORS 659A.820 or may bring a civil action under ORS 659A.885.
- (4) The Civil Rights Division of the Bureau of Labor and Industries enforces Oregon Law 2010, Chapter 102 (OL 2010, Ch. 102). These rules implement and interpret OL 2010, Ch. 102.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805 Stats, Implemented: OL 2010, Ch. 102

839-005-0065

Definitions

- (1) "Applicant" means an individual who has submitted information for the purpose of gaining employment.
- (2) "Credit history" means any written or other communication of any information by a consumer reporting agency that hears on a consumer's creditworthiness, credit standing or credit capacity.
- (3) "Division" means the Civil Rights Division of the Bureau of Labor and Industries.
- (4) "Employer" means any person who in this state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed.
- (5) "Respondent" includes any person against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).
- (6) "Substantially job-related" is defined in OAR 839-005-0080.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats, Implemented: OL 2010, Ch. 102

839-005-<u>0070</u>

Unlawful Discrimination

- (1) It is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.
- (2) Obtainment or use of credit history information may not be conducted in a manner that results in adverse impact discrimination as prohibited by 42 U.S.C. § 2000e-2, ORS 659A.030 and OAR 839-005-0010. A finding of adverse impact discrimination does not require establishment of intentional discrimination.
- (3) OL 2010, Ch. 102 permits an employer to obtain or use for employment purposes information contained in the credit history of an applicant or employee under circumstances described at OL 2010, Ch. 102(2). OL 2010(2)(d) permits an employer to obtain or use information contained in the credit history of an applicant or employee if the credit history information is substantially joh-related, and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.
- (a) The burden of proving the employer's disclosure to the employee of its reasons for the use of such information rests with the employer.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

839-005-0080

Substantially Job-Related

- (1) The determination of whether credit history information is substantially jobrelated must be evaluated with respect to the position for which the individual is being considered or holds.
- (2) Credit history information of an applicant or employee is substantially jobrelated if:
- (a) Au essential function of the position at issue requires access to financial information not customarily provided in a retail transaction that is not a loan or extension of credit;

- (A) Financial information customarily provided in a retail transaction includes information related to the exchange of cash, checks and credit or debit card numbers; or
- (b) The position at issue is one for which an employer is required to obtain credit history as a condition of obtaining insurance or a surety or fidelity bond.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805 Stats. Implemented: OL 2010, Ch. 102

839-005-0085

Enforcement & Retaliation

- (1) An employer's duties and obligations under OL 2010, Ch. 102 extend to an employer that is a successor in interest as defined in OAR 839-005-0014.
- (2) An applicant or employee claiming a violation of OL 2010, Ch. 102 or these rules may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.
- (3) An applicant or employee claiming a violation of OL 2010, Ch. 102 may bring a civil action under ORS 659A.885.
- (4) Pursuant to ORS 659A.030(1)(f), it is an unlawful employment practice for an employer to discharge, expel or otherwise discriminate against any person because the person has filed a complaint, testified or assisted in any proceeding in connection with OL 2010, Ch. 102.
- (5) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of OL 2010, Ch. 102, or to attempt to do so.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805 Stats. Implemented: OL 2010, Ch. 102 Amendment missing
BLI 8-2011 f. 10-13-11 out of 10-14-11

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Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggricved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggricved persons, the term "complainant" would be replaced as necessary with aggricved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2664, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- I. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries 839 Agency and Division Administrative Rules Chapter Number Marcia Ohlemiller 800 NE Oregon St. Ste. 1045 Portland, OR 97232 971-673-0784 Rules Coordinator Telephone Address RULE CAPTION Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints Not more than 15 words that reasonably identifies the subject matter of the agency's intended action. RULEMAKING ACTION Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 839-005-0400 AMEND: 839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0206 and other rules as necessary in chapter 839-005 REPEAL: RENUMBER: AMEND & RENUMBER: Stat. Auth.: ORS 659A.805 Other Auth.: Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlemiller
Marcia Ohlemiller

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PEF	RMANENT Rule(s) edopted on <u>Upon filing,</u> by the	
Bureau of Labor and industries	639	
Agency and Division	Administrative Rules Chapter Numbor	
Marcia Ohlemiller	(971) 673-0784	
Rules Coordinator	Telephone	
800 NE Oregon St., Ste. 1045, Portland, OR 97232		
	• • • • • • • • • • • • • • • • • • • •	

Address

To become effective Upon filing. Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career schools, social media, Interna, substantial evidence, commissioner complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0306, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-006-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0160, 839-005-0170, 839-005-0200, 839-005-0208

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 659A,805

Other Authority:

Statutes Implemented:

ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3283, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrissed person" because the Commissioner and Altorney General may bring complaints on behalf of aggrissed persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 639-005-0200 change the definition of substantially limits consistent with newly enacted tegistation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-005-0160 and 839-005-0170 implement newly enacted legislation.

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

Marcia Ohlemiller

Marcia.L.Ohlemiller@state.or.us

Rules Coordinator Name

Email Address

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, fu	Il and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing</u> , by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OF	1 97232
Address To become effective <u>Upon filing.</u> Rulemakir	ng Notice was published in the <u>October 2014</u> Oregon Bulletin.
	RULE CAPTION
Amendments to clarify, conform with authori	ties, correct citations; adoption to implement new statute.
Not more than 15 words that reasonably identifies	the subject matter of the agency's intended action.
Secure appr	RULEMAKING ACTION oval of new rule numbers with the Administrative Rules Unit prior to filing.
ADOPT:	· · ·
839-005-0036	
-005-0030, 839-005-0031, 839-005-0060, 83 -005-0135, 839-005-0138, 839-005-0140, 83	5, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0208, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0300, 839-005-0305, 839-005-0325, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0300, 839-005-0305,
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 651.061	
Other Authority:	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.010	o; ORS 659.850
	RULE SUMMARY
"aggrieved person" in conformance with statu	authorities, correct citations. The purposes of the amendments are to replace "complainant" with the conform career school rules by editing in new statutory definition for "agent;" clarify that employer does not preclude discrimination complaint regarding hiring. Adoption of rule to sed on employment status.
Manula Ohlassiilaa	Marrie I. Oktobillovica A
Marcia Ohlemiller Rules Coordinator Name	<u>Marcia L.Ohlemiller@state.or.us</u> Email Address
LIPICA SAMINICAL LIMITA	Emon regulated ,

NPRM8 Fiscal Impact missing BL1 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0060

Date Rule Became Effective: July 1, 2010

Date Review Due:

July 1, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? _X__ Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- Has the rule had the intended effect?
 Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15

BLI 14-2013, f. & cert. ef. 12-30-13

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

BOLI100

Effective: (Rev. 8/18)

File this report in the bureau's official file for this rule. Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Smell Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100

Effective: (Rev. 8/18)

Advisory Committee

JK Wilson ilwilson@aoi.com

Jim Craven jim craven@aeanet.org

Paul Cosgrove pcosgrove@lindsayhart.com

Bartholomew jonb@ospirg.org

Angela Martin angela@ouroregon.org

Shepard duke@oraglcio.org

Hoffman margi@theresiddercompany.com

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

		•	839
reau of Labor and Industrie	s, Civil Rights Division	Administrati	ve Rules Chapter Number
Agency and Division	•	Adipination	To Italias Employ Fundos
Marcia Ohlemiller	800 NE Oregon St. Suite	1045, Portland, OR 97232-2180	971-673-0784
Rules Coordinator	Address	D. C. A. PORTON	Telephone
T		E CAPTION c's credit history for employment purposes	
Not more than 15 words the	reasonably identifies the sub	ject matter of the agency's intended acti	O11·
		ding, 800 NE Oregon St. Portland, OR Rn	1 1-B Stefanie Plebanek
Hearing site is accessible	me Location to individuals with disabilities, . n Rules Coordinator at 971-673-	Anxiliary aids for Individuals with disabil 0784 no later than 10 days prior to hearin	Hearings Officer ities are available apon 1g date.
		AKING ACTION	
Secure approval of new ADOPT: Division 5 rule mun		inbered rules) with the Administrative Rule	es Unit prior to filing.
AMEND: Division 5 rule me	mbers as needed.		-
RENUMBER: Division 5 ru	le numbers as needed.		
AMEND & RENUMBER:	Division 5 mle numbers as neede	ed.	
Stat. Auth.: ORS 659A.805			
her Auth.: SB 1045, Orego	on Legislative Assembly 2010		
Stats, Implemented: SB 1045	(relating to use of credit history	for employment purposes), Oregon Legisl	ative Assembly 2010
	RULI	SUMMARY	
employment practice, except use individual credit history	for employers that are federally	aking discrimination on the basis of credit insured banks or credit unions; state or fed aforcement units employing public safety o	eral employers required to
while reducing the negative of	economic impact of the rule on b	comments to the Rules Coordinator) Amy K. Klare	March 12, 2010
Signature		Printed name	Date
"Henring Notices published 3 deadline falls on a week	in the Oregon Bulletin must be s end or legal holiday, upon which	ubmitted by 5:00 pm on the 15th day of the the deadline is 5:00 pm the preceding wo	kday. ARC 920-2005

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Loreau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing statutory enactments restricting use of employees' credit history for employment purposes.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Rules regulating the use of credit history in employment.

Statulory Authority: ORS 659A.805

Other Authority: SB 1045, Oregon Legislative Assembly 2010

Stats, Implemented: SB 1045 (relating to use of credit history for employment purposes), Oregon Legislative Assembly 2010

Need for the Rule(s): The rules are needed to implement the legislation.

Documents Relied Upon, and where they are available: SB 1045, available on the Oregon Legislature website.

Fiscal and Economic Impact: No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted laws that the proposed rules would implement will be in statutes on July 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for employers, because the proposed rule adoptions and amendments would implement and clarify laws already enacted, making it less likely that employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory adoptions and amendments the rules for the most part would implement will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers, and not to the general public.

- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. The proposed rules would merely implement provisions of previously-enacted laws, not add additional requirements
- c. Equipment, supplies, labor and increased administration required for compliance: No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule? Small business representatives are being asked to comment on drafts of proposed rules.

Administrative Rule Advisory Committee consulted?: Yes

Amy K. Klarc

March 12, 2010

enature 5 R. M.

Printed name

Date

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on June 1, 2010 by the

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia L. Ohlemiller

800 NE Oregon Street, Suite 1045, Portland, Oregon 97232

971-673-0784

Rules Coordinator

Address

Telephone

to become effective July 1, 2010.

Rulemaking Notice was published in the April 2010 Oregon Bulletin.

RULE CAPTION

Implementing statutory enactments restricting use of employee's credit history for employment purposes.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085

Stat. Auth.: ORS 659A.805

Other Auth.: SB 1045, Oregon Legislative Assembly 2010

Stats. Implemented: SB 1045 (relating to use of credit history for employment purposes), Oregon Legislative Assembly 2010

RULE SUMMARY

The proposed rules would implement statutory enactments making discrimination on the basis of credit history an unlawful employment practice, except for employers that are federally insured banks or credit unions; state or federal employers required to use individual credit history for employment purposes; law enforcement units employing public safety officers; and positions for which an applicant's or employee's credit history is substantially job-related.

Brad Avakian

June 1, 2010

Authorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules, **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

JUN 1 0 2010

Employer Obtainment or Use of Credit History Information

839-005-0060

Purpose and Scope

- (1) It is the policy of the State of Oregon to guarantee individuals the fullest possible participation in the social and economic life of the state, including employment. Obtainment or use by an employer of information in an applicant's credit history impacts the individual's privacy, and must relate only to the position for which the individual is being considered or holds. The people of Oregon have the right to employment without unlawful discrimination on the basis of credit history.
- (2) Prohibited discrimination is a basis of unlawful practices described in ORS chapter 659A and other chapters of the Oregon statutes.
- (3) Any individual claiming to be aggrieved by an unlawful practice including a violation of OL 2010, Ch. 102 may file a complaint under ORS 659A.820 or may bring a civil action under ORS 659A.885.
- (4) The Civil Rights Division of the Bureau of Labor and Industrics enforces Oregon Law 2010, Chapter 102 (OL 2010, Ch. 102). These rules implement and interpret OL 2010, Ch. 102.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805 Stats. Implemented: OL 2010, Ch. 102

839-005-0065

Definitions

- (1) "Applicant" means an individual who has submitted information for the purpose of gaining employment.
- (2) "Credit history" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing or credit capacity.
- (3) "Division" means the Civil Rights Division of the Bureau of Labor and Industries.
- (4) "Employer" means any person who in this state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed.
- (5) "Respondent" includes any person against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).
- (6) "Substantially job-related" is defined in OAR 839-005-0080.

Stat. Anth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats, Implemented: OL 2010, Ch. 102

839-005-0070

Unlawful Discrimination

- (1) It is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.
- (2) Obtainment or use of credit history information may not be conducted in a manner that results in adverse impact discrimination as prohibited by 42 U.S.C. § 2000c-2, ORS 659A.030 and OAR 839-005-0010. A finding of adverse impact discrimination does not require establishment of intentional discrimination.
- (3) OL 2010, Ch. 102 permits an employer to obtain or use for employment purposes information contained in the credit history of an applicant or employee under circumstances described at OL 2010, Ch. 102(2). OL 2010(2)(d) permits an employer to obtain or use information contained in the credit history of an applicant or employee if the credit history information is substantially job-related, and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.
- (a) The burden of proving the employer's disclosure to the employee of its reasons for the use of such information rests with the employer.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

B39-005-0080

Substantially Job-Related

- (1) The determination of whether credit history information is substantially jobrelated must be evaluated with respect to the position for which the individual is being considered or holds.
- (2) Credit history information of an applicant or employee is substantially jobrelated if:
- (a) An essential function of the position at issue requires access to financial information not customarily provided in a retail transaction that is not a loan or extension of credit;

- (A) Financial information customarily provided in a retail transaction includes information related to the exchange of cash, checks and credit or debit card numbers; or
- (b) The position at issue is one for which an employer is required to obtain credit history as a condition of obtaining insurance or a surety or fidelity bond.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805 Stats. Implemented: OL 2010, Ch. 102

839-005-0085

Enforcement & Retaliation

- (1) An employer's duties and obligations under OL 2010, Ch. 102 extend to an employer that is a successor in interest as defined in OAR 839-005-0014.
- (2) An applicant or employee claiming a violation of OL 2010, Ch. 102 or these rules may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.
- (3) An applicant or employee claiming a violation of OL 2010, Ch. 102 may bring a civil action under ORS 659A,885.
- (4) Pursuant to ORS 659A.030(1)(f), it is an unlawful employment practice for an employer to discharge, expel or otherwise discriminate against any person because the person has filed a complaint, testified or assisted in any proceeding in connection with OL 2010, Ch. 102.
- (5) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of OL 2010, Ch. 102, or to attempt to do so.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

Secretary of State NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries		839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste, 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
	RULE CAPTION	
Amending, adopting 839-005 n complaints	ules regarding career schools, social media, interns, sui	ostantial evidence, commissioner
Not more than 15 words that i	easonably identifies the subject matter of the agency	's intended action.
	RULEMAKING ACTION	
	le numbers (Adopted or Renumbered rules) with the Ad	
ADOPT: 839-005-0300, 839-00 839-005-0400	15-0305, 839-005-0310, 839-005-0315, 839-005-0320, 8	39-005-0325
	05-0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 206 and other rules as necessary in chapter \$39-005	339-005-0070, 839-005-0075, 839-005-
REPEAL:	•	
RENUMBER:		
AMEND & RENUMBER:		
Stat. Auth.; ORS 659A.805	······································	
Other Auth.:		
Stats, Implemented: ORS chapte 2013), ORS 345.240, ORS 659A	er 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), l A.320	H.B. 2654, 77 th Leg., Re g. Session (Or.

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under OR\$ 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Pederal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlemiller

Marcia Ohiemiller

10/15/2013

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Heating or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Refied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

I. Impact on state agencies, units of local government and the public (ORS 183,335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.

2. Cost of compliance effect on small business (ORS 183.336):

- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

 No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements aircady in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlemiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PER	MANENT Rule(s) adopted on <u>Upon King.</u> by the	
Bureau of Labor and Industries	839	
Agency and Division	Administratīva Rules Chapter Number	
Marcia Ohlemiller	(971) 673-0784	
Rules Coordinator	Telephone	
800 NE Oregon St., Ste. 1045, Porlland, OR 97232		
Address		

Address

To become effective Upon filing. Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules, regarding career schools, social media, interns, substantial evidence, commissioner complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 838-005-0075, 839-005-0080, 839-005-0085, 839 -005-0160, 839-005-0170, 839-005-0200, 839-005-0208

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority: ORS 659A.805

Other Authority:

Statutes implemented:

ORS chapter 659A, H.B. 2869, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 895A.109, 605A.112, 695A.136, 695A.142, 695A.199, 696A.230, 695A.233, 696A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 039-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0080, 839-005-0085, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0086 replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly enacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harasament consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-005-0160 and 839-006-0170 implement newly enacted legislation.

Marcia Ohlemilier Marcia.L.Ohlemilier@state.or.us

Rules Coordinator Name Email Address

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, full	ll and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR	(97232
Address	
To become effective Upon filing. Rulemakin	ng Notice was published in the <u>October 2014</u> Oregon Bulletin.
	RULE CAPTION
Amendments to clarify, conform with authority	ities, correct citations; adoption to implement new statute,
	s the subject matter of the agency's intended action.
	RULEMAKING ACTION
	oval of new rule numbers with the Administrative Rules Unit prior to filing.
ADOPT:	
839-005-0036	
-005-0030, 839-005-0031, 839-005-0060, 83 -005-0135, 839-005-0138, 839-005-0140, 83	5, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839-005-0160, 839-005-0170, 839-005-0196, 839-005-0200, 839-005-0205, 839-005-0206, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-005-005-005-005-005-005-005-005-00
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 651.061	
Other Authority:	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.010	0; ORS 859.850
	RULE SUMMARY
"aggrieved person" in conformance with statu	authorities, correct citations. The purposes of the amendments are to replace "complainant" with ute; conform career school rules by editing in new statutory definition for "agent;" clarify that e employer does not preclude discrimination complaint regarding hiring. Adoption of rule to sed on employment status.
	Market Collection Coll
Marcia Ohlemiller	Marcia,L.Ohlemiller@slate.or.us
Rules Coordinator Name	Emeil Address

NPRM & Fiscal Impact missing, BLI 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new-rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0070

Date Rule Became Effective: July 1, 2010

Date Review Duc:

July 1, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes

- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15 BLI 14-2013, f. & cert. ef. 12-30-13

BLI 8-2011, f. 10-13-11, cert. cf. 10-14-11

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

BOLI100 Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Advisory Committee

JK Wilson ilwilson@aoi.com

Jim Craven jim craven@aeanet.org

Paul Cosgrove pcosgrove@lindsayhart.com

Bartholomew jonb@ospirg.org

Angela Martin angela@ouroregon.org

Shepard duke@oragicio.org

Hoffman margi@theresiddercompany.com

Secretary of State

NOTICE OF PROPOSED RULEMAKING HEARING*

A Statement of Need and Fiscal Impact accompanies this form.

reau of Labor and Industric	er Civil Rights Division	•	839
Agency and Division	s, or a regula Division	Adminis	strative Rules Chapter Number
Marcia Ohlemiller	RAA NE Oregon St. S	Suite 1045, Portland, OR 97232-2180	971-673-0784
Rules Coordinator	Address	1043, 1 01 Hand, ON 97232-2180	Telephone
	F	RULE CAPTION	·
		loyce's credit history for employment purp	
Not more than 15 words tha	t reasonably identifies the	subject matter of the agency's intended	action.
Mon., May 3 rd , 3:30 pm to 5:3	0 pm Portland State Office	Building, 800 NE Oregon St. Portland, OR	Rm 1-B Stefanie Plebanek
Hearing Date Tir Hearing site is accessible	ne Location to Individuals with disabilit	ies. Auxiliary olds for Individuals with dis 673-0784 no later than 10 days prior to he	Hearings Officer abilities are available upon
	RUL	EMAKING ACTION	
Secure approval of new ADOPT: Division 5 rule num		Renumbered rules) with the Administrative	Rules Unit prior to filing.
AMEND: Division 5 rule num	ibers as needed.		
RENUMBER: Division 5 rul	e numbers as needed.		·
AMEND & RENUMBER: D	vivision 5 rule numbers as n	eeded.	
Stat. Auth. : ORS 659A,805			
her Auth.: SB 1045, Oregon	Legislative Assembly 201	0	
Stats. Implemented: SB 1045	(relating to use of credit his	tory for employment purposes), Oregon Lo	gislative Assembly 2010
	. R	ULE SUMMARY	
employment practice, except I	or employers that are federa or employment purposes; la	s making discrimination on the basis of cre ally insured banks or credit unions; state or w enforcement units employing public safe ed.	federal employers required to
while reducing the negative ed May 3, 2010 at 5:30 pm	onomic impact of the rule of	ptions should be considered for achieving to business. en comments to the Rules Coordinator) Amy K. Klarc	he mie's substantive goals March 12, 2010
Signature	<u> </u>	Printed name	Date
*Hearing Notices published in	the Oregon Bulletin must b	r submitted by 5:00 pm on the 15th day of	
		ich the deadline is 5:00 pm the preceding v	

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

arean of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing statutory enactments restricting use of employees' credit history for employment purposes.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Rules regulating the use of credit history in employment.

Statutory Authority: ORS 659A.805

Other Authority: SB 1045, Oregon Legislative Assembly 2010

Stats, Implemented: SB 1045 (relating to use of credit history for employment purposes), Oregon Legislative Assembly 2010

Need for the Rule(s); The rules are needed to implement the legislation.

Documents Relied Upon, and where they are available: SB 1045, available on the Oregon Legislature website.

Fiscal and Economic Impact; No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted laws that the proposed rules would implement will be in statutes on July 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for employers, because the proposed rule adoptions and amendments would implement and clarify laws already enacted, making it less likely that employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory adoptions and amendments the rules for the most part would implement will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers, and not to the general public.

- 2. Cost of compliance effect on small business (ORS 183,336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. The proposed rules would merely implement provisions of previously-enacted laws, not add additional requirements
- c. Equipment, supplies, labor and increased administration required for compliance: No additional equipment, supplies, labor, or increased administrative costs are required or auticipated under the proposed rules,

How were small businesses involved in the development of this rule? Small business representatives are being asked to comment on drafts of proposed rules.

Administrative Rule Advisory Committee consulted?: Yes

Amy K. Klare

March 12, 2010

.gnature

Printed name

Date

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on June 1, 2010 by the

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia L. Oblemiller

800 NE Oregon Street, Suite 1045, Portland, Oregon 97232

971-673-0784

Rules Coordinator

Address

Telephone

to become effective July 1, 2010.

Rulemaking Notice was published in the April 2010 Oregon Bulletin.

RULE CAPTION

Implementing statutory enactments restricting use of employee's credit history for employment purposes.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit provide filing

ADOPT: 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085

Stat. Auth.: ORS 659A.805

Other Auth.: SB 1045, Oregon Legislative Assembly 2010

Stats, Implemented: SB 1045 (relating to use of credit history for employment purposes), Oregon Legislative Assembly 2010

RULE SUMMARY

The proposed rules would implement statutory enactments making discrimination on the basis of credit history an unlawful employment practice, except for employers that are federally insured banks or credit unions; state or federal employers required to use individual credit history for employment purposes; law enforcement units employing public safety officers; and positions for which an applicant's or employee's credit history is substantially job-related.

Brad Ayakian

June 1, 2010

Authorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

JUN 10 2010

Employer Obtainment or Usc of Credit History Information

839-005-0060

Purpose and Scope

- (1) It is the policy of the State of Oregon to guarantee individuals the fullest possible participation in the social and economic life of the state, including employment. Obtainment or use by an employer of information in an applicant's credit history impacts the individual's privacy, and must relate only to the position for which the individual is being considered or holds. The people of Oregon have the right to employment without unlawful discrimination on the basis of credit history.
- (2) Prohibited discrimination is a basis of unlawful practices described in ORS chapter 659A and other chapters of the Oregon statutes.
- (3) Any individual claiming to be aggrieved by an unlawful practice including a violation of OL 2010, Ch. 102 may file a complaint under ORS 659A.820 or may bring a civil action under ORS 659A.885.
- (4) The Civil Rights Division of the Bureau of Labor and Industries enforces Oregou Law 2010, Chapter 102 (OL 2010, Ch. 102). These rules implement and interpret OL 2010, Ch. 102.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805 Stats, Implemented: OL 2010, Ch. 102

839-005-0065

Definitions

- (1) "Applicant" means an individual who has submitted information for the purpose of gaining employment.
- (2) "Credit history" means any written or other communication of any information by a consumer reporting agency that bears on a consumer's credit worthiness, credit standing or credit capacity.
- (3) "Division" means the Civil Rights Division of the Bureau of Labor and Industries.
- (4) "Employer" means any person who in this state, directly or through an agent, engages or uses the personal service of one or more employees, reserving the right to control the means by which such service is or will be performed.
- (5) "Respondent" includes any person against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).
- (6) "Substantially job-related" is defined in OAR 839-005-0080.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

839-005-0070

Unlawful Discrimination

- (1) It is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.
- (2) Obtainment or use of credit history information may not be conducted in a manner that results in adverse impact discrimination as prohibited by 42 U.S.C. § 2000e-2, ORS 659A.030 and OAR 839-005-0010. A finding of adverse impact discrimination does not require establishment of intentional discrimination.
- (3) OL 2010, Ch. 102 permits an employer to obtain or use for employment purposes information contained in the credit history of an applicant or employee under circumstances described at OL 2010, Ch. 102(2). OL 2010(2)(d) permits an employer to obtain or use information contained in the credit history of an applicant or employee if the credit history information is substantially job-related, and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.
- (a) The burden of proving the employer's disclosure to the employee of its reasons for the use of such information rests with the employer.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

839-005-0080

Substantially Job-Related

- (1) The determination of whether credit history information is substantially jobrelated must be evaluated with respect to the position for which the individual is being considered or holds.
- (2) Credit history information of an applicant or employee is substantially jobrelated if:
- (a) An essential function of the position at issue requires access to financial information not customarily provided in a retail transaction that is not a loan or extension of credit;

- (A) Financial information customarily provided in a retail transaction includes information related to the exchange of cash, checks and credit or debit card numbers; or
- (b) The position at issue is one for which an employer is required to obtain credit history as a condition of obtaining insurance or a surety or fidelity bond.

Stat. Auth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

839-005-0085

Enforcement & Retaliation

- (1) An employer's duties and obligations under OL 2010, Ch. 102 extend to an employer that is a successor in interest as defined in OAR 839-005-0014.
- (2) An applicant or employee claiming a violation of OL 2010, Ch. 102 or these rules may file a complaint with the Civil Rights Division of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.
- (3) An applicant or employee claiming a violation of OL 2010, Ch. 102 may bring a civil action under ORS 659A.885.
- (4) Pursuant to ORS 659A.030(1)(f), it is an unlawful employment practice for an employer to discharge, expel or otherwise discriminate against any person because the person has filed a complaint, testified or assisted in any proceeding in connection with OL 2010, Ch. 102.
- (5) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of OL 2010, Ch. 102, or to attempt to do so.

Stat. Anth.: OL 2010, Ch. 102(5), ORS 659A.805

Stats. Implemented: OL 2010, Ch. 102

Amendment missing BL/ P-2011 f. 10-13-11 OAef. 10-14-11

Secretary of State NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries 839 Agency and Division Administrative Rules Chapter Number Marcia Ohlemiller 800 NE Oregon St. Stc. 1045 Portland, OR 97232 971-673-0784 Rules Coordinator Address Telephone RULE CAPTION Amending, adopting 839-005 rules—regarding career schools, social media, interns, substantial evidence, commissioner complaints Not more than 15 words that reasonably identifies the subject matter of the agency's intended action. RULEMAKING ACTION Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 839-005-0400 AMEND: 839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0206 and other rules as necessary in chapter 839-005 REPEAL: RENUMBER: AMEND & RENUMBER: Stat. Auth.: ORS 659A.805

Other Auth.;

Stats, Implemented; ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller		•
	Marcia Ohlemiller	10/15/2013
Signature	Printed name	Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345,240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Eurolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HD2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlemiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries		839	
Agency and Division		Administrative Rules Chapter Number	
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784	
Rules Coordinator	Address RULE CAPTION	Telephone	
Amending, adopting 839-005 rule complaints	es regarding career schools, social media, interns, sui	bstantial evidence, commissioner	
Not more than 15 words that res	asonably identifies the subject matter of the agency	's intended action.	
	RULEMAKING ACTION numbers (Adopted or Renumbered rules) with the Ad- 0305, 839-005-0310, 839-005-0315, 839-005-0320, 8		
	5-0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 06 and other rules as necessary in chapter 839-005	839-005-0070, 839-005-0075, 839-005-	
REPEAL:			
RENUMBER:			
AMEND & RENUMBER:			
Slat. Auth.: ORS 659A.805			
Other Auth:			

RULE SUMMARY

2013), ORS 345,240, ORS 659A,320

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or.

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.231, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Carcer Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller		-
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Marcia Ohlemiller	10/15/2013
Signature	Printed name	Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries	839	
Agency and Division . Administrative R	ules Chapter Number	
Marcia Ohlemiller (971) 673-0784		
Rules Coordinator Telephone	Telephone	
800 NE Oregon St., Ste. 1045, Portland, OR 97232		

BaerbbA

To become effective <u>Upon Illing.</u> Rulemaking Notice was published in the <u>November 2013</u> Oregon Bulletin.

RULE CAPTION

Amending, adopting 639-005 rules reparding career schools, social media, Interna, substantial evidence, commissioner complaints

Not more than:15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rute numbers with the Administrative Rules Unit prior to filling.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-005-0316, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

838-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0080, 839-005-0080, 839-005-0170, 839-005-0200

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority: ORS 659A.805

Other Authority:

Statutes Implemented:

ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 696A.230, 695A.233, 696A.236, 695A.290, 695A.300, 695A.303, 895A.308, and 695A.316 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section informally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0060, 838-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0065 replace the Oregon Lews citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment,

Amendments to 639-005-0200 change the definition of substantially limits consistent with newly enacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 639-005-0160 and 839-005-0170 implement newly enacted legislation.

Marcia Ohlemiller

Marcia.L,Ohlemiller@state.or.us

Rules Coordinator Name Email Address

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the PERMANE	ENT Rule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries	B39
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	
To become effective <u>Upon filing.</u> Rulemaking Notice was published in the <u>October</u>	e <u>r 2014</u> Oregon Bulletin.
RULE CAPTION	
Amendments to clarify, conform with authorities, correct citations; adoption to imp	lement new statute.
Not more than 15 words that reasonably identifies the subject matter of the agency's intended	ed action.
RULEMAKING ACTIO Secure approval of new rule numbers with the Adminis	
ADOPT:	
839-005-0036	
AMEND;	
839-005-0000, 839-005-0003, 839-005-0005, 839-005-0010, 839-005-0011, 839-005-0030, 839-005-0031, 839-005-0080, 839-005-0085, 839-005-0070, 839-005-005-0135, 839-005-0136, 839-005-0140, 839-005-0160, 839-005-0170, 839-005-005-0210, 839-005-0215, 839-005-0220, 839-005-0300, 839-005-0305, 839-005-005-0400	-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 -0195, 839-005-0200, 839-005-0205, 839-005-0206, 839
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 651.061	
Other Authority:	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.010; ORS 659.850	
RULE SUMMARY	
Amendments to rules to clarify, conform with authorities, correct citations. The pur "aggrieved person" in conformance with statute; conform career school rules by ed veteran preference voluntary hiring by private employer does not preclude discrimiting implement ORS 659A,550, discrimination based on employment status.	liting in new statutory definition for "agent;" clarify that

Marcia,L.Ohlemiller@state.or.us

Email Address

Marcia Ohlemiller

Rules Coordinator Name

NPRMS Fiscal Impact missing, BCI 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0400

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- Has the rule had the intended effect?
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

BOLI100

Effective: (Rev. 8/18)

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)



Secretary of State Certificate and Order for Filing Bureau of Labor and Industries

Val Hoyle

VENT ADMINISTRATIVE RULES

Commissioner

y that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

stat. Auth.: ORS 659A.805

Other Auth.: IIB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

3865 Wolvering St. NE Fall

EUGENE 1400 Executive Parkway, Suite 200

Rugene, OK 97401-2158

(541) 686-7623

(50Briffteti Frame With this original, file of photocopy of cortificate, one paper copy of fulles listed in Rulemaking Actions, and electronic copy of rules.

> BEND Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

Oregon Relay TTY:711

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Portland, OR 97240

Rich Meneghello Fisher & Phillips LLP 1001 SW 5th Ave., STE 1600 Portland, OR 97204

Oregon State Bar Civil Rights Section David D. Park, Chair 0324 SW Abernethy St. Portland OR 97239

L...abeth A Joffe McKanna Bishop Joffe 1635 NW Johnson St Portland OR 97209

M Kay Pulju Oregon State Ber 16037 SW Upper Boones Ferry Rd PO Box 231935 Tigard OR 97281 Loren W. Collins, Chair Civil Rights Section Oregon State Bar DOJ Triel Torts & Emp 1162 Court Street NE Salem, OR 97301

Elizabeth McKanna McKanna Bishop Joffee & Sullivan, LLP 1635 NW Johnson Street Portland, OR 97209

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Rick Liebman Barran Liebman LLP .601 SW Second Ave., STE 2300 Portland, OR 97204

Dan Grinfas Buchanan Angell Altschul & Sullivan LLP 321 SW Fourth Avenue #800 Portland, OR 97204

Richard Busse Busse & Hunt 621 SW Morrison St., #521 Portland, OR 97005

J. Linda Peterson Steward and President AFSCME Local 3214 PO Box 261 Monroe, Oregon 97456

Velda Hamilton Rogers, Chair Oregon State Bar Special Committee Military Assistance Panel 1115 Madison St NE #118 Salem OR 97301 Bureaenvil Ladger and deed ustries

Civil Rights Section Val Hoyle Oregon State Bar Commissioner Barran Liebman LLP 601 SW 2nd Ave Ste 2300 Portland OR 97204

Paula Barran Barran Llebman LLP 601 SW 2nd, STE 2300 Portland, OR 97204

Barbara Breinard Stoel Rives LLP 900 SW 5th Ave., STE 2600 Portland, OR 97204

Kristine M. Cienfuegos TOC Management Services 6825 SW Sandburg St. Tigard, OR 98223

CJ Mann, President Lane County Labor Council 1116 South A Street Springfield, OR 97477

Karen M. Minatelli, Esq. National Partnership for Working Women & Families 1875 Connecticut Ave., NW, Suite 650 Washington, D.C. 20009

Senate Commerce and Workforce Development Chair Sen. Diane Rosenbaum 900 Court St. NE, S-405 Salem, OR 97301

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673 0761 Fax (971) 6/3-0762 SALEM 3865 Wolverine St. NF; E-1 Salem, OR 97305-1268 (503) 378 3292 Fax (503) 373-7636 BUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

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(54)) 322 2435

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Bureau of Labor and Industries

Val I Ioyle Commissioner

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Oblemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Seeme approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule numbers as necessary

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a penod of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, aponywhich the desciline is 5:00 pm the process of 5/40 pm the process of 5/40 pm the public rulemaking hearing may be reduced the winding by 10 or more recorded by an association with the matter of the days following the publication of the process of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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Apprenticeship and Training

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44



ENT OF NEED AND FISCAL IMPACT

Secretary of State

Bureau of Labor and Industries

Val Hoyle A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this formanissioner

Bureau of Labor and Industries – Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMPLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website. Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic inwact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws. Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

Cost of compliance effect on small business (ORS 183,336);

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule;

OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisor Tomanditee consulted?: Yes SALEM 800 bil Oregon St. Suite 1045 Salem, OR 97305-1268 1400 Executive Parkway, Suite 200

Bugene, OR 97401-2158

(971) 673-0761 Amy $K^{03}K^{12}r_{2}^{32}$ Administrator, Civil Rig September 25, 2009

(971<u>)</u> 673-97(Printed name Date

Administrative Rules United Division, Secretary of State, 800 Summer Street NE, Salem Oragons 973-10 TARO 925-2007

1645 NE Porbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435 Fax (541) 389-8265

www.oregon.gov/boli AN EOUAL OPPORTUNITY EMPLOYER Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0265

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

Has the rule had the intended effect? 1)

Yes

- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- Do any changes in the law (enacted since the rule was adopted) now require the rule to be 3) repealed or amended?

No

Is the rule still needed? 4)

Yes

What impacts has the rule had on small business? 5) No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copics:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

The bureau's Rules Coordinator.

Effective: (Rev. 8/18) BOLI100

- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)



Secretary of State Certificate and Order for Filing

Bureau of Labor and Industries

Val Hoyle

NENT ADMINISTRATIVE RULES

Commissioner

ify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action,

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing,

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

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1400 Executive Parkway, Suite 200

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(541) 686-7623

With this original, file one photocopy of certificate, one paper copy of fules listed in Rulemaking Actions, and electronic copy of rules.

> BEND Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435 E-v /641\ 380-8265

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McKanna Bishop Joffe 1635 NW Johnson St Porlland OR 97209

M Kay Pulju Oregon State Bar 16037 SW Upper Boones Ferry Rd PO Box 231935 Tigard OR 97281 Loren W. Collins, Chair Civil Rights Section Oregon State Bar DOJ Trial Torts & Emp 1162 Court Street NE Salem, OR 97301

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Richard Busse Busse & Hunt 621 SW Morrison St., #521 Portland, OR 97005

J. Linda Peterson Steward and President AFSCME Local 3214 PO Box 261 Monroe, Oregon 97456

Velda Hemilton Rogers, Chair Oregon State Bar Special Committee Military Assistance Panel 1115 Madison St NE #118 Salem OR 97301 Bureatnyfilladger and testustries

Civil Rights Section Val Hoyle Oregon State Bar Commissioner Barran Liebman LLP 601 SW 2nd Ave Ste 2300 Portland OR 97204

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Kristine M. Cienfuegos TOC Management Services 6825 SW Sandburg St. Tigard, OR 96223

CJ Mann, President Lane County Labor Council 1116 South A Street Springfield, OR 97477

Karen M. Minatelli, Esq. National Partnership for Working Women & Families 1875 Connecticut Ave., NW, Suite 650 Washington, D.C. 20009

Senate Commerce and Workforce Development Chair Sen. Diane Rosenbaum 900 Court St. NE, S-405 Salem, OR 97301

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762 SALEM 3865 Wolverine St. NE; E-1 Salem, OR 9/305-1268 . (503) 378-3292 Fax (503) 373-7636 EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

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Secretary of State Secretary of State Bureau of PROPOSED RULEMAKING* A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries

Val Hoyle Commissioner

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule numbers as necessary

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A 270 to .285 (OVCCLA); ORS 659A 150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls one weeker in writing by 10 or more description by an association within 10 members, within 21 days following the publication of the gap the making hearing may be requested in writing by 10 or more description by an association within 11 days following the publication of the gap them within 11 days following the publication of the gap them within 11 the following the publication of the gap them within 11 the following the published in the Oregon Bulletin at least 14 days before the hearing.

MEDIFORDARC 923-2005

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Oregon Relay TTY:711

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Secretary of State

Bureau of Labor and Industries Val Hoyle

IENT OF NEED AND FISCAL IMPACT A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and undating OFLA rules. Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMFLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic inmact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed

How were small businesses involved in the development of this rule?

Hand, OR 97232-2180

(9<u>71)</u> 673-0762

(971) 673-0761

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisor Fegon Struttee consulted?: Yes Wolverine St. NE, B-1 Salem, OR 97305-1268

EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158

Amy (503) 732729 Administrator, Civil P. (541) 686-7623

September 25, 2009

Printed name

Date

MEDFORD

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Medford, OR 97501-2629

(541) 776-6201

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183,405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0370

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes

- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

<u>Attach to this Review</u>: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

• The bureau's Rules Coordinator.

BOLI100 Effective: (Rev. 8/18)

- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100

Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

Bureau of Labor and Industries

Val Hoyle

IANENT ADMINISTRATIVE RULES

Commissioner

that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

tat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

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EUGENE 1400 Executive Parkway, Suite 200

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(971) 673 0761 With this original, file one photogopy of certificate, one paper copy of fulles listed in Rulemaking Actions, and electronic copy of rules. MEDFORD

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Secretary of State ICE OF PROPOSED RULEMAKING*

Bureau of Labor and Industries

Vat Hoyle

A Statement of Need and Fiscal Impact accompanies this form.

Commissioner

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Administrative Rules Chapter Number

Marcia Ohlemiller Rules Coordinator

Address

Telephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule numbers as necessary

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.; ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats, Implemented; HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A,270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

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The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Printed name

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, support which the deadline is 5,000 par the preceding workday. A public rulemaking hearing may be requested the writing by 10 or more people of by an association with 1 coronore members, within 21 days following the publication of the Rulemaking Notice in the Oregona Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rule making hearing must be published in the Oregon Bulletin at least 14 days before the hearing. MEDFORDARC 923-2005
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Secretary of State

Bureau of Labor and Industries

Val Hoyle ENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form issioner

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMPLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers hecause the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws. Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of

professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed

How were small businesses involved in the development of this rule?

(971) 673-0761

(541) 322-2435

3. (021) 673-0762

Small business representatives are being asked to serve on the Rule Advisory Committee. EUGENE

Administrative Rule Advisor Committee agusulted?: Yes Wolverine St. NE; E-1 Salem, OR 97305-1268 Portland, OR 97232-2180

1400 Executive Parkway, Suite 200 Engene, OR 97401-2158

Amy \$03 kgar 222 Administrator, Civil Right : Districtor

September 25, 2009

Printed name

Date

MEDFORD

Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

Administrative Rules Intuin & Schiyes Physician, Secretary of State, 800 Summer Street NE, Salem Program 97340 TARC 925-2007 Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990

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Oregon Relay TTY:711

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0430

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

Has the rule had the intended effect? 1)

Yes

- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- Do any changes in the law (enacted since the rule was adopted) now require the rule to be 3) repealed or amended?

No

Amended:

BLI 5-2015, f. & cert. ef. 5-18-15 BLI 16-2013, f. & cert. ef. 12-31-13

Is the rule still needed? 4)

Yes

What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses. Required Filing/Copies:

Effective: (Rev. 8/18) BOLI100

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

Bureau of Labor and Industries

Val Hoyle

IANENT ADMINISTRATIVE RULES

Commissioner

that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by the

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

uthorized Signer

EUGENE 1400 Executive Parkway, Suite 200

(541) 686-7623

(50 Huntainame With this original, file one photograpy of certificate, one paper copy of fules listed in Rulemaking Actions, and electronic copy of rules.

> BEND Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

Oregon Relay TTY:711

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Linda Tomassi, Executive Director Oregon Women's Lewyer PO Box 40393 Portland, OR 97240

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deth A Joffe McKanna Bishop Joffe 1635 NW Johnson St Portland OR 97209

M Kay Pulju Oregon State Bar 16037 SW Upper Boones Ferry Rd PO Box 231935 Tigard OR 97281 Loren W. Collins, Chair Civil Rights Section Oregon State Bar DOJ Trial Torts & Emp 1162 Court Street NE Salem, OR 97301

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Rick Liebman Berran Liebman LLP 601 SW Second Ave., STE 2300 Portland, OR 97204

Dan Grinfas Buchanan Angeli Altschul & Sullivan LLP 321 SW Fourth Avenue #600 Portland, OR 97204

Richard Busse Busse & Hunt 621 SW Morrison St., #521 Portland, OR 97005

J. Linda Peterson Steward and President AFSCME Local 3214 PO Box 261 Monroe, Oregon 97456

Velda Hamilton Rogers, Chair Oregon State Bar Special Committee Military Assistance Penel 1115 Madison St NE #118 Salem OR 97301 Burea**anufliahor, onal Engl**ustries

Civil Rights Section Val Hoyle Oregon State Bar Commissioner Barran Liebman LLP 601 SW 2nd Ave Ste 2300 Portland OR 97204

Paula Barran Barran Liebman LLP 601 SW 2nd, STE 2300 Portland, OR 97204

Barbara Brainard Stoel Rives LLP 900 SW 5th Ave., STE 2600 Portland, OR 97204

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CJ Mann, President Lane County Labor Council 1116 South A Street Springfield, OR 97477

Karen M. Minatelli, Esq. National Partnership for Working Women & Families 1875 Connecticut Ave., NW, Suite 650 Washington, D.C. 20009

Senate Commerce and Workforce Development Chair Sen. Diane Rosenbaum 900 Court St. NE, S-405 Salem, OR 97301

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762 SALEM 3865 Wolverine St. NE; E-1 Salem, OR 97305-1268 (503) 378-3292 Fax (503) 373-7636 EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

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ÀN EOUAL OPPORTUNITY EMPLOYER

(3)



Secretary of State ICE OF PROPOSED RULEMAKING*

Bureau of Labor and Industries

Val Hoyle Commissioner

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Talephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule индьета аз песезвату

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS:659A,270 to .285 (OVCCLA); ORS:659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which cutitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Signature

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legel holiday, a power that the deadline is 5:00 pm the process of the preceding month unless this deadline falls on a weekend or legel holiday, a power to the course of the preceding month tunless this deadline falls on a weekend or legel holiday, a power to the preceding month tunless this deadline falls on a weekend or legel holiday. rulemaking hearing may be reduced in withing by 10 or more people of by an association within Quartmore members, within 21 days following the publication of the Kulemaking Notice in the sore gon Balletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing MEUFORDARC 023-2005
Apprenticeship and Training

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119 N Oakdale Ave.



Secretary of State ENT OF NEED AND FISCAL IMPACT

Bureau of Labor and Industries

Val Hoyle

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form:

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A,270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMFLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule;

OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of

professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed

How were small businesses involved in the development of this rule?

Atland, OR 97232 2180 (971) 673-0761

. (971) 673-0762

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisor Committee consulted?: Yes Wolvering St. NE, E-1

Salem, OR 97305-1268

EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158

September 25, 2009

Amy (503) 274-3293 dministrator, Civil Rights 101949900

Printed name

Date

MEDFORD

Administrative Rules Limita Archives Privision, Secretary of State, 800 Summer Street NE, Salema Program 97310. WRC 925-2007

Oregon Relay TTY:711

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Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filling</u> by the

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

(971)_673-0784

Rules Coordinator

Telephone

800 NE Oregon St., Ste. 1045, Porlland, OR 97232

Address

To become effective Upon filling. Rulemaking Nolice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending rules in Division 839-009 to add new statutory provisions, add leave form, housekeeping edits

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

839-009-0346

M/s/4 839 34

REPEAL:

889-009-0390

974 43/14

RENUMBER:

-AMEND AND RENUMBER:

Statutory Authority:

ORS 659A.805

Other Authority:

Btetutes Implemented:

ORS 659A.160-669A.186, 659A.043, 669A.046, H.B. 2950, 77th Leg., Reg. Session (Or. 2013), ORS 669A.270-859A.285, H.B. 2903, 77th Leg., Reg. Session (Or. 2013), ORS 669A.090- 659A.099, H.B. 3263, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Amendments to 839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250 Implement nowly enacted legislation on OFLA.

Further amendments to 839-009-0210 are for housekeeping and to make the definition of health care provider consistent with the statutes.

Amendments to 839-009-0270 clarify that employer payment of health benefits is an employer option for OFLA-only leave.

Amendments to 839-009-0280 replace "available" paid leave with "accrued" paid leave for clarification.

Amondments to 839-009-0325, 839-009-0340, 839-009-0362, 839-008-0363 implement newly enacted legislation regarding public employers with respect to victims under this section.

Amendments to OAR 839-009-0325 and 839-009-0330 clarify what posting is required under newly enacted legislation. Currently 839-009-0325 and 839-009-0330 do not include a posting requirement for ORS 659A,170 to 659A,285. Newly amended legislation creates this requirement.

Importments to 839-009-0340 reflect newly enacted legislation and creete consistency among the definitions of victim. Currently OAR 839 -009-0340 includes definitions which are no longer consistent with newly enacted legislation. It also currently contains a definition of Victim of

Harassment that is not consistent with definitions of Victim of Domestic Victemes, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-009-0340 and 839-009-0380 remove the word "calendar" in reference to year to be consistent with the statutes.

. mendments to 839-009-0430 include an example request form for OMFLA which a covered employee may provide.

Amendments to 839-009-0210, 839-009-0340, and 839-009-0380 adding a definition of spouse.

Marcia Ohiemiller Marcia L. Chiemiligr@state.or.us

Rules Coordinator Name Email Address

FILED

12-31-13 3:04 PM

ARCHIVES DIVISION SECRETARY OF STATE

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries 839 Agency and Division Administrative Rules Chapter Number Marcia Ohlemiller 800 NE Oregon St. Ste. 1045 Portland, OR 97232 971-673-0784 Rules Coordinator Address Telephone RULE CAPTION Amending rules in Division 839-009 to add new statutory provisions, add a leave form, and make housekeeping edits Not more than 15 words that reasonably identifies the subject matter of the agency's intended action. RULEMAKING ACTION Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: AMEND: 839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250, 839-009-0325, 839-009-0340, 839-009-0362, 839-009-

REPEAL:

RENUMBER:

AMEND & RENUMBER:

0363, and 839-009-0430 and other Division 9 rules as necessary

Stat. Auth.: ORS 659A.805

Other Auth.;

Stats. Implemented: ORS 659A.150-659A.186, 659A.043, 659A.046, H.B. 2950, 77th Leg., Reg. Session (Or. 2013), ORS 659A.270-659A.285, H.B. 2903, 77th Leg., Reg. Session (Or. 2013), ORS 659A.090-659A.099, H.B. 3263, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Proposed amendments to 839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250 would implement newly enacted legislation on OFLA.

Further proposed amendments to 839-009-0210 would be for housekeeping and to make the definition of health care provider consistent with the statutes.

Proposed amendments to 839-009-0325, 839-009-0340, 839-009-0362, 839-009-0363 would implement newly enacted legislation regarding public employers with respect to victims under this section.

Proposed amendments to OAR 839-009-0325 would clarify what posting is required under newly enacted legislation. Currently 839-009-0325 does not include a posting requirement for OR\$ 659A.170 to 659A.285. Newly amended legislation creates this requirement.

Proposed amendments to 839-009-0340 would reflect newly enacted legislation and create consistency among the definitions of victim. Currently OAR 839-009-0340 includes definitions which are no longer consistent with newly enacted legislation. It also currently contains a definition of Victim of Harassment that is not consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Proposed amendments to 809-009-0430 would include an example request form for OMFLA which a covered employee may provide.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending rules in Division 839-009 to add new statutory provisions, add a leave form, and make housekeeping edits

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending rules in Division 839-009

Statutory Authority: OR\$ 659A.805

Other Authority:

Stats. Implemented: ORS 659A.150-659A.186, 659A.043, 659A.046, H.B. 2950, 77th Leg., Reg. Session (Or. 2013), ORS 659A.270-659A.285, H.B. 2903, 77th Leg., Reg. Session (Or. 2013), ORS 659A.090-659A.099, H.B. 3263, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Further amendments provide a sample form for employers for OMFLA leave.

Documents Relied Upon, and where they are available:

H.B. 2950, 77th Leg., Reg. Session (Or. 2013) available at https://olis.leg.state.or.us/liz/2013R1/Mcasures/Text/HB2950/Enrolled H.B. 2903, 77th Log., Reg. Session (Or. 2013) available at https://olis.leg.state.or.us/liv/2013R1/Measures/Text/HB2903/Brootled H.B. 3263, 77th Leg., Reg. Session (Or. 2013) available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HD3263/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The amendments are to make the rules consistent with existing laws or newly enacted legislation. Further amendments provide an example of a form covered employers may use regarding OMFLA leave.

Statement of Cost of Compliance:

- Impact on state agencies, units of local government and the public (ORS 183,335(2)(b)(E)); No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- c. Equipment, supplies, labor and increased administration required for compliance: No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory specifications over which BOLI has no discretion.

Marcia Ohlamiller		
	Marcia Ohlemiller	10/15/2013
Signature	Printed name	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Authorization Page Generated on May 15, 2015 (1:11PM

PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or
Rules Coordinator	Email Address
800 NE Oregon St., Ste. 1045, Portland, OR 97232	971-673-0784
Address	Telephone
Upon filing.	·
Adopted on	
Upon filing.	•
Effective date	
RULE CAPTION	
Amendments to clarify, conform with authorities, correctinglement new statute.	ct citations; adoption to
Not more than 15 words	
RULEMAKING ACTION	
ADOPT:	<u> </u>
AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839- 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350,8 -0362,839-009-0363,839-009-0365,839-009-0380,839-009-041 009-0460	39-009-0355,839-009-0360,839-009
REPEAL: 839-009-0395	····
RENUMBER:	
AMEND & RENUMBER;	
Stat. Auth.: ORS 659A.805, 659A.093, 651.061, 654.062	· · · · · · · · · · · · · · · · · · ·
Other Auth.:	
Stats. Implemented: ORS chapter 659A, 192.440(3), 192.501(8), 654408.230, 408.235, 653.060, 652.355	1.062, 345.240, 345.010, 659.850,

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a family member, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing 'calendar' references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law.

Authorized Signer

Printed Name

Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

BLI 5-2015-1 5-18-15 NDRM & Find Impact Missing

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0450

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

Has the rule had the intended effect? 1)

Yes

- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- Do any changes in the law (enacted since the rule was adopted) now require the rule to be 3) repealed or amended?

Nο

Amended:

BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

4) Is the rule still needed?

Yes

What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses. Required Filing/Copies:

File this report in the bureau's official file for this rule.

Effective: (Rev. 8/18) BOLI100

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Atln: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

Bureau of Labor and Industries

Val Hoyle

IANENT ADMINISTRATIVE RULES

Commissioner

y that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-035; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

Jtat. Auth.: ORS 659 A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

3865 Wolvering & Night

EUGENE 1400 Executive Parkivay, Suite 200 <u>Eugene, OR 97</u>401

uthorized Signer

(503) conce@name

(541) 686-7623

With this original, file one photocopy of certificate, one paper copy of fules listed in Rulemaking Actions, and electronic copy of rules.

> BEND Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 . (541) 322-2435 EAC (E.I.1) 380-8365

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Linda Tomassi, Executive Director Oregon Women's Lawyer PO Box 40393 Portland, OR 97240

Jeffrey Chicoine Miller Nash 111 SW Fifth Avenue #3400 Portland, OR 97204

Rich Meneghello Fisher & Phillips LLP 1001 SW 5th Ave., STE 1800 Portland, OR 97204

Oregon State Bar Civil Rights Section Dovid D. Park, Chair 0324 SW Abernethy St. Portland OR 97239

L...abeth A Joffe McKanna Bishop Joffe 1635 NW Johnson St Portland OR 97209

M Key Pulju Oregon State Bar 16037 SW Upper Boones Ferry Rd PO Box 231935 Tigard OR 97281 Loren W. Collins, Cheir Civil Rights Section Oregon State Bar DOJ Trial Torts & Emp 1162 Court Street NE Salem, OR 97301

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J. Linda Peterson Steward and President AFSCME Local 3214 PO Box 261 Monroe, Oregon 97456

Velda Hamilton Rogers, Cheir Oregon State Bar Special Committee Military Assistance Panel 1115 Madison St NE #118 Salem OR 97301 Bureakmyl Ladger charlend ustries
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601 SW 2nd Ave Ste 2300
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Paula Barran Barran Liebman LLP 601 SW 2rd, STE 2300 Porlland, OR 97204

Barbara Brainard Stoel Rives LLP 900 SW 5th Ave., STE 2600 Portland, OR 97204

Kristine M. Clenfuegos TOC Management Services 6825 SW Sandburg St. Tigard, OR 98223

CJ Mann, President Lane County Labor Council 1116 South A Street Springfield, OR 97477

Karen M. Minatelli, Esq. National Partnership for Working 'Women & Families 1875 Connecticut Ave., NW, Suite 650 Washington, D.C. 20009

Senate Commerce and Workforce Development Chair Sen. Diane Rosenbaum 900 Court St. NE, S-405 Salem, OR 97301

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762 SALEM 3865 Wolverine St. NE; E-1 Salem, OR 9/305-1268 (503) 378-3292 Fax (503) 373-7636 EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

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648 NR Forber Rd, Ste 106
Cherk OR 9701 140 WALL

Oregon Relay TTY:711

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Bureau of Labor and Industries Secretary of State CE OF PROPOSED RULEMAKING* Statement of Need and Fiscal Impact accompanies this form.

Val Hovie

Commissioner

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule numbers as necessary

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which cutitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Signature

Printed name

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekeng or legal holiday, apon which the deadline is 5:00 pm the preceding wirkday. A public rulemaking hearing may be need to writing by 10 or more people of by an association with 10 proports members, within 21 days following the publication of the Rulemaking Notice in the street Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. MEDFORDARC 923-2005

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Secretary of State TENT OF NEED AND FISCAL IMPACT

Bureau of Labor and Industries

Val Hovie

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form Commissioner

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats, Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMFLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of

professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed

How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisory Condititee consulted?: Yes SALEM
8011 Jef Oregon St. Suite 1045
Fortland, OR 97232 2180
(971) 673-0761
Salem, OR 97305-1268
Amy 603-678-3292 dmin

1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158

September 25, 2009

Date

Signature/

Printed name

MEDFORD
Administrative Rules United Schives Division, Secretary of State, 800 Summer Street NE, Salem செர்ந்த இரும் 1480 925-2007

Oregon Relay TTY:711

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Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

certify that the attached copies* are true, full and correct copies	s of the PERMANENT Rules adopted on October 13, 2011 by the
arean of Labor and Industries, Civil Rights Division	839
Agency and Division	Administrative Rules Chapter Number

Marcia L. Ohlemiller

800 NE Oregon St. #1045 Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

to become effective October 14, 2011.

Rulemaking Notice was published in the December 2010 Oregon Bulletin.**

RULE CAPTION

New and amended rule language to conform to and implement statutes and correct typographical errors.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing. AMEND: 839-003-0005; 839-003-0025; 839-003-0100; 839-005-0010; 839-005-0026; 839-005-0031; 839-005-0070; 839-005-0080; 839-005-0200; 839-005-0206; 839-005-0220; 839-006-0240; 839-006-0275; 839-006-0307; 839-006-0455; 839-009-0210; 839-009-0250; 839-009-0280; 839-009-0340; 839-009-0365; 839-009-0400; 839-009-0450.

Stat. Auth.; ORS 659A.805

Other Auth.:

Stats. Implemented: ORS 659A.103 through 659A.142; ORS 659A.145; ORS 659A.421; ORS 659A.820; ORS 659A.825; ORS 9A.870 through 659A.885

RULE SUMMARY

The proposed rules and amendments would clarify that service animals may be a reasonable accommodation in housing for an individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform definition of "in loco parentis" as used in the Oregon Family Leave Act (OFLA) with federal definition; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify the amount of time employers have to provide notice that an employee using unforeseeable OFLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employer has to notify employees they are eligible for OFLA leave; and clarify how a discrimination complaint is verified.

Deputy Comm., OBrad Avakian
Printed name

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Mareia Ohlemiller

800 NE Oregon St. #1045 Portland OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

New and amended rule language to conform to and implement statutes and correct typographical errors.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: Division 3 rules as necessary; Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary; Division 10 rules as necessary.

AMEND: OAR 839-003-0100 and other Division 3 rules as necessary; OAR 839-005-0080, OAR 839-005-0206, OAR 839-005-0210, OAR 839-005-0220, and other Division 5 rules as necessary; OAR 839-006-0200 and other Division 6 rules as necessary; OAR 839-009-0250, OAR 839-009-0260, OAR 839-009-0280, OAR 839-009-0290 and other Division 9 rules as necessary; OAR 839-010-0100 and other Division 10 rules as necessary.

RENUMBER: Division 3 rules as necessary; Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary; Division 10 rules as necessary.

AMEND & RENUMBER: Division 3 rules as necessary; Division 5 rules as necessary; Division 6 rules as necessary; Division 10 rules as necessary.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 through 659A.142; ORS 659A.145; ORS 659A.199; ORS 659A.421; ORS 659A.820; ORS 659A.825; ORS 659A.870 through 659A.885; other sections of ORS chapter 659A as appropriate.

RULE SUMMARY

The proposed rules and amendments would clarify the individuals protected by prohibitions against use of credit history in employment; clarify that service animals may be a reasonable accommodation in housing for an individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform implementation of statutes prohibiting discrimination based on military service with federal law and make such statutes internally consistent; conform definition of "in loco parentis" as used in the Oregon Family Leave Act (OFLA) with federal definition; clarify that statutes require costs of completing OFLA verification forms to be paid by the employer; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify application of leave year for employees using pregnancy disability leave and parental leave; clarify the amount of time employers have to provide notice that an employee using unforeseeable OFLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employer has to notify employees they are eligible for OFLA leave; clarify how a discrimination complaint is verified; clarify that reports of violations of law to administrative agencies are protected under ORS 659A.199; implement statutes applying to use of physical force regarding health care employees.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

January 3, 2011

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia L. Ohlemiller

November 15, 2010

ignature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

C:\Documents and Settings\MasterPC\Local Settings\Temp\RulesCRDNov2010Notice.doc

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

New and amended rule language to conform to and implement statutes and correct typographical errors.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Civil Rights Division Rulemaking November 2010

Statutory Authority: ORS 659A.805

Other Authority: N/A

Stats. Implemented: ORS 659A.103 through 659A.142; ORS 659A.145; ORS 659A.199; ORS 659A.421; ORS 659A.820; ORS

659A.825; ORS 659A.870 through 659A.885; other sections of ORS chapter 659A as appropriate.

Need for the Rusc(s):

The proposed rules and amendments would clarify the individuals protected by prohibitions against use of credit history in employment; clarify that service animals may be a reasonable accommodation in housing for an individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform implementation of statutes prohibiting discrimination based on military service with federal law and make such statutes internally consistent; conform definition of "in loco parentis" as used in the Oregon Family Leave Act (OFLA) with federal definition; clarify that statutes require costs of completing OFLA verification forms to be paid by the employer; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify application of leave year for employees using pregnancy disability leave and parental leave; clarify the amount of time employers have to provide notice that an employee using unforeseeable OFLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employer has to notify employees they are eligible for OFLA leave; clarify how a discrimination complaint is verified; clarify that reports of violations of law to administrative agencies are protected under ORS 659A.199; implement statutes applying to use of physical force regarding health care employees.

Documents Relied Upon, and where they are available: N/A

Fiscal and Economic Impact:

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal impact is anticipated.
- 2. Cost of compliance effect ou small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: 107,103 small businesses will be subject to these rules.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None.
- c. Equipment, supplies, labor and increased administration required for compliance: None.

How were small businesses involved in the development of this rule? Small businesses are represented on our agency mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: Proposed rules and amendments are not substantive changes.

lature Printed name

Marcia L. Ohlemiller November 15, 2010

Date

Administrative Rules Unit, Archives Division, Secretary of Stute, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183,405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0460

Date Rule Became Effective: February 24, 2010

Date Review Duc:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No.

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- 1) Has the rule had the intended effect? Yes
- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- Do any changes in the law (enacted since the rule was adopted) now require the rule to be 3) repealed or amended?

No

Amended:

BLI 8-2015, f. & cert. ef. 6-24-15 BLI 5-2015, f. & cert. ef. 5-18-15

Is the rule still needed? 4)

Yes

What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses. Required Filing/Copies:

BOLI100 Effective: (Rev. 8/18) File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- · Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100

Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

Bureau of Labor and Industries

Val Hoy**i**e

ANENT ADMINISTRATIVE RULES

Commissioner

that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by the

Burean of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin, **

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action,

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filling.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

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EUGENE 1400 Executive Parkway, Suite 200

uthorized Signer

(971) 673 0761

otem, OR 97205-1268 (503)Briteriename

(541) 686-7623

With this original, file one that or open of certificate, one paper copy of fules listed in Rulemaking Actions, and electronic copy of rules.

> BEND Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322 2435

Oregon Relay TTY:711

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Labeth A Joffe
McKanna Bishop Joffe
1635 NW Johnson St
Portland OR 97209

M Kay Pulju Oregon State Bar 16037 SW Upper Boones Ferry Rd PO Box 231935 Tigard OR 97281 Loren W. Collins, Chair Civil Rights Section Oregon State Bar DOJ Trial Torts & Emp 1162 Court Street NE Salem, OR 97301

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J. Linda Peterson Steward and President AFSCME Local 3214 PO Box 261 Monroe, Oregon 97456

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Civil Rights Section Val Hoyle
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PORTLAND 800 NE Oregon St. Suite 1045 Fortland, (DR 97232-2180 (971) 673-0761 Fax (971) 673 0762 SALEM 3865 Wolverine St. NE; E-1 Salem, OR 97305-1268 (503) 378-3292 Fax (503) 373-7636 EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

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BEND
Apprenticeship and Training
Worksource Bend
1647 Nik Forber Rd, Ste 106

Oregon Relay TTY:711

63



Secretary of State ICE OF PROPOSED RULEMAKING*

Bureau of Labor and Industries Val Hoyle Commissioner

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, QR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule numbers as necessary

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SH 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day tof the preceding month unless this deadline falls on a weeksing or legal holiday, support which the deadline is 5:00 purture preceding workday. A public rulemaking hearing may be required the writing by 10 or hing permits of by an association with 1 common members, within 21 days following the publication of the fullemaking Notice in the foregon Bulletin or 28 days from the first Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the MEDFORDARC 923-2005
Apprenticeship and Training rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) (322-2435

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ENT OF NEED AND FISCAL IMPACT

Secretary of State

Bureau of Labor and Industries

Val Hoyle

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form issioner

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A,270 to .285 (OVCCLA); ORS 659A,150 to .186 (OFLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMFLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violete the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of

professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed

How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

SALEM Administrative Rule Advisory Committee consulted?: SALEM 365 Wolverine St. NE; E-1 200 March 1980 M

Fax (941), 673-076

EUGENE 1400 Executive Parkway, Suite 200

(971) 673 0761

Eugene, OR 97401-2158

Amy 103 Klar Administrator, Civil Right

September 25, 2009

Printed name

Date

Administrative Rules Uniperhity and Taking Sold Taking State, 800 Summer Street NE, Salem Pregnant Park 119 N. Oakdale Ave. Oregon Relay TTY:711

119 N Oakdale Ave Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

MEDFORD

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Authorization Page

Generated on May 15, 2015 11:11PM

PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us
Rules Coordinator	Empil Address
800 NE Oregon St., Ste. 1045, Portland, OR 97232	971-673-0784
Address	Telephone
Upon filing.	
Adopted on	
Upon filing.	
Effective date	
RULE CAPTION	
KULE CAPTION	•
Amendments to clarify, conform with authorities, corre	ect citations; adoption to
implement new statute.	
Not more than 15 words	
RULEMAKING ACTION	
ADOPT:	
AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839- 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350,6 -0362,839-009-0363,839-009-0365,839-009-0380,839-009-041	939-009-0355,839-009-0360,839-009
REPEAL: 839-009-0335	
RENUMBER:	
AMEND & RENUMBER:	
Stat. Auth.: ORS 659A.805, 659A.093, 651.061, 654.062	
	,
Other Auth.:	
Stats. Implemented: ORS chapter 659A, 192.440(3), 192.501(8), 65	4.062, 345.240, 345.010, 659.850,
408,230, 408.235, 653.060, 652.355	

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a family member, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing 'calendar' references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law.

Authorized Signer

Printed Name

Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

BUI 5-2015-1 5-18-15 NDRM & Find Impact Missing

;

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FILED 6-24-15 10:00 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the PERMANENT Ru	ule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries	830
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	<u>(971)</u> 673-0784
Rules Coordinator	Tolephone
800 NE Oregon St., Sie. 1045, Porlland, OR 97232	
Address	
To become effective <u>Upon filling.</u> Rulemaking Nolice was published in the <u>October 2014</u>	Oragon Bulletin.
RULE CAPTION	
Amendments to clarify, conform with authorities, correct citations; adoption to implement	i new statute.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

ADOPT:

AMEND:

839-009-0210, 839-009-0220, 839-009-0230, 839-009-0240, 839-009-0250, 639-009-0260, 839-009-0325, 039-009-0330, 839-009-0340, 839-009-0355, 839-009-0355, 839-009-0360, 839-009-0362, 839-009-0363, 839-009-0365, 839-009-0360, 839-009-0420, 839-009-0365, 839-009-0365, 839-009-0410, 839-009-0420, 839-009-0460

REPEAL:

839-009-0335

RENUMBER:

AMENO AND RENUMBER:

Statutory Authority:

ORS 659A.605, 659A.093, 651.061, 654.682

Other Authority:

Statutes Implemented:

ORS chapter 659A, 192.440(3), 192.501(8), 654.062, 345.010, 659,850, 408.230, 408.235, 653.060, 652.365

RULE SUMMARY

This permanent rule (iling supersedes a permanent rule filing on 5/18/15 amending the same rules. The 5/18/15 filing had technical errors, invalidating the filing,

This permanent rule filling consists of amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a family member, definition of child, employee discipline for failure to give notice of OFLA leave, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law.

This permanent rule (Iling reinstates the temporary rules that were in effect from 11/20/14 to 5/15/15, which: 1) elerity-that sick child leave applies only to children under the age of 18 or an adult dependent child limited by a physical or montal impalment, and 2) redefine (spouse) to include individuals in marriages recognized by any state's law or by a foreign jurisdiction, individuals in common law marriages and those in domestic pertnerebips or similar relationships recognized by any state.

Marde Ohlemiller	Marcia.L.Ohlemiller@state.or.us		·
Rules Coordinator Name	Email Address		

· NPRM Street Inject missing BL18-2015 6-24-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0420

Date Rule Became Effective: February 24, 2010

Date Review Duc:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes

- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 8-2015, f. & cert. ef. 6-24-15 BLI 5-2015, f. & cert. ef. 5-18-15

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

Effective: (Rev. 8/18)

BOLI100

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

Bureau of Labor and Industries

Val Hoyle

IANENT ADMINISTRATIVE RULES

Commissioner

illy that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

atat, Auth.: ORS 659A 805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

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SALEM 3865 Wolvering St. 13

EUGENE 1400 Executive Parkway, Suite 200

Eugene, OR 97401-2158

uthorized Signer (971) 673-0761 (50 Briffted Fiame (541) 686-7623 Date / With this original, file one protection one paper copy of fules listed in Rulemaking Actions, and electronic copy of

rules.

BEND Apprenticeship and Training Worksource Bend 1645 NU Porbes Rd, Ste 106 Bend, OR 97701-4990 (S41) 322-2435

Oregon Relay TTY:711

www.oregon.gov/boli ANTROITAT OPPOŘTITŇITY EMPLOYER

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PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Pax (971) 673 0762 SALEM 3865 Wolverine St. NE; E-1 Satem, OR 97305-1268 (503) 378-3292 Fax (503) 373-7636

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Apprenticeship and Training

Worksourge Bend [Oregon Relay TTY/711

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Bureau of Labor and Industries Secretary of State ICE OF PROPOSED RULEMAKING* A Statement of Need and Fiscal Impact accompanies this form.

Val Hoyle

Commissioner

Bureau of Labor and Industrics, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

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November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submutted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekeng or keast holiday, appropriate the deadline is 5:00 pinethe in Ectain's with 200 y. A public rule making hearing may be negure step in writing by 10 or more people, of by an association with 100 more members, within 21 days following the publication of the Rulemaking Notice in the Segron Bulletin or 28 days from the Wate Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the MEDFORDARC 923-2005
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119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284



HENT OF NEED AND FISCAL IMPACT

Secretary of State

Bureau of Labor and Industries

Val Hoyle

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form commissioner

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

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No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance;

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed

How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisor OEdministrative consulted?: Yes SALEM Salem, OR 97232-2180 Salem, OR 97305-1268 Amy 1003 Consulted?: Salem, OR 97305-1268 Amy 1003 Consulted?

EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158

Amy Rosk Pare Administrator, Civil Right Division

September 25, 2009

Printed name

Date

1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

www.orcgon.gov/boli ANTROUGHT CHRONILLY TO THE OVER

(541) 776-6201 Fax (541) 776-6284

Authorization Page Generated on May 15, 2015 11:11PM

PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	Marcia L.Ohlemiller@state.or
Rules Coordinator	Email Address
800 NE Oregon St., Ste. 1045, Portland, OR 97232	971-673-0784
Address	Telephane
Upon filing.	
Adopted on	
Upon filing.	:
Effective date	
DELLE CAPTURE	
RULE CAPTION	
Amendments to clarify, conform with authorities, corr	est citations; adoption to
implement new statute.	
Not more than 15 words	
RULEMAKING ACTION	
RULEMAKING ACTION	
RULEMAKING ACTION	
ADOPT:	· · · · · · · · · · · · · · · · · · ·
ADOPT:	-009-0250.839-009-0260.839-009-03
ADOPT: AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839	
ADOPT: AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350, -0362,839-009-0363,839-009-0365,839-009-0380,839-009-04	839-009-0355,839-009-0360,839-009
ADOPT: AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350, -0362,839-009-0363,839-009-0365,839-009-0380,839-009-04	839-009-0355,839-009-0360,839-009
AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350, -0362,839-009-0363,839-009-0365,839-009-0380,839-009-04	839-009-0355,839-009-0360,839-009
ADOPT: AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350, -0362,839-009-0363,839-009-0365,839-009-0380,839-009-04	839-009-0355,839-009-0360,839-009
ADOPT: AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350, -0362,839-009-0363,839-009-0365,839-009-0380,839-009-04 009-0460 REPEAL: 839-009-0335	839-009-0355,839-009-0360,839-009
ADOPT: AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350, -0362,839-009-0363,839-009-0365,839-009-0380,839-009-04 009-0460 REPEAL: 839-009-0335	839-009-0355,839-009-0360,839-009
AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350, -0362,839-009-0363,839-009-0365,839-009-0380,839-009-04 009-0460 REPEAL: 839-009-0335	839-009-0355,839-009-0360,839-009
AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350, -0362,839-009-0363,839-009-0365,839-009-0380,839-009-04 009-0460 REFEAL: 839-009-0335 RENIMBER:	839-009-0355,839-009-0360,839-009
AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350, -0362,839-009-0363,839-009-0365,839-009-0380,839-009-04 009-0460 REPEAL: 839-009-0335 RENTIMBER:	839-009-0355,839-009-0360,839-009
	839-009-0355,839-009-0360,839-009

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a family member, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing 'calendar' references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law.

Maria The Maria Man, 114

ne I

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

BUI 5-2015-1 5-18-15 NDRM & Find Impact Missing

Secretary of State Cartificate and Order for Filling PERMANENT ADMINISTRATIVE RULES

FILED 6-24-16 10:00 PM ARCHIVES DIVISION SECRETARY OF STATE

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Numbe
Marcla Ohlemiller	(971) 673-0784
Rules Coordinator	Te(sphone
000 NE Oregon St., Ste. 1045, Porlland, OR 97232	
Address	······································
To become effective <u>Upon fillinn.</u> Rulemaking Notice was p	ublished in the <u>October 2014</u> Oregon Bulletin.
	RULE CAPTION
Amendments to clarify, conform with authorities, correct cite	ations; adoption to implement new statute,
Not more than 16 words that reasonably identifies the subject materials.	er of the agency's latended action.
	RUI EMAKING ACTION

ADOPT:

AMEND

839-009-0210, 839-009-0220, 839-009-0230, 839-009-0240, 839-009-0250, 839-009-0260, 839-009-0326, 839-009-0330, 839-009-0340, 839-009-0350, 839-009-0355, 839-009-0360, 839-009-0362, 839-009-0363, 839-009-0365, 839-009-0380, 839-009-0410, 839-009-0420, 839-009-0460)

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

REPEAL: 839-009-0336

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority: ORS 659A.805, 659A.093, 851.081, 654.082

Other Authority:

Statules Implemented:

ORS chapter 659A, 192.440(3), 192.501(8), 654.002, 345.010, 659.850, 408.230, 408.235, 653.060, 652.355

RULE SUMMARY

This permanent rule filling supersedes a permanent rule filling on 5/18/15 amending the same rules. The 5/18/15 filling had technical errors, invalidating the filling.

This permanent rule filling consists of amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a family member, definition of child, employee discipline for failure to give notice of OFLA leave, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law.

This permanent rule filing reinstates the temporary rules that were in effect from 11/20/14 to 5/15/15, which: 1) elarity that sick child leave explice only to children under the age of 18 or an adult dependent child limited by a physical or mental impairment; and 3) redefine soons to include individuals in marriages recognized by any state's law or by a foreign jurisdiction, individuals in common law marriages and those in domestic partnerships or similar relationships recognized by any state.

Marcia	Oblemiller
malua	

Rules Coordinator Name

Marcia.L.Ohlemiller@siéte.or.us Email Address

NPRM & Fred Impact missing BL18-2015 6-24-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0400

Date Rule Became Effective: February 24, 2010

Date Review Due;

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- Has the rule had the intended effect?
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 8-2011, f. 10-13-11, ccrt. ef. 10-14-11

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

Effective: (Rev. 8/18)

Pile this report in the bureau's official file for this rule.

BOLI100

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing NENT ADMINISTRATIVE RULES

Bureau of Labor and Industries

Val Hoyle

Commissioner.

y that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by the

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each role number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filling.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

3tnt, Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats, Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

uthorized Signer

EUCENE 1400 Executive Parkway, Suite 200

(501) rinted hame (971) 673-0761 With this original, file our photograph of certificate, one paper copy of fulles listed in Rulemaking Actions, and electronic copy of rules.

> BEND Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

Oregon Relay TTY:711

Apprenticeship and Training 119 N Oakdale Ave. Mirdford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

MEDFORD



Linda Tomassi, Executive Director Oregon Women's Lawyer PO Box 40393 Portland, OR 97240

Jeffrey Chicoine Miller Nash 111 SW Fifth Avenue #3400 Portland, OR 97204

Rich Meneghello Fisher & Phillips LLP 1001 SW 5th Ave., STE 1600 Portland, OR 97204

Oregon Stete Bar Civil Rights Section David D. Park, Chair 0324 SW Abernethy St. Portland OR 97239

Lineabeth A Joffe McKanna Bishop Joffe 1635 NW Johnson St Portland OR 97209

M Kay Pulju Oregon State Bar 16037 SW Upper Boones Ferry Rd PO Box 231935 Tigard OR 97281 Loren W. Collins, Chair Civil Rights Section Oregon State Bar DOJ Trial Torts & Emp 1162 Court Street NE Salem, OR 97301

Elizabeth McKenna McKanna Bishop Joffee & Sullivan, LLP 1635 NW Johnson Street Portland, OR 97209

Rick Liebman Barran Liebman LLP 601 SW Second Ave., STE 2300 Portland, OR 97204

Dan Grinfas Buchanan Angeli Altschul & Sullivan LLP 321 SW Fourth Avenue #600 Portland, OR 97204

Richard Busse Busse & Hunt 621 SW Morrison St., #521 Portland, OR 97005

J. Linda Peterson Steward and President AFSCME Local 3214 PO Box 261 Monroe, Oregon 97456

Velda Hamilton Rogers, Chair Oregon State Bar Special Committee Military Assistance Panel 1115 Medison St NE #118 Salem OR 97301 BureaAmy/Lianger charl Had ustries
Civil Rights Section Val Hoyle
Oregon State Bar Commissioner
Barran Liebman LLP
601 SW 2nd Ave Ste 2300
Portland OR 97204

Paula Barran Barran Liebman LLP 601 SW 2nd, STE 2300 Portland, OR 97204

Barbara Brainard Stoel Rives LLP 900 SW 5th Ave., STE 2600 Portland, OR 97204

Kristine M. Cienfuegos TOC Management Services 6825 SW Sandburg St. Tigard, OR 98223

CJ Mann, President Lane County Labor Council 1116 South A Street Springfield, OR 97477

Karen M. Minatelli, Esq. National Partnership for Working Women & Families 1875 Connecticut Ave., NW, Suite 650 Washington, D.C. 20009

Senate Commerce and Workforce Development Chair Sen, Diane Rosenbaum 900 Court St. NE, S-405 Salem, OR 97301

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762 SALEM 3865 Wolverine St. NE; E-1 Salem, OR 97305-1268 (503) 378-3292 Pax (503) 373-7636 BUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

> MEDFORD Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

Oregon Relay TTY:711

63



Bureau of Labor and Industries Secretary of State E OF PROPOSED RULEMAKING \star A Statement of Need and Fiscal Impact accompanies this form.

Val Hoyle

Commissioner

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Telephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OPLA rules. Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule numbers as necessary

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.: ORS 659A.805

Other Auth: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HH 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend on logal holiday, approved the the deadline is 5:00 pm the proceding month on logal holiday, approved the deadline is 5:00 pm the proceding month of the procedi rulemaking hearing may be reduce the withing by 10 or more propie, or by an association with ill hor more members, within 21 days following the publication of the bule making Notice in the wregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the MEDFORDARC 923-2005 rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. oprenticeship and *

Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

Oregon Relay TTY:711

119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284



Secretary of State ENT OF NEED AND FISCAL IMPACT

Bureau of Labor and Industries

Val Hoyle

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form: ommissioner

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OPLA rules, Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats, Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OPLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMFLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement arc or will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: OPLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more

employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed

How were small businesses involved in the development of this rule?

(971) 673-0761

Small business representatives are being asked to serve on the Rule Advisory Committee.

SALEM Administrative Rule Advisory Charifultee consulted?: Yes SALEM 3803 Wolvering St. NE; E-1 1400 Executive Parkway, Suite 200

liugene, OR 97401-2158 rtland, OR 97232-2180 Salem, OR 97305-1268

Amy (\$03) \$13,329 Administrator, Civil Rights 11,555,7673 on September 25, 2009 Printed name Date

MEDFORD Administrative Rulgs Heiling Schiyes Division, Secretary of State, 800 Summer Street NE, Salem Oragon 97310 TAR @ 925-2007

Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

Signature/

Oregon Relay TTY:711

'N Oakdale A Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

Agency and Division	A d	initiating Desire Of 1 37 1
region and privileton	Admi	inistrative Rules Chapter Numb
Morcia L. Ohlemiller	800 NE Oregon St. #1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
to become effective October 14	1, 2011. Rulemaking Notice was published in the December 20)10 Oregon Bulletin.**
	RULE CAPTION	
	ge to conform to and implement statutes and correct typographical	
Not more than 15 words that	reasonably identifies the subject matter of the agency's intend	ed action.
	RULEMAKING ACTION	
	List each rule number separately (000-000-0000)	
Secure approval of new re AMEND: 839-003-0005: 839-0	rle numbers (Adopted or Renumbered rules) with the Administration 203-0025; 839-003-0100; 839-005-0010; 839-005-005-0026; 839-005-005-005-0026; 839-005-005-005-005-005-005-005-005-005-00	ve Rules Unit prior to filing.
0080; 839 - 005 - 0200; 839-005-0	0206; 839-005-0220; 839-006-0240; 839-006-0275; 839-006-0307 839-009-0340; 839-009-0365; 839-009-0400; 839-009-0450.	: 839-006-0455: 839-009-0210:
	· ·	
Stat. Auth.; ORS 659A.805		·
Other Auth.:		
Stats. Implemented: ORS 659A	.103 through 659A.142; ORS 659A.145; ORS 659A.421; ORS 659	34 820- OPS 650 4 825- OPS
\$9A.870 through 659A.885		

individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform definition of "in loco parentis" as used in the Oregon Pamily Leave Act (OFLA) with federal definition; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify the amount of time employers have to provide notice that an employee using unforeseeable OFLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employer has to notify employees they are eligible for OFLA leave; and clarify how a discrimination complaint is verified.

Authorized Signer

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of

rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month buless this deadline falls a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045 Portland OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

New and amended rule language to conform to and implement statutes and correct typographical errors.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: Division 3 rules as necessary; Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary; Division 10 rules as necessary.

AMEND: OAR 839-003-0100 and other Division 3 rules as necessary; OAR 839-005-0080, OAR 839-005-0206, OAR 839-005-0210, OAR 839-005-0220, and other Division 5 rules as necessary; OAR 839-006-0200 and other Division 6 rules as necessary; OAR 839-009-0250, OAR 839-009-0260, OAR 839-009-0280, OAR 839-009-0290 and other Division 9 rules as necessary; OAR 839-010-0100 and other Division 10 rules as necessary.

RENUMBER: Division 3 rules as necessary; Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary; Division 10 rules as necessary.

AMEND & RENUMBER: Division 3 rules as necessary; Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary; Division 10 rules as necessary.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 through 659A.142; ORS 659A.145; ORS 659A.199; ORS 659A.421; ORS 659A.820; ORS 659A.825; ORS 659A.870 through 659A.885; other sections of ORS chapter 659A as appropriate.

RULE SUMMARY

The proposed rules and amendments would clarify the individuals protected by prohibitions against use of credit history in employment; clarify that service animals may be a reasonable accommodation in housing for an individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform implementation of statutes prohibiting discrimination based on military service with federal law and make such statutes internally consistent; conform definition of "in loco parentis" as used in the Oregon Family Leave Act (OFLA) with federal definition; clarify that statutes require costs of completing OFLA verification forms to be paid by the employer; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify application of leave year for employees using pregnancy disability leave and parental leave; clarify the amount of time employers have to provide notice that an employee using unforeseeable OPLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employer has to notify employees they are eligible for OFLA leave; clarify how a discrimination complaint is verified; clarify that reports of violations of law to administrative agencies are protected under ORS 659A.199; implement statutes applying to use of physical force regarding health care employees.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

January 3, 2011

Ast Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia L. Ohlemiller

November 15, 2010

Signature

Printed name

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. ARC 923-2005

C:\Documents and Settings\MasterPC\Local Settings\Temp\RulesCRDNov2010Notice.doc

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

New and amended rule language to conform to and implement statutes and correct typographical errors,

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Civil Rights Division Rulemaking November 2010

Statutory Authority: ORS 659A.805

Other Authority: N/A

Stats. Implemented: ORS 659A.103 through 659A.142; ORS 659A.145; ORS 659A.199; ORS 659A.421; ORS 659A.820; ORS

659A.825; ORS 659A.870 through 659A.885; other sections of ORS chapter 659A as appropriate.

Need for the Rule(s):

The proposed rules and amendments would clarify the individuals protected by prohibitions against use of credit history in employment; clarify that service animals may be a reasonable accommodation in housing for an individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform implementation of statutes prohibiting discrimination based on military service with federal law and make such statutes internally consistent; conform definition of "in loco parentis" as used in the Oregon Family Leave Act (OFLA) with federal definition; clarify that statutes require costs of completing OFLA verification forms to be paid by the employer; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify application of leave year for employees using pregnancy disability leave and parental leave; clarify the amount of time employers have to provide notice that an employee using unforeseeable OFLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employee has to notify employees they are eligible for OFLA leave; clarify how a discrimination complaint is verified; clarify that reports of violations of law to administrative agencies are protected under ORS 659A.199; implement statutes applying to use of physical force regarding health care employees.

Documents Relied Upon, and where they are available: N/A

Fiscal and Economic Impact:

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal impact is anticipated.
- 2. Cost of compliance effect on small business (ORS 183,336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule;
- 107,103 small businesses will be subject to these rules.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services; None.
- c. Equipment, supplies, labor and increased administration required for compliance: None.

How were small businesses involved in the development of this rule? Small businesses are represented on our agency mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: Proposed rules and amendments are not substantive changes.

Marcia L. Ohlemiller November 15, 2010

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183,405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this

Rule Number:

OAR 839-009-0410

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No.

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- Has the rule had the intended effect? 1) Yes
- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- Do any changes in the law (enacted since the rule was adopted) now require the rule to be 3) repealed or amended?

No

Amended:

BLI 8-2015, f. & cert. ef. 6-24-15

BLI 5-2015, f. & cert. ef. 5-18-15

BLI 12-2012, f. & cert. ef. 11-21-12

Is the rule still needed? 4)

Yes

What impacts has the rule had on small business? No known impact.

BOLI100 Effective: (Rev. 8/18) Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- · Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

Bureau of Labor and Industries

Val Hoyle

ENT ADMINISTRATIVE RULES

Commissioner

y that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by the

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

tat, Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats, Implemented; HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A 270 to .285 (OVCCLA); ORS 659A 150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

3865 Wolvering Avakian

RUGENE 1400 Executive Parkway, Suite 200 <u> Fugene, OR 97401-21</u>

uthorized Signer

(50 Branted mame

(541) 686-7623

With this original, file one photogopy of certificate, one paper copy of rilles listed in Rulemaking Actions, and electronic copy of rules.

> BEND Apprenticeship and Training Worksource Bend 1645 NE Earbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

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MEDFORD Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

Loren W. Collins, Chair Civil Rights Section Oregon State Bar DOJ Trial Torts & Emp 1162 Court Street NE Salem, OR 97301 Bureamon Labor and Ladustries
Civil Rights Section Val Hoyle
Oregon State Bar Commissioner
Barran Liebman LLP
601 SW 2nd Ave Sto 2300
Portland OR 97204

Linda Tomassi, Executive Director Oregon Women's Lawyer PO Box 40393 Portland, OR 97240 Elizabeth McKanna McKanna Bishop Joffee & Sullivan, LLP 1635 NW Johnson Street Portland, OR 97209 Paula Barran Barran Llebman LLP 601 SW 2nd, STE 2300 Portland, OR 97204

Jeffrey Chicoine Miller Nash 111 SW Fifth Avenue #3400 Portland, OR 97204 Rick Liebman Barran Liebman LLP 601 SW Second Ave., STE 2300 Portland, OR 97204 Barbara Brainard Stoel Rives LLP 900 SW 5th Ave., STE 2600 Portland, OR 97204

Rich Meneghello Fisher & Phillips LLP 1001 SW 5th Ave., STE 1600 Portland, OR 97204 Dan Grinfas Buchanan Angell Altschul & Sullivan LLP 321 SW Fourth Avenue #600 Portland, OR 97204

Kristine M. Cienfuegos TOC Management Services 6825 SW Sandburg St. Tigard, OR 98223

Oregon State Bar Civil Rights Section David D. Park, Chair 0324 SW Abernethy St. Portland OR 97239 Richard Busse Busse & Hunt 621 SW Morrison St., #521 Portland, OR 97005 CJ Mann, President Lane County Labor Council 1116 South A Street Springfield, OR 97477

L...aboth A Joffe McKanna Bishop Joffe 1635 NW Johnson St Portland OR 97209 J. Linda Peterson Steward and President AFSCME Local 3214 PO Box 261 Monroe, Oregon 97456 Karen M. Minatelli, Esq. National Partnership for Working Women & Families 1875 Connecticut Ave., NW, Suite 650 Washington, D.C. 20009

M Kay Pulju Oregon State Bar 16037 SW Upper Boones Ferry Rd PO Box 231935 Tigard OR 97281 Velda Hamilton Rogers, Chair Oregon State Ber Special Committee Military Assistance Panel 1115 Madison St NE #118 Salem OR 97301 Senate Commerce and Workforce Development Chair Sen. Diane Rosenbaum 900 Court St. NE, S-405 Salem, OR 97301

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762 SALEM 3865 Wolverine St. NE; E 1 Salem, OR 97305-1268 (503) 378-3292 Fax (503) 373-7636 EUCENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

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Apprenticeship and Training
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Medford, OR 9/501-2629
(541) 7/6-6281
Fax (541) 776-6284



Bureau of Labor and Industries Secretary of State E OF PROPOSED RULEMAKING* A Statement of Need and Fiscal Impact accompanies this form.

Val Hoyle

Commissioner

Bureau of Labor and Industries, Civil Rights Division

830

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Telephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule numbers as necessary

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.: ORS 659A,805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Signature

Printed name

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or logal holiday, sonor which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or inorth people of by an association within 1800 more members, within 21 days following the publication of the was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rule making hearing must be published in the Oregon Bulletin at least 14 days before the hearing. MEDFORDARC 923-2005
Apprenticeship and Training

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Oregon Relay TTY:711

119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284



Secretary of State TENT OF NEED AND FISCAL IMPACT

Bureau of Labor and Industries

Val Hoyle

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMFLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws. Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of

professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed

How were small businesses involved in the development of this rule?

(971) 673-0761

3-49711673-0762

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisor Yegon Structure required?: Yes wolverine St. NE; E-1 1400 Executive Parkway, Suite 200 Atland, OR 97232-2180

Bugene, OR 97401-2158 Salem, OR 97305-1268

Amy (503) 278-3292 Amy (503) 278-3292 Amy (503) 278-3292 Amy (503) 278-3292 September 25, 2009

Printed name

Date

MEDFORD

Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

Administrative Rules Hardings Division, Secretary of State, 800 Summer Street NE, Salem Dregon Wild Tarke 925-2007

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Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller		(971) 673-0784
Rules Coordinator		Telephone
Bureau of Labor and Industries, 800 NE Ore	gon St., Ste. 1045, Porlland, OR 97232	
Address		
To become effective <u>Upon filing.</u> Rulemakin	g Notice was published in the <u>October 2012</u> Oregon RULE CAPTION	Bulletin.
Amendment for Clarification of Eligibility of O	MFLA and Clarification for Leave due to Harassmer	nt
Not more than 15 words that reasonably ider	ntifies the subject matter of the agency's intended ac	ation.
• -	RULEMAKING ACTION val of rule numbers with the Administrative Rules Ur	it prior to filing.
ADOPT:		
AMEND: 839-009-0335, 839-009-0390, 18691019四米(貸		•
REPEAL:		
RENUMBER: Secure approval of new rule no	umbers with the Administrative Rules Unit prior to file	ing.
AMEND AND RENUMBER: Secure approval	of new rule numbers with the Administrative Rules	Unit prior to filing.
atutory Authority: ORS 659A.805		
510 5551.555		
Other Authority: ORS 659A.093(6)		
Statutes Implemented: DRS 659A.270 - 659A.285, ORS 659A.090 -	659A.099	
	RULE SUMMARY	
he amendment to OAR 839-009-0335 will ad	ld harassment to the title of OAR 839-009-0335 to c	onform to ORS 659A.270 to ORS 659A.285
	339-007-0410 will clarify that an eligible employee n o qualify for protected leave under the Oregon Milita	
	Marcia.L.Ohlemiller@state.or.us	11-21-12 10:17a.m.
Marcia Ohlemiller	Widi Cia.L.O High Hile (Watate.O1.03	11-21-12 10.17 d.(1)

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industr	ies	839
Agency and Division	Ada	ministrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
Amendment for Clarification	RULE CAPTION of Eligibility of OMFLA and Clarification for Leave due to Haras	esment
	at reasonably identifies the subject matter of the agency's inter	
•		
Secure approval of new ADOPT:	RULEMAKING ACTION rule numbers (Adopted or Renumbered rules) with the Administr	ative Rules Unit prior to filing
AMEND : 839-009-0335, 839-009-0390	, 839-009-0410	
REPEAL:		
RENUMBER:		
AMEND & RENUMBER:		
Stat. Auth.: ORS 659A,805		
other Auth.: ORS 659A.093(5)	
Stats, Implemented: ORS 659.	A.270 - 659A.285, ORS 659A.090 - 659A.099	
	<u> </u>	······································

RULE SUMMARY

The amendment to OAR 839-009-0335 will add harassment to the title of OAR 839-009-0335 to conform to ORS 659A.270 to ORS 659A.285.

The amendments to OAR 839-009-0390 and 839-007-0410 will clarify that an eligible employee need not be eligible to take protected leave under the Oregon Family Leave Act in order to qualify for protected leave under the Oregon Military Family Leave Act and conform with ORS 659A.090(1) and ORS 659A.093.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 9, 2012 5:00 p.m.

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia.l.ohlemiller@state.or.us

Marcia Ohlemiller

9/14/12

Email address

Printed name

*Rulemaking Notices published in the Oregon Bullctin must be submitted by 5:00 pm on the 15th day of the preceding month less this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public lemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. ARC 923-2005

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form,

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amendment for Clarification of Eligibility of OMFLA and Clarification for Leave due to Harassment

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendment for Clarification of Eligibility of OMFLA and Clarification for Leave due to Harassment

Statutory Authority: ORS 659A,805

Other Authority: ORS 659A.093(6)

Stats. Implemented: ORS 659A.270 - 659A.285, ORS 659A.090 - 659A.099

Need for the Rule(s):

Currently, OAR 839-009-0335 does not include harassment in the full title of the rule. This omission has caused confusion as to whether leave for harassment is protected under ORS 659A.270 to ORS 659A.285. The amendment would add harassment to the title of the rule to conform with ORS 659A.270 to ORS 659A.285.

Currently, OAR 839-009-0390 and 839-007-0410 are ambiguous on whether an employee eligible for protected leave under ORS 59A.090 to ORS 659A.099, the Oregon Military Family Leave Act ("OMFLA") needs to be also eligible for protected leave hder ORS 659A.150 to ORS 659A.186, the Oregon Family Medical Leave Act (OFLA). The amendment would clarify that an eligible employee may qualify for protected leave under OMFLA without qualifying for protected leave under OFLA and conform with ORS 659A.090(1) and ORS 659A.093.

Documents Relied Upon, and where they are available:

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The newly amended laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183,335(2)(b)(E));

State agencies and units of local government will be subject to rules implementing ORS chapter 659A. No fiscal or economic impact is anticipated from the proposed rule amendments.

- 2. Cost of compliance effect on small business (ORS 183,336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated because the proposed changes implement provisions of existing law.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?:

No

If not, why?:

The proposed rule amendments and adoptions would implement statutory specifications over which BOLI has no discretion.

November 9, 2012 5:00 p.m	Marcia Ohlemiller	Marcia.l.ohlemiller@state.or.us	9/14/12
Last Day and Time for Public Comment	Printed name	Email Address	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Authorization Page Generated on May 15, 2015 11:11PM

PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller.	Marcia.L.Ohlemiller@state.or.u
Rules Coordinator	Email Address
800 NE Oregon St., Ste. 1045, Portland, OR 97232	971-673-0784
Address	Telephone
Upon filing.	
Adapted on	
Upon filing.	
Effective date	
2	
RULE CAPTION	
Amendments to clarify, conform with authorities, correct	citations; adoption to
implement new statute.	<u> </u>
Not more than 15 words	
RULEMAKING ACTION	
ROLEMAKING ACTION	
ADOPT:	<u> </u>
AMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839-009 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350,839 -0362,839-009-0363,839-009-0365,839-009-0380,839-009-0410,8	-009-0355,839-009-0360,839-009
REPEAL: 839-009-0335	
•	·
RENUMBER:	
AMEND & RENUMBER:	
Stat. Auth.: ORS 659A.805, 659A.093, 651.061, 654 062	
Other Auth.:	·
Stats.implemented: ORS chapter 659A, 192.440(3), 192.501(8), 654.0 408.230, 408.235, 653.060, 652.355	62, 345.240, 345.010, 659.850,

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a family member, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing 'calendar' references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law,

Authorized Signer

Printed Name

Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

BUI 5-2015-1 5-18-15. NDRM & Find Impact Missing

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Secretary of State Conflicate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FILED 6-24-15 10:00 PM ARCHIVES DIVISION SECRETARY OF STATE

I carlify that the attached copies are true, full and correct copies of the PERMANENT R	ule(s) adopted on Upon filing, by the
Bureau of Labor and Industries	639
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephona
800 NE Oregon St., Sie. 1045, Purlland, OR 97232	·
Address	· · · · · ·
To become effective, <u>Upon filing.</u> Rulemaking Notice was published in the <u>October 2014</u>	1 Oregon Bulletin.
, RULE CAPTION	
Amendments to clarify, conform with authorities, correct citations; adoption to implemen	t_new statute,
Not more than 15 words that reasonably Manifelia the cubical matter of the segrets intended action	

ADOPT:

AMENID:

839-009-0210, 839-009-0220, 839-009-0230, 839-009-0240, 839-009-0250, 839-009-0260, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0350, 839-009-0355, 839-009-0360, 839-009-0362, 839-009-0363, 839-009-0365, 839-009-0360, 839-009-0410, 839-009-0420, 839-009-0460

RULEMAKING ACTION
Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

REPEAL: 839-009-0335

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority: ORS 659A.805, 659A.093, 651.001, 654.082

Other Authority:

Statutes Implemented:

ORS chapter 659A, 192.440(3), 192.501(8), 654.082, 345.010, 869.850, 408.230, 408.235, 653.080, 652.355

RULE SUMMARY

This permanent rule filing supersedes a permanent rule filing on 5/18/15 amending the same rules. The 5/18/15 filing had technical errors, invalidating the filing.

This permanent rule filling consists of amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a family member, definition of child, employee discipline for failure to give notice of OFLA leave, clarifying OFLA provisions regarding employer payment of benefits, darlfying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law.

This permanent rule filling reinstates the temporary rule of that were in effect from 11/20/14 to 5/15/15, which: 1) clarify that click child leave expelles only to children under the age of 18 or an adult dependent child finited by a physical or mental impairment and a) redefine spouse to include individuels in marriages recognized by any state's law or by a foreign jurisdiction, individuels in common law marriages and those in domestic parlinerships or similar relationships recognized by any state.

Marcia Ohlemiller	
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Marcla.L.Ohlemijer@state.or.us

Rules Coordinator Name

Email Address

· NPRMStral Inpact missing BL18-2015 6-24-15

Bureau of Labor and Industrics

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0390

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- 1) Has the rule had the intended effect? Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 16-2013, f. & cert. ef. 12-31-13 BLI 12-2012, f. & cert. ef. 11-21-12

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Pennanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

BOLI100 Effective: (Rev. 8/18)

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing Bureau of Labor and Industries

Val Hoyle

ENT ADMINISTRATIVE RULES

Commissioner

Fy that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

FUGENE 1400 Executive Parkway, Suite 200 <u>Engene, O</u>R 97401-2158

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(541) 686-7623

juthorized Signer (971) 673-076 (2007) https://doi.org/10.1001/10.0001 rules.

> Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

Oregon Relay TTY:711

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Rich Meneghello Fisher & Phillips LLP 1001 SW 5th Ave., STE 1600 Portland, OR 97204

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L...abelli A Joffe McKanna Bishop Joffe 1635 NW Johnson St Portland OR 97209

M Kay Pulju Oregon State Bar 16037 SW Upper Boones Ferry Rd PO Box 231935 Tigard OR 97281 Loren W. Collins, Chair Civil Rights Section Oregon State Bar DOJ Trial Torts & Emp 1162 Court Street NE Salem, OR 97301

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J. Linda Peterson Steward and President AFSCME Local 3214 PO Box 261 Monroe, Oregon 97456

Velda Hamilton Rogers, Chair Oregon State Bar Special Committee Militery Assistance Panel 1115 Madison St NE #118 Selem OR 97301 Bureamy/Lladger and declustries

Civil Rights Section Val Hoyle Oregon State Bar Commissioner Barran Liebmen LLP 601 SW 2nd Ave Ste 2300 Portland OR 97204

Paula Barran Barran Llebman LLP 601 SW 2nd, STE 2300 Portland, OR 97204

Barbara Brainard Stoel Rives LLP 900 SW 5th Ave., STE 2600 Portland, OR 97204

Kristine M. Clenfuegos TOC Management Services 6825 SW Sandburg St. Tigard, OR 98223

CJ Mann, President Lane County Labor Council 1116 South A Street Springfield, OR 97477

Karen M. Minatelli, Esq. National Partnership for Working Women & Families 1875 Connacticut Ave., NW, Suite 650 Washington, D.C. 20009

Senate Commerce and Workforce Development Chair Sen. Diane Rosenbaum 900 Court St. NE, S-405 Salem, OR 97301

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762 SALEM 3865 Wolverine St. NE; E-1 Salem, OR 97305-1268 (503) 378 3292 Fax (503) 373-7636 BUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

> MRDFORD Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fox (541) 776-6284

Oregon Relay TTY:711



Bureau of Labor and Industries Secretary of State ${f E}$ OF PROPOSED RULEMAKING* A Statement of Need and Fiscal Impact accommanies this form.

Val Hoyle

Commissioner

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule numbers as necessary

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats, Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend on legal holiday, approved the deadline is 5:00 pin the precising withday. A public rulemaking hearing may be requested in writing by 10 or more people of by an association with the seamore members, within 21 days following the publication of the Rulemaking Notice in the Construction or 28 days from the three Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. MEDFORDARC 923-2005 Apprenticeship and Training

Apprenticeship and Training Workspurce Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

Oregon Relay TTY:711

119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284



Secretary of State Bureau Secretary of State Bureau

Bureau of Labor and Industries

Val Hoyle

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form: Ominissioner

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMFLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more

employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed rules.

How were small businesses involved in the development of this rule?

(971) 673-0761

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisory Contribute consulted?: Yes SALEM SALEM EUGENE Administrative Rule Advisory St. Stule 1045

DE Oregon St. Suite 1045

offland, OR 97232-2180

Salem, OR 97305-1268

1400 Executive Parkway, Suite 200 Eugene, OR 97401 2158

Salem, OR 97305-1268 Eugene, OR 97401 2188

Amy (803) (1272) Aministrator, Civil R (1272) (1272)

nistrator, Civil Richard September 25, 2009

Printed name

Date

Administrative Rules Hribary Chives Division, Secretary of State, 800 Summer Street NE, Salem Congroup 734 0. TARO 925-2007

Worksource Bend Oregon Relay TTY/711 119 N Oakdale Ave.

1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

Signature (

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Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

C.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us	11-21-12 10:17a.m.
	o qualify for protected leave under the Oregon Militar	
	839-007-0410 will darify that an eligible employee no	
The amendment to OAR 839-009-0335 will ad	dd harassment to the title of OAR 839-009-0335 to co	onform to ORS 659A.270 to ORS 659A.285
	RULE SUMMARY	-
ORS 659A.270 - 659A,285, ORS 659A.090 -	659A.099	
Statutes Implemented:		
ORS 659A.093(6)		
Other Authority:	•	
ORS 659A.805		
atutory Authority:		
WHITE WAY UPIGUIDELY OCCUR SPRIGAS	Talling for helitical that the Hamiltonian of Miles	- in prior to sing.
AMEND AND DENIMBER: Secure approve	I of new rule numbers with the Administrative Rules I	Unit prior to filing.
RENUMBER: Secure approval of new rule n	umbers with the Administrative Rules Unit prior to fili	ng.
REPEAL:		
AMEND: 839-009-0335, 839-009-03350, 839-009-0410		
ADOPT:		
•	val of rule numbers with the Administrative Rules Uni	it prior to Ming.
	RULEMAKING ACTION	
	ntifies the subject metter of the agency's intended act	
Amondment for Clarification of Eligibility of C	RULE CAPTION MFLA and Clarification for Leave due to Harassmen	
To become effective <u>Upon filing.</u> Rulemakin	g Notice was published in the October 2012 Oregon	Bulletin.
Address		
Bureau of Labor and Industries, 800 NE Ore	gon St., Ste. 1045, Portland, OR 97232	
Rules Coordinator	Telephone	
Agency and Division Marcia Ohlemiller		(971) 673-0784
		Administrative Rules Chapter Number

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form,

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller 800 NE Oregon St. Stc. 1045 Portland	1, OR 97232 971-673-0784
Rules Coordinator Address	Telephone
RULE CAPTION Amendment for Clarification of Eligibility of OMFLA and Clarification for	
Not more than 15 words that reasonably identifies the subject matter	
RULEMAKING ACT	TION
Secure approval of new rule numbers (Adopted or Renumbered rules	
ADOPT:	
AMEND:	
839-009-0335, 839-009-0390, 839-009-0410	
REPEAL:	
RENUMBER:	•
AMEND & RENUMBER:	
Stat. Auth.: ORS 659A.805	
ther Auth.: ORS 659A.093(6)	
Stats. Implemented: ORS 659A.270 - 659A.285, ORS 659A.090 - 659A.09	99
RULE SUMMARY	Y
The amendment to OAR 839-009-0335 will add harassment to the tide of C	

The amendment to OAR 839-009-0335 will add harassment to the title of OAR 839-009-0335 to conform to ORS 659A.270 to ORS 659A.285.

The amendments to OAR 839-009-0390 and 839-007-0410 will clarify that an eligible employee need not be eligible to take protected leave under the Oregon Family Leave Act in order to qualify for protected leave under the Oregon Military Family Leave Act and conform with ORS 659A.090(1) and ORS 659A.093.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 9, 2012 5:00 p.m.

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia.l.ohlemiller@state.or.usMarcia Ohlemiller9/14/12Email addressPrinted nameDate*Rulennaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month

*Rulentaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month less this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public demaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amendment for Clarification of Eligibility of OMFLA and Clarification for Leave due to Harassment

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendment for Clarification of Eligibility of OMFLA and Clarification for Leave due to Harassment

Statutory Authority: ORS 659A.805

Other Authority: ORS 659A.093(6)

Stats. Implemented: ORS 659A.270 - 659A.285, ORS 659A.090 - 659A.099

Need for the Rule(s):

Currently, OAR 839-009-0335 does not include harassment in the full title of the rule. This omission has caused confusion as to whether leave for harassment is protected under ORS 659A.270 to ORS 659A.285. The amendment would add harassment to the title of the rule to conform with ORS 659A.270 to ORS 659A.285.

Currently, OAR 839-009-0390 and 839-007-0410 are ambiguous on whether an employee eligible for protected leave under ORS 59A.090 to ORS 659A.099, the Oregon Military Family Leave Act ("OMFLA") needs to be also eligible for protected leave ander ORS 659A.150 to ORS 659A.186, the Oregon Family Medical Leave Act (OFLA). The amendment would clarify that an eligible employee may qualify for protected leave under OMFLA without qualifying for protected leave under OFLA and conform with ORS 659A.090(1) and ORS 659A.093.

Documents Relied Upon, and where they are available:

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The newly amended laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

State agencies and units of local government will be subject to rules implementing ORS chapter 659A. No fiscal or economic impact is anticipated from the proposed rule amendments.

- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated because the proposed changes implement provisions of existing law.

Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or additicipated under the proposed rules.

How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?:

No

If not, why?:

The proposed rule amendments and adoptions would implement statutory specifications over which BOLI has no discretion.

November 9, 2012 5:00 p.m	Marcia Ohlemiller	Marcia.l.ohlemiller@state.or.us	9/14/12
Last Day and Time for Public Comment	Printed name	Email Address	Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

i certify that the atlached copies are true,	full and correct copies of the PERMANEN	TRuis(s) adopted on <u>Upon filling.</u> by the
Bureau of Labor and Industries	·	830

Agency and Division

Administrativo Rules Chapter Number

<u>Marcia Ohlemiller</u>

(971) 673-0784

Rules Coordinator

Telephone

800 NE Oragon St., Ste. 1045, Portland, OR 97232

Address

To become effective Upon filing. Rulemaking Notice was published in the November 2013 Oregon Butletin.

RULE CAPTION

Amending rules in Division 839-009 to add new statutory provisions, add leave form, housekeeping edits

Not more than 15 words that reasonably identifies the subject matter of the agency's inlanded action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

ADOPT:

AMEND:

939-009-9345

839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250, 839-009-0270, 839-009-0280, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0362, 839-009-0363, 839-009-0380, 839-009-0430

યાં સંખ જુર

REPEAL:

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RENUMBER:

"AMEND AND RENUMBER:

Statutory Authority:

ORS 659A,805

Other Authority:

Statutes Implemented:

ORS 659A.150-659A.186, 659A.043, 659A.046, H.B. 2950, 77th Leg., Reg. Session (Or. 2013), ORS 659A.270-659A.286, H.B. 2903, 77th Leg., Reg. Session (Or. 2013), ORS 659A.090- 659A.090, H.B. 3263, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Amendments to 839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250 implement newly enacted legislation on OFLA.

Further amendments to 839-009-0210 are for housekeeping and to make the definition of health care provider consistent with the etalutes.

Amendments to 839-009-0270 clarify that employer payment of health benefits is an employer option for OFLA-only leave.

Amendments to 039-009-0280 reptace "available" paid leave with "accrued" paid leave for clarification.

Amendments to 839-009-0325, 839-009-0340, 839-009-0362, 839-009-0363 implement newly enacted legislation regarding public employers with respect to victims under this section.

Amendments to OAR 839-009-0325 and 839-009-0330 clarify what posting is required under newly enacted legislation. Currently 839-009-0325 and 839-009-0330 do not include a posting requirement for ORS 659A,170 to 659A,285. Newly amended legislation creates this requirement.

imendments to 839-008-0340 reliect newly enacted legislation and create consistency among the definitions of violim, Currently OAR 839-009-0340 includes definitions which are no longer consistent with newly enacted legislation. It also currently contains a definition of Violim of

Harassment that is not consistent with definitions of Victim of Domestic Victence, Victim of Sexual Asseult, and Victim of Stalking. Amendments to 839-009-0340 and 839-009-0380 remove the word "calendar" in reference to year to be consistent with the statules. . Amendments to 839-008-0430 Include an example request form for OMFLA which a covered employee may provide. Amendments to 839-009-0210, 839-009-0340, and 839-009-0380 adding a definition of spouse. **FILED** 12-31-13 3:04 PM ARCHIVES DIVISION SECRETARY OF STATE Marola.L.Ohlemiller@state.or.us Marcia Ohlemillar

Email Address

Rules Coordinator Name

Secretary of State

NOTICE OF PROPOSED RULEMAKING

,	A Statement of Need and Fiscal Impact accompanies	mis form.
Bureau of Labor and Indus	tries	839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
	RULE CAPTION n 839-009 to add new statutory provisions, add a leave form,	
Not more than 15 words t	that reasonably identifies the subject matter of the agency	's intended action.
Secure approval of no ADOPT:	RULEMAKING ACTION ew rule numbers (Adopted or Renumbered rules) with the Ad	lministrative Rules Unit prior to filing
AMEND: 839-009-0210, 8	39-009-0230, 839-009-0240, 839-009-0250, 839-009-0325,	839-009-0340, 839-009-0362, 839-009-

REPEAL:

RENUMBER:

AMEND & RENUMBER:

0363, and 839-009-0430 and other Division 9 rules as necessary

Stat. Auth.: ORS 659A.805

Other Auth.;

Stats. Implemented: ORS 659A.150-659A.186, 659A.043, 659A.046, H.B. 2950, 77th Leg., Reg. Session (Or. 2013), ORS 659A.270-659A.285, H.B. 2903, 77th Leg., Reg. Session (Or. 2013), ORS 659A.090-659A.099, H.B. 3263, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Proposed amendments to 839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250 would implement newly enacted legislation on OFLA.

Further proposed amendments to 839-009-0210 would be for housekeeping and to make the definition of health care provider consistent with the statutes.

Proposed amendments to 839-009-0325, 839-009-0340, 839-009-0362, 839-009-0363 would implement newly enacted legislation regarding public employers with respect to victims under this section.

Proposed amendments to OAR 839-009-0325 would clarify what posting is required under newly enacted legislation. Currently 839-009-0325 does not include a posting requirement for ORS 659A.170 to 659A.285. Newly amended legislation creates this requirement.

Proposed amendments to 839-009-0340 would reflect newly enacted legislation and create consistency among the definitions of victim. Currently OAR 839-009-0340 includes definitions which are no longer consistent with newly enacted legislation. It also currently contains a definition of Victim of Harassment that is not consistent with definitions of Victim of Domestic Violence. Victim of Sexual Assault, and Victim of Stalking.

Proposed amendments to 839-009-0430 would include an example request form for OMFLA which a covered employee may ^lorovide.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending rules in Division 839-009 to add new statutory provisious, add a leave form, and make housekeeping edits

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending rules in Division 839-009

Statutory Authority: ORS 659A,805

Other Authority:

Stats. Implemented: ORS 659A.150-659A.186, 659A.043, 659A.046, H.B. 2950, 77th Leg., Rcg. Session (Or. 2013), ORS 659A.270-659A.285, H.B. 2903, 77th Leg., Reg. Sessiou (Or. 2013), ORS 659A.090-659A.099, H.B. 3263, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Further amendments provide a sample form for employers for OMFLA leave.

Documents Relied Upon, and where they are available;

H.B. 2950, 77th Leg., Reg. Session (Or. 2013) available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2950/Enrolled H.B. 3263, 77th Leg., Reg. Session (Or. 2013) available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB3263/Enrolled H.B. 3263, 77th Leg., Reg. Session (Or. 2013) available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB3263/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The amendments are to make the rules consistent with existing laws or newly enacted legislation. Further amendments provide an example of a form covered employers may use regarding OMFLA leave.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
- No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336);
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, there is no anticipated cost of compliance.
- b. Projected repurting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- Equipment, supplies, labor and increased administration required for compliance:
 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule?

 Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory specifications over which BOLI has no discretion.

Marsia Ohlamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-009-0380

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- 1) Has the rule had the intended effect? Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 8-2015, f. & cert. ef. 6-24-15 BLI 5-2015, f. & cert. ef. 5-18-15

BLI 16-2013, f. & cert. ef. 12-31-13.

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

BOLI100 Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

Bureau of Labor and Industries

Val Hoyle

VENT ADMINISTRATIVE RULES

Commissioner

y that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by the

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller.

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971**-**673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-009-0265; 839-009-0370; 839-009-0380; 839-009-0390; 839-009-0400; 839-009-0410; 839-009-0420; 839-009-0430; 839-009-0440; 839-009-0450; 839-009-0460

AMEND: OAR 839-009-0210; 839-009-0220; 839-009-0240; 839-009-0245; 839-009-0250; 839-009-0260; 839-009-0270; 839-009-0280; 839-009-0290; 839-009-0300; 839-009-0321; 839-009-0335; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365

stat. Auth.: ORS 659A.805

Other Auth.: IIB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A,270 to ,285 (OVCCLA); ORS 659A,150 to ,186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

EUGENE 1400 Executive Parkway, Suite 200

uthorized Signer

rules.

(503Printot)name

(541) 686-7623

With this original, file one public copy of certificate, one paper copy of fules listed in Rulemaking Actions, and electronic copy of

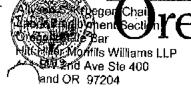
BEND Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435

Oregon Relay TTY:711

Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501-2629 (\$41) 776-6201 Fax (541) 776-6284

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Linda Tomassi, Executive Director Oregon Women's Lawyer PO Box 40393 Portland, OR 97240

Jeffrey Chicoine Miller Nash 111 SW Fifth Avenue #3400 Portland, OR 97204

Rich Meneghello Fisher & Phillips LLP 1001 SW 5th Ave., STE 1600 Portland, OR 97204

Oregon State Bar Civil Rights Section David D. Park, Chair 0324 SW Abernethy St. Portland OR 97239

L...abeth A Joffe McKanna Bishop Joffe 1635 NW Johnson St Portland OR 97209

M Kay Pulju Oregon State Bar 16037 SW Upper Boones Ferry Rd PO Box 231935 Tigard OR 97281 Loren W. Collins, Chair Civil Rights Section Oregon State Bar DOJ Trial Torts & Emp 1162 Courl Street NE Salem, OR 97301

Elizabeth McKanna McKanna Bishop Joffee & Sullivan, LLP 1635 NW Johnson Street Portland, OR 97209

Rick Liebman Barran Liebman LLP 601 SW Second Ave., STE 2300 Portland, OR 97204

Dan Grinfas Buchanan Angeli Altschul & Sullivan LLP 321 SW Fourth Avenue #600 Portland, OR 97204

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J. Linda Peterson Steward and President AFSCME Local 3214 PO Box 261 Monroe, Oregon 97456

Velda Hamilton Rogers, Chair Oregon Stete Bar Special Committee Military Assistance Panel 1115 Madison St NE #118 Salem OR 97301 Bureamyl Langur and Andustries

Civil Rights Section Val Höyle Oregon State Bar Commissioner Barran Liebman LLP 601 SW 2nd Ave Ste 2300 Portland OR 97204

Paula Barran Barran Liebman LLP 601 SW 2nd, STE 2300 Portland, OR 97204

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Kristine M. Cienfuegos TOC Management Services 6825 SW Sandburg St. Tigerd, OR 98223

CJ Mann, President Lane County Labor Council 1116 South A Street Springfleid, OR 97477

Karen M. Minatelli, Esq. National Partnership for Working Women & Families 1875 Connecticut Ave., NW, Suite 650 Washington, D.C. 20009

Senate Commerce and Workforce
Development Chair
Sen. Diane Rosenbaum
900 Court St. NE, S-405
Salem, OR 97301

PORTLAND 800 NE Oregon St. Suite 3045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762 SALEM 3865 Wolverine St. NE; E-1 Salem, OR 97305-1268 (503) 378-3292 Fax (503) 373 7636 EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 9/401-2158 (541) 686-7623 Fax (541) 686-7980

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MEDFORD Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501 2629 (541) 976-6201 Fax (541) 776-6284



Bureau of Labor and Industries Secretary of State E OF PROPOSED RULEMAKING* A Statement of Need and Fiscal Impact accompanies this form.

Val Hoyle

Commissioner

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Telephone

RULE CAPTION

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing

ADOPT: OAR 839-009-0265; 0326; 0370; 0380; 0390; 0400; 0410; 0420; 0430; 0440; 0450; 0460 and additional Division 9 rule mumbers as necessary

AMEND: Division 9, Oregon Family Leave Act and Oregon Victims of Certain Crimes Leave Act administrative rules

Stat. Auth.: ORS 659A.805

Other Auth: HB 2744, SB 928, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

RULE SUMMARY

The proposed rules would implement the newly enacted Oregon Military Family Leave Act, which entitles spouses and domestic partners of military service members to 14 days' family leave prior to service member's deployment or leave from deployment during a period of military conflict (HB 2744).

The proposed rules would amend the rules implementing the Oregon Victims of Certain Crimes Leave Act (OVCCLA) to include newly enacted reasonable safety accommodation requirements for employees who are victims of certain crimes (SB 928).

The proposed rules would amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations, and clarify, edit and make housekeeping changes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 13, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

September 25, 2009

Signature

Printed name

Date

119 N Oakdale Ave.

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weeks such legal holiday, apany which the deadline is 5:00 per the process of the legal holiday. A public rulemaking hearing may be requested for withing by 10 or more people; or by an association within commore members, within 21 days following the publication of the Rulemaking Notice in the core good Bulletin or 28 days from the three Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. MEDFORDARC 923-2005
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Oregon Relay TTY:711

Medford, OR 97501-2629 (541) 776-6201 Pax (541) 776-6284



ENT OF NEED AND FISCAL IMPACT

Secretary of State

Bureau of Labor and Industries Val Hoyle

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form Commissioner

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing new Military Family Leave Act and amendments to OVCCLA and updating OFLA rules. Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing newly enacted Military Family Leave Act and amendments to Oregon Victims of Certain Crimes Leave Act and updating Oregon Family Leave Act rules.

Statutory Authority: ORS 659A.805

Other Authority: HB 2744 and SB 928, Oregon Legislative Assembly, 2009

Stats. Implemented: HB 2744 (Oregon Military Family Leave Act), SB 928 (amending OVCCLA), Oregon Legislative Assembly 2009; ORS 659A.270 to .285 (OVCCLA); ORS 659A.150 to .186 (OFLA)

Need for the Rule(s): The proposed rules and amendments would implement the newly enacted Oregon Military Family Leave Act (OMFLA), newly enacted amendments to the Oregon Victims of Certain Crimes Leave Act (OVCCLA), and amend the rules implementing the Oregon Family Leave Act (OFLA) to reflect some recent amendments to federal Family and Medical Leave Act (FMLA) regulations and to clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: HB 2744, SB 928, 2009; available on the Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The new enacted and newly amended laws that the proposed rules would implement are in current statutes or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal or economic impact for public or private employers because the proposed rule amendments would implement and clarify laws already enacted, making it less likely that covered employers will inadvertently violate the laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules per se is anticipated because the statutory amendments the rules for the most part would implement are or will be in statutes over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the statutory amendments the rules for the most part would implement are or will be statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to certain employers and employees and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule;

OFLA and OMFLA apply to Oregon employers of 25 or more employees. OVCCLA applies to employers of 6 or more employees. Thus the proposed rules would also apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules. Existing Oregon employee leave laws require some recordkeeping etc. and the newly enacted laws and amendments are not anticipated to substantially increase this. However, the proposed rules would merely implement provisions of these laws, not add additional requirements.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administrative costs are required or anticipated under the proposed

How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisary Committee consulted?: Salem Advisary Salem Advisary Committee Consulted?: Salem Advisary Salem, OR 97305-1268

(971) 673-0761

Salem OR 97305-1268

Amy (603) 278-22-9 Admin

EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158

Amy (\$\frac{63}{278} \) 278-229 Administrator, Civil Rights (\$\frac{626}{138} \) 278-239 Administrator, Civi

September 25, 2009

Printed name

MEDFORD

Date

Administrative Rules I In the Property of State, 800 Summer Street NE, Salemporegon 97310. TARC 925-2007 Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990

(541) 322-2435

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Oregon Relay TTY:711

Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

Secretary of State Certificate and Order for Filling

PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Numbe
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Addiese	
To become effective <u>Upon filing</u> . Rulemaking Notice was published in	the November 2013 Oregon Bulletin.
RULE	CAPTION

Amonding rules in Division 839-009 to add new statutory provisions, add leave form, housekeeping edits

Not more than 15 words that reasonably identifies the subject matter of the agency's inlended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

ADOPT:

AMEND:

839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250, 839-009-0270, 839-009-0260, 839-009-0325, 839-009-0330, 839-009-0340, 839 -009-0362, 839-009-0383, 839-009-0380(839-009-0430

REPEAL:

829-009-0390

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 659A.805

Other Authority:

Statutes implemented:

ORS 669A.160-669A.186, 659A.043, 869A.046, H.B. 2950, 77th Leg., Reg. Session (Or. 2013), ORS 659A.270-659A.286, H.B. 2903, 77th Leg., Reg. Session (Or. 2013), OR\$ 669A.090- 659A.099, H.B. 3263, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Amendments to 639-009-0210, 639-009-0230, 639-009-0240, 639-009-0250 implement newly enacted legislation on OFLA.

Further amendments to 839-009-0210 are for housekeeping and to make the definition of health care provider consistent with the statutes.

Amendments to 839-009-0270 clarify that employer payment of health benefits is an employer option for OFLA-only leave.

Amendments to 839-008-0280 replace "available" paid leave with "accrued" paid leave for clarification.

Amendments to 839-009-0325, 839-009-0340, 839-009-0362, 839-000-0363 implement newly enacted legislation regarding public employers with respect to victims under this section,

Amendments to OAR 639-009-0325 and 839-009-0330 clarify what posting is required under newly enacted legislation. Currently 839-009 -0325 and 639-009-0330 do not include a posting requirement for ORS 659A.170 to 659A.285. Newly amanded legistation oreatee this

imendments to 639-009-0340 reflect newly enacted legislation and create consistency among the definitions of viotim. Currently OAR 639 -009-0340 includes definitions which are no longer consistent with newly enacted legislation. It also currently contains a definition of Victim of Harassment that is not consistent with definitions of Victim of Domestic Victems, Victim of Sexual Assault, and Victim of Staking.

Amendments to 839-009-0340 and 839-009-0380 remove the word "calendar" in reference to year to be consistent with the statutes.

Amendments to 839-009-0430 include an example request form for OMFLA which a covered employee may provide.

Amendments to 839-009-0210, 839-009-0340, and 839-009-0380 adding a definition of spouse.

Marcia Chiemiliar Marcia L. Chiemilior@state.or.us
Rules Coordinator Name Email Address

FILED

12-31-13 3:04 PM

ARCHIVES DIVISION SECRETARY OF STATE

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Piscal Impact accompanies this form.

Bureau of Labor and Industries Agency and Division Administrative Rules Chapter Number Marcia Ohlemiller 800 NE Oregon St. Ste. 1045 Portland, OR 97232 971-673-0784 Rules Coordinator Address Telephone RULE CAPTION Amending rules in Division 839-009 to add new statutory provisions, add a leave form, and make housekeeping edits Not more than 15 words that reasonably identifies the subject matter of the agency's intended action. RULEMAKING ACTION Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: AMEND: 839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250, 839-009-0325, 839-009-0340, 839-009-0362, 839-009-0363, and B39-009-0430 and other Division 9 rules as necessary REPEAL: RENUMBER: AMEND & RENUMBER: Stat. Auth.: ORS 659A.805 Other Auth.: Stats. Implemented: ORS 659A.150-659A.186, 659A.043, 659A.046, H.B. 2950, 77th Leg., Reg. Session (Or. 2013), ORS

RULE SUMMARY

659A.270-659A.285, H.B. 2903, 77th Leg., Reg. Session (Or. 2013), ORS 659A.090- 659A.099, H.B. 3263, 77th Leg., Reg.

Session (Or. 2013)

Proposed amendments to 839-009-0210, 839-009-0230, 839-009-0240, 839-009-0250 would implement newly enacted legislation on OFLA.

Further proposed amendments to 839-009-0210 would be for housekeeping and to make the definition of bealth care provider consistent with the statutes.

Proposed amondments to 839-009-0325, 839-009-0340, 839-009-0362, 839-009-0363 would implement newly enacted legislation regarding public employers with respect to victims under this section.

Proposed amendments to OAR 839-009-0325 would clarify what posting is required under newly enacted legislation. Currently 839-009-0325 does not include a posting requirement for ORS 659A.170 to 659A.285. Newly amended legislation creates this requirement.

Proposed amendments to 839-009-0340 would reflect newly enacted legislation and create consistency among the definitions of victim. Currently OAR 839-009-0340 includes definitions which are no longer consistent with newly enacted legislation. It also currently contains a definition of Victim of Harassment that is not consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Proposed amendments to 839-009-0430 would include an example request form for OMFLA which a covered employee may provide.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Oblamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending rules in Division 839-009 to add new statutory provisions, add a leave form, and make housekeeping edits

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending rules in Division 839-009

Statutory Authority: ORS 659A.805

Other Authority:

Stats, Implemented: ORS 659A.150-659A.186, 659A.043, 659A.046, H.B. 2950, 77th Leg., Reg. Session (Or. 2013), ORS 659A.270-659A.285, H.B. 2903, 77th Leg., Reg. Session (Or. 2013), ORS 659A.090-659A.099, H.B. 3263, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Further amendments provide a sample form for employers for OMFLA leave.

Documents Relied Upon, and where they are available:

H.B. 2950, 77th Leg., Reg. Session (Or. 2013) available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2950/Enrolled H.B. 2903, 77th Leg., Reg. Session (Or. 2013) available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2903/Enrolled H.B. 3263, 77th Leg., Reg. Session (Or. 2013) available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB3263/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The amendments are to make the rules consistent with existing laws or newly enacted legislation. Further amendments provide an example of a form covered employers may use regarding OMFLA leave.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- c. Equipment, supplies, labor and increased administration required for compliance:

 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule?

 Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No. If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory specifications over which BOLI has no discretion.

Marcia Ohlamiller 10/15/2013
Signature Printed name Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Authorization Page Generated on May 15, 2015 11:11PM

PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries	B39
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or
Rules Coordinator	Email Address
800 NE Oregon St., Ste. 1045, Portland, OR 97232	971-673-0784
Address	Telephone
Upon filing,	
Adopted on	
Upon filing.	•
Effective dare	
RULE CAPTION	
Amendments to clarify, conform with authorities, correimplement new statute.	ect citations; adoption to
Not more than 15 words	
RULEMAKING ACTION	
ADOPT:	
AMMEND: 839-009-0210,839-009-0220,839-009-0230,839-009-0240,839- 20,839-009-0325,839-009-0330,839-009-0340,839-009-0350,8 -0362,839-009-0363,839-009-0365,839-009-0380,839-009-041	339-009-0355,839-009-0360,839-009
REPEAM 839-009-0335	
RENUMBER:	-
AMEND & RENUMBER:	
Stat. Auth.: ORS 659A.805, 659A.093, 651.061, 654.062	· .
Other Auth.:	
Stats.Implemented: ORS chapter 659A, 192.440(3), 192.501(8), 65408.230, 408.235, 653.060, 652.355	4.062, 345.240, 3,45.010, 659.850,

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a family member, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing 'calendar' references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law.

Authorized Signer

Printed Name

Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

BUI 5-2015-1 5-18-15 NDRM & First Impact Missing

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FILED 6-24-16 10:00 PM ARCHIVES DIVISION SECRETARY OF STATE

I carlify that the attached copies are true, full and correct copies of the Pl	ERMANENT Rule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries Agency and Division	839
- · · ·	Administrative Rutes Chapter Number
Marcia Chiemiller Rules Coordinator	(971) 673-0784
800 NE Oregon St., Sie. 1045, Porlland, OR 97232	Telephons
Address	· · · · · · · · · · · · · · · · · · ·
To become effective Upon filling. Rulemaking Notice was published in the	e <u>October 2014</u> Oregon Builetin.
RULE CA	PTION
Amendments to clarify, conform with authorities, correct citations; adoptic	n to implement new statule.
Not more than 16 words that reasonably identifies the subject majter of the agency	
RULEMAKING Secure approval of new rule numbers with the ADOPT:	
AMEND: 639-009-0210, 639-009-0220, 639-009-0230, 639-009-0240, 639-009-029 -009-0350, 639-009-0356, 639-009-0360, 839-009-0362, 839-009-0363, 6-009-0460 REPEAL: 839-009-0335	60, 639-009-0260, 839-009-0325, 839-009-0330, 839-009-0340, 838 339-909-0365, 839-009-0380, 839-009-0410, 839-009-0420, 839
RENUMBER;	•
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805, 659A.093, 651.061, 654.082	
Other Authority:	

Statules implemented:

This permanent rule filling supersedes a permanent rule filling on 5/18/15 amending the same rules. The 5/18/15 filling had technical errors, invalidating the filling.

RULE SUMMARY

ORS chapter 859A, 192.440(3), 192.501(8), 654.002, 345.010, 659.850, 408.230, 408.236, 663.080, 652.355

This permanent rule filling consists of amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify OFLA requirements for sick child leave, leave for the death of a femily member, definition of child, employee discipline for failure to give notice of OFLA leave, clarifying OFLA provisions regarding employer payment of benefits, darlifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law.

This permanent rule filling reinstates the temporary ruley that were in effect from 11/20/14 to 5/15/15, which: 1) elarify that sick child teave applies only to children untrevine age of 18 or an adult dependent child limited by a physical or mental impalrment; and 2) redefine (spouse" to include individuals in marriages recognized by any state's law or by a foreign jurisdiction, individuals in common law marriages and those in domestic partnerships or similar relationships recognized by any state.

Marcia, L. Ohlemiller@state_or.us

Rules Coordinator Name

Email Address

INPRM & Firel Impact missing BL1 8-2015 6-24-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this. form.

Rule Number:

OAR 839-006-0480

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

Has the rule had the intended effect? 1)

Yes

- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 12-2015, f. & cert. ef. 8-28-15

BLI 2-2012, f. & cert. ef. 2-8-12

BLI 15-2011, f. 12-30-11, cert. cf. 1-1-12

Is the rule still needed? 4)

Yes

What impacts has the rule had on small business? No known impact.

Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State <u>CORRECTED</u> Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FEB 2 4 2010

ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by the

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing statutory enactments and amendments regarding disability, veterans' preference and discrimination based on uniformed service.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-006-0307; 839-006-0480; 839-006-0202; 839-005-0206

AMEND: 839-005-0000; 839-005-0003; 839-005-0005; 839-005-0010; 839-005-0021; 839-005-0195; 839-005-0200; 839-005-0205; 839-005-0215; 839-005-0220; 839-006-0200; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0250; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0305; 839-006-0335; 839-006-0435; 839-006-0440; 839-006-0445; 839-006-0450; 839-006-0470

Stat. Auth.; ORS 659A,805

Other Auth.: HB 3256, HB 2510 and SB 874, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2510 (removing restrictions on civil service Veterans' Preference); HB 3256 (making discrimination on the basis of uniformed service an unlawful employment practice); SB 874 (conforming Oregon disability discrimination law to federal Americans with Disabilities Act Amendments Act of 2008).

RULE SUMMARY

The proposed rules and amendments would implement amendments to statutes providing for employment preference for veterans. (HB 2510).

The proposed rules and amendments would implement amendments to disability discrimination statutes to conform them to the federal Americans with Disabilities Act Amendments Act of 2008. (SB 874).

The proposed rules would implement newly enacted statutes prohibiting discrimination in employment on the basis of uniformed service. (HB 3256).

Authorized Signer

Brad Avakian

2/23/10

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulcmaking Actions, and electronic copy of rules.

**The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

Disability Rights Virtual Advisory Committee

Max Brown, Ph.D Legislation and Policy Analyst Seniors and People with Disabilities Oregon Department of Human Services 500 Summer Street NE Salem, OR 97301 (503) 945-6993

Bill Lynch, Chair Oregon Disabilities Commission prefers to receive mail at: Bill.F.Lynch@state.or.us

Robert C Joondeph Disability Rights Oregon 620 SW 5th Ave 5th Flr Portland OR 97204

Disability Rights Oregon Kathy Wilde, Litigation Director 620 SW 5th Ave. 5th Floor Portland, OR 97204

Robert W Pike, Attorney-at-Law 7470 SW Hall Blvd Beaverton OR 97008

Elizabeth McKarma McKanna Bishop Joffe 1635 NW Johnson St Portland OR 97209

Roger Hennagin Roger Hennagin PC 8 N State St Ste 300 Lake Oswego OR 97034

Larry K Amburgey Littler Mendelson 121 SW Morrison St Ste 900 Portland OR 97204

Steve Brischetto 621 SW Morrison St Ste 1025

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: OAR 839-005-0138, implementing statutes prohibiting employer discrimination against child support obligors; OAR 839-005-0140, implementing statutes requiring employer accommodation of religious leave and clothing; OAR 839-006-0331, implementing statutes requiring transient housing to provide lifts for individuals with disabilities. OAR 839-006-0332, implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions. AMEND: Division 5 rules to conform and cross reference with new rules implementing statute prohibiting employer discrimination against child support obligors and implementing statutes prohibiting employer discrimination against uniformed service members.

Division 6 rules to conform and cross reference with new rules implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions and implementing statutes requiring transient bousing to provide lifts for individuals with disabilities.

Stat. Auth.: ORS 659A.805

Other Auth.: ORS 25.424(3); HB 2600, SB 786 and SB 277, Oregon Legislative Assembly 2009.

Stats. Implemented: ORS 25.424(3) (prohibiting employer discrimination against child support obligors), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 786 (requiring accommodation of religious leave) SB 277 (requiring toilet access for customers with eligible medical conditions in places of public accommodation).

RULE SUMMARY

The proposed fules would implement statutes making discrimination by employers against child support obligors an unlawful employment practice. (ORS 25.424(3)

The proposed rules would implement newly enacted statutes requiring places of public accommodation to provide access to employee toilets for customers with eligible medical conditions. (SB 277)

The proposed rules would implement newly enacted statutes requiring employers to reasonably accommodate wearing of religious clothing and leave for religious practices. (SB 786)

The proposed rules would implement newly enacted statutes requiring transient lodging of 175 or more units to provide lifts for individuals with disabilities. (HB 3256)

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

December 7, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Arny K. Klare, Administrator, Civil Rights Division

October 15, 2009

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient bearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing new statutes protecting religious worship by employees; making discrimination against child support obligors an unlawful employment practice; requiring access to toilets in places of public accommodation for individuals with eligible medical conditions; requiring lifts for individuals with disabilities in transient housing.

Statutory Authority: ORS 659A.805

Other Authority: ORS 25.424(3); HB 2600, SB 277 and SB 786, Oregon Legislative Assembly, 2009

Stats. Implemented: ORS 25.424(3) (making discrimination against child support obligors an unlawful employment practice), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 277 (requiring access to toilets in places of public accommodation for individuals with eligible medical conditions), and SB 786 (requiring employer accommodation of leave and clothing for religious worship)

Need for the Rule(s): The proposed rules and amendments would implement statutes (1) prohibiting discrimination on the basis of child support obligations, (2) requiring employer accommodation of religious leave and dress; (3) requiring access to toilets in places of public accommodation for individuals with eligible medical conditions, (4) requiring lifts in transient lodging for individuals with disabilities; and would clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: ORS 25.424(3); HB 2600, SB 277, SB 786 2009; available on Oregon Legislature website.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The laws that the proposed rules would implement are in current law or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal and economic impact for public and private employers because the proposed rule amendments would clarify laws, making it less likely that covered employers will inadvertently violate them Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules is anticipated because the statutory amendments the rules for the most part would implement are or will be in laws over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the rules for the most part would implement statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to public bodies and certain husiness owners, housing providers and employers and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Oregon discrimination laws apply to Oregon employers generally. Thus the proposed rules would apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules. Lift requirements in transient lodging would apply to facilities with 175 or more units. Toilet access requirements would apply to all Oregon places of public accommodation with 3 or more employees.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules. How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisory Committee consulted?: Yes.

Signature

Arny K. Klare, Administrator, Civil Rights Division October 15, 2009

Printed name

Date

Portland OR 97205

OSB Administrative Law Section Chair Christopher Cauble Cauble Dole Sorenson & Ransom 111 SE 6th St PO Box 398 Grants Pass OR 97528

OSB Disability Law Section Chair Lana L Traynor Lana L Traynor LLC 1221 SW Yamhill St Ste 290 Portland OR 97205

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Scott N Hunt Busse & Hunt 621 SW Morrison St #521 Portland OR 97205

Steve Hunt, EEOC Federal Office Building 909 First Ave. Suite 400 Scattle, WA 98104-1061

OSB Lahor and Employment Section Allyson S Krueger Hitt Hiller Monfils 411 SW 2nd Ave Ste 400 Portland OR 97204 Kristine M Cienfuegos TOC Management Services 6825 SW Sandburg St Tigard OR 97223

City Attorney's Office Catherine Riffe 1221 SW 4th Ave Ste 430 Portland OR 97204

Multnomah County Attorney Agnes Sowle 501 SE Hawthorne Blvd. Suite 500 Portland OR 97214

Department of Administrative Services Consult Mark Rasmussen 155 Cottage St. NE U-30 Salem, OR 97301-3967

Oregon Commission for the Blind Linda Mock, Administrator 535 SE 12th Ave. Portland, Oregon 97214-2488 10/19/09 mailing

Veterans' Affairs Virtual Advisory Committee

Tino E. Ornelas, Chair Advisory Committee to the Director of Veterans' Affairs 228 SW Meadow Dr. Beaverton, OR 97006

Irv Fletcher, Vice-Chair Advisory Committee to the Director of Veterans' Affairs 1272 Mayanna Dr. Woodburn, OR 97071

Evelyn F. Anderson 156 Killdeer St. Roseburg, OR 97470-2337

Charles E. Schmidt P.O. Box 1394 Hines, OR 97738

Kurt F. Hanson Schwabe, Williamson & Wyatt, PC 1211 SW 5th Ave. Suite 1150 Portland, OR 97204

Travis Hall
Bateman, Seidel, Miner, Blomgren, Chellis & Gram, PC
888 SW 5th Ave. Suite 1150
Portland, OR 97204

Paula Brown, Deputy Director Oregon Department of Veterans' Affairs 700 Summer St. NE Salem, OR 97301-1285

Missing Amendments BLI 15-2011 f. 12-30-11 cett. 1/1/12 BL1 2-2012 f. 8 contrel. 2/8/12 BL1 12-2015 F. & collet. 8-28-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-006-0350

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- Has the rule had the intended effect?

 Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

Renumbered from 839-006-0332 by BLI 15-2013, f. & cert. ef 12-30-13

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

BOLI100 Effective: (Rev. 8/18)

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State **CORRECTED** Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FEB 2 4 2010

ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Suite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing statutory enactments and amendments regarding disability, veterans' preference and discrimination based on uniformed service.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-006-0307; 839-006-0480; 839-006-0202; 839-005-0206

AMEND: 839-005-0000; 839-005-0003; 839-005-0005; 839-005-0010; 839-005-0021; 839-005-0195; 839-005-0200; 839-005-0205; 839-005-0215; 839-005-0220; 839-006-0200; 839-006-205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0250; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0330; 839-006-0335; 839-006-0435; 839-006-0440; 839-006-0445. 839-006-0450; 839-006-0455; 839-006-0460; 839-006-0465; 839-006-0470

Stat. Auth.: ORS 659A.805

Other Auth.: HB 3256, HB 2510 and SB 874, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2510 (removing restrictions on civil service Veterans' Preference); HB 3256 (making discrimination on the basis of uniformed service an unlawful employment practice); SB 874 (conforming Oregon disability discrimination law to federal Americans with Disabilities Act Amendments Act of 2008).

RULE SUMMARY

The proposed rules and amendments would implement amendments to statutes providing for employment preference for veterans. (HB 25(0).

The proposed rules and amendments would implement amendments to disability discrimination statutes to conform them to the federal Americans with Disabilities Act Amendments Act of 2008. (SB 874).

The proposed rules would implement newly enacted statutes prohibiting discrimination in employment on the basis of uniformed service. (HB 3256).

Authorized Signer

Brad Avakian

2/23/10

Printed name

Date

^{*}With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of

^{**}The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation, For publication in Bulletia, rule and notice fillings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

Disability Rights Virtual Advisory Committee

Max Brown, Ph.D Legislation and Policy Analyst Seniors and People with Disabilities Oregon Department of Human Services 500 Summer Street NE Salem, OR 97301 (503) 945-6993

Bill Lynch, Chair Oregon Disabilities Commission prefers to receive mail at: Bill.F.Lynch@state.or.us

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OSB Administrative Law Section Chair
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OSB Labor and Employment Section Allyson S Krueger Hitt Hiller Monfils 411 SW 2nd Ave Ste 400 Portland OR 97204 Kristine M Cienfuegos TOC Management Services 6825 SW Sandburg St Tigard OR 97223

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Multnomah County Attorney Agnes Sowle 501 SE Hawthorne Blvd. Suite 500 Portland OR 97214

Department of Administrative Services Consult Mark Rasmussen 155 Cottage St. NE U-30 Salem, OR 97301-3967

Oregon Commission for the Blind Linda Mock, Administrator 535 SE 12th Ave. Portland, Oregon 97214-2488 10/19/09 mailing

Veterans' Affairs Virtual Advisory Committee

Tino E. Ornelas, Chair
Advisory Committee to the Director of Veterans Affairs228 SW Meadow Dr.
Beaverton, OR 97006

Irv Fletcher, Vice-Chair Advisory Committee to the Director of Veterans' Affairs 1272 Mayanna Dr. Woodburn, OR 97071

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Portland, OR 97204

Paula Brown, Deputy Director Oregon Department of Veterans' Affairs 700 Summer St. NE Salem, OR 97301-1285

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: OAR 839-005-0138, implementing statutes prohibiting employer discrimination against child support obligors; OAR 839-005-0140, implementing statutes requiring employer accommodation of religious leave and clothing; OAR 839-006-0331, implementing statutes requiring transient housing to provide lifts for individuals with disabilities. OAR 839-006-0332, implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions. AMEND: Division 5 rules to conform and cross reference with new rules implementing statute prohibiting employer discrimination against child support obligors and implementing statutes prohibiting employer discrimination against uniformed service members.

Division 6 rules to conform and cross reference with new rules implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions and implementing statutes requiring transient housing to provide lifts for individuals with disabilities.

Stat. Auth.: ORS 659A.805

Other Auth.: ORS 25.424(3); HB 2600, SB 786 and SB 277, Oregon Legislative Assembly 2009.

Stats. Implemented: ORS 25.424(3) (prohibiting employer discrimination against child support obligors), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 786 (requiring accommodation of religious leave) SB 277 (requiring toilet access for customers with eligible medical conditions in places of public accommodation).

RULE SUMMARY

The proposed rules would implement statutes making discrimination by employers against child support obligors an unlawful employment practice, (ORS 25.424(3)

The proposed rules would implement newly enacted statutes requiring places of public accommodation to provide access to employee toilets for customers with eligible medical conditions. (SB 277)

The proposed rules would implement newly enacted statutes requiring employers to reasonably accommodate wearing of religious clothing and leave for religious practices. (SB 786)

The proposed rules would implement newly enacted statutes requiring transient lodging of 175 or more units to provide lifts for individuals with disabilities. (HB 3256)

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

December 7, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

October 15, 2009

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking bearing must be published in the Oregon Bulletin at least 14 days before the bearing.

ARC 923-2005

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing new statutes protecting religious worship by employees; making discrimination against child support obligors an unlawful employment practice; requiring access to toilets in places of public accommodation for individuals with eligible medical conditions; requiring lifts for individuals with disabilities in transient housing.

Statutory Authority: ORS 659A.805

Other Authority: ORS 25.424(3); HB 2600, SB 277 and SB 786, Oregon Legislative Assembly, 2009

Stats. Implemented: ORS 25.424(3) (making discrimination against child support obligors an unlawful employment practice), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 277 (requiring access to toilets in places of public accommodation for individuals with eligible medical conditions), and SB 786 (requiring employer accommodation of leave and clothing for religious worship)

Need for the Rule(s): The proposed rules and amendments would implement statutes (1) prohibiting discrimination on the basis of child support obligations, (2) requiring employer accommodation of religious leave and dress; (3) requiring access to toilets in places of public accommodation for individuals with eligible medical conditions, (4) requiring lifts in transient lodging for individuals with disabilities; and would clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: ORS 25.424(3); HB 2600, SB 277, SB 786 2009; available on Oregon Legislature website.

Fiscal and Boonomic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The laws that the proposed rules would implement are in current law or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal and economic impact for public and private employers because the proposed rule amendments would clarify laws, making it less likely that covered employers will inadvertently violate them.

Statement of Cost of Compliance:

1: Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules is anticipated because the statutory amendments the rules for the most part would implement are or will be in laws over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the rules for the most part would implement statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to public bodies and certain business owners, housing providers and employers and not to the general public.

2. Cost of compliance effect on small business (ORS 183,336):

a, Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules. How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee.

Administrative Rule Advisory Committee consulted?: Yes.

Amy K. Klare, Administrator, Civil Rights Division October 15, 2009

Printed name

Date

Signature

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Unantilling, by the

Bureau of Labor and Industries

-839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

(971) 673-0784

Rules Coordinator

Telephone

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

To become effective Upon filling. Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended collon.

RULEMAKING ACTION

Scoure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-006-0291, 839-008-0292, 839-006-0345

AMEND:

839-006-0205, 839-006-0212, 839-008-0270, 839-006-0290, 839-008-0296, 839-006-0305

REPEAL:

RENUMBER:

√839-008-0332 to 839-006-0350

AMEND AND RENUMBER:

839-006-0307 to 839-008-9240 0340

White Oce

Statutory Authority:

ORS 659A,805

Other Authority:

Statutes Implemented:

ORS 859A.103 â€* 658A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Amendments to 639-006-0205 and 839-006-0212 make the rules consistent with newly enacted legislation regarding substantial limitations.

Amendments to 839-008-0270 and 839-006-0295 and adoption of 839-006-0292 provide definitions for auxiliary aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A.139. Amendments to 639-006-0290 implement newly enacted legislation regarding places of public accommodation and state government.

Amendments to 839-006-0305 modify the definition of place of public accommodation consistent with newly enacted legislation.

Adoption of 839-006-0345 provides information on assistance animals in places of public accommodetion and state government, consistent with newly enacted legislation.

Renumbering of 639-006-0332 to 639-006-0350 moves the existing rule without amendments, as the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of the rule, requirements for spanning in the subject of th

<u>Marcia Ohlemiller</u> Rules Coordinator Name

Marcia, L. Ohle miller @stale.or. us Email Address FILED 12-30-13 5:40 PM ARCHIVES DIVISION SECRETARY OF STATE

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. Ste. 1045 Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-006-0291, 839-006-0292, 839-006-0345

AMEND: 839-006-0205, 839-006-0212, 839-006-0270, 839-006-0290, 839-006-0295, 839-006-0305, and any other Division 6 rules as necessary.

REPEAL:

RENUMBER: 839-006-0332 to 839-006-0350;

AMEND & RENUMBER: 839-006-0307 to 839-006-0340

Stat. Auth.: ORS 659A.805

Other Auth.:

Stats. Implemented: ORS 659A.103 - 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Proposed amendments to 839-006-0205 and 839-006-0212 would make the rules consistent with newly enacted legislation regarding substantial limitations.

Proposed amendments to 839-006-0270 and 839-006-0295 and adoption of 839-006-0292 would provide definitions for auxiliary aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A,139. Proposed amendments to 839-006-0290 would implement newly enacted legislation regarding places of public accommodation and state government.

Proposed amendments to 839-006-0305 would modify the definition of place of public accommodation consistent with newly enacted legislation.

Proposed amendments to and renumbering of 839-006-0307 to 839-006-0340 would reorganize the rule as theories of discrimination that apply to state government and places of public accommodation. The proposed amendments would also replace the term "complainant" with "individual" because the Commissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

The proposed adoption of 839-006-0345 will provide information on assistance animals in places of public accommodation and state government, consistent with newly enacted legislatiou.

The proposed renumbering of 839-006-0332 to 839-006-0350, will move the existing rule without amendments, as the subject of the rule, requirements for transient lodging, is separate and not a part of the Oregon disability statutes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia.l.ohlemiller@state.or.us	Marcia Ohlemiller	10/15/2013
Signature	Printed name	Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: Stats. Implemented: ORS 659A.103 – 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

Proposed amendments and adoptions would make the rules consistent with newly enacted legislation and the Americans with Disabilities Act. Adoptions of 839-006-0291, 839-006-0292, and 839-006-0345 would implement newly enacted legislation or clarify responsibilities under existing legislation.

Documents Relied Upon, and where they are available:

H.B. 2111, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2111/Enrolled, H.B. 2668, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2668/Enrolled, S.B. 610, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/SB610/Enrolled.

Fiscal and Economie Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336);
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- c. Equipment, supplies, labor and increased administration required for compliance:

 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule?

 Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No. If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or make the rules consistent with newly enacted legislation which BOLI has no authority not to enforce or to change.

Marcia.l.ohlemiller@state.or.us

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Burcau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-006-0340

Date Rule Became Effective: February 24, 2010

Date Review Due:

February 24, 2015

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? X Yes No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- Has the rule had the intended effect?

 Yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 12-2015, f. & cert. ef. 8-28-15 Renumbered from 839-006-0307 by BLI 15-2013, f. & cert. ef 12-30-13 BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

4) Is the rule still needed?

Yes

5) What impacts has the rule had on small business? No known impact.

Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NB Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION .

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: OAR 839-005-0138, implementing statutes prohibiting employer discrimination against child support obligors; OAR 839-005-0140, implementing statutes requiring employer accommodation of religious leave and clothing; OAR 839-006-0331. implementing statutes requiring transient housing to provide lifts for individuals with disabilities. OAR 839-006-0332, implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions. AMEND: Division 5 rules to conform and cross reference with new rules implementing statute probibiting employer discrimination against child support obligors and implementing statutes prohibiting employer discrimination against uniformed service members.

Division 6 rules to conform and cross reference with new rules implementing statutes requiring toilet access in places of public accommodation for individuals with qualifying medical conditions and implementing statutes requiring transient housing to provide lifts for individuals with disabilities.

Stat. Auth.: ORS 659A.805

Other Auth.: ORS 25,424(3); HB 2600, SB 786 and SB 277, Oregon Legislative Assembly 2009.

Stats, Implemented: ORS 25:424(3) (prohibiting employer discrimination against child support obligors), HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 786 (requiring accommodation of religious leave) SB 277 (requiring toilet access for customers with eligible medical conditions in places of public accommodation).

RULE SUMMARY

The proposed roles would implement statutes making discrimination by employers against child support obligors an unlawful employment practice. (ORS 25.424(3)

The proposed rules would implement newly enacted statutes requiring places of public accommodation to provide access to employee toilets for customers with eligible medical conditions. (SB 277)

The proposed rules would implement newly enacted statutes requiring employers to reasonably accommodate wearing of religious clothing and leave for religious practices. (SB 786)

The proposed rules would implement newly enacted statutes requiring transient lodging of 175 or more units to provide lifts for individuals with disabilities. (HB 3256)

The agency requests public comment-on-whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

December 7, 2009

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Amy K. Klare, Administrator, Civil Rights Division

October 15, 2009

Date

ARC 923-2005

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal boliday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

Sccretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries - Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Implementing protections for religious worship and child support obligors; requiring physical accommodations for eligible disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Proposed rules implementing new statutes protecting religious worship by employees; making discrimination against child support obligors an unlawful employment practice; requiring access to toilets in places of public accommodation for individuals with eligible medical conditions; requiring lifts for individuals with disabilities in transient housing.

Statutory Authority: ORS 659A.805

Other Authority: ORS 25.424(3); HB 2600, SB 277 and SB 786, Oregon Legislative Assembly, 2009

Stats. Implemented: ORS 25.424(3) (making discrimination against child support obligors an unlawful employment practice). HB 2600 (requiring lifts for individuals with disabilities in transient lodging), SB 277 (requiring access to toilets in places of public accommodation for individuals with eligible medical conditions), and SB 786 (requiring employer accommodation of leave and clothing for religious worship)

Need for the Rule(s): The proposed rules and amendments would implement statutes (1) prohibiting discrimination on the basis of child support obligations, (2) requiring employer accommodation of religious leave and dress; (3) requiring access to toilets in places of public accommodation for individuals with eligible medical conditions, (4) requiring lifts in transient lodging for individuals with disabilities; and would clarify, edit and make housekeeping changes.

Documents Relied Upon, and where they are available: ORS 25.424(3); HB 2600, SB 277, SB 786 2009; available on Oregon Legislature website.

Piscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed rules and amendments. The laws that the proposed rules would implement are in current law or will be on January 1, 2010 and fiscal or economic impact, if any, would result from those laws. There is potential positive fiscal and economic impact for public and private employers because the proposed rule amendments would clarify laws, making it less likely that covered employers will inadvertently violate them Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

No new cost of compliance to the Bureau from the proposed rules is anticipated because the statutory amendments the rules for the most part would implement are or will be in laws over which the Bureau currently has enforcement authority.

No new cost of compliance of the proposed rules per se on Oregon's 532 state and local government employers is anticipated because the rules for the most part would implement statutory requirements.

No new cost of compliance of the proposed rules per se on the public is anticipated because the rules implement laws that apply to public bodies and certain business owners, housing providers and employers and not to the general public.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

Oregon discrimination laws apply to Oregon employers generally. Thus the proposed rules would apply to those employers. Oregon Employment Department information indicates that approximately 10,000 private employers would potentially be affected by the proposed rules. Lift requirements in transient lodging would apply to facilities with 175 or more -units. Toilet access requirements would apply to all Oregon places of public accommodation with 3 or more employees.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: No new reporting, recordkeeping or other administrative activities are required or anticipated under the proposed rules.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules. How were small businesses involved in the development of this rule?

Small business representatives are being asked to serve on the Rule Advisory Committee,

Administrative Rule Advisory Committee consulted?: Yes.

Amy K. Klare, Administrator, Civil Rights Division October 15, 2009

Printed name

Date

Signature

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Secretary of State **CORRECTED** Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FEB 2 4 2010

ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 24, 2010 by

Bureau of Labor and Industries, Civil Rights Division.

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller,

800 NE Oregon St. Snite 1045, Portland, OR 97232-2180

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 24, 2010. Rulemaking Notice was published in the December 2009 Oregon Bulletin.**

RULE CAPTION

Implementing statutory enactments and amendments regarding disability, veterans' preference and discrimination based on uniformed service.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

E Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-006-0307; 839-006-0480; 839-006-0202; 839-005-0206

AMEND: 839-005-0000; 839-005-0003; 839-005-0005; 839-005-0010; 839-005-0021; 839-005-0195; 839-005-0200; 839-005-0205; 839-005-0215; 839-005-0220; 839-006-0200; 839-006-205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0250; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0330; 839-006-0335; 839-006-0435; 839-006-0440; 839-006-0445; 839-006-0450; 839-006-0455; 839-006-0460; 839-006-0465; 839-006-0470

Stat. Auth.: ORS 659A.805

Other Auth.: HB 3256, HB 2510 and SB 874, Oregon Legislative Assembly 2009

Stats. Implemented: HB 2510 (removing restrictions on civil service Veterans' Preference); HB 3256 (making discrimination on the basis of uniformed service an unlawful employment practice); SB 874 (conforming Oregon disability discrimination law to federal Americans with Disabilities Act Amendments Act of 2008).

RULE SUMMARY

The proposed rules and amendments would implement amendments to statutes providing for employment preference for veterans. (HB 2510).

The proposed rules and amendments would implement amendments to disability discrimination statutes to conform them to the federal Americans with Disabilities Act Amendments Act of 2008. (SB 874).

The proposed rules would implement newly enacted statutes prohibiting discrimination in employment on the basis of uniformed service. (HB 3256).

Brad Avakian

2/23/10

Anthorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of

**The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice fillings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

Disability Rights Virtual Advisory Committee

Max Brown, Ph.D Legislation and Policy Analyst Seniors and People with Disabilities Oregon Department of Human Services 500 Summer Street NE Salem, OR 97301 (503) 945-6993

Bill Lynch, Chair Oregon Disabilities Commission prefers to receive mail at: Bill.F.Lynch@state.or.us

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Oregon Commission for the Blind Linda Mock, Administrator 535 SE 12th Ave. Portland, Oregon 97214-2488 10/19/09 mailing

Veterans' Affairs Virtual Advisory Committee

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Paula Brown, Deputy Director Oregon Department of Veterans' Affairs 700 Summer St. NE Salem, OR 97301-1285

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

ertify that the attached copies* are true, full and correct copies of the PERMAN	JENT Rules adopted on October 13, 2011 by the
areau of Labor and Industries, Civil Rights Division	839
Agency and Division	Administrative Rules Chapter Number

Marcia L. Ohlemiller

800 NE Oregon St. #1045 Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

to become effective October 14, 2011.

Rulemaking Notice was published in the December 2010 Oregon Bulletin.**

RULE CAPTION

New and amended rule language to conform to and implement statutes and correct typographical errors.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing. **AMEND**: 839-003-0005; 839-003-0025; 839-003-0100; 839-005-0010; 839-005-0026; 839-005-0031; 839-005-0070; 839-005-0080; 839-005-0200; 839-005-0200; 839-005-0200; 839-005-0200; 839-005-0200; 839-005-0200; 839-005-0200; 839-009-0250; 839-009-0250; 839-009-0360; 839-009-0360; 839-009-0400; 839-009-0450,

Stat. Auth.: ORS 659A.805

Other Auth.:

Stats. Implemented: ORS 659A.103 through 659A.142; ORS 659A.145; ORS 659A.421; ORS 659A.820; ORS 659A.825; ORS ^\9A.870 through 659A.885

RULE SUMMARY

The proposed rules and amendments would clarify that service animals may be a reasonable accommodation in housing for an individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform definition of "in loco parentis" as used in the Oregon Family Leave Act (OFLA) with federal definition; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify the amount of time employers have to provide notice that an employee using unforeseeable OFLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employer has to notify employees they are eligible for OFLA leave; and clarify how a discrimination complaint is verified.

Dua M. M. Deputy Comm. | Brad Avakian authorized Signer Printed name

Det. 13, 2011

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. #1045 Portland OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

New and amended rule language to conform to and implement statutes and correct typographical errors.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secore approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: Division 3 rules as necessary; Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary; Division 10 rules as necessary.

AMEND: OAR 839-003-0100 and other Division 3 rules as necessary; OAR 839-005-0200, OAR 839-005-0206, OAR 839-005-0210, OAR 839-005-0220, and other Division 5 rules as necessary; OAR 839-006-0200 and other Division 6 rules as necessary; OAR 839-009-0250, OAR 839-009-0250, OAR 839-009-0260, OAR 839-009-0280, OAR 839-009-0290 and other Division 9 rules as necessary; OAR 839-010-0100 and other Division 10 rules as necessary.

RENUMBER: Division 3 rules as necessary; Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary; Division 10 rules as necessary.

AMEND & RENUMBER: Division 3 rules as necessary; Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary; Division 10 rules as necessary.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 through 659A.142; ORS 659A.145; ORS 659A.199; ORS 659A.421; ORS 659A.820; ORS 659A.825; ORS 659A.870 through 659A.885; other sections of ORS chapter 659A as appropriate.

RULE SUMMARY

The proposed rules and amendments would clarify the individuals protected by prohibitions against use of crodit history in employment; clarify that service animals may be a reasonable accommodation in housing for an individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform implementation of statutes prohibiting discrimination based on military service with federal law and make such statutes internally consistent; conform definition of "in loco parentis" as used in the Oregon Family Leave Act (OFLA) with federal definition; clarify that statutes require costs of completing OFLA verification forms to be paid by the employer; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify application of leave year for employees using pregnancy disability leave and parental leave; clarify the amount of time employers have to provide notice that an employee using unforceseable OFLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employer has to notify employees they are eligible for OFLA leave; clarify how a discrimination complaint is verified; clarify that reports of violations of law to administrative agencies are protected under ORS 659A.199; implement statutes applying to use of physical force regarding health care employees.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

January 3, 201]

Last Day Idr Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia L. Ohlemiller

November 15, 2010

Signature

Printed name

Date

*Rulemaking Notices published in the Oregon Bulletin must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, upon which the deadline is 5:00 pm the preceding workday. A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Rulemaking Notice in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

ARC 923-2005

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Sccretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries, Civil Rights Division

Agency and Division

Administrative Rules Chapter Number

New and amended rule language to conform to and implement statutes and correct typographical errors.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of: Civil Rights Division Rulemaking November 2010

Statutory Authority: ORS 659A.805

Other Authority: N/A

Stats. Implemented: ORS 659A.103 through 659A.142; ORS 659A.145; ORS 659A.199; ORS 659A.421; ORS 659A.820; ORS

659A.825; ORS 659A.870 through 659A.885; other sections of ORS chapter 659A as appropriate.

Need for the Rule(s):

The proposed rules and amendments would clarify the individuals protected by prohibitions against use of credit history in employment; clarify that service animals may be a reasonable accommodation in housing for an individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform implementation of statutes prohibiting discrimination based on military service with federal law and make such statutes internally consistent; conform definition of "in loco parentis" as used in the Oregon Family Leave Act (OFLA) with federal definition: clarify that statutes require costs of completing OFLA verification forms to be paid by the employer; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify application of leave year for employees using preguancy disability leave and parental leave; clarify the amount of time employers have to provide notice that an employee using unforeseeable OFLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employee has to notify comployees they are eligible for OPLA leave; clarify how a discrimination complaint is verified; clarify that reports of violations of law to administrative agencies are protected under ORS 659A.199; implement statutes applying to use of physical force regarding health care employees.

Documents Relied Upon, and where they are available: N/A

Fiscal and Economic Impact:

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal impact is anticipated.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: 107,103 small businesses will be subject to these rules.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: None.
- c. Equipment, supplies, labor and increased administration required for compliance: None.

How were small businesses involved in the development of this rule? Small businesses are represented on our agency mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?: Proposed rules and amendments are not substantive changes.

Marcia L. Ohlemiller November 15, 2010

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-2007

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

certify	v linet the attached co	ples are true, full and c	orrect copies of the f	PERMANENT Ruis(s) adopted on <u>Up</u>	<u>ion filing,</u> by the

Bureau of Labor and Industries

Agency and Division

839
Administrative Ruiss Chapter Number

Marcia Ohlemiller

<u>(971) 873-0784</u>

Rules Coordinator

Telephono

800 NE Oregon St., Ste. 1046, Portland, OR 97232

Address

To become affective Upon filing. Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approvel of new rule numbers with the Administrative Rules Unit prior to filling.

ADOPT:

839-008-0291, 839-006-0292, 839-006-0345

AMEND:

839-006-0205, 839-006-0212, 839-006-0270, 839-006-0290, 839-006-0295, 839-006-0305

REPEAL:

RENUMBER:

4939-006-0332 to 839-008-035**0**

AMEND AND RENUMBER:

839-006-0307 to 839-008-9240 0340

Kaljiy Ox

Statutory Authority:

ORS 659A.805

Other Authority:

Statutes Implemented:

ORS 659A 103 8€" 659A 142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2666, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Amendments to 639-008-0205 and 639-006-0212 make the rules consistent with newly enacted legislation regarding substantial limitations.

Amendments to 839-006-0270 and 839-006-0295 and adoption of 839-008-0292 provide definitions for auxiliary aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A.139. Amendments to 839-006-0290 implement newly enacted legislation regarding places of public accommodation and state government.

Amendments to 839-006-0305 modify the definition of piece of public accommodation consistent with newly enacted (egislation.

Amendments and renumbering of 839-006-0307 to 839-008-0340 reorganize the rule as theories of discrimination that apply to state government and places of public accommodellon. The amendments would also replace the term "complainant" with "individual" because the Commissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

Adoption of 839-006-0345 provides information on assistance animals in places of public accommodation and state government, consistent with newly enacted legislation.

Renumbering of 839-006-0332 to 839-006-0350 moves the existing rule without amendments, as the subject of the rule, requirements for an expension of the rule of the Oregon disability statutes.

Marcia Ohlemiller Marcia,L,Ohlemiller@state.or.us

Rules Coordinator Name Email Address

FILED 12-30-13 5:40 PM ARCHIVES DIVISION SECRETARY OF STATE

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. Ste. 1045 Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-006-0291, 839-006-0292, 839-006-0345

AMEND: 839-006-0205, 839-006-0212, 839-006-0270, 839-006-0290, 839-006-0295, 839-006-0305, and any other Division 6 rules as necessary,

REPEAL:

RENUMBER: 839-006-0332 to 839-006-0350;

AMEND & RENUMBER: 839-006-0307 to 839-006-0340

Stat. Auth.: ORS 659A.805

Other Auth.:

Stats, Implemented: ORS 659A.103 - 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Proposed amendments to 839-006-0205 and 839-006-0212 would make the rules consistent with newly enacted legislation regarding substantial limitations.

Proposed amendments to 839-006-0270 and 839-006-0295 and adoption of 839-006-0292 would provide definitions for auxiliary aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A, 139. Proposed amendments to 839-006-0290 would implement newly enacted legislation regarding places of public accommodation and state government.

Proposed amendments to 839-006-0305 would modify the definition of place of public accommodation consistent with newly enacted legislation.

Proposed amendments to and renumbering of 839-006-0307 to 839-006-0340 would reorganize the rule as theories of discrimination that apply to state government and places of public accommodation. The proposed amendments would also replace the term "complainant" with "individual" because the Commissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

The proposed adoption of 839-006-0345 will provide information on assistance animals in places of public accommodation and state government, consistent with newly enacted legislation.

The proposed renumbering of 839-006-0332 to 839-006-0350, will move the existing rule without amendments, as the subject of the rule, requirements for transient lodging, is separate and not a part of the Oregon disability statutes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia.l.ohlemiller@state.or.usMarcia Ohlemiller10/15/2013SignaturePrinted nameDate

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rolemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Statutory Authority: ORS 659A,805

Other Authority:

Stats. Implemented: Stats. Implemented: ORS 659A.103 – 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

Proposed amendments and adoptions would make the rules consistent with newly enacted legislation and the Americans with Disabilities Act. Adoptions of 839-006-0291, 839-006-0292, and 839-006-0345 would implement newly enacted legislation or clarify responsibilities under existing legislation.

Documents Relied Upon, and where they are available:

H.B. 2111, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2111/Enrolled, H.B. 2668, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2668/Enrolled, S.B. 610, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/SB610/Enrolled.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- c. Equipment, supplies, labor and increased administration required for compliance:

 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule?

 Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or make the rules consistent with newly enacted legislation which BOLI has no authority not to enforce or to change.

Marcia.l.ohlemiller@state.or.us

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

8/28/15 missing minimal change 2015 Amendment

839-006-0340

Discrimination Theories: Discrimination against Individuals with Disabilities by State Government or Places of Public Accommodation

- (1) A violation of discrimination laws against individuals with disabilities may involve either intentional or unintentional discrimination. Discrimination against individuals with disabilities need not be intentional to be unlawful. Unintentional discrimination may occur, for example, in situations involving adverse impact. To be protected from discrimination based on disability, an individual must have a disability, as defined in ORS 659A.104 and the relevant rules.
- (2) Substantial evidence of intentional unlawful discrimination against an individual exists if the investigation of the Civil Rights Division ("division") reveals evidence that a reasonable person would accept as sufficient to support the following elements:
- (a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(14) of these rules:
- (b) The individual has a disability:
- (c) The individual was harmed by an action of the respondent; and
- (d) The individual's disability was the motivating factor for the respondent's action. In determining whether the individual's disability was the motivating factor for the respondent's action, the division uses whichever of the following theories applies:
- (A) Specific Intent Theory: The respondent knowingly and purposefully discriminates against an individual because that individual has a disability.
- (B) Different or Unequal Treatment Theory: The respondent treats individuals with disabilities differently than others who do not have disabilities. When the respondent makes this differentiation because of the individual's disability and not because of legitimate, non-discriminatory reasons, unlawful discrimination exists. In establishing a case of different or unequal treatment:
- (i) There must be substantial evidence that the individual was harmed by an action of the respondent under circumstances that make it appear that the respondent treated the individual differently than comparably situated individuals who do not have disabilities. Substantial evidence of discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support that an individual's disability was a motivating factor for the respondent's alleged unlawful action. If the respondent fails to reput this evidence with evidence of a legitimate non-discriminatory reason, the division will conclude that substantial evidence of unlawful discrimination exists.
- (I) Pretext: If the respondent rebuts the evidence with evidence of a legitimate non-discriminatory reason. but there is substantial evidence that the respondent's reason is a pretext for discrimination, the division will conclude there is substantial evidence of unlawful discrimination.
- (II) Mixed Motive: If the respondent presents substantial evidence that a legitimate, non-discriminatory reason contributed to the respondent's action, but the division finds the individual's disability was also a substantial factor in the respondent's action, the division will determine there is substantial evidence of
- (ii) The individual with a disability at all times has the burden of proving that the individual's disability was the motivating factor for the respondent's unlawful action.

- (3) Adverse impact by a place of public accommodation or by state government on the basis of disability: Substantial evidence of adverse impact discrimination does not require establishment of intentional discrimination as provided in (2) of this rule. Adverse impact discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:
- (a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(12) of these rules;
- (b) The respondent has a standard or policy that is applied equally.
- (c) The standard or policy has the effect of screening out or otherwise affecting members of a protected class at a significantly higher rate than others who are not members of that protected class; and
- (d) The complainant is a member of the protected class adversely affected by the respondent's standard or policy and has been harmed by the respondent's application of the standard or policy.
- (4) Harassment by a place of public accommodation or by state government on the basis of disability:
- (a) Conduct of a verbal or physical nature on the basis of disability is unlawful when substantial evidence of the elements of intentional discrimination, as described in section (2) of this rule, is shown and:
- (A) Such conduct is sufficiently severe or pervasive to have the purpose or effect of creating an intimidating, hostile or offensive environment; or
- (B) Submission to such conduct is made either explicitly or implicitly a term or condition of receiving services, accommodations, advantages, facilities or privileges from a place of public accommodation or services, programs or activities of state government; or
- (C) Submission to or rejection of such conduct is used as the basis for decisions affecting that individual.
- (b) The standard for determining whether harassment is sufficiently severe or pervasive to create a hostile, intimidating or offensive environment is whether a reasonable person in the circumstances of the individual against whom the harassment is directed would so perceive it.

Statutory/Other Authority: ORS 659A.805

Statutes/Other Implemented: ORS 659A 103 & 659A 142

History:

BLI 12-2015, f. & cert, ef. 8-28-15

Renumbered from 839-006-0307 by BLI 15-2013, f. & cert. ef 12-30-13

BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

BLI 8-2010, f. & cert. ef. 2-24-10

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:	839-010-0305
Date Rule Became Effective:	_12/30/2013
Date Review Due:	12/30/2018
Bureau Division or Unit:	Civil Rights

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? Yes X No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- 1) Has the rule had the intended effect? yes
- 2) Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 2-2015, f. & cert. ef. 1-28-15

- 4) Is the rule still needed? yes
- 5) What impacts has the rule had on small business? None known

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

BOLI100 Effective: (Rev. 8/18)

7

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries		839
Agency and Division	Adn	ninistrative Rules Chapter Numbe
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
o become effective upon filing.	Rulemaking Notice was published in the November 2013	, Oregon Bulletin.
	RULE CAPTION to implement newly enacted whistleblower protection regardessonably identifies the subject matter of the agency's inten-	
Secure approval of new rule ADOPT: 839-010-0300, 839-010	RULEMAKING ACTION List each rule number separately (000-000-0000) e numbers (Adopted or Renumbered rules) with the Administra 0-0305, 839-010-0310	tive Rules Unit prior to filing.
AMEND: 839-010-0000		
REPEAL:		
RENUMBER:		
AMEND & RENUMBER:		
tat. Auth.; ORS 659A.805	<u>, </u>	
Other Auth.:		
Stats, Implemented: S.B. 148, 77	th Leg., Reg. Session (Or. 2013)	
	RULE SUMMARY and scope of the rules in correctly stating the provisions of the applement newly enacted legislation extending whistleblower pro-	
	ller	12-30-13
Marcia Ohlami	Marcia Ohlemiller	12-30-13

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industrie.	<u>s</u>	839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telenbone
RULE CAPTION Amending	and adopting rules to implement newly enacted whistle	blower protection regarding election
<u>IAWS</u>	reasonably identifies the subject matter of the agency's	·
Secure approval of new r ADOPT: 839-010-0300, 839-0	RULEMAKING ACTION rule numbers (Adopted or Renumbered rules) with the Admi 010-0305, 839-010-0310	nistrative Rules Unit prior to filing
AMEND: 839-010-0000 and a	ny other Division 10 rules as necessary.	
REPEAL:	·	•
RENUMBER:		
AMEND & RENUMBER:		
Stat. Auth.; ORS 659A.805		<u> </u>
Other Auth.:		
Stats. Implemented: ORS S.B.	148, 77th Leg., Reg. Session (Or. 2013)	
	RULE SUMMARY	
Proposed Amendments would c Statutes that are enforced. Newl disclosures regarding violations	clarify the purpose and scope of the rules in correctly stating by adopted rules would implement newly enacted legislation of election laws.	the provisions of the Oregon Revised extending whistleblower protections to
The agency requests public con while reducing the negative econ	mment on whether other options should be considered for nomic impact of the rule on business.	achieving the rule's substantive goals
November 28, 2013		
Last Day for Public Comment	(Last day to submit written comments to the Rules Coordin	ator)
Marcia.l.ohlemiller@state.or.us	Marcia Ohlemiller	10/15/13
Bignature	Printed name	Date
Inter Natices must be submitted	d by the 15th day of the mouth to be published in the count	and to O D H at 1 D L 11
learing may be requested in wri	d by the 15th day of the month to be published in the next mitting by 10 or more people, or by an association with 10 or r	onto a Oregon Buttetin. A Kulemaking nore members, within 21 days

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending and adopting rules to implement newly enacted whistleblower protection regarding election laws

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendment and Adoption of Rules in 839-010 to Implement Whistleblower Protection for Reporting Possible Violations of Election Laws

Statutory Authority: ORS 659A,805

Other Authority:

Stats. Implemented: S.B. 148, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

Amendments clarify the scope and purpose of the rules in correctly stating the provisions of the ORS enforced by the Bureau of Labor and Industries. New rules 839-010-0300, 839-010-0305, 839-010-0310 implement newly enacted legislation.

Documents Relied Upon, and where they are available:

Senate Bill 148, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/list/

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The newly enacted law that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates there are 107,103 small businesses in Oregon. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- c. Equipment, supplies, labor and increased administration required for compliance:
 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule?

 Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would implement statutory protections which BOLI has no discretion not to enforce or to change.

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.



Certificate and Order for Filing ENT ADMINISTRATIVE RULES

Bureau of Lab

SECRETARY OF BIASEONE

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the

Bureau of Labor and Industries

Administrative Rules Chapter Number

Agency and Division

(971) 673-0784

234

Marcia Ohlemiller

Rules Coordinator

Telephone

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

1. ZO14 To become effective Upon filling. Rulemaking Notice was published in the Oregon Bulletin.

RULE CAPTION

Amendments to clarify, conform with authorities, correct citations.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

839-010-0000, 839-010-0010, 839-010-0020, 839-010-0100, 839-010-0200, 839-010-0205, 839-010-0210, 839-010-0300, 839-010-0305, 839-010-03000, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 839-010-0300, 83 -010-0310

REPEAL:

RENUMBER:

AMEND AND RENUMBER: •

Statutory Authority:

ORS 441.178; 652.355; 653.060; 659A.221; 659A.805

Other Authority:

Statutes Implemented:

ORS 441.172; 441:174; 441.178; 260,262; 652,355; 653,060; 659A,199; 659A,200-,233; OL Ch. 519, Sec. 7 2013

RULE SUMMARY

Amendments to clarify, conform with authorities, correct citations.

Marcia Ohlemiller

Marcia.L.Ohlemiller@state.or.us

Rules Coordinator Name

Email Address

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762

SALEM 3865 Wolverine St. NE; E-1 Salem, OR 97305-1268 (503) 378-3292 Fax (503) 373-7636

EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

BEND Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435 Fax (541) 389-8265

Oregon Relay TTY:711

www.oregon.gov/boli AN EQUAL OPPOŘTUŇITY EMPLOYER

MEDFORD Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

1 NPRMS Fiscal Impact for 1/28/15 missing

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule N	lumber:	839-010-0300
Date R	ule Became Effective:	_12/30/2013
Date R	eview Due:	12/30/2018
Витеа	Division or Unit:	Civil Rights
Name	and Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date th	ne Review was Comple	eted: October 29, 2018
	•	ring rulemaking? Yes X No the members and their email or regular mail addresses. Provide a copy emembers.
Rulem	aking, the Statement of	answer the following four questions. Review the Notice of Proposed f Need and Fiscal Impact, and the Certificate and Order for Filing ales filed with the rule and any amendments to the rule.
1) yes	Has the rule had the in	ntended effect?
2) Just ab	Was the fiscal impact out right	of the rule underestimated, overestimated, just about right, or unknown?
3) no Ameno BLI 2-	repealed or amended?	
4) yes	Is the rule still needed	?
5) None k	-	rule had on small business?

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

BOLI100 Effective: (Rev. 8/18)

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section. The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State . Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries Agency and Division Administrative Rules Chapter Num Marcia Ohlemillor 800 NE Oregon St. Ste. 1045 Portland, OR 97232 971-673-0784 Rules Coordinator Address Telephone to become effective upon filing. Rulemaking Notice was published in the November 2013, Oregon Bulletin. RULE CAPTION Amending and adopting rules to implement newly enacted whistleblower protection regarding election laws Not more than 15 words that reasonably identifies the subject matter of the agency's intended action. RULEMAKING ACTION List each rule number separately (900-000-0000) Secure approval of new rule numbers (Adopted or Remimbered rules) with the Administrative Rules Unit prior to filing. ADOPT: 839-010-0300, 839-010-0305, 839-010-0310 AMEND: 839-010-0000 REPEAL: RENUMBER: AMENDA & RENUMBER: Stat. Auth.: ORS 659A.805 Other Auth.: Stats. Implemented: S.B. 148, 77th Leg., Reg. Session (Or. 2013) RULE SUMMARY Amendments clarify the purpose and scope of the rules in correctly stating the provisions of the Oregon Revised Statutes that are inforced. Newly adopted rules implement newly anacted legislation extending whistleblower protections to disclosures regarding ricialations of election laws. Marcia Ohlemiller 12-30-13 Authorized Signer Printed name Date	the	copies are true, full and correct copies of the PERMANENT Rule(s) ac	
Marcia Ohlemiller 800 NE Oregon St. Ste. 1045 Porland, OR 97232 971-673-0784 Rules Coordinator Address Telephone to become effective upon filing. Rulemaking Notice was published in the November 2013, Oregon Bulletin. RULE CAPTION Amending and adopting rules to implement newly enacted whistleblower protection regarding election laws Not more than 15 words that reasonably identifies the subject matter of the agency's Intended action. RULEMAKING ACTION List each rule number separately (2000-000-0000) Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing. ADOPT: 839-010-0300, 839-010-0305, 839-010-0310 AMEND: 839-010-0000 REPEAL: RENUMBER: Stat. Auth.: ORS 659A.805 Other Auth: Stats. Implemented: S.B. 148, 77* Leg., Reg. Session (Or. 2013) RULE SUMMARY Amendments clarify the purpose and scope of the rules in correctly stating the provisions of the Oregon Revised Statutes that are inforced. Newly adopted rules implement newly enacted legislation extending whistleblower protections to disclosures regarding violations of election laws. Marcia Ohlemiller Marcia Ohlemiller			
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Marcia Ohlemiller 12-30-13		f 4	
Authorized Signer Printed name Date		Emiller	
		amiller Marcia Ohlemiller	12-30-13

Note: Permanent rulemakings must be submitted by the 15th day of the month to be included in the next month's Oregon Bulletin and online OAR Compilation updates.

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Buleau of Labor and Indust	ries	839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
RULE CAPTION Amendi	ing and adopting rules to implement newly enacted whistle	eblower protection regarding election
<u>la wa</u>		
Mot more than 12 Morns to	hat reasonably identifies the subject matter of the agency?	s intended action.
	RULEMAKING ACTION	
Secure approval of nev	w rule numbers (Adopted or Renumbered rules) with the Adn	ninistrative Rules Unit prior to filing
ADOPT: 839-010-0300, 839	9-010-0305, 839-010-0310	minerative Rolls One prior to ming
AMEND: 839-010-0000 and	d any other Division 10 rules as necessary,	
	•	
REPEAL:		
RENUMBER:		
AMEND & DESIDADED.		
AMEND & RENUMBER:		
Stat. Auth.: ORS 659A,805		•
		
Other Auth.:		
Stats, Implemented: ORS S.	B. 148, 77th Leg., Reg. Session (Or. 2013)	
		-
	RULE SUMMARY	
Proposed Amendments woul	d clarify the purpose and scope of the rules in correctly stating	a the provisions of the Oregon Ravised
Statutes that are enforced. No	ewly adopted rules would implement newly enacted legislatio	n extending whistleblower protections to
disclosures regarding violatio	ons of election laws.	
The agency requests nublic	comment on whether other options should be considered for	an makimulan aka —dati ili a ati ili a
while reducing the negative e	economic impact of the rule on business.	or achieving the rule's substantive goals
gg	The state of the same of the s	
November 28, 2013		
Last Day for Public Comme	ent (Last day to submit written comments to the Rules Coordi	inator)
Marcia.l.ohlemiller@state.or.	Marsis Oblasiita	100500
Signature	.us Marcia Ohlemiller Printed name	10/15/13
N. Brieffile	Printed name	Date
Note: Notices must be submit	tted by the 15th day of the month to be published in the next r	month's Oregon Rulletin A Rulemaking
Hearing may be requested in s	writing by 10 or more people, or by an association with 10 or	more members, within 21 days
following notice publication o	or 28 days from the date notice was sent to people on the agen	cy's interested party mailing list.
whichever is later. In such cas	ses a Hearing Notice must be published in the Oregon Bulletin	n at least 14 days before the hearing.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending and adopting rules to implement newly enacted whistleblower protection regarding election laws

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendment and Adoption of Rules in 839-010 to Implement Whistleblower Protection for Reporting Possible Violations of

Election Laws

Statutory Authority: ORS 659A,805

Other Authority:

Stats. Implemented: S.B. 148, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

Amendments clarify the scope and purpose of the rules in correctly stating the provisions of the ORS enforced by the Bureau of Labor and Industries. New rules 839-010-0300, 839-010-0305, 839-010-0310 implement newly enacted legislation.

Documents Relied Upon, and where they are available:

Senate Bill 148, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/list/

Piscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The newly enacted law that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates there are 107,103 small businesses in Oregon.. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- Equipment, supplies, labor and increased administration required for compliance:
 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule?
 Small business representatives are represented on BOLPs stakeholder mailing list.

Administrative Rule Advisory Committee consulted?; No.

If not, why?:

The proposed rule amendments and adoptions would implement statutory protections which BOLI has no discretion not to enforce or to change.

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.



Secretary of State Certificate and Order for Filing NENT ADMINISTRATIVE RULES

Bureau of Labor

SECRETARY OF STATEONS

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing</u>, by the

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

(971) 673-0784

Rules Coordinator

Telephone

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

Oct. 1,2014 To become effective Upon filing. Rulemaking Notice was published in the Oregon Bulletin.

RULE CAPTION

Amendments to clarify, conform with authorities, correct citations

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

839-010-0000, 839-010-0010, 839-010-0020, 839-010-0100, 839-010-0200, 839-010-0205, 839-010-0210, 839-010-0300, 839-010-0305, 839 -010-0310

REPEAL:

RENUMBER:

AMEND AND RENUMBER: 1

Statutory Authority:

ORS 441.178; 652.355; 653.080; 659A.221; 659A.805

Other Authority:

Statutes Implemented:

ORS 441.172; 441.174; 441.178; 260.262; 652.355; 653.060; 659A.199; 659A.200-.233; OL Ch. 519, Sec.7 2013

RULE SUMMARY

Amendments to clarify, conform with authorities, correct citations.

Marcia Ohlemiller

Marcia, L. Ohlemiller@state.or.us

Rules Coordinator Name

Email Address

PORTLAND 800 NE Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762

SALEM 3865 Wolverine St. NE; E-1 Salem, OR 97305-1268 (503) 378-3292 Fax (503) 373-7636

EUGENE 1400 Executive Parkway, Snite 200 Bugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

BEND Apprenticeship and Training Worksource Dend 1645 NE Forbes Rd, Ste 106 Bend, OR 97701-4990 (541) 322-2435 Fax (541) 389-8265

Oregon Relay TTY:711

www.oregon.gov/boli AN EQUAL OPPOŘTUŇITY EMPLOYER

MEDFORD Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

NDRM& Fiscal impact for 1/28/15 missing

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0075

Date Rule Became Effective: January 1, 2012

Date Review Due:

January 1, 2017

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? Yes X No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes

- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? 2) Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

Νo

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15

BLI 14-2013, f. & cert. ef. 12-30-13

BLI 3-2012, f. & cert. ef. 2-8-12

Is the rule still needed? 4)

Yes

What impacts has the rule had on small business?

No known impact.

BOLI100 Effective: (Rev. 8/18) Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- · Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

RECEIVED

Secretary of State Certificate and Order for Filing

ANENT ADMINICTO ATIVE DITLES

FEB **22** 2012

PERMANENT ADMINISTRATIVE RULES

CIVIL RIGHTS DIVISION PORTLAND OFFICE

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 7, 2012 by the

Date prior to or same as filing date

Bureau of Labor and Industries

839
Administrative Rules Chapter Number

Agency and Division

800 NE Oregon St. Suite 1045, Portland, OR 97232

971-673-0784

Marcia Ohlemiller Rules Coordinator

Address

Теlернопе

to become effective February 8, 2012.

Rulemaking Notice was published in the November 2011 Oregon Bulletin.**

Month and Year

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-005-0075, 839-005-0130, 839-005-0135, 839-989-9364-

Date upon filing or later

MM FED. Zu

AMTEND: 839-005-0160, 839-005-0170, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0345, 839-009-0355, 839-009-

0360, 839-009-0362, 839-009-0365

RENUMBER: 839-005-0033 to 839-005-0125

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

FEB 2012 FG Office Counsel's

Stats. Implemented: HB 2036 (corrects references that relate to employment to refer only to employment related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; clarifies that an employer thiay consider the credit history of applicants for public safety officer employment), HB 2828 (creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), and HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The new rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment and clarifies exceptions to the prohibition on the use of credit history information in employment.

The new rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to serve as juror and the employee notified the employer of election to have coverage continue.

The new rules would implement provisions of HB 3482, adding harassment to crime victim protections.

B. Cali

Brad Avakian

February 7, 2012

Authorized Signer

Printed name

Date

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

CORRECTED

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries 839

Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller (971) 673-0784

Rules Coordinator Telephone

Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, QR 97232

Address

RULE CAPTION

Conforms civil rights rules to provisions of HB 2038, HB 2828 and HB 3482 (2011).

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Not more than 15 words that reasonablly identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364 839-005-0075

AMEND:

839-005-0033; 839-005-0060; 839-006-0065; 839-006-0070; 839-005-0060; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206, 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0255; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0790; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0307; 839-006-0310; 839-006-0320; 839-006-0330; 839-006-0332; 839-006-0335 and other Division 6 rules as necessary; 839-009-0325; 839-009-0355; 839-009-0355; 839-009-0365; 839-009-0365; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

ENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing,

AMEND AND RENUMBER; Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary, Division 6 rules as necessary, Division 9 rules as necessary.

Statuatory Authority:

OR\$ 659A.805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance duting period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A,885.

RULE SUMMARY

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The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to erve as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in an unclose tied or execut position, who is not a confidential managed to extraprise to be accommoded by an individual.

an undessmed of exempt position, who is not a confidential, managenator supervisory employee, to be accompanied by an individual selected by the victimized employee to be present during an interview between the employer and employee,

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the heaving.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business	<u>Marcia Ohlemiller</u>	Marcia.L.Ohlemiller@state.ur.us	11-10-11 1:10p.m.
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed
for public commont			

^{*}The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salein, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

Rules Coordinator

Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

RULE CAPTION

Conforms civil rights rules to provisions of HB 2038, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonablly identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0250; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-008-0305; 839-006-0307; 839-006-0310; 839-006-0320; 839-006-0330; 839-006-0332; 839-006-0335 and other Division 6 rules as necessary; 839-009-0325; 839-009-0330; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing. OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary.

Statuatory Authority:

ORS 659A,805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2826 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to sarve as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in an unplementary expension. Who is not a confidential managerial or supervision, employee, to be accompanied by an individual

an unclassified or exempt position, who is not a confidential, managerial or supervisory employee, to be accompanied by an individual selected by the victimized employee to be present during an interview between the employer and employee.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency marking list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business	Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us	11-10-11 1:10p.m.
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed
for public comment			

^{*}The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

1 certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon tiling, by the

839

Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller (971) 673-9764

Rules Coordinator Tolophone

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Addross

To become affective Upon filing. Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissionar complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 639-005-0305, 839-005-0310, 639-005-0316, 839-006-0320, 839-005-0325, 639-005-0400

AMEND:

839-005-0003, 639-005-0011, 839-005-0030, 639-005-0060, 839-005-0065, 839-005-0070, 639-005-0075, 839-005-0080, 839-005-0086, 839-005-0170, 839-005-0200, 839-005-0208

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 859A.805

Other Authority:

Statutes implemented:

ORS chapter 659A, H.B. 2669, 77th Lag., Reg. Session (Or. 2013), H.B. 2854, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 639-005-0003, 639-005-0011, 639-005-0030 replace the term "comptainant" with "aggrieved person" because the Commissioner and Attorney General may bring comptaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.032, 695A.109, 695A.112, 695A.138, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.308, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 639-005-0305, 839-005-0310, 839-005-0315, 639-005-0320, 839-006-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career echools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted tegislation.

Amendments to 839-005-0080, 839-005-0085, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 replace the Oregon Laws cliation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 639-005-0200 change the definition of substantially limits consistent with newly enacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Violim of Stalking.

Amendments to 839-005-0160 and 839-005-0170 implement newly enacted legislation.

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

Marcia Ohlemiliar

Marcia.L.Ohlemilier@state.or.us

Rules Coordinator Name

Email Address

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Piscal Impact accompanies this form.

Bureau of Labor and Industries		839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
	RULE CAPTION	•
Amending, adopting 839-005 rules complaints	regarding career schools, social media, interns, sub	stantial evidence, commissioner
Not more than 15 words that read	onably identifies the subject matter of the agency?	intended action.
	RULEMAKING ACTION	
Secure approval of new rule n ADOPT: 839-005-0300, 839-005-0 839-005-0400	numbers (Adopted or Renumbered rules) with the Adn 1305, 839-005-0310, 839-005-0315, 839-005-0320, 83	ninistrative Rules Unit prior to filing 19-005-0325
AMEND: 839-005-0003, 839-005-0080, 839-005-0085, 839-005-0085	0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 and other rules as necessary in chapter 839-005	39-005-0070, 839-005-0075, 839-005-
REPEAL:	·	
RENUMBER:		
AMEND & RENUMBER:		
Stat. Auth.: ORS 659A.805		
Other Auth.:	<u> </u>	
Stats. Implemented: ORS chapter 65 2013), ORS 345,240, ORS 659A.32	59A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H	.B. 2654, 77 th Leg., Reg. Session (Or.

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address untawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlemiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Detc

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 2t days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form,

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Rag. Session (Or. 2013), H.B. 2654, 77th Leg., Rag. Session (Or. 2013), ORS 345.240, ORS 659A.320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long liad statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is enticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- e. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?
Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NB, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

	ill and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries Agency and Division	839
Marcia Ohlemiller	Administrative Rules Chapter Number (971) 673-0784
Rules Coordinator	Telephane
800 NE Oregon St., Ste. 1045, Portland, OF	₹ 97232
Address	
To become effective <u>Upon filing.</u> Rulemakin	ng Notice was published in the <u>October 2014</u> Oregon Bulletin.
	RULE CAPTION
	ities, correct citations; adoption to implement new statute.
Not more than 15 words that reasonably identifies	s the subject matter of the agency's Intended action.
Secure appro	RULEMAKING ACTION roval of new rule numbers with the Administrative Rules Unit prior to filing.
ADOPT:	
839-005-0036	
-005-0030, 839-005-0031, 839-005-0060, 83 -005-0135, 839-005-0138, 839-005-0140, 83	5, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839-005-005, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0300, 839-005-0305, 839-005-0305, 839-005-0305, 839-005-0305, 839-005-0305, 839-005-0305, 839-005-0305, 839-005-0305, 839-005-0300, 839-005-0305,
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 651.061	
Other Authority:	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.010); ORS 659.850
	RULE SUMMARY
'agg <i>r</i> ieved person" in co nformance with statul	authorities, correct citations. The purposes of the amendments are to replace "complainant" with te; conform career school rules by editing in new statutory definition for "agent;" clarify that employer does not preclude discrimination complaint regarding hiring. Adoption of rule to sed on employment status.
Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us
Rules Coordinator Name	Email Address

NPRM & Fiscal Impact missing BLI 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule 1	Number:	839-005-0315
Date I	Rule Became Effective:	_12/30/2013
Date F	Review Due:	12/30/2018
Burea	u Division or Unit:	Civil Rights
Name	and Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date t	he Review was Comple	eted: October 29, 2018
		ring rulemaking? Yes X No the members and their email or regular mail addresses. Provide a copy e members.
Rulen	aking, the Statement o	answer the following four questions. Review the Notice of Proposed f Need and Fiscal Impact, and the Certificate and Order for Filing ules filed with the rule and any amendments to the rule.
1) yes	Has the rule had the in	ntended effect?
2) Just al	Was the fiscal impact pout right	of the rule underestimated, overestimated, just about right, or unknown
3)	Do any changes in the repealed or amended?	e law (enacted since the rule was adopted) now require the rule to be
No		
Amen		A 15
RLI I	1-2015, f. & cert. ef. 8-	4-15
4) yes	Is the rule still needed	1?
5) None l	-	rule had on small business?

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

Required Filing/Copies:

BOLJ100 Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of

Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Piscal Impact accompanies this form.

Bureau of Labor and Industries		839	
Agency and Division		Administrative Rules Chapter Number	
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784	
Rules Coordinator	Address	Telephone	
	RULE CAPTION		
Amending, adopting 839-005 rule complaints	es regarding career schools, social media, interns, sui	bstantial evidence, commissioner	
Not more than 15 words that re	asonably identifies the subject matter of the agency	¹s intended action.	
	RULEMAKING ACTION		
Secure approval of new rule	numbers (Adopted or Renumbered roles) with the Ad	ministrative Rules Unit prior to filing	
ADOPT: 839-005-0300, 839-005	-0305, 839-005-0310, 839-005-0315, 839-005-0320, 8	39-005-0325	
839-005-0400			
	5-0011, 839-805-9030, 839-905-9060, 839-905-9065, 8 96 and other rules as necessary in chapter 839-905	839-005-0070, 839-005-0075, 839-005-	
0080, 839-005-0085, 839-005-02 REPEAL:	06 and other rules as necessary in chapter 839-005		

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 659A.805

Other Auth,:

Stats, Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed mame

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Heating may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's Intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345,240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Rolled Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

t certify that the attached copies are true, full and correct copies of the PERMANENT Rute(s) adopted on <u>Upon liting</u>, by the <u>Bureau of Labor and Industries</u> <u>839</u>

Agency and Division Administrative Rules Chapter Number

Marcia Ohlemiller (971) 673-0784

Rules Coordinator Telephone

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

To become effective Upon filing. Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding carger schools, social media, interns, substantial evidence, commissioner complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-006-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0076, 839-005-0080, 839-005-0085, 839-005-0170, 839-005-0200, 839-005-0200

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 659A.805

Other Authority:

Statutes Implemented:

ORS chapter 689A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2664, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Log., Reg. Session (Or. 2013), H.B. 3263, 77th Log., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-006-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of eggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 895A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.236, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Careor Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted tegislation.

Amendments to 839-005-0080, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0086 reptace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly enacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Viotim of Sexual Assault, and Victim of Stelling.

Amendments to 839-005-0180 and 839-005-0170 implement newly enacted legislation.

Marcia Ohiemiller Marcia.L.Ohiemiller@state.or.us

Rutes Coordinator Name Email Address

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION SECRETARY OF STATE

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

FILED

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the Bureau of Labor and Industries Administrative Rules Chapter Number Agency and Division <u>Marcia Ohlemiller</u> (971) 673-0784 Rules Coordinator Telephone 800 NE Oregon St., Ste. 1045, Portland, OR 97232 To become effective <u>Upon filing.</u> Rulemaking Notice was published in the <u>October 2014</u> Oregon Bulletin. **RULE CAPTION** Amendments to clarify, conform with authorities, correct citations; adoption to implement new statute. Not more than 15 words that reasonably identifies the subject matter of the agency's intended action. **RULEMAKING ACTION** Secure approval of new rule numbers with the Administrative Rules Unit prior to filing. ADOPT: 839-005-0036 AMEND: 839-005-0000, 839-005-0003, 839-005-0005, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839 -005-0030, 839-005-0031, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839--005-0135, 839-005-0138, 839-005-0140, 839-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839 -005-0210, 839-005-0215, 839-005-0220, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839 -005-0400 REPEAL: RENUMBER:

AMEND AND RENUMBER:

Statutory Authority: ORS 659A.805; 651.061

Other Authority:

Statutes implemented:

ORS 659A.550; ORS 345.240; ORS 345.010; ORS 659.850

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to replace "complainant" with "aggrieved person" in conformance with statute; conform career school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring. Adoption of rule to implement ORS 659A,550, discrimination based on employment status.

Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us
Rules Coordinator Name	Emall Address

NPRM& Fiscal Impact missing BLI 11-2015 8-4-15

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:	839-005-0400
Date Rule Became Effectiv	e: _12/30/2013
Date Review Due:	12/30/2018
Bureau Division or Unit:	Civil Rights
Name and Title of Employe	ee Completing this Report: Chris Lynch, Operations Manager
Date the Review was Comp	pleted: October 29, 2018
	uring rulemaking? Yes X No If the members and their email or regular mail addresses. Provide a copy the members.
Rulemaking, the Statement	o answer the following four questions. Review the Notice of Proposed of Need and Fiscal Impact, and the Certificate and Order for Filing Rules filed with the rule and any amendments to the rule.
Has the rule had the yes	intended effect?
Was the fiscal impa Just about right	ct of the rule underestimated, overestimated, just about right, or unknown?
 Do any changes in trepealed or amender 	he law (enacted since the rule was adopted) now require the rule to be
no Amended: BLI 18-2015, f. 12-22-15, c BLI 11-2015, f. & cert. ef. 5	
4) Is the rule still need yes	ed?
5) What impacts has th	ne rule had on sinall business?

BOLI100 Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of

Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

None known

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industri	ies	839	
Agency and Division		Administrative Rules Chapter Number	
Marcia Ohlemiller	800 NE Oregon St. Sie. 1045 Portland, OR 97232	971-673-0784	
Rules Coordinator	Address RULE CAPTION	Telephone	
Amending, adopting \$39-00 complaints	5 rules regarding career schools, social media, interna, sub	stantial evidence, commissioner	
Not more than 15 words th	nt reasonably identifies the subject matter of the agency?	s intended action.	
	RULEMAKING ACTION v rule numbers (Adopted or Renumbered rules) with the Adn 0-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 83		
	9-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 5-0206 and other rules as necessary in chapter 839-005	39-005-0070, 839-005-0075, 839-005-	
REPEAL;			
RENUMBER:			
AMEND & RENUMBER:			
Stat. Auth.: ORS 659A.805			
Other Auth.:			
Stats. Implemented: ORS chi 2013), ORS 345.240, ORS 6	apter 659A, H.B. 2669, 77 th Leg., Reg. Session (Or. 2013), H 59A.320	J.B. 2654, 77 th Leg., Reg. Session (Or.	

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under OR\$ 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Cateer Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats, Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

Need for the Rule(s);

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olls.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Piscal and Economic Impact;

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a, Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLl's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

i certify that the attached copies are true, full and correct copies of the PER	MANENT Rule(s) adopted on <u>Upon filling.</u> by the
Bureau of Labor and Industries	838
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Tolephone
800 NE Oregon St., Ste. 1046, Portland, OR 97232	

Address

To become effective Upon filing, Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0080, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 639-006-0085, 839-005-0170, 839-005-0200, 839-005-0206

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 659A.805

Other Authority:

Statutos Implemented:

ORS chapter 659A, H.B. 2689, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrisved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrisved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.030, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-006-0300, 839-005-0306, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

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Amendments to 839-005-0160 make the definition of Victim of Harasament consistent with definitions of Victim of Domestic Violence, Victim of Sexual Asseutt, and Victim of Stalking.

Amendments to 839-005-0180 and 839-005-0170 implement newly enacted legislation.

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION SECRETARY OF STATE

Marcia Ohlemiller
Rules Coordinator Name

Marcia.L.Ohlemiller@state.or.us Emali Address

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

FILED 9-15-14 6:36 PM ARCHIVES DIVISION SECRETARY OF STATE

Find Musicy

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

(971) 673-0784

Rules Coordinator

Telephone

Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

RULE CAPTION

Amendments to clarify, conform with authorities, correct citations; adoption to implement new statute.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

639-005-xxxx regarding discrimination based on employment status under ORS 659A.550.

AMEND:

839-003-0005, 0010, 0020, 0025, 0031, 0040, 0045, 0050, 0055, 0060, 0065, 0070, 0080, 0085, 0090, 0095, 0100, 0200, 0215, 0220, 0225, 0235 and such other Division 3 rules as may be necessary.

839-004-0001, 0004, 0011, 0016, 0021 and such other Division 4 rules as may be necessary.

839-005-0000, 0003, 0005, 0026, 0031, 0075, 0195, 0200, 0205, 0206, 0210, 0305, **0400 and** such other Division 5 rules as may be necessary.

839-006-9435, 1030 and such other Division 6 rules as may be necessary.

639-009-0210, 0230, 0240, 0250, 0260, 0270, 0330, 0340, 0370, 0380, 0390 and such other Division 9 Rules as may be necessary.

839-010-0100 and such other Division 10 rules as may be necessary.

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 659A,805, 659A.093, 651.061, 654.062

Other Authority:

Statutes Implemented:

ORS chapter 659A, 192.440(3), 192.501(8), 654.062, 345.240, 345.010, 659.850, 408.230, 408.235, 653.060, 652.355

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify procedure for housing discrimination settlements; replace "complainant" with "aggrieved person" in conformance with statute, replace "OSEA" with the statutory cite for the Oregon Safe Employment Act; conform career school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring; clarifying when an injured worker's former position still exists; clarifications under OFLA about sick child leave, bereavement leave, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leava, editing "calendar" references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation, and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law. Adoption of rule to implement ORS 659A.550, discrimination based on employment status.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

The /	Agendy request	s public comment pr	n whether other o	otions should be co	insidered for achie	ving the cale	s unhetantive anale	while raducing no	

12-03-2014 5:00 p.m.	Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us
Last Day (m/d/yyyy) and Time	Rules Coordinator Name	Email Address
for public comment		

^{*}The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking accompanies this form

FILED 9-15-14 6:36 PM ARCHIVES DIVISION SECRETARY OF STATE

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amendments to clarify, conform with authorities, correct citations; adoption to implement new statute.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendments to OAR 839 Divisions 3, 4, 5, 6, 9 and 10 and Adoption of 839-005-xxxx to implement ORS 659A.550,

Statutory Authority:

ORS 659A.805, 659A.093, 651.061, 654.062

Other Authority:

Statutes implemented:

ORS chapter 659A, 192.440(3), 192.501(8), 654.062, 345.240, 345.010, 659.850, 408.230, 408.235, 653.060, 652,355

Need for the Rule(s):

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify procedure for housing discrimination settlements; replace "complainant" with "aggrieved person" in conformance with statute, replace "OSEA" with the statutory cite for the Oregon Safe Employment Act; conform career school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring; clarifying when an injured worker's former position still exists; clarifications under OFLA about sick child leave, bereavement leave, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing "calendar" references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation, and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law. Adoption of rule to implement ORS 659A.550, discrimination based on employment status.

Documents Relied Upon, and where they are available:

None

Fiscal and Economic Impact:

None anticipated,

Statement of Cost of Compliance:

- Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E));
 None anticipated.
 - 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:
 All businesses in Oregon with one or more employees are subject to many of the rules; however the amendments are within current statutes and do not add requirements not already in statute.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None anticipated.

c. Equipment, supplies, labor and increased administration required for compilance: None anticipated.

How were small businesses involved in the development of this rule?

Small businesses are well represented on our rules notice list. We also plan to invite them specifically to comment on the rule amendments.

Administrative Rule Advisory Committee consulted?:Yes

If not, why?:

We will convene a rulas advisory committee for purposes of asking for their input on these rule amendments.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, full a	and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 9	97232
Address	• • • • • • • • • • • • • • • • • • • •
To become effective <u>Upon filing</u> . Rulemaking	Notice was published in the <u>October 2014</u> Oregon Bulletin.
	RULE CAPTION
Amandments to clarify, conform with authorities	es, correct citations; adoption to implement new statute.
Not more than 15 words that reasonably identifies t	he subject matter of the agency's intended action.
	RULEMAKING ACTION
Secure approv	val of new rule numbers with the Administrative Rules Unit prior to filing.
ADOPT:	
839-005-0036	
-005-0030, 839-005-0031, 839-005-0080, 839 -005-0135, 839-005-0138, 839-005-0140, 839	839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0300, 83
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 851.061	
Other Authority:	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.010;	ORS 659.850
	RULE SUMMARY
"aggrieved person" in conformance with statute	uthorities, correct citations. The purposes of the amendments are to replace "compleinent" with e; conform career school rules by editing in new statutory definition for "agent;" clarify that employer does not preclude discrimination complaint regarding hiring. Adoption of rule to ed on employment status.
Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us
Rules Coordinator Name	Email Address

NPRM & Fiscal Impact missing BLI 11-2015 8-4-15 · Amendment Missing
Bul 18-2015 f. 12-22-15 cert ap. 1-1-16

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183,405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-003-0031

Date Rule Became Effective: August 2012

Date Review Due:

August 2017

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? Yes X No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes

- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- Do any changes in the law (enacted since the rule was adopted) now require the rule to be 3) repealed or amended?

No

Amended:

BLI 9-2015, f. & cert. ef. 6-29-15 BLI 13-2013, f. & cert. ef. 12-30-13

Is the rule still needed? 4)

Yes

What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

Effective: (Rev. 8/18) BOL1100

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Scoretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Lebor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	
RULE CAPTION	
Proposed rules clarifying that complaints under ORS 654.062 need not be notarized written con	nplaints.
Not more than 15 words that reasonablly identifies the subject matter of the agency's intended action.	•
RULEMAKING ACTION	
Secure approval of rule numbers with the Administrative Rules Unit	t orior to filing
839-003-0031	·
AMEND:	
839-003-0005, 839-003-0025, 839-003-0200	
REPEAL:	
RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to fi	iling.
AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules	s Unit prior to filing.
vatory Authority:	
CNS 659A.805	
Other Authority:	
659A.820	
Statutes Implemented: /	,
ORS 654,062 & 659A	
RULE SUMMARY	
Current rules require that complaints filed under the Oregon Safe Employment Act (OSEA) conta BOLI investigates retallation complaints filed under OSEA statutes pursuant to a contract with Or Safety and Health Administration (OSHA) and Oregon OSHA have expressed concern that requitimely investigations of matters involving threats to workplace safety, end have asked that BOLI of \$54.062 do not require notarization.	regon OSHA. The federal Occupational irement of a notarized complaint is a barrier to
The proposed rules are required in order for the complaint requirements to be consistent with OS	SEA statutes,
A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more n Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the ager requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bullethe Agency requests public comment on whether other options should be considered for achieving the rule's substantive.	ncy mailing list, whichever is later. If sufficient hearing stin at least 14 days before the hearing.

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Marcia.L.Ohlemiller@state.or.us

Email Address

6-14-12 8:30a.m.

Date Filed ...

Marcia Ohiemiller

Printed Name

Q8-06-2012 Close of Business

)ay (m/d/yyyy) and Time

for public comment

STATEMENT OF NEED AND FISCAL IMPACT

/ A Notice of Proposed Rotemaxing Hearing or a Notice of Proposed	Rulemaking accompanies this form.
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Proposed rules clarifying that complaints under ORS 654.062 need not be notarized writer	tten complaints.
Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency In the Matter of:	's intended action.)
New and amended rule language to conform complaint procedures with the Oregon Safe	e Employment Act.
Statuatory Authority: ORS 659A.805	
Other Authority: 659A.820	
Stats. Implemented: ORS 654.062 & 659A	
Need for the Rule(s):	
The temporary rules will revise rules stating that complaints filed under OSEA are requin complainant. The temporary rules will remove language indicating that complaints filed un from the complainant. This distinction is necessary to permit complainants to file a computative without obtaining a notarized signature.	inder OSEA must be filed with a notarized signature
Do hts Relied Upon, and where they are available: ORS 654.062, available in ORS publications.	,
Fiscal and Economic Impact:	
No fiscal or economic impact is anticipated as a result of the proposed rules and amenda implement are in current statutes and fiscal or economic impact, if any, would result from	·
Statament of Cost of Compliance: 1. Impact on state agencies, units of local government and the public (ORS 183.335)	2)(b)(E)):
State agencies and units of local government will be subject to rules implementing ORS would result from those laws, and not the proposed rulemaking. A positive impact is anticely employees who file complaints of retaliation based on health or safety complaints.	654.062 and chapter 659A. Fiscal or economic imper
Cost of compliance effect on small business (ORS 183.336): a. Estimate the number of small business and types of businesses and industries with Oregon discrimination laws apply to all businesses. The Employment Department estimate proposed rule amendments.	
b. Projected reporting, recordkeeping and other administrative activities required for	compliance, including costs of professional services:
No new reporting, recordkeeping, or other administrative costs of compliance are require implement provisions of existing law.	d or anticipated because the proposed changes
c. Equipment, supplies, labor and increased administration required for compliance: No additional equipment, supplies, labor, or increased administration are required or anti	
Were small businesses involved in the development of this rule? bt, why?:	. ~
Small interinges representatives are represented on BOI I's stakeholder mailing list	

Administrative Rule Advisory Committee consulted?: No The proposed rule amendments and adoptions would implement statutory specifications over which BOLI has no discretion. 08-06-2012 Close of Business

Marcia Ohlemiller

Marcia.L.Ohlemiller@state.or.us

<u>6-14-12 8:30 AM</u>

Last Pey (m/d/yyyy) and Time Jublic comment Printed Name

Email Address

Date Filed

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

ARC 925-2007

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

,		
a certify that the attached co	pics* are true, full and correct copies of the PERMANENT	Rule(s) adopted on August 8, 2012 by the Date prior to or same as filing dat
Bureau of Labor and Indust	ies.	839
Agency and Division		Administrative Rules Chapter Number
Marcia L. Ohlemiller 8	00 NE Oregon Street, Suite 1045, Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
to become effective August	8, 2012. Rulemaking Notice was published in the July	2012 Oregon Bulletin.**
	RULE CAPTION	
	hat complaints under ORS 654.062 need not be notarized w	
Not more than 15 words th	nat reasonably identifies the subject matter of the agency	r's intended action.
	RULEMAKING ACTION	,
Secure approval of new	List each rule number separately (000-000-000 vrule numbers (Adopted or Renumbered rules) with the Ad	
occure approvar of nev	·	ministrative Rules Out prior to filmg.
ADOPT:		
839-003-0031		
		-
AMEND:	5 090 000 0000	
839-003-0005, 839-003-002	5, 839-003-0200	
at. Auth.: ORS 659A.805		
Other Auth.: ORS 659A.820	<u> </u>	
Stats. Implemented: ORS 65	4.062 & 659A	
		· · · · · · · · · · · · · · · · · · ·

RULE SUMMARY

Previous rules required that complaints filed under the Oregon Safe Employment Act (OSEA) contain a notarized signature of the complainant. BOLI investigates retaliation complaints filed under OSEA statutes pursuant to a contract with Oregon OSHA. The federal Occupational Safety and Health Administration (OSHA) and Oregon OSHA have expressed concern that requirement of a notarized complaint is a barrier to timely investigations of matters involving threats to workplace safety, and have asked that BOLI clarify that complaints filed under ORS 654.062 do not require notarization. The proposed rules are required in order for the complaint requirements to be consistent with OSEA statutes.

<i>-720</i> (/		
13. Cunt	Brad Avakian	8/7/12
ythorized Signer	Printed name	Date

With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday.

ARC 930-2005

Amendment cert. et. 12(30/13 missing



Bureau of Labor and Industries

Brad Avakian

Commissioner

July 1, 2015

Dear Legislative Counsel: .

On June 29, 2015, BOLI filed permanent amendments to Division 3 Civil Rights Division rules, "Civil Rights Complaint Procedures." A copy of the filing was sent to Legislative Counsel.

After filing the rules with the Secretary of State, upon review, it was discovered that a rule section that had been added is does not accurately reflect CRD's processes. On June 30, 2015, the Secretary of State accepted a corrected rule as follows:

839-003-0031

Filing a Complaint [U]under the Oregon Safe Employment Act (OSEA) [(3) Within 90 days after receipt of a complaint of discrimination or retaliation for opposing unsafe or unhealthy work conditions under ORS 654.062, the division will notify the aggrieved person of the commissioner's determination.]

With this letter, please find the corrected rules. Two copies of the Certificate, which did not need to be amended, plus a self-addressed envelope, are enclosed.

This correction did not change the filing date of the Division 3 permanent rule amendments, which is June 29, 2015.

Thank you for your attention to this matter.

My apologies for the error.

Sincerely,

Marcia Ohlemiller Rules Coordinator

BOLL

FORTLAND 800 NR Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Pax (971) 673-0762 SALEM 3865 Wolverine St. NE; E-1 Salem, OR 97305-1268 (503) 378-3292 HAX (503) 373-7636 EUGENE 1400 Executive Fatkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 FAX (541) 686-7980

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Bend, OR 97701-4990
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FAX (541) 389-8265

Oregon Relay TTY:711

www.oregon.gov/boli AN EQUAL OPPORTUNITY EMPLOYER MEDFORD Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 FAX (541) 776-6284

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 6-29-15 7:18 PM ARCHIVES DIVISION SECRETARY OF STATE

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	
To become effective <u>Upon filling.</u> Rulemaking Notice was published in the <u>Octob</u>	<u>er 2014</u> Oregon Bulletin.
RULE CAPTION	•
Amendments to clarify, conform with authorities, correct citations; implement new	v statute.
Not more than 15 words that reasonably identifies the subject matter of the agency's intend	ded action.
RULEMAKING ACTION	ON '
Secure approval of new rule numbers with the Admin	istrative Rules Unit prior to filing.
ADOPT:	
AMEND:	
839-003-0000, 839-003-0005, 839-003-0010, 839-003-0015, 839-003-0020, 839	
-003-0050, 839-003-0055, 839-003-0060, 839-003-0065, 839-003-0070, 839-003	
-003-0100, 839-003-0200, 839-003-0205, 839-003-0210, 839-003-0215, 839-003	3-0220, 839-003-0225, 839-003-0230, 839-003-0235, 839
-003-0240, 839-003-0245	
REPEAL:	
REPEAL:	
JUMBER:	
AMEND AND RENUMBER:	
Statutory Authority:	•
ORS 659A.805; 659A.093; 651.061; 664.062	
/	
Other Authority:	•
Other Additionty.	
Statutes Implemented:	
ORS chapter 659A, ORS 192,448(3), 192,501(8), 654,062, 345,240, 345,010, 6	59,850, 408,230, 49 8,23 5; 653,060, 652,355
<u></u> ,	
RULE SUMMARY	
Amendments to clarify, conform with authorities, correct citations. Clarify procedu	ure for unlawful prectice settlements, replece "complainant"
with "aggrieved person" to conform with statute, add citations to federal housing is	
commissioner orders through civil actions, replace references to "OSEA" with cite	
limitations in certain types of civil rights cases that are different from the usual de-	adlines, clarify that settlement discussions and documents
are exempt from disclosure. Edits to and rearrangements within rules to integrate	

Marcia.L.Onlemiller@state.or.us

Email Address

understandable to the reader.

Marcia Ohlemiller

Rules Coordinator Name

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

FILED 9-15-14 6:36 PM ARCHIVES DIVISION SECRETARY OF STATE

Pegmaneck Missing

839

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

(97<u>1)</u> 673-<u>0</u>784

Rules Coordinator

Telephone

Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

RULE CAPTION

Amendments to clarify, conform with authorities, correct citations; adoption to implement new statute.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-xxxx regarding discrimination based on employment status under ORS 659A.550.

AMEND:

839-003-0005, 0010, 0020, 0025, **003**1, 0040, 0045, 0050, 0065, 0060, 0065, 0070, 0080, 0085, 0090, 0095, 0100, 0200, 0215, 0220, 0225, 0235 and such other Division 3 rules as may be necessary.

839-004-0001, 0004, 0011, 0016, 0021 and such other Division 4 rules as may be necessary.

839-005-0000, 0003, 0005, 0026, 0031, 0075, 0195, 0200, 0205, 0206, 0210, 0305, 0400 and such other Division 5 rules as may be necessary.

839-006-9435, 1030 and such other Division 6 rules as may be necessary.

839-009-0210, 0230, 0240, 0250, 0260, 0270, 0330, 0340, 0370, 0380, 0390 and such other Division 9 Rules as may be necessary.

839-010-0100 and such other Division 10 rules as may be necessary.

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 659A,805, 659A.093, 651.061, 654.062

Other Authority:

Statutes Implemented:

ORS chapter 559A, 192.440(3), 192.501(8), 654.052, 345.240, 345.010, 659.850, 408.230, 408.235, 653.060, 652.355

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify procedure for housing discrimination settlements; replace "complainant" with "aggrieved person" in conformance with statute, replace "OSEA" with the statutory cite for the Oregon Safe Employment Act; conform career school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring; clarifying when an injured worker's former position still exists; clarifications under OFLA about slok child leave, bereavement leave, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing "calendar" references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation, and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law. Adoption of rule to implement ORS 659A,550, discrimination based on employment status.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

The Agenty requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative

12-03-2014 5:00 p.m.	Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us
Last Day (m/d/yyyy) and Time	Rules Coordinator Name	Email Address
for public comment		

^{*}The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compiletion.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proopsed Rulemaking accompanies this form.

FILED
9-15-14 6:36 PM
ARCHIVES DIVISION
SECRETARY OF STATE

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amendments to clarify, conform with authorities, correct citations; adoption to implement new statute.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.) In the Matter of:

Amendments to OAR 839 Divisions 3, 4, 5, 6, 9 and 10 and Adoption of 839-005-xxxx to implement ORS 659A 550.

Statutory Authority:

ORS 659A.805, 659A.093, 651.061, 654.062

Other Authority:

Statutes Implemented:

ORS chapter 659A, 192.440(3), 192.501(8), 654.082, 345.240, 345.010, 659.850, 408.230, 408.235, 653.060, 652.365

Need for the Rule(s):

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify procedure for housing discrimination settlements; replace "complainant" with "aggrieved person" in conformance with statute, replace "OSEA" with the statutory cite for the Oregon Safe Employment Act; conform career school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring; clarifying when an injured worker's former position still exists; clarifications under OFLA about sick child leave, bereavement leave, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing "calendar" references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation, and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law. Adoption of rule to implement ORS 659A.650, discrimination based on employment status.

Documents Relied Upon, and where they are available:

None

Fiscal and Economic Impact:

None anticipated.

Statement of Cost of Compliance:

- Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
 None anticipated.
 - 2. Cost of compilance effect on small business (ORS 183,338):
- a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

 All businesses in Oregon with one or more employees are subject to many of the rules; however the amendments are within current statutes and do not add requirements not already in statute.
 - b. Projected reporting, recordkeeping and other administrative activities required for compilance, including costs of professional services:

None anticipated.

c. Equipment, supplies, labor and increased administration required for compliance: None anticipated.

How were small businesses involved in the development of this rule?

Small businesses are well represented on our rules notice list. We also plan to invite them specifically to comment on the rule amendments.

Administrative Rule Advisory Committee consulted?:Yes

If not, why?:

We will convene a rules advisory committee for purposes of asking for their input on these rule amendments.

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rulc Number:	839-006-0345
Date Rule Became Effective	_12/30/2013
Date Review Due:	12/30/2018
Bureau Division or Unit:	Civil Rights
Name and Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date the Review was Compl	eted: October 29, 2018
•	ring rulemaking? Ycs X No the members and their email or regular mail addresses. Provide a copy e members.
Rulemaking, the Statement o	answer the following four questions. Review the Notice of Proposed of Need and Fiscal Impact, and the Certificate and Order for Filing ules filed with the rule and any amendments to the rule.
Has the rule had the i yes	ntended effect?
 Was the fiscal impact Just about right 	of the rule underestimated, overestimated, just about right, or unknown?
3) Do any changes in the repealed or amended? No Amended:	e law (enacted since the rule was adopted) now require the rule to be
BLI 12-2015, f. & cert. ef. 8-	28-15
4) Is the rule still needed yes	1 ?
5) What impacts has the None known	rule had on small business?

File this report in the bureau's official file for this rule. Provide a copy of this report to:

review a vop) or and report to.

Required Filing/Copies:

BOLI100 Effective: (Rev. 8/18)

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of

Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

- The bureau's Rules Coordinator.

- Advisory committee members who participated in the original rulemaking process.

 The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.

 The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I cartify that the attached copies are true, full and correct copies of t	the PERMANENT Rule(s) adopted on upon third, by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcle Ohjemiller	(971) 673-0784
Rules Coordinator	Telephono

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

To become effective Upon filing. Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-006-0291, 639-006-0292, 839-006-0345

AMEND:

839-006-0205, 839-006-0212, 839-008-0270, 839-008-0290, 839-006-0295, 839-006-0305

REPEAL:

RENUMBER:

#39-006-0332 to #39-006-0350

AMEND AND RENUMBER:

839-006-0307 to 839-006-0248- 0240

من ساطا

Statutory Authority:

ORS 659A,805

Other Authority:

Statutes implemented:

ORS 659A.103 &€* 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2866, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

RULE BUMMARY

Amendments to 639-006-0205 and 639-006-0212 make the rules consistent with newly enacted tegislation regarding substantial limitetions.

Amendments to 839-006-0270 and 839-008-0295 and adoption of 839-006-0292 provide definitions for auxiliary gids and services for state government. Adoption of 839-006-0291 would provide ctarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A.139. Amendments to 839-006-0290 implement newly enacted legislation regarding places of public accommodation and state government.

Amendments to 839-006-0305 modify the definition of place of public accommodation consistent with newly enacted legislation.

Amendments and renumbering of 839-006-0307 to 839-006-0340 reorganize the rule as theories of discrimination that apply to state "government and places of public accommodation. The amendments would also replace the term "complainant" with "individual" because the bommissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

Adoption of 839-008-0345 provides information on assistance animals in places of public accommodation and state government, consistent with newly enacted legislation.

Renumbering of 839-006-0332 to 839-006-0350 moves the existing rule without amendments, as the subject of the rule, requirements for handlenging, is separate and not a part of the Oregon disability statutes.

Marcia Chiemiller Marcia L. Chiemilter@state.or.us

Rules Coordinator Name Email Address

FILED

12-30-13 5:40 PM

ARCHIVES DIVISION SECRETARY OF STATE

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. Ste. 1045 Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-006-0291, 839-006-0292, 839-006-0345

AMEND: 839-006-0205, 839-006-0212, 839-006-0270, 839-006-0290, 839-006-0295, 839-006-0305, and any other Division 6 rules as necessary.

REPEAL:

RENUMBER: 839-006-0332 to 839-006-0350;

AMEND & RENUMBER: 839-006-0307 to 839-006-0340

Stat. Auth.: ORS 659A.805

Other Auth.:

Stats. Implemented: ORS 659A.103 - 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Proposed amendments to 839-006-0205 and 839-006-0212 would make the rules consistent with newly enacted legislation regarding substantial limitations.

Proposed amendments to 839-006-0270 and 839-006-0295 and adoption of 839-006-0292 would provide definitions for auxiliary aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A.139. Proposed amendments to 839-006-0290 would implement newly enacted legislation regarding places of public accommodation and state government.

Proposed amendments to 839-006-0305 would modify the definition of place of public accommodation consistent with newly enacted legislation.

Proposed amendments to and renumbering of 839-006-0307 to 839-006-0340 would reorganize the rule as theories of discrimination that apply to state government and places of public accommodation. The proposed amendments would also replace the term "complainant" with "individual" because the Commissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

The proposed adoption of 839-006-0345 will provide information on assistance animals in places of public accommodation and state government, consistent with newly cnacted legislation.

The proposed renumbering of 839-006-0332 to 839-006-0350, will move the existing rule without amendments, as the subject of the rule, requirements for transient lodging, is separate and not a part of the Oregon disability statutes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia.l.ohlemiller@state.or.usMarcia Ohlemiller10/15/2013SignaturePrinted nameDate

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: Stats. Implemented: ORS 659A.103 – 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

Proposed amendments and adoptions would make the rules consistent with newly enacted legislation and the Americans with Disabilities Act. Adoptions of 839-006-0291, 839-006-0292, and 839-006-0345 would implement newly enacted legislation or clarify responsibilities under existing legislation.

Documents Relied Upon, and where they are available:

H.B. 2111, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/IB211.1/Enrolled, H.B. 2668, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/IB2668/Enrolled, S.B. 610, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/SB610/Enrolled.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- c. Equipment, supplies, labor and increased administration required for compliance:

 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule? Small bosiness representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No. If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or make the rules consistent with newly enacted legislation which BOLI has no authority not to enforce or to change.

Marcia.l.ohlemiller@state.or.us

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

'Amendment 8/28/15 missing "
minimal changes"

,

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule N	Number:	839-005-0320
Date F	Rule Became Effective:	_12/30/2013
Date F	Review Due:	12/30/2018
Burea	u Division or Unit:	Civil Rights
Name	and Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date t	he Review was Comple	eted: October 29, 2018
		ring rulemaking? Yes X No the members and their email or regular mail addresses. Provide a copy e members.
Rulem	aking, the Statement o	answer the following four questions. Review the Notice of Proposed f Need and Fiscal Impact, and the Certificate and Order for Filing ales filed with the rule and any amendments to the rule.
1) yes	Has the rule had the in	ntended effect?
2) Just al	Was the fiscal impact yout right	of the rule underestimated, overestimated, just about right, or unknown?
3)	Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?	
no Ameno BLI 10	ded: 1-2015, f. & cert. ef. 8-	4-15
4)	Is the rule still needed	1?
5)	What impacts has the	rule had on small business?

<u>Attach to this Review</u>: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

<u>Required Filing/Copies</u>:

File this report in the bureau's official file for this rule.

BOLI100 Effective: (Rev. 8/18)

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Indust	ries	839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address RULE CAPTION	Telephone
Amending, adopting 839-0 complaints	05 rules regarding career schools, social media, interns, sub	ostantial evidence, commissioner
Not more than 15 words to	hat reasonably identifies the subject matter of the agency	's intended action.
Secure approval of ne ADOPT: 839-005-0300, 83 839-005-0400	RULEMAKING ACTION by rule numbers (Adopted or Renumbered rules) with the Adi 89-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 8	uninistrative Rules Unit prior to filing 39-005-0325
	39-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 05-0206 and other rules as necessary in chapter 839-005	339-005-0070, 839-005-0075, 839-005-
REPEAL:		
RENUMBER:		
AMEND & RENUMBER:	:	
Stat. Auth.; ORS 659A,805		
Other Auth.:		
Stats. Implemented: ORS cl 2013), ORS 345.240, ORS	hapter 659A, H.B. 2669, 77 th Leg., Reg. Session (Or. 2013), I 659A.320	H.B. 2654, 77 th Leg., Reg. Session (Or.
<u> </u>		

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws oitation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller
Marcia Ohlamiller

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th I.eg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long liad statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345,240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller
Marcia Ohlamiller
October 15, 2013

Signature
Printed name
Date

Administrative Rules Unit, Archives Division, Sceretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

t cartify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filling</u>, by the <u>Bureau of Labor and Industries</u>.

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

(971) 673-0784

Rules Coordinator

Telephone

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

To become effective Upon fling. Rulemaking Notice was published in the November 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career schools, social media, Interns, substantial evidence, commissioner complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0306, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0070, 839-005-0070, 839-005-0080, 839-0080, 839-005-0080, 839-0080,

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 659A.805

Other Authority:

Statutes Implemented:

ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.138, 695A.142, 695A.199, 695A.230, 695A.231, 695A.236, 695A.290, 695A.300, 695A.303, 695A.308, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-006-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0060, 839-005-0065, 839-006-0070, 839-005-0075, 839-005-0080 and 839-005-0085 reptace the Oregon Laws diation with ORS 659A.320, the statutory cliation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly enected legislation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-005-0160 and 839-005-0170 implement newly enacted legislation.

Marcia Ohlemiller Mercia.L.Ohlemiller@state.or.us
Rules Coordinator Name Email Address

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies ere true, fu	ill and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	
Rules Coordinator	Telephane
800 NE Oregon St., Ste. 1045, Portland, OF	₹ 97232
Address	
To become effective <u>Upon filing.</u> Rulemakir	ng Notice was published in the <u>October 2014</u> Oregon Bulletin.
Annual description of the second seco	RULE CAPTION
	ities, correct citations; adoption to Implement new statute.
Not more than 15 words that reasonably identifies	s the subject matter of the agency's intended action.
Secure appr	RULEMAKING ACTION roval of new rule numbers with the Administrative Rules Unit prior to filing.
ADOPT:	ovar of the Programme of the Administrative Notes of the prior to lining.
839-005-0036	
-005-0030, 839-005-0031, 839-005-0060, 83 -005-0135, 839-005-0138, 839-005-0140, 83	5, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839 39-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 39-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0208, 839 39-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-006-0320, 839-005-0325, 839
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 651,061	
Other Authority:	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.010	0; ORS 659.850
	RULE SUMMARY
"aggrieved person" in conformance with statu	authorities, correct citations. The purposes of the amendments are to replace "complainant" with ute; conform career school rules by editing in new statutory definition for "agent;" clarify that a employer does not preclude discrimination complaint regarding hiring. Adoption of rule to sed on employment status.
Maroin Ohlassillas	Massia I. Ohlamilla ottata assur
Marcia Ohlemiller Rules Coordinator Name	Marcia.L.Ohlemiller@state.or.us Email Address
. www overaliment Hallie	Eulen Madiesa

NPRM8 Fiscal Impact missing BCI 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183,405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule N	fumber:	839-005-0310
Date R	ule Became Effective:	_12/30/2013
Date R	eview Due:	12/30/2018
Bureau	Division or Unit:	Civil Rights
Name :	and Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date th	ne Review was Comple	eted: October 29, 2018
	-	ring rulemaking? Yes X No the members and their email or regular mail addresses. Provide a copy emembers.
Rulem	aking, the Statement o	answer the following four questions. Review the Notice of Proposed f Need and Fiscal Impact, and the Certificate and Order for Filing ales filed with the rule and any amendments to the rule.
1) yes	Has the rule had the in	ntended effect?
2) Just ab	Was the fiscal impact out right	of the rule underestimated, overestimated, just about right, or unknown?
3) No Ameno BLI 11	Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended? ended: 11-2015, f. & cert. ef. 8-4-15	
4)	Is the rule still needed	1?
yes 5) No kno	What impacts has the own impact	rule had on small business?
Attach t	o this Review: Subject rule	's Notice of Proposed Rulemaking and Permanent Administrative Order; List of

Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

-7

BOLI100 Effective: (Rev. 8/18)

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section. The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries		839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
	RULE CAPTION	
Amending, adopting 839-005 rule complaints	es regarding career schools, social media, interns, sul	ostantial evidence, commissioner
Not more than 15 words that re-	asonably identifies the subject matter of the agency	's intended action.
	RULEMAKING ACTION	
Secure approval of new rule	numbers (Adopted or Renumbered rules) with the Ad-	ministrative Rules Unit prior to filing
ADOPT: 839-005-0300, 839-005	-0305, 839-005-0310, 839-005-0315, 839-005-0320, 8	39-005-0325
839-005-0400		
AMEND: 839-005-0003, 839-005-020 0080, 839-005-0085, 839-005-020 REPEAL:	5-0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 16 and other rules as necessary in chapter 839-005	339-005-0070, 839-005-0075, 839-005-
RENUMBER:		
AMEND & RENUMBER:		
Stat. Auth.; ORS 659A.805		
Other Auth.;		
Stats, Implemented: ORS chapter 2013), ORS 345,240, ORS 659A.3	659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), 1	H.B. 2654, 77 th Leg., Reg. Session (Or.

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interes.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination,

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business,

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting \$39-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

Need for the Rule(s);

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly chacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345,240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

{

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule:

 Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:
- No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.
- c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcla Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filling, by the

Bureau of Labor and Industries

Administrative Rules Chapter Number

Marcia Ohlemiller

Rules Coordinator

Telephone

800 NE Oregon St., Ste. 1046, Portland, OR 97232

Address

To become effective <u>Upon filing.</u> Rutemaking Notice was published in the <u>November 2013</u> Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules, regarding career schools, social media, interns, substantial evidence, commissioner complaints.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-006-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0080, 839-005-0086, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0170, 839-005-0200, 839-005-0200

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 659A.805

Other Authority:

Statutes Implemented:

ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0306, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted tagislation.

Amendments to 839-005-0080, 839-005-0065, 839-006-0070, 839-005-0075, 839-005-0080 and 839-006-0085 replace the Oregon Lews citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly enacted legislation.

Amendments to 839-805-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Victence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-005-0160 and 839-005-0170 implement newly enacted legislation.

Marcia Ohjemiller

Marcia.L.Ohiemiller@state.or.us Email Address Rules Coordinator Name

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION SECRETARY OF STATE

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

ARY The purposes of the amendments are to replace "complainant" with some by editing in new statutory definition for "agent;" clarify that discrimination complaint regarding hiring. Adoption of rule to estate the end of
he purposes of the amendments are to replace "complainant" with by editing in new statutory definition for "agent;" clarify that
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, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 838 89-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 89-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839 89-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839
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ACTION Administrative Rules Unit prior to filing.
intended action.
to implement new statute.
TION
October 2014 Oregon Bulletin.
Telephone
Administrative Rules Chapter Number (971) 673-0784
839

NPRM8 Fiscal Impact missing BLI 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule N	lumber:	839-005-0300
Date R	ule Became Effective:	_12/30/2013
Date R	eview Due:	12/30/2018
Витеац	Division or Unit:	Civil Rights
Name	and Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date th	ne Review was Comple	eted: October 29, 2018
	ory committee used du If yes, attach a list of completed report to the	ring rulemaking? Yes X No the members and their email or regular mail addresses. Provide a copy e members.
Rulem	aking, the Statement o	answer the following four questions. Review the Notice of Proposed f Need and Fiscal Impact, and the Certificate and Order for Filing ules filed with the rule and any amendments to the rule.
1) Yes	Has the rule had the in	ntended effect?
2) Just ab	Was the fiscal impact out right	of the rule underestimated, overestimated, just about right, or unknown?
3)	Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?	
No		
Ameno BLI 11	led: -2015, f. & cert. ef. 8-	4-15
4) yes	Is the rule still needed	1?
5) No kno	What impacts has the own impact.	rule had on small business?

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their small or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

BOLI100 Effective: (Rev. 8/18)

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries		839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
	RULE CAPTION	_
Amending, adopting 839-005 ruk complaints	s regarding career schools, social media, interns, sub	ostantial evidence, commissioner
Not more than 15 words that re-	sonably identifies the subject matter of the agency	's intended action.
	RULEMAKING ACTION	
Secure approval of new rule ADOPT: 839-005-0300, 839-005-839-005-0400	numbers (Adopted or Renumbered rules) with the Adi -0305, 839-005-0310, 839-005-0315, 839-005-0320, 8	ninistrative Rules Unit prior to filing 39-005-0325
	-0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 6 and other rules as necessary in chapter 839-005	39-005-0070, 839-005-0075, 839-005-
REPEAL:		
RENUMBER:		
AMEND & RENUMBER:		
Stat. Auth.: ORS 659A,805		_
Other Auth.;		
Stats. Implemented: ORS chapter 2013), ORS 345.240, ORS 659A.3	659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), 1 120	d.B. 2654, 77th Leg., Reg. Session (Or.

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlemiller 10/15/2013
Signature Printed name Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's Oregon Bulletin. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the Oregon Bulletin at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345,240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PER	MANENT Rule(s) adopted on <u>Upon fillng.</u> by the
Bureau of Labor and Industries	
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	
	·

Address

To become effective <u>Upon filling</u>. Rulemaking Notice was published in the <u>November 2013</u> Oregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner compisints

Not more than 15 words that reasonably Identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of now rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-006-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0050, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-006-0085, 839-005-0170, 839-005-0170, 839-005-0200, 839-005-0206

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority: ORS 659A.805

Other Authority:

Statutes implemented:

ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

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Amendments to 639-005-0003 implement newly enacted tegislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.238, 696A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by 80Ll and clarify the 80Ll's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 639-005-0080 and 839-005-0085 replace the Oregon Laws dilation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly enacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harasament consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Statisting.

Amendments to 839-005-0160 and 839-005-0170 implement newly enacted legislation.

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ARCHIVES DIVISION . SECRETARY OF STATE

Marcia Ohlemilier
Rules Coordinator Name

Marcia.L.ONemiller@state.or.us Email Address

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Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

	I and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing</u> , by the
Bureau of Labor and Industries Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, Ol Address	97232
	ig Notice was published in the <u>October 2014</u> Oregon Bulletin.
	RULE CAPTION
Amendments to clarify, conform with author	ties, correct citations; adoption to implement new statute.
Not more than 15 words that reasonably identifie	the subject matter of the agency's intended action.
Secure appr ADOPT: 839-005-0036	RULEMAKING ACTION oval of new rule numbers with the Administrative Rules Unit prior to filing.
-005-0030, 839-005-0031, 839-005-0060, 83 -005-0135, 839-005-0138, 839-005-0140, 83	6, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839 9-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 9-005-0160, 839-005-0170, 639-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839 9-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839
REPEAL:	
RENUMBER;	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 651.061	
Other Authority:	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.010	y; ORS 659.850
	RULE SUMMARY
"aggrieved person" in conformance with statu	authorities, correct citations. The purposes of the amendments are to replace "complainant" with te; conform career school rules by editing in new statutory definition for "agent;" clarify that employer does not preclude discrimination complaint regarding hiring. Adoption of rule to ed on employment status.
Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us
Rules Coordinator Name	Email Address

NPRM & Fiscal Impact missing BLI 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the hureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Nu	mber:	839-005-0325
Date Ru	le Became Effective:	_12/30/2013
Date Re	view Due:	12/30/2018
Bureau l	Division or Unit;	Civil Rights
Name ar	nd Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date the	Review was Comple	ted: October 29, 2018
i	-	ing rulemaking? Yes X No he members and their cinail or regular mail addresses. Provide a copy members.
Rulemal	king, the Statement of	answer the following four questions. Review the Notice of Proposed Nocd and Fiscal Impact, and the Certificate and Order for Filing less filed with the rule and any amendments to the rule.
1) I yes	Has the rule had the in	atended effect?
2) V Just abo	-	of the rule underestimated, overestimated, just about right, or unknown?
No Amende	epealed or amended?	law (enacted since the rule was adopted) now require the rule to be
	016, f. & cert. ef. 11-8 2015, f. & cert. ef. 8-4	
4) I Yes	s the rule still needed	?
5) V	What impacts has the	rule had on small business?

BOLI100 Effective: (Rev. 8/18)

Non known

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries		839
Agency and Division		Administrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
	RULE CAPTION	,,
Amending, adopting 839-005 rules complaints	regarding career schools, social media, interns, su	bstantial evidence, commissioner
Not more than 15 words that reas	sonably identifies the subject matter of the agency	's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 839-005-0400

AMEND: 839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0206 and other rules as necessary in chapter 839-005

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•	14.	•	М.	•	

RENUMBER:

AMEND & RENUMBER:

Stat. Auth.: ORS 659A.805

Other Auth.:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

RULE SUMMARY

Proposed amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggreeved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Career Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlemiller 10/15/2013
Signature Printed name Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attornoy General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345,240,

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available;

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183,336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule?

Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filling PERMANENT ADMINISTRATIVE RULES

t certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing</u>, by the

Bureau of Labor and Industries

<u> 839</u>

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

(971) 673-0784

Rules Coordinator

Telephone

800 NE Oregon St., Ste. 1045, Porlland, OR 97232

Address

To become effective Upon filing. Rulemaking Notice was published in the November 2013 Gregon Bulletin.

RULE CAPTION

Amending, adopting 839-005 rules regarding career echools, social media, interns, substantial evidence, commissioner complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0306, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND:

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0030, 839-005-0065, 839-005-0070, 839-005-0076, 839-005-0080, 839-005-0085, 839-005-0170, 839-005-0200, 839-005-0206

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 659A.805

Other Authority:

Statutes Implemented:

ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Log., Reg. Session (Or. 2013), H.B. 3283, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 659A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 895A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-005-0060, 839-005-0065, 839-006-0070, 839-005-0075, 839-005-0080 and 839-005-0085 replace the Oragon Laws cliation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially fimits consistent with newly enacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-905-9160 and 839-905-9170 implement newly enacted legislation.

Marcia Ohiemiller Marcia L. Ohiemiller@state.or.us

Rules Coordinator Name Email Address

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION . SECRETARY OF STATE

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, ful	ll and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OF	₹ 97232
Address To become effective <u>Upon fillna.</u> Rulemakir	ng Notice was published in the <u>October 2014</u> Oregon Bulletin.
	RULE CAPTION
Amendments to clarify, conform with authori	ities, correct citations; adoption to implement new statute.
	s the subject matter of the agency's intended action.
	RULEMAKING ACTION
Secure appr	roval of new rule numbers with the Administrative Rules Unit prior to filing.
ADOPT:	
839-005-0036	
-005-0030, 839-005-0031, 839-005-0060, 83 -005-0135, 839-005-0138, 839-005-0140, 83	5, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839 39-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 39-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839
-005-0210, 839-005-0215, 839-005-0220, 83 -005-0400	39-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 651.061	
Other Authority;	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.010	0; ORS 65 9 .850
	RULE SUMMARY
"aggrieved person" in conformance with statu	authorities, correct citations. The purposes of the amendments are to replace "complainant" with ute; conform career school rules by editing in new statutory definition for "agent;" clarify that a employer does not preclude discrimination complaint regarding hiring. Adoption of rule to sed on employment statue.
Marcja Ohlemiller	Marcia.L.Ohlemiller@state.or.us
Rules Coordinator Name	Email Address

NPRM8 Fiscal Impact missing, BLI 11-2015 8-4-15

,

Amendmas Missing
BL1 9-2016 11-8-16

839-005-0325

Discrimination by Career Schools: Retaliation or Discrimination

Pursuant to, ORS 659.852(1)(b), it is an unlawful practice for a career school or its agent to retaliate or discriminate against any individual because the individual has in good faith reported information that the student believes is evidence of a violation of a state or federal law, rule or regulation.

Statutory/Other Authority: ORS 651,060

Statutes/Other Implemented: ORS 345,240 & 659,850

History:

BLI 9-2016, f. & cert. ef. 11-8-16 BLI 11-2015, f. & cert. ef. 8-4-15 BLI 14-2013, f. & cert. ef. 12-30-13

659.852 Retaliation against student prohibited. (1) As used in this section:

- (a) "Education program" means an education program provided by:
- (A) A school district;
- (B) A public charter school;
- (C) An education service district;
- (D) A long term care or treatment facility, as described in ORS 343.961;
- (E) The Youth Corrections Education Program;
- (F) The Oregon School for the Deaf;
- (G) A community college operated under ORS chapter 341;
- (H) A public university listed in ORS 352.002;
- (I) A career school;
- (J) A private school; or
- (K) A private college or university.
- (b) "Retaliation" means suspension, expulsion, disenrollment, grade reduction, denial of academic or employment opportunities, exclusion from academic or extracurricular activities, denial of access to transcripts, threats, harassment or other adverse action that substantially disadvantages a student in academic, employment or extracurricular activities.
- (2) A student of an education program may not be subjected to retaliation by an education program for the reason that the student has in good faith reported information that the student believes is evidence of a violation of a state or federal law, rule or regulation.
- (3) A student, or a parent or guardian of a student under 18 years of age, who alleges a violation of subsection (2) of this section may bring a civil action under ORS 659A.885. [2015] c.434 §2]

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

٢

OAR 839-005-0130

Date Rule Became Effective: January 1, 2012

Date Review Due:

January 1, 2017

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? Yes X No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

- 1) Has the rule had the intended effect? Yes:
- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- 3) Do any changes in the law (enacted since the rule was adopted) now require the rule to be repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15 BLI 3-2012, f. & cert. ef. 2-8-12

4) Is the rule still needed?

Yes

5). What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses. Required Filing/Copies:

BOLI100

Effective: (Rev. 8/18)

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

RECEIVED

Secretary of State Certificate and Order for Filing

FEB **2 2** 2012

PERMANENT ADMINISTRATIVE RULES

CIVIL RIGHTS DIVISION PORTLAND OFFICE

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 7, 2012 by

Date prior to or same as filing date

Bureau of Labor and Industries

839 - ... - . . Administrative Rules Chapter Number

Agency and Division

800 NE Oregon St. Suite 1045, Portland, OR 97232

971-673-0784

Marcia Ohlemiller Rules Coordinator

Address

Telephone

to become effective February 8, 2012. Date upon filing or later

Rulemaking Notice was published in the November 2011 Oregon Bulletin.** Month and Year

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-005-0075, 839-005-0130, 839-005-0135, 839-009-

AMEND: 839-005-0160, 839-005-0170, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0345, 839-

0360, 839-009-0362, 839-009-0365

RENUMBER: 839-005-0033 to 839-005-0125

659A.303; ORS 659A.855; ORS 659A.885.

Stat. Auth.: ORS 659A.805

Other Auth.; HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Legislative Counsel's Office Stats Implemented: HB 2036 (corrects references that relate to employment to refer only to employment clated disability statutes: allows BOLI to enforce law providing protected leave to attend a criminal proceeding; clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (creates unlawful employment practice if employer ccases to provide insurance during period employee is serving as juror), and HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS

RULE SUMMARY

The new rules would implement HB 2036, which 1) corrects references in ORS 659A, 106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A 194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer comployment and clarifies exceptions to the prohibition on the use of credit history information in employment.

The new rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to serve as juror and the employee notified the employer of election to have coverage continue.

The new rules would implement provisions of HB 3482, adding harassment to crime victim protections.

Brad Avakian

February 7, 2012

Authorized Signer

Printed name

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules. **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice fillings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

CORRECTED

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries		
Agency and Division	Administrative Rules Chapter Number	
Marcia Ohlemiller	(971) 673-0784	
Rules Coordinator	Telephone	
Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232		
Address		
RULE CAPTION		
Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).		
Not more than 15 words that reasonabily identifies the subject matter of the agency's intended action.		

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-006-0130; 839-005-0135; 839-005-0175; 839-009-0364 839-005-0075

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0307; 839-008-0310; 839-006-0320; 839-006-0330; 839-006-0335; 839-006-0335 and other Division 6 rules as necessary; 839-009-0355; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

ENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary, Division 6 rules as necessary; Division 9 rules as necessary.

Statuatory Authority:

OR\$ 659A,805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2626 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.655; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement H8 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) charifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating en unlewful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to larve as jurior and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in an unclosed for exempt position, who is not a confidential, managinal or summarisons amplicable to be accompanied by an individual.

an unuassmed or exempt position, who is two a confidential, management of supervisory employee, to be accompanied by an incrimization selected by the victimized employee to be present during an interview between the employer and employee.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the natemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business Marcia Ohlemiller Marcia.L.Ohlemiller@state,or.us 11-10-11 1:10p.m.

Last Day (m/d/yyyr) and Time Printed Name Email Address Date Filed for public comment

*The Oregon Bulketin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Тејерноле
Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232	- -
Address	
RULE CAPTION	
Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011),	

Not more than 15 words that reasonablly identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 639-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0276; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0310; 839-006-0320; 839-006-0330; 839-006-0332; 839-006-0335 and other Division 6 rules as necessary; 839-009-0325; 839-009-0330; 839-009-0340; 839-009-0345; 839-009-0350; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary.

Statuatory Authority:

ORS 659A.805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) ellows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to carve as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in an uncloseful or exempt position, who is not a confidential managerial or supervisors amployee, to be accompanied by an individual

an unloassmed of exempt position, who is not a combenium, managerial of supervisory employee, to be accompanied by an intervious. Felected by the victimized employee to be present during an interview between the employer and employee.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the mlemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business	Marcia Ohlemiller	Marcia,L.Ohlemiller@state.or.us	11-10-11 1:10p.m.
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed
for public comment			

^{*}The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salom, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline fulls on a Saturday, Sunday or logal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, full and correct copies of the PERI	MANENT Rule(s) adopted on <u>Upon filling</u> by the
Bureau of Labor and Industries Agency and Division	
- 1	Administrative Rules Chapter Number
Marcia Ohlemiller Rules Coordinator	(971) 673-0784
· · · · · · · · · · · · · · · · · · ·	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232 Address	
To become effective <u>Upon filing.</u> Rulemaking Notice was published in the <u>O</u>	ctober 2014 Oregon Bulletin.
RULE CAPTI	
Amendments to clarify, conform with authorities, correct citations; adoption to	implement new statute.
Not more than 15 words that reasonably identifies the subject matter of the agency's in	tended action.
RULEMAKING At Secure approval of new rule numbers with the Ad	- · · · · · ·
ADOPT: 839-005-0036	
AMEND: 839-005-0000, 839-005-0003, 839-005-0005, 839-005-0010, 839-005-0011, 839-005-0030, 839-005-0031, 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0135, 839-005-0136, 839-005-0140, 839-005-0160, 839-005-0170, 839-005-0210, 839-005-0215, 839-005-0220, 839-005-0300, 839-005-0305, 839-005-0400	905-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 005-0195, 839-005-0206, 839-005-0205, 839-005-0206, 839
REPEAL:	
RENUMBER:	,
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 05 1.061	
Other Authority:	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.010; ORS 659.850	
RULE SUMMAR	Y
Amendments to rules to clarify, conform with authorities, correct citations. The aggrieved person" in conformance with statute; conform career school rules by reteran preference voluntary hiring by private employer does not preclude disconplement ORS 659A.550, discrimination based on employment status.	y editing in new statutory definition for "agent;" clarify that

Marcia Ohlemiller

Marcia.L.Ohlemiller@state.or.us

Rules Coordinator Name

Email Address

NPRM & Fiscal Impact missing, BLI 11-2015 8-4-15

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183,405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:

OAR 839-005-0135

Date Rule Became Effective: January 1, 2012

Date Review Due:

January 1, 2017

Bureau Division or Unit:

Civil Rights Division

Name and Title of Employee Completing this Report: Chris Lynch, Operations Manager

Date the Review was Completed: October 29, 2018

Advisory committee used during rulemaking? $\underline{\hspace{1cm}}$ Yes $\underline{\hspace{1cm}}$ No

If yes, attach a list of the members and their email or regular mail addresses. Provide a copy of the completed report to the members.

Use available information to answer the following four questions. Review the Notice of Proposed Rulemaking, the Statement of Need and Fiscal Impact, and the Certificate and Order for Filing Permanent Administrative Rules filed with the rule and any amendments to the rule.

1) Has the rule had the intended effect?

Yes

- Was the fiscal impact of the rule underestimated, overestimated, just about right, or unknown? Just about right
- Do any changes in the law (enacted since the rule was adopted) now require the rule to be 3) repealed or amended?

No

Amended:

BLI 11-2015, f. & cert. ef. 8-4-15 BLI 3-2012, f. & cert. cf. 2-8-12

4) Is the rule still needed?

Yes

What impacts has the rule had on small business? No known impact.

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses. Required Filing/Copies:

Effective: (Rev. 8/18) BOLI100

File this report in the bureau's official file for this rule. Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

RECEIVED

Secretary of State Certificate and Order for Filing

FEB **2 2** 2012

PERMANENT ADMINISTRATIVE RULES

CIVIL RIGHTS DIVISION PORTLAND OFFICE

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rule(s) adopted on February 7, 2012 by

Date prior to or same as filing date

Bureau of Labor and Industries

839 ----

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. Suite 1045, Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

to become effective February 8, 2012.

Rulemaking Notice was published in the November 2011 Oregon Bulletin.**

Month and Year

Date upon filing or later

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately (000-000-0000)

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing.

ADOPT: 839-005-0075, 839-005-0130, 839-005-0135, 839-009-0364

AMEND: 839-005-0160, 839-005-0170, 839-009-0325, 839-009-0330, 839-009-0340, 839-009-0345, 839

0360, 839-009-0362, 839-009-0365

RENUMBER: 839-005-0033 to 839-005-0125

659A.303; ORS 659A.855; ORS 659A.885.

Stat, Auth.: ORS 659A.805

Other Auth.; HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Office State, Implemented: HB 2036 (corrects references that relate to employment to refer only to employment related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; clarifies that an employer that consider the credit history of applicants for public safety officer employment), HB 2828 (creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), and HB 3482 (adds "harassmeut" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS

Legislative Counsel's

RULE SUMMARY

The new rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment and clarifies exceptions to the prohibition on the use of credit history information in employment.

The new rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to serve as juror and the employee notified the employer of election to have coverage continue.

The new rules would implement provisions of HB 3482, adding harassment to crime victim protections.

Brad Avakian

February 7, 2012

Authorized Signer

Printed name

*With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules, **The Oregon Bulletin is published the 1st of each month and updates rules found in the OAR Compilation. For publication in Bulletin, rule and notice filings must be submitted by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a weekend or legal holiday, when filings are accepted until 5:00 pm on the preceding workday. ARC 930-2005

CORRECTED

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries 839 Administrative Rules Chapter Number Ageocy and Division (971) 673-0784 Marcia Ohlemiller Rules Coordinator Telephone Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232. Address RULE CAPTION Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364 **839-005-007**5

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 839-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0244-839-006-0250; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0290; 839-006-0290; -006-0305; 639-006-0307; 839-006-0310; 839-006-0320; 839-006-0330; 839-006-0332; 839-006-0335 and other Division 6 rules as -009-0362; 839-009-0363; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

ENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing. OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary, Division 6 rules as necessary, Division 9 rules as necessary,

Statuatory Authority:

ORS 559A.805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BQLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to brve as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in an including the parameter and appropriate increase and interest and appropriate in the accommodate in the parameter and including in including in the parameter and including in the parameter and including in the parameter and including including in the parameter and including including including in the parameter and including includi

an unclassmed or exempt position, who is not a communitar, membrane in supervisory employee, to be excompanied by attendividual selected by the victimized employee to be present during an interview between the employer and employee.

A public rolemaking bearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later, if sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business	Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us	11-10-11 <u>1:10p.m.</u>
Last Day (m/d/yyyy) and Time	Printed Name	Email Address	Date Filed
for nublic comment			

^{*}The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

Rules Coordinator

Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

RULE CAPTION

Conforms civil rights rules to provisions of HB 2036, HB 2828 and HB 3482 (2011).

OSTROJENS CIVILIDADES LO PROVISIONE DE LIDEZ 2000, ITIB 2020 SING ITIB 3402 (2011).

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-0125; 839-005-0130; 839-005-0135; 839-005-0175; 839-009-0364

AMEND:

839-005-0033; 839-005-0060; 839-005-0065; 639-005-0070; 839-005-0080; 839-005-0085; 839-005-0160; 839-005-0170 and other Division 5 rules as necessary; 839-006-0200; 839-006-0202; 839-006-0205; 839-006-0206; 839-006-0212; 839-006-0240; 839-006-0242; 839-006-0242; 839-006-0242; 839-006-0255; 839-006-0265; 839-006-0270; 839-006-0275; 839-006-0280; 839-006-0290; 839-006-0295; 839-006-0300; 839-006-0305; 839-006-0307; 839-006-0310; 839-006-0320; 839-006-0330; 839-006-0332; 839-006-0335 and other Division 6 rules as necessary; 839-009-0325; 839-009-0330; 839-009-0345; 839-009-0355; 839-009-0355; 839-009-0360; 839-009-0362; 839-009-0363; 839-009-0365 and other Division 9 rules as necessary.

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

OAR 839-005-0033 to 839-005-0120 and Division 5 rules as necessary; Division 6 rules as necessary; Division 9 rules as necessary.

Statuatory Authority:

ORS 659A.805

Other Authority:

HB 2036, HB 2828, HB 3482, Oregon Legislative Assembly 2011.

Statutes Implemented:

HB 2036 (corrects references that relate to employment to refer only to employment-related disability statutes; allows BOLI to enforce law providing protected leave to attend a criminal proceeding; & clarifies that an employer may consider the credit history of applicants for public safety officer employment), HB 2828 (Creates unlawful employment practice if employer ceases to provide insurance during period employee is serving as juror), & HB 3482 (adds "harassment" to Crime Victim leave & discrimination provisions), Oregon Legislative Assembly 2011; ORS 659A.112 - 659A.139; ORS 659A.270 - 659A.290; ORS 659A.303; ORS 659A.855; ORS 659A.885.

RULE SUMMARY

The proposed rules would implement HB 2036, which 1) corrects references in ORS 659A.106 that relate to employment to refer only to employment-related disability statutes (ORS 659A.112-659A.139); 2) allows BOLI to enforce law providing protected leave to attend a criminal proceeding (ORS 659A.194(2); and 3) clarifies that an employer may consider the credit history of applicants for public safety officer employment.

The proposed rules would implement provisions of HB 2828, creating an unlawful employment practice if an employer who employs 10 or more people ceases to provide health, disability, life or other insurance during a period in which the employee is serving or is scheduled to have as juror and the employee notified the employer of election to have coverage continue.

The proposed rules would implement provisions of HB 3482, adding "harassment" to crime victim protections, and allows a state employee in the decomposition, who is not a confidential managed of supported to be decomposited by an individual.

an unclassified of exempt position, who is not a confidential, managerial or supervisory employee, to be accompanied by an individual selected by the victimized employee to be present during an interview between the employer and employee.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing. The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-30-2011 Close of Business Marcia Ohlemiller Marcia.L.Ohlemiller@state.or.us 11-10-11 1:10p.m.

Last Day (m/d/yyyy) and Time Printed Name Email Address Date Filed for public comment

^{*}The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

ARC 923-2003

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

I certify that the attached copies are true, for	ull and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing,</u> by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, Oi	R 97232
Address	
To become effective <u>Upon filing.</u> Rulemaki	ng Notice was published in the <u>October 2014</u> Oregon Bulletin.
	RULE CAPTION
Amendments to clarify, conform with author	rities, correct citations; adoption to implement new statute.
Not more than 15 words that reasonably identifie	s the subject matter of the agency's intended action.
	RULEMAKING ACTION
-	roval of new rule numbers with the Administrative Rules Unit prior to filing.
ADOPT:	
839-005-0036	
AMEND:	
-005-0030, 839-005-0031, 839-005-0060, 83-005-0135, 839-005-0138, 839-005-0140, 839-00	5, 839-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 839 39-005-0055, 839-005-0070, 839-005-0076, 839-005-0080, 839-005-0086, 839-005-0130, 839 39-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0206, 839-005-0208, 839 39-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 639-005-0320, 839-005-0325, 839
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority:	
ORS 659A.805; 651.061	
Other Authority:	
Statutes implemented: ORS 559A.550; ORS 345.240; ORS 345.010	0; ORS 659.850
	PIU C OMINIO DV
	RULE SUMMARY
'aggrieved person" in conformance with statu	authorities, correct citations. The purposes of the amendments are to replace "complainant" with ute; conform career school rules by editing in new statutory definition for "agent;" clarify that e employer does not preclude discrimination complaint regarding hiring. Adoption of rule to sed on employment status.
Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us
Rules Coordinator Name	Email Address

NPRM & Fiscal Impact missing BLI 11-2015 8-4-15

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Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule Number:	839-005-0305
Date Rule Became Effecti	ve: _12/30/2013
Date Review Due:	12/30/2018
Bureau Division or Unit:	Civil Rights
Name and Title of Employ	yee Completing this Report:
Date the Review was Com	npleted:_October 29, 2018
	during rulemaking? Yes X No of the members and their email or regular mail addresses. Provide a copy the members.
Rulemaking, the Statemen	to answer the following four questions. Review the Notice of Proposed at of Need and Fiscal Impact, and the Certificate and Order for Filing Rules filed with the rule and any amendments to the rule.
1) Has the rule had th	ne intended effect?
Yes	
2) Was the fiscal imp Just about right	eact of the rule underestimated, overestimated, just about right, or unknown?
3) Do any changes in repealed or amend	the law (cnacted since the rule was adopted) now require the rule to be
No	ca:
Amended: BLI 11-2015, f. & cert. ef	: 8-4-15
4) Is the rule still nee yes	ded?
5) What impacts has No known impact.	the rule had on small business?

<u>Attach to this Review</u>: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Effective: (Rev. 8/18)

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries	ries 839	
Agency and Division	noy and Division Administrative Rules Chap	
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator	Address	Telephone
	RULE CAPTION	
Amending, adopting 839-005 rules complaints	s regarding career schools, social media, interns, sub	stantial evidence, commissioner
Not more than 15 words that reas	sonably identifies the subject matter of the agency'	s intended action.
	RULEMAKING ACTION	
	numbers (Adopted or Renumbered rules) with the Adr 0305, 839-005-0310, 839-005-0315, 839-005-0320, 83	
	0011, 839-005-0030, 839-005-0060, 839-005-0065, 8 5 and other rules as necessary in chapter 839-005	39-005-0070, 839-005-0075, 839-005-
REPEAL:		
RENUMBER:		
AMEND & RENUMBER:		
Stat. Auth.: ORS 659A.805		· · · · · · · · · · · · · · · · · · ·
Other Auth.:		
Stats. Implemented: ORS chapter 6 2013), ORS 345.240, ORS 659A.33	59A, H.B. 2669, 77 th Leg., Reg. Session (Or. 2013), F 20	1.B. 2654, 77 th Leg., Reg. Session (Or.

RULE SUMMARY

Proposed amondments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Proposed amendments to 839-005-0003 would amend to implement newly enacted legislation extending employee protections under ORS 695A.030, 695A.082, 695A.109, 695A.112, 695A.136, 695A.142, 695A.199, 695A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.306, and 695A.315 to interns.

Proposed amendments to 839-005-0206 would make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Proposed adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325 would address discrimination by Carcer Schools. These new rules will reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Proposed adoption 839-005-0400 would address unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Proposed amendments to 839-005-0060, 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080 and 839-005-0085 would replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia Ohlamiller		
	Marcia Ohlemiller	10/15/2013
Signature	Printed name	Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting 839-005 rules regarding career schools, social media, interns, substantial evidence, commissioner complaints

Statutory Authority: ORS 659A,805

Other Authority:

Stats. Implemented: ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), ORS 345,240, ORS 659A,320

Need for the Rule(s):

The amendments are necessary to make the rules internally consistent, to make the rules consistent with existing legislation, and to implement newly enacted legislation. Currently OARs, 839-005-0003, 839-005-0011 and 839-005-0030 include the term "complainant," not "aggrieved person." To clarify that the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons, the term "complainant" would be replaced as necessary with aggrieved person."

The bureau has long had statutory authority to enforce laws against discrimination by career schools. However, it had not adopted rules implementing the statutes. Proposed new rules 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320 and 839-005-0325 will provide standards for evaluating complaints under ORS 345.240.

Newly enacted legislation limits access to social media of employees by employers, and provides employment rights protections to interns. These new laws are implemented by OAR 839-005-0400 and 839-005-0003.

Documents Relied Upon, and where they are available:

H.B. 2669, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2669/Enrolled H.B. 2654, 77th Leg., Reg. Session (Or. 2013) https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2654/Enrolled

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
No fiscal or economic impact is anticipated from the proposed rule amendments.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, no economic impact is anticipated.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or auticipated.

c. Equipment, supplies, labor and increased administration required for compliance:

No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.

d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or would implement statutory provisions over which BOLI has no discretion.

Marcia Ohlamiller

Marcia Ohlemiller

October 15, 2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PER Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Talephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	

Address

To become effective <u>Upon filling.</u> Rulemaking Notice was published in the <u>November 2013</u> Oregon Bullatin.

RULE CAPTION

Amending, adopting 839-005 rules regarding careor schools, social media, interns, substantial evidence, commissioner complaints

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839-005-0400

AMEND

839-005-0003, 839-005-0011, 839-005-0030, 839-005-0060, 839-005-0065, 839-006-0070, 839-005-0076, 839-005-0080, 839-005-0085, 839-005-0170, 839-005-0200, 839-005-0208

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 659A,605

Other Authority;

Statutes Implemented:

ORS chapter 659A, H.B. 2669, 77th Leg., Reg. Session (Or. 2013), H.B. 2654, 77th Leg., Reg. Session (Or. 2013), H.B. 2111, 77th Leg., Reg. Session (Or. 2013), H.B. 3263, 77th Leg., Reg. Session (Or. 2013), ORS 345.240, ORS 859A.320

RULE SUMMARY

Amendments to 839-005-0003, 839-005-0011, 839-005-0030 replace the term "complainant" with "aggrieved person" because the Commissioner and Attorney General may bring complaints on behalf of aggrieved persons

Amendments to 839-005-0003 implement newly enacted legislation extending amployee protections under ORS 695A.030, 695A.082, 985A.109, 696A.112, 695A.136, 695A.142, 695A.199, 696A.230, 695A.233, 695A.236, 695A.290, 695A.300, 695A.303, 695A.308, and 696A.315 to interns.

Amendments to 839-005-0206 make the definition of substantial evidence in the Housing Discrimination section internally consistent and consistent with Federal laws and necessary elements for proving discrimination.

Adoptions of 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-032D, 839-005-0325 address discrimination by Career Schools. These new rules reference the statutes prohibiting unlawful discrimination by career schools which are enforced by BOLI and clarify the BOLI's standards and procedures.

Adoption of 839-005-0400 addresses unlawful employment practices by an employer related to employee's social media accounts to be consistent with newly enacted legislation.

Amendments to 839-006-0060, 839-005-0085, 839-006-0070, 839-005-0075, 839-005-0080 and 839-005-0085 replace the Oregon Laws citation with ORS 659A.320, the statutory citation for limitations on the lawful use of credit history in employment.

Amendments to 839-005-0200 change the definition of substantially limits consistent with newly exacted legislation.

Amendments to 839-005-0160 make the definition of Victim of Harassment consistent with definitions of Victim of Domestic Violence, Victim of Sexual Assault, and Victim of Stalking.

Amendments to 839-005-0160 and 839-005-0170 implement newly enacted legislation.

Marcia Ohlemilier Marcia L. Ohlemilier@state.or.us

Rules Coordinator Name Email Address

FILED

12-30-13 3:47 PM

ARCHIVES DIVISION SECRETARY OF STATE

Secretary of State

NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form

FILED

9-15-14 6:38 PM ARCHIVES DIVISION SECRETARY OF STATE

839

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

(971) 673-0784

Rules Coordinator

Telephone

.. ...

Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

RULE CAPTION

Amendments to clarify, conform with authorities, correct citations; adoption to Implement new statute.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

839-005-xxxx regarding discrimination based on employment status under ORS 659A.550.

AMEND:

839-003-0005, 0010, 0020, 0025, 0031, 0040, 0045, 0050, 0055, 0060, 0065, 0070, 0080, 0085, 0090, 0095, 0100, 0200, 0215, 0220, 0225, 0235 and such other Division 3 rules as may be necessary.

839-004-0001, 0004, 0011, 0016, 0021 and such other Division 4 rules as may be necessary.

839-005-0000, 0003, 0005, 0026, 0031, 0075, 0195, 0200, 0205, 0206, 0210, **0305**, **0**400 and such other Division 5 rules as may be necessary.

839-006-9435, 1030 and such other Division 6 rules as may be necessary.

839-009-0210, 0230, 0240, 0250, 0260, 0270, 0330, 0340, 0370, 0380, 0390 and such other Division 9 Rules as may be necessary.

839-010-0100 and such other Division 10 rules as may be necessary.

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

tinal Missing

Statutory Authority:

ORS 659A,805, 659A,093, 651.061, 654.062

Other Authority:

Statutes Implemented:

ORS chapter 659A, 192.440(3), 192.501(8), 654.062, 345.240, 345.010, 659.850, 408.230, 408.235, 653.060, 652.355

RULE SUMMARY

Amendments to rules to clarify, conform with authorities, correct citetions. The purposes of the amendments are to clarify procedure for housing discrimination settlements; replace "complainant" with "aggrieved person" in conformance with statute, replace "OSEA" with the statutory cite for the Oregon Safe Employment Act; conform cereer school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination compleint regarding hiring; clarifying when an injured worker's former position still exists; clarifications under OFLA about sick child leave, bereavement leave, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing "calendar" references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law. Adoption of rule to implement ORS 659A.550, discrimination based on employment status.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative

12-03-2014 5:00 p.m.	<u>Marcia Ohlemiller</u>	Marcla.L.Ohlemiller@state.or.us
Last Day (m/d/yyyy) and Time	Rules Coordinator Name	Email Address
for public comment		

[&]quot;The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking accompanies this form.

FILED 9-15-14 6:36 PM ARCHIVES DIVISION SECRETARY OF STATE

Bureau of Labor and Industries

639

Agency and Division

Administrative Rules Chapter Number

Amendments to clerify, conform with authorities, correct citations; adoption to implement new statute.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.) In the Matter of:

Amendments to OAR 839 Divisions 3, 4, 5, 6, 9 and 10 and Adoption of 839-005-xxxx to implement ORS 659A.550.

Statutory Authority:

ORS 659A.805, 659A.093, 651.061, 654.062

Other Authority:

Statutes Implemented:

QRS chapter 659A, 192,440(3), 192,501(8), 654,062, 345,240, 345,010, 659,850, 408,230, 408,235, 653,060, 652,355

Need for the Rule(s):

Amendments to rules to clarify, conform with authorities, correct citations. The purposes of the amendments are to clarify procedure for housing discrimination settlements; replace "complainant" with "aggreved person" in conformance with statute, replace "OSEA" with the statutory cite for the Oregon Safe Employment Act; conform career school rules by editing in new statutory definition for "agent;" clarify that veteran preference voluntary hiring by private employer does not preclude discrimination complaint regarding hiring; clarifying when an injured worker's former position still exists; clarifications under OFLA about sick child leave, bereavement leave, definition of marriage, spouse, definition of child, employee discipline for failure to give notice of OFLA leave, editing "calendar" references, clarifying OFLA provisions regarding employer payment of benefits, clarifying relationship between workers' compensation, and OFLA with respect to employer relationship to employee, and other clarifications and edits based on current law. Adoption of rule to implement ORS 659A.550, discrimination based on employment status.

Documents Refled Upon, and where they are available:

Моле

Fiscal and Economic Impact:

None anticipated.

Statement of Cost of Compliance:

- Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):
 None anticipated.
 - 2. Cost of compliance effect on small business (QRS 183.336):
- a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

 All businesses in Oregon with one or more employees are subject to many of the rules; however the amendments are within current statutes and do not add requirements not already in statute.
 - b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None anticipated.

c. Equipment, supplies, labor and increased administration required for compliance: None anticipated.

How were small businesses involved in the development of this rule?

Small businesses are well represented on our rules notice list. We also plan to invite them specifically to comment on the rule emendments.

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

We will convene e rules advisory committee for purposes of asking for their input on these rule amendments.

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

FILED 8-4-15 5:51 PM ARCHIVES DIVISION SECRETARY OF STATE

Bureau of Labor and Industries Agency and Division	839 Administrative Rules Chapter Number
	(971) 673- <u>D</u> 784
Marcia Ohlemiller Rules Coordinator	Telephane
800 NE Oregon St., Ste. 1045, Porlland, O	·
Address	
	ing Notice was published in the October 2014 Oregon Bulletin.
	RULE CAPTION
Amendments to clarify, conform with author	vities, correct citations; adoption to implement new statute.
Not more than 15 words that reasonably Identific	es the subject matter of the agency's Intended action.
··	RULEMAKING ACTION proval of new rule numbers with the Administrative Rules Unit prior to filing.
ADOPT: 839-005-0036	
-005-0030, 839-005-0031, 839-005-0060, 8 -005-0135, 839-005-0138, 839-005-0140, 8	05, 639-005-0010, 839-005-0011, 839-005-0013, 839-005-0014, 839-005-0021, 839-005-0026, 836 839-005-0065, 839-005-0070, 839-005-0075, 839-005-0080, 839-005-0085, 839-005-0130, 839 839-005-0160, 839-005-0170, 839-005-0195, 839-005-0200, 839-005-0205, 839-005-0206, 839 839-005-0300, 839-005-0305, 839-005-0310, 839-005-0315, 839-005-0320, 839-005-0325, 839
REPEAL:	
RENUMBER:	
AMEND AND RENUMBER:	
Statutory Authority: ORS 659A.805; 651.061	
Other Authority:	
Statutes Implemented: ORS 659A.550; ORS 345.240; ORS 345.0	10; ORS 659.850
	RULE SUMMARY
"aggrieved person" in conformance with sta	th authorities, correct citetions. The purposes of the amendments are to replace "complainant" with stute; conform career school rules by editing in new statutory definition for "egent;" clarify that ate employer does not preclude discrimination complaint regarding hiring. Adoption of rule to assed on employment status.
Marcia Ohlemiller	Marcia.L.Ohlemiller@state.or.us

Email Address

Marcia Ohlemiller
Rules Coordinator Name

NPRM & Fiscal Impact missing BLI 11-2015 8-4-15

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183,405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule N	umber:	839-010-0310
Date Ru	ulc Became Effective:	_12/30/2013
Date Re	eview Due:	12/30/2018
Bureau	Division or Unit:	Civil Rights
Name a	and Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date th	e Review was Comple	eted: October 29, 2018
	ry committee used dur If yes, attach a list of completed report to the	ring rulemaking? Yes X No the members and their email or regular mail addresses. Provide a copy e members.
Rulema	aking, the Statement of	answer the following four questions. Review the Notice of Proposed f Need and Fiscal Impact, and the Certificate and Order for Filing tles filed with the rule and any amendments to the rule.
1) yes	Has the rule had the in	ntended offect?
•	Was the fiscal impact out right	of the rule underestimated, overestimated, just about right, or unknown?
	Do any changes in the repealed or amended?	e law (enacted since the rule was adopted) now require the rule to be
no Amend BLI 2-2	led: 2015, f. & cert. ef. 1-2	8-15
4) yes	Is the rule still needed	1?
5)	What impacts has the	rule had on small business?

None known

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

Effective: (Rev. 8/18) BOLI100

- The bureau's Rules Coordinator.
- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing

PERMANENT ADMINISTRATIVE RULES

I certify that the attached copi	es are true, full and correct copies of the PERMANENT Rule(s) ac	dopted on December 30, 2013 by
Bureau of Labor and Industrie	es	839
Agency and Division	Adm	inistrative Rules Chapter Number
Marcia Ohlemiller	800 NE Oregon St. Ste. 1045 Portland, OR 97232	971-673 -078 4
Rules Coordinator	Address	Telephone
to become effective upon filin	g. Rulemaking Notice was published in the November 2013,	Oregon Bulletin.
	RULE CAPTION	
Amending and adopting rule Not more than 15 words that	es to implement newly enacted whistleblower protection regard t reasonably identifies the subject matter of the agency's intend	ing election laws led action.
Secure approval of new a ADOPT: 839-010-0300, 839-	RULEMAKING ACTION List cach rule number separately (000-000-0000) rule numbers (Adopted or Renumbered rules) with the Administrat 010-0305, 839-010-0310	ive Rules Unit prior to filing.
AMEND: 839-010-0000		
REPEAL:		
RENUMBER:		
AMEND & RENUMBER;		
Stat. Auth.: ORS 659A.805		
Other Auth.:		
Stats. Implemented; S.B. 148,	77th Leg., Reg. Session (Or. 2013)	
	RULE SUMMARY se and scope of the rules in correctly stating the provisions of the C implement newly enacted legislation extending whistleblower pro	
Marcia Ohlan	viller Marcia Ohlemiller	12-30-13
<u> </u>	Marcia Onionnio	
Authorized Signer	Printed name	Date

Note: Permanent rulemakings must be submitted by the 15th day of the month to be included in the next month's Oregon Bulletin and online OAR Compilation updates.

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries		839
Agency and Division	A	Administrative Rules Chapter Number
	NE Oregon St. Ste. 1045 Portland, OR 97232	971-673-0784
Rules Coordinator RULE CAPTION Amending and ado	Address opting rules to implement newly enacted whistleble	Telephone
laws		_
Not more than 15 words that reasona	bly identifies the subject matter of the agency's in	tended action.
	RULEMAKING ACTION	
Secure approval of new rule numb ADOPT: 839-010-0300, 839-010-0305,	ers (Adopted or Renumbered rules) with the Admini	strative Rules Unit prior to filing
AMEND: 839-010-0000 and any other	Division 10 rules as necessary,	
REPEAL:		
RENUMBER:		
AMEND & RENUMBER:		
Stat. Auth.: ORS 659A.805		·
Other Auth.:		
Stats. Implemented: ORS S.B. 148, 77 th	Leg., Reg. Session (Or. 2013)	
	RULE SUMMARY	
	e purpose and scope of the rules in correctly stating tood rules would implement newly enacted legislation of ion laws.	
The agency requests public comment of while reducing the negative economic in	on whether other options should be considered for a npact of the rule on business.	achieving the rule's substantive goals
November 28, 2013		
	y to submit written comments to the Rules Coordina	tor)
Marcia.l.ohlemiller@state.or.us	Marcia Ohlemiller	10/15/13
Signature	Printed name	. Date
Hearing may be requested in writing by following notice publication or 28 days to	15th day of the month to be published in the next mo 10 or more people, or by an association with 10 or m from the date notice was sent to people on the agency ng Notice must be published in the Oregon Bulletin a	ore members, within 21 days 's interested party mailing list,

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending and adopting rules to implement newly enacted whistleblower protection regarding election laws

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amendment and Adoption of Rules in 839-010 to Implement Whistleblower Protection for Reporting Possible Violations of Election Laws

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: S.B. 148, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

Amendments clarify the scope and purpose of the rules in correctly stating the provisions of the ORS enforced by the Bureau of Labor and Industries. New rules 839-010-0300, 839-010-0305, 839-010-0310 implement newly enacted legislation.

Documents Relied Upon, and where they are available:

Senate Bill 148, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.statc.or.us/liz/2013R1/Measures/list/

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The newly enacted law that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (OR\$ 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates there are 107,103 small businesses in Oregon.. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- c. Equipment, supplies, labor and increased administration required for compliance:
 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule?

 Small business representatives are represented on BOLI's stakeholder inailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would implement statutory protections which BOLI has no discretion not to enforce or to change.

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.



ENT ADMINISTRATIVE RULES

Secretary of State Certificate and Order for Filing

Bureau of Labor

SECRETARY ON STARLONG

I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on <u>Upon filing</u>, by the

Bureau of Labor and Industries

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

(971) 673-0784

Rules Coordinator

Telephone

800 NE Oregon St., Ste. 1045, Portland, OR 97232

Address

Oct: 1,2014

To become effective <u>Upon filing.</u> Rulemaking Notice was published in the ⚠Oregon Bulletin.

RULE CAPTION

Amendments to clarify, conform with authorities, correct citations,

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filling.

ADOPT:

AMEND:

839-010-0000, 839-010-0010, 839-010-0020, 839-010-0100, 839-010-0200, 839-010-0205, 839-010-0210, 839-010-0300, 839-010-0305, 839-010-0206, 839-010-0210, 839-010-0300, 839-010-0305, 839-010-0300, 839-03000, 839-03000, 839-0300, 839-0300, 839-0300, 839-0300, 839-0300, 839-0300, 839-0300, 839-0300, 839-0300, 839-0300, 839-03000, 839-0300, 839-03000, 839-0300, 839-03000, 839-0300, 839-03000, 839-03000, 839--010-0310

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 441,178; 652,355; 653,060; 659A,221; 659A,805

Other Authority:

Statutes Implemented:

ORS 441.172; 441:174; 441.178; 260.262; 652.355; 653.060; 659A.199; 659A.200-,233; OL Ch. 519, Sec.7 2013

RULE SUMMARY

Amendments to clarify, conform with authorities, correct citations.

Marcia Ohlemiller

Marcia.L.Ohlemiller@state.or.us

Rules Coordinator Name

Email Address

PORTLAND 800 NB Oregon St. Suite 1045 Portland, OR 97232-2180 (971) 673-0761 Fax (971) 673-0762

SALEM 3865 Wolverine St. NE; E-1 Salem, OR 97305-1268 (503) 378-3292 Fax (503) 373-7636

EUGENE 1400 Executive Parkway, Suite 200 Eugene, OR 97401-2158 (541) 686-7623 Fax (541) 686-7980

BEND Apprenticeship and Training Worksource Bend 1645 NE Forbes Rd, Stc 106 Bend, OR 97701-4990 (541) 322-2435

Fax (541) 389-8265

Oregon Relay TTY:711

www.oregon.gov/boli

AN EQUAL OPPOŘTUŇITY EMPLOYER

MEDFORD Apprenticeship and Training 119 N Oakdale Ave. Medford, OR 97501-2629 (541) 776-6201 Fax (541) 776-6284

NPRM& Fiscal Impact For 1128/17 unistrily

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule N	umher:	839-006-0291
Date Ru	ule Became Effective:	_12/30/2013
Date Re	eview Due:	12/30/2018
Bureau	Division or Unit:	Civil Rights
Name a	and Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date th	e Review was Comple	eted: October 29, 2018
	ry committee used du If yes, attach a list of completed report to the	ing rulemaking?Yes X No the members and their email or regular mail addresses. Provide a copy emembers.
Rulema	aking, the Statement of	answer the following four questions. Review the Notice of Proposed f Need and Fiscal Impact, and the Certificate and Order for Filing ales filed with the rule and any amendments to the rule.
1) yes	Has the rule had the in	ntended effect?
,	Was the fiscal impact out right	of the rule underestimated, overestimated, just about right, or unknown?
_	Do any changes in the repealed or amended?	e law (cnacted since the rule was adopted) now require the rule to be
No	•	
4) yes	Is the rule still needed	1?
5) None k	-	rule had on small business?

Attach to this Review: Subject rule's Notice of Proposed Rulemaking and Permanent Administrative Order; List of Members of Rules Advisory Committee, if any, and their email or regular mail addresses.

Required Filing/Copies:

File this report in the bureau's official file for this rule.

Provide a copy of this report to:

The bureau's Rules Coordinator.

BOLI100 Effective: (Rev. 8/18)

- Advisory committee members who participated in the original rulemaking process.
- The Oregon Secretary of State, 800 NE Summer St., Salom, OR 97310, Attn: Administrative Rules Section.
- The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies are true, full and correct copies of the PER	MANENT Rule(s) adopted on <u>Upon filing</u> , by the
Bureau of Labor and Industries	839
Agency and Division	Administrative Rules Chapter Number
Marcia Ohlemiller	(971) 673-D784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	
To become effective Upon filling. Rulemaking Notice was published in the b	lovember 2013 Oregon Bulletin.

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approved of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-006-0291, 839-006-0292, 839-006-0345

AMEND:

839-006-0205, 839-006-0212, 839-006-0270, 839-008-0290, 839-006-0295, 839-006-0305

REPEAL:

RENUMBER:

839-006-0332 to 839-006-0350

AMEND AND RENUMBER:

839-006-0307 to 839-006-0240 0.340

4shu ax

Statutory Authority:

ORS 659A.805

Other Authority:

Statutos Implemented:

ORS 659A.103 8€ 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Amendments to 839-006-0205 and 839-006-0212 make the rules consistent with newly enacted legislation regarding substantial limitations.

Amendments to 839-006-0270 and 839-006-0295 and adoption of 839-006-0292 provide definitions for equilibry aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A.139. Amendments to 839-008-0290 implement newly enacted legislation regarding places of public accommodation and state government.

Amendments to 839-006-0305 modify the definition of place of public accommodation consistent with newly enacted legislation.

Amendments and renumbering of 839-008-0307 to 839-006-0340 reorganize the rule as theories of discrimination that apply to state government and places of public accommodation. The amendments would also replace the term "complainant" with "individual" because the Commissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

Adoption of 839-008-0345 provides information on assistance animals in places of public accommodation and state government, consistent with newly enacted legislation.

Renumbering of 839-006-0332 to 839-006-0350 moves the existing rule without amendments, as the subject of the rule, requirements for a part of the Oregon disability statutes.

Marcia Objemiler	Marcia.L.Ohlamiller@state.or.us
Rules Coordinator Name	Emall Address

FILED

12-30-13 5:40 PM

ARCHIVES DIVISION SECRETARY OF STATE

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. Ste. 1045 Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-006-0291, 839-006-0292, 839-006-0345

AMEND: 839-006-0205, 839-006-0212, 839-006-0270, 839-006-0290, 839-006-0295, 839-006-0305, and any other Division 6 rules as necessary.

REPEAL:

RENUMBER: 839-006-0332 to 839-006-0350;

AMEND & RENUMBER; 839-006-0307 to 839-006-0340

Stat. Auth.: ORS 659A.805

Other Auth.:

Stats, Implemented; ORS 659A.103 -- 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); II.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Proposed amendments to 839-006-0205 and 839-006-0212 would make the rules consistent with newly enacted legislation regarding substantial limitations.

Proposed amendments to 839-006-0270 and 839-006-0295 and adoption of 839-006-0292 would provide definitions for auxiliary aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A.139. Proposed amendments to 839-006-0290 would implement newly enacted legislation regarding places of public accommodation and state government.

Proposed amendments to 839-006-0305 would modify the definition of place of public accommodation consistent with newly enacted legislation.

Proposed amendments to and renumbering of 839-006-0307 to 839-006-0340 would reorganize the rule as theories of discrimination that apply to state government and places of public accommodation. The proposed amendments would also replace the term "complainant" with "individual" because the Commissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

The proposed adoption of 839-006-0345 will provide information on assistance animals in places of public accommodation and state government, consistent with newly enacted legislation.

The proposed renumbering of 839-006-0332 to 839-006-0350, will move the existing rule without amendments, as the subject of the rule, requirements for transient lodging, is separate and not a part of the Oregon disability statutes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28	C 2013	1

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia.l.ohlemiller@state.or.us	Marcia Ohlemiller	10/15/2013
Signature	Printed name	Date

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Ruleinaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Statutory Authority: ORS 659A.805

Other Authority:

Stats. Implemented: Stats. Implemented: ORS 659A.103 – 659A.142; H.B. 2111, 77th Leg., Reg. Scssion (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Scssion (Or. 2013)

Need for the Rule(s):

Proposed amendments and adoptions would make the rules consistent with newly enacted legislation and the Americans with Disabilities Act. Adoptions of 839-006-0291, 839-006-0292, and 839-006-0345 would implement newly enacted legislation or clarify responsibilities under existing legislation.

Documents Relied Upon, and where they are available:

H.B. 2111, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2111/Enrolled, H.B. 2668, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2668/Enrolled, S.B. 610, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/SB610/Enrolled.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule; Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- c. Equipment, supplies, labor and increased administration required for compliance:

 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No. If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or make the rules consistent with newly enacted legislation which BOLI has no authority not to enforce or to change.

Marcia.l.ohlentiller@state.or.us

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Bureau of Labor and Industries

Five Year Rule Review Report

ORS 183.405 requires the bureau to review new rules adopted after January 1, 2006, within five years after adoption. Please refer to the Five Year Rule Review Policy for information on completing this form.

Rule 1	Number:	839-006-0292
Date I	Rule Became Effective	: _12/30/2013
Date I	Review Due:	12/30/2018
Burea	u Division or Unit:	Civil Rights
Name	and Title of Employee	Completing this Report: Chris Lynch, Operations Manager
Date t	he Review was Comple	eted: October 29, 2018
		ring rulemaking? Yes X No the members and their email or regular mail addresses. Provide a copy e members.
Rulen	naking, the Statement o	answer the following four questions. Review the Notice of Proposed f Need and Fiscal Impact, and the Certificate and Order for Filing ules filed with the rule and any amendments to the rule.
l) yes	Has the rule had the i	ntended effect?
2) Just al	Was the fiscal impact bout right	of the rule underestimated, overestimated, just about right, or unknown?
3) no	Do any changes in the repealed or amended?	e law (enacted since the rule was adopted) now require the rule to be
4) yes	Is the rule still needed	i?
5) None	What impacts has the known	rule had on small business?
		e's Notice of Proposed Rulemaking and Permanent Administrative Order; List of nittee, if any, and their email or regular mail addresses.

The bureau's Rules Coordinator.
Advisory committee members who participated in the original rulemaking process.

Required Filing/Copies:

Provide a copy of this report to:

File this report in the bureau's official file for this rule.

BOLI100 Effective: (Rev. 8/18)

- The Oregon Secretary of State, 800 NE Summer St., Salem, OR 97310, Attn: Administrative Rules Section. The Small Business Rules Advisory Committee, Steve Mabry, Oregon State Archives, 800 Summer St. NE, Salem, OR 97304.

BOLI100 Effective: (Rev. 8/18)

Secretary of State Certificate and Order for Filing PERMANENT ADMINISTRATIVE RULES

Bureau of Labor and Industries	
Agency and Division	Administrative Rules Chapter Numbe
Marcia Ohlemiller	(971) 673-0784
Rules Coordinator	Telephone
800 NE Oregon St., Ste. 1045, Portland, OR 97232	
Address	

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Not more than 15 words that reasonably identifies the subject metter of the agency's intended action.

RULEMAKING ACTION

Secure approvel of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

839-008-0291, 639-006-0292, 839-006-0345

AMEND:

839-006-0205, 839-008-0212, 839-006-0270, 839-006-0290, 839-006-0295, 839-006-0305

REPEAL:

RENUMBER:

`&39-006-0332 to 839-006-0350

AMEND AND RENUMBER:

839-006-0307 to 839-006-0240- 0340

ralug/

Statutory Authority:

ORS 659A,605

Other Authority:

Statutos Implemented:

ORS 659A.103 å€* 659A.142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

RULE SUMMARY

Amendments to 839-006-0205 and 639-006-0212 make the rules consistent with newly enacted legislation regarding substantial limitations.

Amendments to 839-006-0270 and 839-006-0295 and adoption of 839-006-0292 provide definitions for auxiliary aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A.139. Amendments to 839-006-0290 implement newly enacted legislation regarding places of public accommodation and state government.

Amendments to 839-006-0305 modify the definition of place of public accommodation consistent with newly enacted legislation.

Amendments and renumbering of 839-006-0307 to 839-006-0340 reorganize the rulo as theories of discrimination that apply to state government and places of public accommodation. The amendments would also replace the term "complainant" with "individual" because the Commissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

Adoption of 839-006-0345 provides information on assistance animals in places of public accommodation and state government, consistent with newly enacted legislation.

Renumbering of 839-008-0332 to 839-006-0350 moves the existing rule without amendments, as the subject of the rule, requirements for pasient lodging, is separate and not a part of the Oregon disability statutes.

Marcla Ohlemiller	Marcla L. Ohlemiller@state.or.us
Rules Coordinator Name	Emall Address

FILED
12-30-13 5:40 PM
ARCHIVES DIVISION
SECRETARY OF STATE

Secretary of State

NOTICE OF PROPOSED RULEMAKING

A Statement of Need and Fiscal Impact accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Marcia Ohlemiller

800 NE Oregon St. Stc. 1045 Portland, OR 97232

971-673-0784

Rules Coordinator

Address

Telephone

RULE CAPTION

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers (Adopted or Renumbered rules) with the Administrative Rules Unit prior to filing ADOPT: 839-006-0291, 839-006-0292, 839-006-0345

AMEND: 839-006-0205, 839-006-0212, 839-006-0270, 839-006-0290, 839-006-0295, 839-006-0305, and any other Division 6 rules as necessary.

REPEAL:

RENUMBER: 839-006-0332 to 839-006-0350;

AMEND & RENUMBER: 839-006-0307 to 839-006-0340

Stat. Auth.: OR\$ 659A.805

Other Auth.:

Stats. Implemented: ORS 659A.103 – 659A.142; II.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

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Proposed amendments to 839-006-0270 and 839-006-0295 and adoption of 839-006-0292 would provide definitions for auxiliary aids and services for state government. Adoption of 839-006-0291 would provide clarification for reasonable modifications by state government. These are all consistent with the Americans with Disabilities Act and ORS 659A.139. Proposed amendments to 839-006-0290 would implement newly enacted legislation regarding places of public accommodation and state government.

Proposed amendments to 839-006-0305 would modify the definition of place of public accommodation consistent with newly enacted legislation.

Proposed amendments to and renumbering of 839-006-0307 to 839-006-0340 would reorganize the rule as theories of discrimination that apply to state government and places of public accommodation. The proposed amendments would also replace the term "complainant" with "individual" because the Commissioner and the Attorney General may bring complaints on behalf on individuals with disabilities

The proposed adoption of 839-006-0345 will provide information on assistance animals in places of public accommodation and state government, consistent with newly enacted legislation.

The proposed renumbering of 839-006-0332 to 839-006-0350, will move the existing rule without amendments, as the subject of the rule, requirements for transient lodging, is separate and not a part of the Oregon disability statutes.

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

November 28, 2013

Last Day for Public Comment (Last day to submit written comments to the Rules Coordinator)

Marcia.l.ohlemiller@state.or.usMarcia Ohlemiller10/15/2013SignaturePrinted nameDate

Note: Notices must be submitted by the 15th day of the month to be published in the next month's *Oregon Bulletin*. A Rulemaking Hearing may be requested in writing by 10 or more people, or by an association with 10 or more members, within 21 days following notice publication or 28 days from the date notice was sent to people on the agency's interested party mailing list, whichever is later. In such cases a Hearing Notice must be published in the *Oregon Bulletin* at least 14 days before the hearing.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Bureau of Labor and Industries

839

Agency and Division

Administrative Rules Chapter Number

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Amending, adopting and renumbering rules in Division 839-006 regarding disabilities

Statutory Authority: ORS 659A,805

Other Aothority:

Stats. Implemented: Stats. Implemented: ORS 659A,103 – 659A,142; H.B. 2111, 77th Leg., Reg. Session (Or. 2013); H.B. 2668, 77th Leg., Reg. Session (Or. 2013); S.B. 610, 77th Leg., Reg. Session (Or. 2013)

Need for the Rule(s):

Proposed amendments and adoptions would make the rules consistent with newly enacted legislation and the Americans with Disabilities Act. Adoptions of 839-006-0291, 839-006-0292, and 839-006-0345 would implement newly enacted legislation or clarify responsibilities under existing legislation.

Documents Relied Upon, and where they are available:

H.B. 2111, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2111/Enrolled, H.B. 2668, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/HB2668/Enrolled, S.B. 610, 77th Leg., Reg. Session (Or. 2013), available at https://olis.leg.state.or.us/liz/2013R1/Measures/Text/SB610/Enrolled.

Fiscal and Economic Impact:

No fiscal or economic impact is anticipated as a result of the proposed amendments. The laws that the proposed rules would implement are in current statutes and fiscal or economic impact, if any, would result from those laws.

Statement of Cost of Compliance:

- 1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): No fiscal or economic impact is anticipated from the proposed rule amendments.
- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small businesses and types of business and industries with small businesses subject to the rule: Oregon discrimination laws apply to all businesses. The Employment Department estimates that 107,103 small businesses may be subject to the proposed rule amendments. However, there is no anticipated cost of compliance.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

No new reporting, recordkeeping, or other administrative costs of compliance are required or anticipated.

- Equipment, supplies, labor and increased administration required for compliance:
 No additional equipment, supplies, labor, or increased administration are required or anticipated under the proposed rules.
- d. How were small businesses involved in the development of this rule? Small business representatives are represented on BOLI's stakeholder mailing list.

Administrative Rule Advisory Committee consulted?: No.

If not, why?:

The proposed rule amendments and adoptions would clarify statutory requirements already in place and/or make the rules consistent with newly enacted legislation which BOLI has no authority not to enforce or to change.

Marcia I.ohlemiller@state.or.us

Marcia Ohlemiller

10/15/2013

Signature

Printed name

Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

REVIEW OF ADOPTED RULES - ORS 183.405

Outdoor Areas Package

OAR 845-005-0329 Licensing Outdoor Areas Not Abutting a Licensed Building
OAR 845-005-0331 Licensing Outdoor Areas Abutting a Licensed Building
OAR 845-006-0309 Requirements for Outdoor Areas Not Abutting a Licensed Building

Date Adopted: June 1, 2014

Date Review Due: June 1, 2019

Date Review Completed: May 24, 2019

Advisory Committee (AC) used? Yes.

AC members: See attached.

1) Did the rule achieve its intended effect? Yes.

a) What was the intended effect?

Before March 2012, the Commission had granted an increasing number of annual liquor licenses at locations where alcohol was sold, served and consumed in exclusively outdoor areas. The Commission took into account the unique nature of these types of premises, which consist of outdoor areas that do not abut previously licensed buildings, and the Commission placed certain operating restrictions on each annual license that it had issued to these types of operations (i.e., food carts).

The Commission's reliance on restrictions to manage the operating risks presented by the food cart business model presented two challenges. First, it exposed food cart licensees to more severe sanctions than they might otherwise receive because failure to adhere the provisions of a restriction is a Category I violation, the presumptive penalty which is license cancelation. Second, as the number of annual liquor licenses issued at this type of location increased, so too did the number of substantive variations among the restrictions used to regulate them. The rules that were proposed alleviated these challenges and created a uniform licensing framework for these location.

These proposed rules established licensing qualification standards for outdoor areas that do not abut applicant's or licensee's previously licensed building (i.e., food carts). The rule was designated to operate conjunction with OAR 845-006-0309 which established licensing requirements for these locations.

The amendments to OAR 845-005-0331 clarified that going forward, the rule only applied to outdoor areas that abut an applicant's or licensee's previously licensed building (i.e., patios and cafes). The proposed amendments did not substantively change the licensing qualification or operating standards that currently apply to these locations.

b) How did the rule succeed or fail in achieving this effect?
The rules succeed in alleviating these challenges and creating a uniform licensing framework for these location. The rules also successfully established licensing

previously licensed building (i.e., food carts).

- 2) Was the fiscal impact underestimated, overestimated, just about right, or unknown? Just about right.
 - a) What was the estimated fiscal impact?

The Commission expected the rules package to have a positive fiscal impact on current food cart licensees because it reduced operating uncertainties for these licensees.

The Commission expected the rules package to have a neutral fiscal impact on traditional brick-and-mortar licensees (i.e., patios and sidewalk cafes) because the amendments to OAR 845-005-0331 did not substantively revise the licensing standards or operating requirements that applied to these licensees, and the rules in this package were not expected to encourage or discourage food cart license applications (i.e., competition).

- b) What was the actual fiscal impact?
 As projected above.
- c) If the answer to question 2 is unknown, briefly explain why. N/A
- 3.) Have subsequent changes in the law required the rule to be repealed or amended? If yes, explain. No.
- 4.) Is the rule still needed? Yes. Explain:

845-005-0329 and 845-006-0309 are still needed because they provide the licensing qualification standards and operating requirements for outdoor areas that don't abut a licensed building. Without these rules there would be no standards or requirements.

845-005-0331 is still needed because it provides the licensing qualification standards for outdoor areas that do abut a licensed building. Without this rule there would be no standards.

5.) What, if any, is the impact on Small Businesses?

These rules likely had a positive fiscal impact on food cart licensees, which are typically small businesses, because it reduced operating uncertainties for these licensees. These rules also allowed the Commission to remove operating restrictions which ensured that food cart licensees were not subject to greater sanctions for identical acts than traditional brick-and-mortar licensees. These rules likely had a neutral fiscal impact on traditional brick-and-mortar licensees because these rules did not encourage or discourage food cart license applications.

Review Completed By:

Emily Febles		Rules Coordinator	5/24/19
Name	Signature	Title	Date
AP&P Review:			
Kelly Routt		Director of Administrative Policy & Process	5/24/19
Name	Signature	Title	Date

OLCC Advisory Committee Invitation List

Outdoor Areas Package
OAR 845-005-0329, OAR 845-005-0331, OAR 845-006-0309

Wednesday, December 18, 2013 @ 9:00 a.m. - Noon

Invitations have been sent to the following individuals:

(0Py) 5/24/19

Community and Public Safety Representatives

Andy Smith (City of Portland)

Angela Kirkman / Brendon Haggerty (Kems Neighborhood Association)

Christina Thompson (Overlook Neighborhood Association)

David Jackson, Officer (Portland Police Bureau)

David Sweet (Portland Noise Review Board)

Jeff Ruscoe (Oregon Mental Health & Addiction Services)

John Schmerber, Commander (Hillsboro Police Department)

Judy Cushing / Tom Parker (Lines for Life)

Kathy Stromvig / Anne Pratt (Mothers Against Drunk Driving)

Linda Fisher-Lewis (Oregon Department of Transportation)

Lisa Frisch / Bill Sinnott (Portland Downtown Retail & Clean & Safe Programs)

Lise Gervais (Public Action Management)

Mary Ann Schwab (Neighborhood Advocate)

Mary Ellen Glynn (Oregon Alcohol & Drug Policy Commission)

Michael Roth / Tom Foley (Rose City Park Neighborhood Association)

Paul van Orden, Officer (Portland Noise Control Program)

Ruben Duemling (Sunnyside Neighborhood Association)

Scott Winkels (League of Oregon Cities)

Sue Pearce / Christine Heycke (Hosford-Abernethy Neighborhood Association)

Theresa Marchetti (Portland Office of Neighborhood Involvement)

Veronica Rinard (Travel Portland)

Licensees and Industry Representatives

Bill Perry / Nellie deVries (Oregon Restaurant & Lodging Association)

Brian Butenschoen (Oregon Brewers Guild)

Brian McMenamin (McMenamin's)

Brian Vollegraaf / Wes Kasubuchi (Zenbu Food Cart)

Brian White (Captured Beer Bus Food Cart)

Bruce Fife (American Federation of Musicians Local 99)

David Staley / Michelle Staley (The Lot Food Cart in Bend)

Doug LaPlaca (Visit Bend)

Duke Tufty (Wyse Kadish)

Elaine Albrich (Stoel Rives)

Gregg Abbott (Oregon Street Food Association)
Jacob Richardson / Sam Ach (Organic Redneck Kitchen Food Cart in Leaburg)
Jeff Plew (Concept Entertainment)
Jesse Lyon (Davis Wright Tremaine)
Judy Craine (Holman Bar & Grill)
Matt Cordova (21st Avenue Bar & Grill)
Michael McCreery (Sluggo's Hot Dogs Food Cart in Springfield)
Rachael Grossmean / Tyler Johnston (Artigiano Food Cart)
Roger Goldingay / Carol Otis (Cartlandia Food Carts)
Rose Guardino (Divine Café Food Cart)
Suzanne Moodhe (The Beer Porches Food Carts on Alberta & Lombard)

OLCC Staff

Annabelle Henry (AP&P)
Dan Croy (Licensing)
Farshad Allahdadi (Licensing)
Jesse Sweet (AP&P)
Shannan Coyle (AP&P)
Shannon Hoffeditz (Enforcement)

From:

Febles Emily * OLCC

Bcc:

To:

<u>"bfife@afm99.org"; "JACB-I6@agl.org"; "cordovamat®agl.com"; "ieffp@cegportland.com";</u>

<u>"johns@c, hlilsboro.or us"; "fihomas20@comcast.net"; "jesselyon@dwt.com"; "gorogor@carthlink.net"; "ruscoe-</u>

<u>ieff@emall.state"; "lise@gervais-lynch.com"; "kernsna@gmail.com"; "haggerb@gmail.com";</u> "Grego abbott@gmail.com"; "e33maschwab@gmail.com"; "msrvistaria2010@gmail.com"; "kasubuchi l-@hotmail.com"; "brianm@ho.mcmenamin.com"; "Annabelle henry@state.or.us"; "Judyc@linesforlife.org"; "tomp:@linesforlife.org"; "Eugene.or:@madd.org"; "Portland.or:@madd.org"; <u>"cheycke@msn.com"; WINKELS Scott; "brian@oregonbeer.org"; "bperry@oregonRLA.org"</u> "Ndevries@oregonria.org"; "chair@overlookneighborhood.org"; "bsinnott@portlandalllance.com";

<u>"Ifrisch@oortlandalliance.com"; "Andy.smith@oortlandoregon.gov"; "david.fackson@portlandoregon.gov";</u> "noise@portlandoregon.gov"; "paul.vanorden@portlandoregon.gov"; "Theresa.marchetti@portlandoregon.gov";

<u>"linda.c.flscher-lewis@state.or.us"; "eralbrich@stoel.com"; "stie:@siiepearce.biz";</u>

"hoard@sunnysideneighborhood.com"; "veronica@travelportland.com"; "doug@visitbend.com"; TUFTY Duke;

"Marvellen_glynn@yahog.com"; ROUTT Kelly + OLCC; HALEY Bryant * OLCC; CROY Dan * OLCC

Subject:

Outdoor areas (food carts) S-year Rule Review

Date:

Friday, May 24, 2019 11:33:00 AM

Attachments:

image003.png imaac004.ona image005.png image006.png image007.ong <u>image008.png</u>

outdoor package 5vr review OLCC PDF.pdf

Greetings,

ORS 183.405 directs state agencies to review new rules, with some exceptions, within five years of adoption and create a report. You will find a copy of this report attached because you were invited to be part of the Rules Advisory Committee (RAC) that assisted the OLCC in the thoughtful creation of these rules:

OAR 845-005-0329 Licensing Outdoor Areas Not Abutting a Licensed Building OAR 845-005-0331 Licensing Exterior Areas OAR 845-006-0309 Requirements for Outdoor Areas Not Abutting a Licensed Building

Thank you,

Emily Febles

Administrative Rules Coordinator Oregon Liquor Control Commission (OLCC)

Desk: 503-872-5250 | <u>Emily, Febias @prezon gov</u>



Follow us on social media

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing accompanies this form

Oregon Liquor Control Commission

845

Agency and Division

Administrative Rules Chapter Number

Creates distinct licensing qualification and operating standards for outdoor areas not abulting a licensed premises.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.) In the Matter of

The proposed new rules and amendments to the Outdoor Areas Package (OAR 845-005-0329; 845-005-0331 & 845-006-0309).

Statutory Authority:

OR\$ 471, including OR\$ 471,040, 471,730(1) & (5)

Other Authority:

Statutes Implemented:

ORS 471.001, 471.030(1), 471.313(1) & 471.315(1)(d)

Need for the Rule(s):

Since March of 2012, the Commission has granted an increasing number of annual liquor licenses at tocations where alcohol is sold and served by food cart operators and consumed in exclusively outdoor areas. Taking into consideration the unique nature of this type of premises, which consists solely of an outdoor area that does not abut a previously ficensed building, the Commission has placed operating restrictions on each annual license that it has issued to such operators. The Commission's use of restrictions to manage the operating risks presented by the food cart business model subjects food cart licensees to the risk of more severe senctions than traditional brick-and-mortar licensees would be subject to for a similar violation. It could also lead to substantive variations among restriction provisions as the number of food cart licenses granted continues to grow. The proposed rules package would alleviate these concerns.

Documents Relied Upon, and where they are available:

OLGC Advisory Committee Meeting Minutes dated November 20, 2012; January 29, 2013; and December 18, 2013. Available from the Oregon Liquor Control Commission. Administrative Policy & Process Division.

Secretary of State Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact published in the Oregon Bulletin on March 1, 2013, Available from the Oregon Liquor Control Commission, Administrative Policy & Process Division, or from the Secretary of State, Archives Division.

'Fiscal and Economic Impact:

This statement takes into account the fiscal impaction: (a) Liquor Licensees; (b) Local Government; (c) State Agencies; and (d) the Public.

(a) Liquor Licensees

The Commission expects the proposed rules package to have a positive fiscal impact on current food cart licensees because it will reduce operating uncertainties for these licensees. It will also allow the Commission to remove many, if not all, of the operating restrictions under which these licensees are currently operating. Removing these restrictions will ensure that food cart licensees are not subject to greater sanctions for identical acts than traditional brick-and-mortar licensees.

The Commission also expects the proposed rules package to have a positive fiscal impact on prospective food cart licensees because it will simplify the application process and provide greater operational certainty for applicants

The Commission recognizes that some food cart licensees may conclude that the proposed rules package will have a negative fiscal impact on food cart licensees because it does not grant them the same privileges as those held by traditional brick-and-mortar establishments. It is the Commission's view, however, that these two operations are substantially different from one another. As noted above, the overall impact of the proposed rules package would be to place into rule, constraints that are currently implemented through license restrictions. Therefore, it is the Commission's view that this tactical regulatory shift is more likely to have a positive fiscal impact on food cart incensees

The Commission expects the proposed rules package to have a neutral fiscal impact on traditional brick-and-mortar licensees (i.e., patios and

sidewalk cases) because the proposed ame. I nents to OAR 845-005-0331 do not substantively ... /ise the licensing standards or operating requirements that current apply to these licensees, and the proposed new rules in this package are not expected to encourage or discourage food cart license applications (i.e., competition).

(b) Local Government.

The Commission expects the proposed rules package to have a positive fiscal impact on local governments because it creates distinct and uniform licensing qualification standards and operating requirements where none previously existed. Moreover, in doing so, it takes into consideration the unique operating risks presented by food carts. This is expected to have a positive impact on neighborhood livability standards and public safety, which should result in a positive fiscal impact on local governments.

(c) State Agencies,

The Commission expects the proposed rules package to have a neutral fiscal impact on outside state agencies because these rules do not apply to outside state agencies.

(d) The Public.

The Commission expects the proposed rules package to have a positive fiscal impact on the public to the extent that it enables food cart operators to supply desired products and services, reduces the Commission's administrative costs and maintains the Commission's current best practices and public safety goals.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2xb)(E)):

The Commission anticipates no new costs to comply with the proposed rules package for outside state agencies, units of local government or members of the public because these rules do not apply to these entities and do not include any new reporting or recordkeeping requirements.

- 2. Cost of compliance effect on small business (ORS 183.336):
- a. Estimate the number of small business and typos of businesses and industries with small businesses subject to the rule: The Commission assumes that the majority of its licensees are small businesses. However, the Commission does not categorize its licensees, or applicants for a liquor license, according to the size of their underlying business operations. At present, there are approximately 11 food cart operators who hold an annual liquor license. The Commission anticipates no new costs of compliance to comply with the proposed amendments for these licensees because the proposed amendments do not impose any new compliance costs onto these licensees. The Commission is unable to accurately estimate the number of food cart operators that are small businesses that might seek an annual license and therefore become subject to these rules. However, the Commission anticipates no new costs of compliance to comply with the proposed rules package for businesses of any type or size because these rules do not impose new reporting, recordkeeping, equipment, or supply costs onto licensees.
- b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services: (see above)
- c. Equipment, supplies, labor and increased administration required for compliance: (see above)

How were small businesses involved in the development of this rule?

Small businesses as well as interested licensees, industry representatives, law enforcement agencies, public safety organizations, members of the public, and other interested parties were invited to attend an advisory committee meeting that was held on December 18, 2013. Stakeholders will have an additional opportunity to comment on the proposed amendments at the public hearing that will be held in Fabruary of 2014.

Administrative Rule Advisory Committee consulted?: Yes If not, why?:

<u>00-10-2014 5:00 p.m.</u>

Annabelle Henry

annabelle.henry@state.or.us

Last Day (m/d/yyyy) and Time for public comment.

Printed Name

Email Address

1-15-14 2:46 PM ARCHIVES DIVISION SECRETARY OF STATE

FILED

Administrative Rifles Unit. Archives fliv (200), Secretary of Scale, 300 Summer Street Niv. Salem. Gregory 973 (8)

ARC 925-2900

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Five-Year Rule Review

ORS 183.405

Rule Na	me:	Compliance		
Rule Nu	mber(s):	OAR 847-001-0024		
Adoption Date: January 10, 2014 Review Due Date: January 10, 2019 Review Due Date: February 15, 2019				
		nittee Used: Administrative Affairs Committee nittee Not Used		
What w	as the inte	ended effect of this rule adoption?		
The rule failure to	was intended	d to clarify that failure to comply with a Board investigation or a Board Agreement violates ORS 677.190(17) and is grounds for		
	Has this	rule adoption had its intended effect?		
Yes	The rule clarifies that failure to comply with a Board investigation or failure to comply with a Board Agreement violates ORS 677.190(17) and is grounds for disciplinary action.			
	Was the	anticipated fiscal impact of this rule correct?		
Yes No	created an	npact was anticipated. Since implementation, the rule has not y fiscal impact to the Board, other state agencies, units of local nt, small businesses, licensees, or the public.		
M vos		e amended or repealed?		
Yes No This rule was amended on October 7, 2016 to change the name of "Conser Agreements" to "Consent Agreements for Re-entry to Practice" in order to accurately reflect the nature of these agreements.				
⊠ Yes	Is there	a continued need for this rule?		
No	Yes.			
☐ Yes ⊠ No	What im	pact has the rule had on small businesses?		
	·- <u>-</u>	<u></u>		
<u>Nicole Kris</u> Printed nar		Executive Director Micoli Kisl: 11/9/18 Signature Date		

Five-Year Rule Review

ORS 183.405

nule Na	ame:	Approval of Consen	t Agreements for Re-entr	y to Practice		
Rule Nu	umber(s):	OAR 847-001-0045				
April 4 Revie	tion Date: I, 2014 w Due Date I, 2019): 	Review Date: December 12, 2018 Sent to SOS & SB February 15, 2019			
⊠ Advi □ Advi	sory Comm sory Comm	ittee Used: Admir ittee Not Used	nistrative Affairs Comm	ittee		
The rule Director to entry to	was intended to review and practice. The	to delegate authorit approve the terms a	is rule adoption? by to the Executive Director and conditions in a Conse ranted a license once the ical Director.	nt Agreement for re-		
⊠ Yes			its Intended effect?			
☐ No	The Executive approve a C	re Director and Medi onsent Agreement fo	fedical Director are authorized to review and not for Re-entry to Practice.			
<u> </u>	Was the a	nticipated fiscal	impact of this rule co	orrect?		
⊠ Yes □ No	expedited the by allowing I No fiscal implimpact to the	e re-entry process, icensees to begin th pact was anticipated	s just about right. As ant creating a positive fiscal interesting a positive fiscal interesting and start and the rule has not creat agencies, units of local g	impact to licensees it practicing earlier. ated any fiscal		
		equent changes amended or rep	in the law required t ealed?	his rule to		
⊠ Yes □ No	Agreements' accurately re amended ag	to "Consent Agreer eflect the nature of t ain on October 5, 20	per 7, 2016 to change the ments for Re-entry to Pra hese agreements. Practio 018, to allow the Executives ese agreements with a Lic	ctice" in order to e." This rule was e Director and		
Yes No	Is there a	continued need 1	for this rule?			
☐ Yes ⊠ No	What impa	ct has the rule h	ad on small business	ses?		
NII 1 1-			Nicolo Kist.			
<u>Nicole K</u> r <u>is.</u> Printed nam		<u>ecutive Director</u>	Signature			

Five-Year Rule Review

ORS 183.405

Rule Na	me:	Fraud or Misrepresent	ation		
Rule Nu	mber(s):	OAR 847-008-0058			
Octobe Revie s	ion Date: er 3, 2014 w Due Dat er 3, 2019	e: 	Review Date: December 12, 2018 Sent to SOS & SBRAC Date: February 15, 2019		
		nittee Used: Adminis nittee Not Used	strative Affairs Committee		
What w	as the inte	ended effect of this	rule adoption?		
677.190(affidavit of first viola	8), providing or registration tion, a \$250	g false, misleading or d on for any license type (les to clarify that violations of ORS eceptive information on any application or status, is grounds for a \$195 fine for lation, and a \$500 fine for the third or disciplinary action.	the	
	Hasthls	rule adoption had i	ts Intended effect?		
⊠ Yes □ No	providing f affidavit or fine for the	re rule compiles existing rules to clarify that violations of ORS 677.190(8), oviding false, misleading or deceptive information on any application, fidavit or registration for any license type or status, is grounds for a \$195 see for the first violation, a \$250 fine for the second violation, and a \$500 see for the third or subsequent violation.			
·	Wasthe	anticipated fiscal in	npact of this rule correct?		
⊠ Yes □ No	created an	npact was anticipated. y fiscal impact to the B nt, small businesses, lic	Since implementation, the rule has not card, other state agencies, units of local sensees, or the public.	: al	
✓ Vac	Have sub		n the law required this rule to		
Yes No This rule was amended on October 9, 2015 to clarify that the Board grant or renew a license until an applicant or licensee has paid the penalty or is proceeding to a contested case hearing under ORS 18					
⊠ Yes	l s there	a continued need fo	or this rule?		
☐ No	Yes.				
Yes No	What Im	pact has the rule ha	ad on small businesses?		
Nicole Kris	shnaswami,	Executive Director		<u>1/9/18</u>	
Drintad nar	n e		Signature	Date	

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November 25, 2019

Public Utility Commission

201 High St SE Suite 100 Salem, OR 97301

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Salem, OR 97308-1088

503-373-7394



VIA ELECTRONIC MAIL

Secretary of State – Administrative Rules Unit

Adminrules.archives@oregon.gov

RE: Public Utility Commission of Oregon Five Year Rule Review

Docket No. AR 583

Rule(s) Reviewed: 860-001-0400 Pleadings and Motions General

Based on the information on hand and general knowledge of Commission activities:

Did the rule(s) have the intended effect?

Rule Review Due Date: 11/20/19

Yes, as part of the overhaul of the practice and procedural rules to implement changes to streamline eFiling (the Commission's electronic filing system for participants in our dockets), this rule was promulgated to clarify the difference between pleadings and motions in the PUC's proceedings and set the stage for delineating timelines in rules fallowing this rule in Division 001.

Date Adopted: 12/16/14, Effective 3/2/2015

Was the anticipated fiscal impact of the rule underestimated or overestimated?

At the time of rulemaking, the PUC stated that there would be potential savings on document printing, duplication, and delivery costs and potential costs for the PUC and stakeholders to print documents. This remains true, and more stakeholders express a preference to work with electronic documents especially with the PUC's subsequent enhancements made to the public facing version of the docketing system.

Do subsequent changes in the law require the rule to be repealed or amended?

There are no changes in the law requiring this rule to be repealed or amended.

November 25, 2019 PUC AR 583 Rule Review Page 2

Are the rules still needed?

Yes. The rule is still necessary to ensure clarity in timelines regarding pleadings, motions, responses, and replies.

Reviewed on 11/20/19 by:

//Diane Davis

Diane Davis

Rules Project Leader



Public Utility Commission

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November 25, 2019

VIA ELECTRONIC MAIL
Secretary of State – Administrative Rules Unit
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RE: Public Utility Commission of Oregon Five Year Rule Review

Docket No. AR 580

Rule Review Due Date: 11/20/19

Rule(s) Reviewed: 860-085-0500, 860-085-0550, 860-085-0600, 860-085-0650, 860-085-0700, 860-085-

Date Adopted: 12/16/14, Effective 3/2/2015

0750

Based on the information on hand and general knowledge of Commission activities:

Did the rule(s) have the intended effect?

Yes, the rules provide guidance for the establishment of a voluntary emission reduction program for natural gas utilities per ORS 757.539, as intended.

Was the anticipated fiscal impact of the rule underestimated or overestimated?

At the time of rulemaking, the PUC stated that because programs established under these rules are voluntary and because projects could vary in scope, the potential magnitude of positive or negative impacts could not be quantified at that time. To date, there have been no applications for voluntary projects so the anticipated fiscal impact statement remains accurate.

Do subsequent changes in the law require the rule to be repealed or amended?

There have been no subsequent changes in the law.

