

## Oregon's New Prohibitions and Requirements Regarding Pregnancy-Related Accommodations: What Employers Need to Know

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On May 22, 2019, Oregon governor Kate Brown signed [House Bill 2341](#). This bill expands on existing federal and state law concerning pregnancy-related accommodations.

Pregnancy was already considered a protected characteristic of one's sex under Oregon Revised Statutes (ORS) Chapter 659A. The purpose of the new law is to ensure that employees have reasonable accommodations for known limitations related to pregnancy, childbirth, or related medical conditions and to prevent workplace discrimination based upon the need for such accommodations.

Beginning January 1, 2020, the following prohibitions and obligations will take effect for Oregon employers with six or more employees:

- Employers may not deny employment opportunities to an applicant or employee based on the employer's need to make pregnancy-related accommodations.
- Employers may not fail or refuse to make reasonable pregnancy-related accommodations unless the employer can show that providing the accommodation would impose an undue hardship on the employer's business. Whether undue hardship exists for the purposes of this law depends on:

(1) the nature and the cost of the required accommodation;

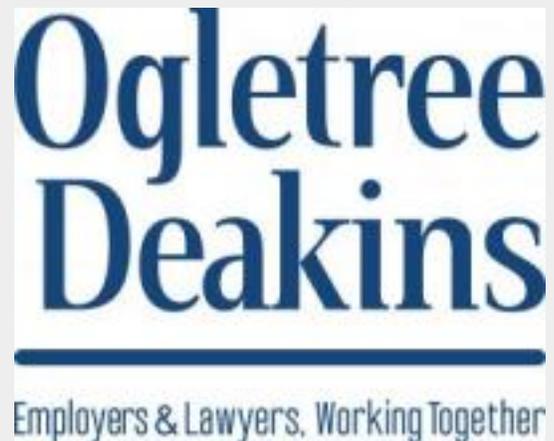
(2) the financial resources, number of employees, and the effect on expenses and resources of the employer's business and business facilities; and

(3) the type of operations conducted by the employer.

- Employers may not take adverse employment action, discriminate, or retaliate against an applicant or employee with regard to the terms and conditions of his or her employment due to the applicant's or employee's inquiry about, request for, or use of reasonable pregnancy-related accommodations.
- Employers may not require applicants or employees to accept unnecessary pregnancy-related accommodations if the employee can perform the essential functions of the job.
- Employers may not require an employee to take leave if the employer is able to reasonably accommodate the known limitations.
- Employers must provide notice of the protections created under this law by posting signs on the premises where the employees work and by providing written notice in multiple situations to:

(1) new employees at the time of hire;

(2) existing employees within 180 days after the law takes effect on January 1, 2020; and



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(3) employees who inform their employer of their pregnancy “within 10 days after the employer receives the information.”

The following is a nonexhaustive list of possible pregnancy-related accommodations under this law:

- “Acquisition or modification of equipment or devices”
- Longer or more frequent break periods
- “Assistance with manual labor”
- “Modification of work schedules or job assignments”

The Oregon Bureau of Labor and Industries (BOLI) is responsible for the enforcement of these new provisions. The penalties applied for violations of these provisions are the same as those for the violation of any other provision of ORS 659A. BOLI is also responsible for developing training and education materials to inform employers and employees of the rights and obligations created by the new provisions.

## **Key Takeaways**

Unlawful conduct with respect to pregnancy is now more specifically defined under state law. Employers may not discriminate against an employee or applicant on the basis of the employee’s need for reasonable accommodations due to limitations related to pregnancy, childbirth, or a related medical condition.

While the provisions of this law do not take effect until January 1, 2020, employers may want to prepare now to ensure that there are systems in place for the required notices and obligations beginning on January 1, 2020. In addition, it may be useful for employers to keep track of any new rules, guidelines, or training materials promulgated by BOLI pertaining to these provisions.

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