

Oregon Temporarily Allows Vaccine Incentives and Hiring Bonuses

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The Oregon legislature has temporarily amended Oregon's Equal Pay Act to allow employers latitude to both encourage COVID-19 vaccinations and to attract new employees as the state emerges from COVID-19 business restrictions. Under the revised statute, when evaluating whether employees who perform work of comparable character are paid equitably, a comparison of employee compensation may exclude vaccine incentives. Similarly, hiring and retention bonuses are excluded from the calculation. The exclusion is only temporary, however, and scheduled to expire on March 1, 2022.

Under the prior version of Oregon's Equal Pay Act, both vaccine incentives and hiring bonuses were potentially problematic compensation tools. The statute allows employers only eight factors to explain wage differentials among employees performing similar work. None of those factors were particularly helpful in explaining why employees performing work of comparable character might be paid differently as a result of a vaccine incentive or a hiring bonus. Indeed, earlier this year, Oregon's Bureau of Labor and Industries opined that paying vaccinated employees more than others who could not get a vaccination (because of religious conviction or a disability) could create liability.

The amendments provide that vaccine incentives are excluded for pay comparison purposes for any claims or complaints filed after April 29, 2021. The amendments exclusion of hiring and retention bonuses for pay comparison purposes apply to claims and complaints filed after May 25, 2021.

Both amendments are scheduled to expire on March 1, 2022.

If you have questions or need assistance, please reach out to the Jackson Lewis attorney with whom you regularly work.

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