

A-Engrossed
Senate Bill 379

Ordered by the Senate April 29
Including Senate Amendments dated April 29

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that conditioning employment on refraining from using any substance that is lawful to use in this state is unlawful employment practice. **Allows certain exemptions.**
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to unlawful employment practices; amending ORS 659A.315; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 659A.315 is amended to read:

659A.315. (1) It is an unlawful employment practice for any employer to require, as a condition of employment, that any employee or prospective employee refrain from using [*lawful tobacco products*] **a substance that is lawful to use under the laws of this state** during nonworking hours, except when the restriction relates to:

(a) A bona fide occupational [*requirement.*] **qualification that relates to health and safety;**

or

(b) **The performance of work while impaired.**

[*(2) Subsection (1) of this section does not apply if an applicable collective bargaining agreement prohibits off-duty use of tobacco products.*]

(2) Subsection (1) of this section does not apply:

(a) **If an applicable collective bargaining agreement prohibits off-duty use of the substance;**

(b) **To federal contractors or employers that receive federal grants that are subject to the federal Drug-Free Workplace Act of 1988 (41 U.S.C. 8101 et seq.);**

(c) **If the employer is required by federal law or regulation to test employees or prospective employees for alcohol or drug use;**

(d) **To public safety personnel, as defined in ORS 181A.355, and other providers of emergency services, as defined in ORS 401.025;**

(e) **To a licensed health care professional, as defined in ORS 137.476;**

(f) **To an operator of a public transit vehicle, as defined in ORS 166.116, or a taxi, while the operator is in control of or operating the vehicle or taxi; or**

(g) **To employees who perform job functions that may involve a risk of injury to others,**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 including, but not limited to, construction work, the operation of heavy machinery or
2 equipment or the operation of a commercial vehicle, as defined in ORS 801.210, or a com-
3 mercial motor vehicle, as defined in ORS 801.208.

4 SECTION 2. This 2019 Act being necessary for the immediate preservation of the public
5 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
6 on its passage.

7
