



## ***New Oregon Laws Take Effect January 1, 2008***

*By Charles R. Williamson*

The 2007 Oregon Legislature passed over 900 bills. All bills take effect January 1, 2008 unless otherwise noted. Here is some information on a few bills of interest.

### ***OREGON CONSUMER THEFT PROTECTION ACT***

Senate Bill 583 (Ch. 759 OR Laws 2007) places new burdens on businesses and individuals to protect personal information of

consumers. The Act is a response to the rash of identity thefts in Oregon (the State is the 13<sup>th</sup> in the nation in this crime). The bill places responsibility upon businesses to notify consumers when any of their personal information has been compromised; it allows consumers to place a security freeze on their credit reports; and requires credit reporting agencies to take certain actions in response to credit freezes. The bill requires that all people who use the personal information of others in business, vocation, occupation, or volunteer

activities must have safeguards to protect the security, confidentiality, and integrity of that information. Compliance with certain federal laws such as Graham Leech Biley and HIPPA will already meet the requirements of this Act.

After January 1, 2008, a business must:

1. have administrative safeguards that designate one or more employees to coordinate a the security program;
2. identify foreseeable risks and assess the sufficiency of safeguards;
3. train and manage employees in the use of information and in maintaining security;
4. select service providers capable of maintaining appropriate safeguards and requires those safeguards by contract; and
5. adjusts the security program as business and circumstances change.

The business must have technical safeguards which:

1. assess risks in network and software design;

2. assess risks in information processing, transmission and storage;

3. detects, prevents and responds to attacks or system failures; and

4. regularly tests and monitors the effectiveness of key controls, systems and procedures.

Finally, the business must have physical safeguards for information storage and disposal, response to intrusions, and protection against theft of information during and after collection, transportation and disposal. Personal information should be disposed of once it is no longer necessary by burning, shredding and similar measures, and erasing or otherwise destroying electronic media.

The Department of Consumer and Business Services may implement penalties of up to a \$1,000 per day to a maximum of \$500,000. A business may also be liable for actual damages incurred as a result of the use of personal information taken from the business.

*Businesses must safeguard personal information.*

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## **MOTOR VEHICLE INSURANCE**

The Legislature has outlawed insurance coverage “drop downs” in liability limits of a driver for liability to family members. Under current law, even if you have a \$100,000 to \$300,000 policy, it may only cover injured family members for \$25,000. House Bill 3086 (2007) Oregon Laws Ch. 782 will apply to policies issued or renewed after January 1, 2008. (HB 2448, Ch. 536 OR Laws 2007).

## **VIOXX AND CELEBREX CASES**

There is now a four-year statute of limitations for personal injury claims (instead of two years) and a six-year statute of limitations for wrongful death claims (instead of three years) that result from use of a “Cox-2 inhibitor” but only for claims that arose before January 1, 2007.

## **EMPLOYMENT AND DISCRIMINATION LAW**

“Sexual orientation” is now a protected class under Oregon’s antidiscrimination statutes. Senate Bill 2 (Ch. 100 OR Laws 2007) now makes it unlawful to base

*“Sexual orientation” is now protected from discrimination.*

decisions on sexual orientation in employment, housing, public accommodations, public meetings, public service and education, and other matters. Churches and other religious institutions can be exempted in certain situations.

## **DOMESTIC PARTNERSHIPS**

Same-sex couples can gain some of the rights of married couples. County clerks will provide forms for registration and Oregon courts will rule on dissolution, separation, and annulment. (HB 2007, Ch. 99 OR Laws 2007).

## **GARNISHMENT PROCEDURE**

Senate Bill 303 (Ch. 496 OR Laws 2007) protects employers who have placed wage payments in process not more than two days prior to the pay date. Thus, when a garnishment is received within that two-day period and instructions to pay the wages have already been issued and in process, the employer need not withhold wages but should disclose what has happened on the garnishment response. This bill applies to garnishments received after January 1, 2008. In addition, the amount of exempt wages is increased next year and again in 2009. The schedule of exemptions will be printed on garnishment forms to be served next year.

## **SMOKING PROHIBITED ALMOST EVERYWHERE**

Senate Bill 571 (Ch. 602 OR Laws 2007) removes virtually all exceptions from prohibitions on smoking in places of employment and public places. Smoking is now prohibited outside buildings within 10 feet of entrances, exits, windows that open, and ventilation intakes. Smoking is permitted only in smoke

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shops, rented hotel or motel rooms designated as smoking rooms, and for certain American Indian ceremonies. Smoking in bars, restaurants, and employee lounges will no longer be permitted.

## **FAMILY LEAVE**

Grandparents and grandchildren are now included as family members for whom and by whom leave may be taken. The Legislature

*Grandparents and grandchildren now included in family leave rights.*

made it an unlawful employment practice to retaliate or discriminate against an employee who inquires about, submits a request for, or takes family leave. This latter section is retroactive. (HB 2635 Ch. 777, OR Laws 2007)

## **SMALL CLAIMS COURT**

Cases for up to \$7,500 may be commenced in small claims court after January 1, 2008. The old limit was \$5,000. (HB 2316, Ch. 125 OR Laws 2007).

## **BILL OF RIGHTS FOR LONG-TERM CARE FACILITY RESIDENTS**

Two new rights were enacted for nursing home patients. A patient now has the right to receive:

- Care that is specific to the patient’s disease or medical condition; and
- A modified or special diet that meets the requirements of the patient’s disease or medical condition.

(HB 3093, Ch. 574 OR Laws 2007).

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## ***INSURANCE COVERAGE FOR CHILDREN WITH DISABILITIES***

Health benefit plans must now include coverage for all medically necessary services—both medical and rehabilitative—for children under 18 years of age covered by the plan and who have been diagnosed with a pervasive developmental disorder. These include autism, Aspergers syndrome, developmental delay, development disability, or mental retardation. (HB 2198, Ch. 892 OR Laws 2007).

## ***MALPRACTICE INSURANCE HELP FOR RURAL DOCTORS***

The program providing malpractice insurance relief to rural doctors has been continued and the program is extended to nurse practitioners. Doctors and nurse practitioners must be willing to serve patients with Medicare and Medicaid coverage in order to receive the assistance with their malpractice insurance premiums. The program is continued through 2011 and took effect June 25, 2007. (SB 183, Ch. 574 OR Laws 2007).

## ***CRIME VICTIMS' RIGHTS MAY BE EXPANDED***

The Legislature has referred two measures to a vote of the people to take place in May 2008. If approved, the amendments to Article I, Section 43 of the Oregon Constitution (the Crime Victims' Bill of Rights enacted originally in 1999) would give the victim a right to assert a claim in a pending case and to request the assistance of the prosecuting lawyer in asserting the victim's rights. HJR 49 and 50. In addition, HB 2127 (Ch. 609 OR Laws 2007) extends existing victims' rights to proceedings in juvenile court.

## ***CRIME VICTIMS' LEAVE FROM WORK***

A crime, domestic violence, sexual assault or stalking victim or parent of a victim will now have the right to unpaid leave from employment to obtain legal assistance, medical assistance, or counseling. Employers with six or more employees are covered by this bill for employees who work at least 25 hours a week for six months before the leave date. (SB 947, Ch. 180 OR Laws 2007).

## ***TIMELY PAYMENT OF DEDUCTIONS FROM WAGES***

Employers must pay the amount deducted from employees' wages to the appropriate recipient within the time allowed by law or the agreement of the parties. If no specific time period is stated, deductions must be paid within seven days. Failure to timely pay deductions is punishable by a penalty of up to \$1,000 enforceable by the Bureau of Labor & Industries. (HB 2674, Ch. 676 OR Laws 2007).

## ***PLANNED COMMUNITIES/ CONDOMINIUMS***

The laws relating to planned communities and condominiums have been amended related to voting, electronic communication, appointment of receivers, special meetings, insurance and reserves. E-mail can now be used for certain notices and voting. The homeowner associations should review HB 2665 (Ch. 409 OR Laws 2007). It is a lengthy bill and too long to summarize here. Condominium declarants and owners should also review. (HB 2666, Ch. 410 OR Laws 2007).

## ***TREATMENT FACILITIES NOT SUBJECT TO LANDLORD/TENANT LAW***

Residents in a program for care, treatment, training, or support for disability or dependency is no longer covered by Oregon's Landlord Tenant law. (SB 154, Ch. 715 OR Laws 2007).

## ***LANDLORD TOWING OF TENANT VEHICLE***

New requirements have been placed on landlords before tenants' vehicles can be towed. (SB 431, Ch. 565 OR Laws 2007).

## ***LANDLORD/TENANT - REPAIRS AND TENANCY TERMINATION***

A tenant is now allowed to make minor repairs if a landlord fails to timely respond after notice. A landlord may terminate a rental agreement for certain criminal acts but prohibits termination because a tenant is a victim of certain crimes. (SB 561, Ch. 508 OR Laws 2007).

## ***WHEELCHAIR ONLY PARKING SPACES***

The spaces are now required in public parking areas constructed or repainted on or after January 1, 2008. "Wheelchair User" placards will also be provided to authorized use of the spaces. (SB 716, Ch. 468 OR Laws 2007).

## ***TAXES—UNITARY BUSINESS***

The legislature has substantially loosened the test for determining when a business is unitary. After January 1, 2008, a business need only have one of the following: centralized management, centralized administrative services resulting in economies of sale, or functional integration. (SB 178, Ch. 373 OR Laws 2007).

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Please call Charlie Williamson or your attorney at Kell, Alterman & Runstein if you wish to obtain a copy of any of the above bills or if you would like additional information.

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