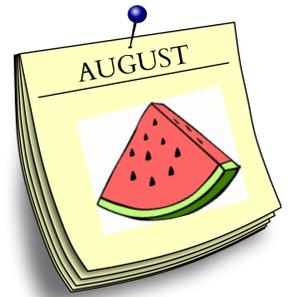




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## OREGON SICK LEAVE CHANGES

The Legislative session for 2017 is over and employers must find their path to success. There are a number of clarifications to the Oregon Sick Leave Law. It will be important for employers to understand these and determine if changes will be made to their Employee Handbooks. If changes are made, don't forget to provide notice to your employees about the changes. The info below identifies the provisions that have been revised.

### Summary of Changes:

- Going forward employers maintaining seasonal farm stands and temporary construction office trailers located in the Portland Metro Area are only required to provide paid sick time if they employ 10 or more employees. Other Portland Metro employers must pay for sick time if the employer has at least six Portland employees.
- An employer who provides more than 40 hours of substantially equivalent paid leave can characterize the additional leave as unprotected and need not apply Oregon Sick Time requirements. (Substantially equivalent is defined as at least 40 hours that the employee can take for any purpose. If the employee chooses to take some or all of this time for vacation or days off and then has none left for illness, that is the employee's responsibility.)
- The ability of an employer to cap the time accrued was one of the biggest questions left by the initial law. The new language clarifies that employers can cap the total accrual of sick time to 40 hours per year.
- Being paid on piece rate was another topic needing clarification. The new language indicates that as long as the employee is paid minimum wage for the time out sick, it will meet the requirements.
- The appropriate sick leave payment for those employees paid base plus commission will be the greater of either the employee's fixed wage or minimum wage
- In determining whether a small company is big enough to provide paid sick time, owners and directors (and their parents, spouses and children) need not be counted. An "owner" is someone with at least a 51% stake in the company.

It will probably take a few follow-up questions and hopefully not too many lawsuits to fully understand the nuances of this law. In the meantime, if you have questions, please just give HR Answers a call.

## BENEFIT INFORMATION

When we are meeting with clients or in a training session, one of the standard questions we get is about benefits. Most often, it goes something like this, "What's new with benefits; do you have any ideas how we can get an advantage by offering something that others don't?" So, when a new benefits study came across our desks, we wanted to share some of the information. Candidly, we were surprised by some of the results. Who would have thought that one of the benefits that is showing a substantial increase is reimbursement for meals while on business travel? We thought that was a given, but evidently others are just beginning to offer that. Here are some of the other findings:

### Benefits on the Rise

Free coffee  
Financial advice  
Standing desks  
Remote working arrangements  
401(k) conversions to Roth  
Larger Life insurance coverage

### Benefits on the decline

Credit Union membership  
Paid travel for employee spouses  
Compressed workweeks  
On-site cafeteria  
Service Awards  
Loans from Defined Contribution plans

## WASHINGTON LEGISLATURE PASSES PAID LEAVE

Washington state is now among a handful of states that guarantee paid family leave, after the Governor signed a bipartisan plan approved by the Legislature.

The measure offers eligible workers 12 weeks paid time off for the birth or adoption of a child or for the serious medical condition of the worker or the worker's family member beginning in 2020, or 16 weeks for a combination of both. An additional two weeks may be used if there is a serious health condition with a pregnancy.

Washington joins four other states with paid family-leave programs: California, New Jersey, Rhode Island and New York, though New York's program doesn't take effect until next year. The District of Columbia earlier this year also approved a paid family leave law, though it doesn't take effect until July 2020.

Washington's plan comes after months of negotiations between lawmakers and those in the business and labor communities, and it closes the loop on work left unfinished by the 2007 Legislature. In that year the Legislature passed the bill, but couldn't figure out how to pay for it so it never got implemented. This year the business community was part of the discussion on legislative action, and that helped get the bill passed and funded.

Under the new law, both employers and employees pay into the system, and weekly benefits are calculated based on a percentage of the employee's wages and the state's weekly average wage which is now \$1,082. The weekly amount to be paid out is capped at \$1,000 a week. Workers who earn less than the state average would get 90 percent of their income. Employees must work at least 820 hours before qualifying for the benefit. Organizations that already offer such programs can opt out, as long as they are at least equivalent to the state program.

Premiums of 0.4 percent of wages would start being collected on Jan. 1, 2019, with 63 percent paid by employees and 37 percent paid by the employers. According to a Senate calculation, an employee who makes \$50,000 a year would pay \$2.42 a week or \$125.84 a year. Employers would pay \$1.42 a week or \$73.84 a year. These payments would result in a weekly benefit of about \$703. The many questions that both employers and employees will have will be answered by L&I regulations once they are written. As soon as we receive those, we will provide greater detail to you.

## MONTHLY QUESTION

We are introducing a new article to our newsletter. Each month, we will ask a question. You have 30 days (or thereabouts) to figure out the answer. Our first question is What one occupation is the only one that has been totally eliminated by automation? Look for the answer in next month's Advantage.

## NOT YET....

OSHA implemented the Record Keeping Modernization Rule in May 2016. It requires certain employers to submit injury and illness data electronically. The rule also prohibits employers from retaliating against employees for reporting an injury or illness.

The Occupational Safety and Health Administration (OSHA) published a notice June 28, 2017 that proposed a five-month delay to the July 1 deadline for submitting information required under the [Record Keeping Modernization Rule](#). In this proposal, OSHA also indicated the rule will be subject to changes.

This proposal came after several businesses filed lawsuits challenging the rule, arguing it would unlawfully prohibit or limit incident-based employer safety incentive programs. They also argued the rule may prohibit or limit routine mandatory post-accident drug testing programs. Two federal district courts have granted motions to halt litigation on this rule while OSHA reconsiders its restrictions as well.

We will keep our eyes open and let you know when there is any movement on this delayed requirement.

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Editor: Deborah Jeffries, PHR, CPC. Advantage is published monthly and is designed to provide information on regulations, HR practices and management ideas and concerns. The intended audience is managers, supervisors, business owners, human resource and employee relations professionals. If you have questions about the content, an opinion about the information, questions about your subscription, or if you need additional Advantage binders, please give us a call at (503) 885-9815 or e-mail [djeffries@hranswers.com](mailto:djeffries@hranswers.com).

## THOUGHTS TO THINK ABOUT

Advice from a Solar Eclipse: See the total Picture. Be moved by beauty. Live in the moment. Celebrate nature's cycles. Don't be afraid of the dark. Be naturally phenomenal. Lighten up!

– *Your True Nature*

Oh dark, dark, dark, amid the blaze of noon, Irrecoverably dark, total Eclipse, Without all hope of day!

- *John Milton*

Once upon a time I was falling in love but now I'm only falling apart. There's nothing I can do, a total eclipse of the heart.

– *Bonnie Tyler*

Don't let anything or anyone block your shine.

- *Author Unknown*

It's best not to stare at the sun during an eclipse.

- *Jeff Goldblum*

Shoot for the moon. Even if you miss, you'll land among the stars.

- *Les Brown*

## REMEMBER FLSA???

Do you recall last year when we were all involved in getting ready for the changes to FLSA? Many HR Professionals couldn't believe that we were going to go from \$23K and change to \$47,476 to qualify for exempt status. So guess what...those who couldn't believe turned out to be correct. Just days before we were to have all the changes made, the court decided that an injunction was needed.

Ever since then, we have been wondering if it would be given new life or just disappear. Well, those who thought it would just disappear are likely to be correct. But wait...that doesn't mean that there will be no change. It just means that we don't know what change will occur in its place. The U.S. Department of Labor, headed by newly appointed Secretary of Labor Alexander Acosta, filed a reply brief with the court of appeals stating that the DOL will not defend the Obama-era rule. If you are curious, you can read more [here](#). But for those of you who just want the bottom line, the DOL has indicated that it will begin a new rulemaking process to update the overtime regulations, which will likely include an increase in the salary threshold.

So, get prepared...it looks like we will do this all over again. There will be another opportunity for employers or HR groups to offer opinions and ideas about what should be changed this time. If we were a group of gamblers, we would guess that a new threshold would be somewhere in the vicinity of \$35,000 for the new exempt threshold. We'll see how close we are to the new number (assuming that we actually get one this time). DOL is accepting feed back and questions about new rule if want to share yours please click here.

## LIFE-SAVING TRAINING

What would you do if an employee had a medical emergency on the job? The American Heart Association (AHA) says most employees aren't prepared to handle life-threatening health issues—like sudden cardiac arrest—in the workplace. That's why the AHA just launched a workplace safety training initiative focused on first aid, CPR and automated external defibrillator (AED) use.

An AED is a portable device that delivers an electric shock through the chest to the heart, which can return the heart to a normal rhythm after a sudden cardiac arrest.

Jim Holland, an attorney with Fisher Phillips in Kansas City, Mo., knows how important it is to train staff on first aid, CPR and AED use. In January 2015, Holland's wife, Nancy, went into sudden cardiac arrest while they were at a restaurant having dinner with friends. The restaurant's manager, Richmond Carson, had learned CPR because his mother is a nurse and she suggested that it would be an important skill for him to have while working in a public-facing position. Carson administered CPR to Nancy until the first emergency responder arrived with an AED. The restaurant didn't have an AED on hand, but the first responder was a police officer who carried one in the car, Holland told *SHRM Online*.

The combination of CPR and AED use saved Nancy's life. Although there was initially some uncertainty about whether she would suffer permanent brain damage after the incident, she did not. Holland joked that when Nancy recovered, the only thing she had forgotten was her cellphone passcode. Holland said that although the 911 responders arrived very quickly, if Carson hadn't known CPR, chances are that Nancy wouldn't have survived. Likewise, the availability and quick use of the AED were critical.

More than 90 percent of employees who participated in two 2017 American Hospital Association (AHA) surveys said they would take employer-sponsored first aid and CPR training courses—but many employers don't provide such training, according to the surveys. "Employees may have a false sense of security that someone else in the organization will know what to do and is qualified to respond to an emergency situation," said Michael Kurz, a physician scientist at the Alabama Resuscitation Center and a professor at the University of Alabama School of Medicine in the Department of Emergency Medicine.

For many industries, the Occupational Safety and Health Administration recommends CPR and AED training as a best practice, but doesn't require it. Some businesses that expose workers to specific safety hazards are required to offer such training.

Even if not required, the AHA says, employers should offer first aid, CPR and AED training because it can save lives. An employee only has a five percent to seven percent chance of surviving cardiac arrest, while waiting for the arrival of emergency medical services. Employees who receive immediate defibrillation, however, have up to a 60 percent survival rate one year after cardiac arrest, the organization says. Therefore, it is important to inform workers about the location of these devices in the workplace and to train employees on how to use them.

## HARASSMENT NUMBERS

According to a new Pew Report, four-in-ten Americans have been personally subjected to harassment online, and an even bigger number have witnessed this happening to others. The survey results went on to describe that one-in-ten say they have been harassed online due to their physical appearance, race, ethnicity or gender, while 14% say they have been targeted because of their politics. Some other key take-aways are:

- Young adults are the ones most likely to experience online harassment. About two-thirds of those 18-29 say they have experienced some form of online harassment.
- Interestingly, men are more likely to be harassed than women (44% versus 37%) except for sexual harassment. An amazing 53% of women have been sent explicit images that they didn't ask for.
- Not surprisingly, social media is by far the most common venue for online harassment with 58% of those surveyed indicating that is how they were harassed.
- A majority of Americans, 62%, view online harassment as a major problem and the majority of those believe it is the online companies that need to solve it. Their opinion (43%) is that law enforcement doesn't take these incidents seriously enough.
- A large majority of the public says anonymity is a key factor in online harassment. Nearly nine-in-ten say the ability to post anonymously enables people to be cruel or harass one another.

Employers need to take these numbers seriously, and make sure employees understand that this behavior will not be tolerated.

For anyone who is interested in the Pew Reports, you can subscribe at no charge to their email service at their website [www.pewresearch.org](http://www.pewresearch.org). There is a wealth of information available via these studies.

## HR BY THE NUMBERS

**One of the "forever"** numbers that HR Departments have used for decades is the number of HR employees as a ratio to the number of full-time equivalent employees. This is used to let HR departments know whether they are staffed at, below, or above the national average. The HR Department Benchmarks and Analysis 2017 has just been published by Bloomberg BNA and it has a bit of a surprise for us. The results show an all-time high of 1.4 FTE in HR for every 100 employees.

The reasons for this higher number was in part due to a study showing four out of five HR departments that indicated they have had to revise policies and employee handbooks at least once, if not twice during the past year because of legislative changes. The most common policies cited were healthcare insurance benefit (62%) and overtime calculations (48%). These may well end up having to be revised once again this year.

If those of you in HR also feel like there is more work than ever before, you are probably correct!

**Another number** that has value for Oregon employers is the recent study done by Glassdoor regarding employee opinions about asking for salary data. As most of you probably know by now, a new law was passed in the recent legislature. Oregon employers are not going to be allowed to inquire about past salary on an application effective 10-6-17. The Harris poll commissioned by Glassdoor solicited opinions from 1,300 US adults 18 years of age and older. The majority of those asked (53%) said they didn't think employers ought to be allowed to ask about past pay. The numbers look a bit different when gender is considered. Women said they do not negotiate pay (68%) while the response from men was 52%.

And the survey turned up one additional interesting opinion – both men and women believe that employers ought to be more forthcoming about the pay of the position. An astonishing percentage, 98%, said that employers should discuss pay, compensation philosophy, benefits, decision-making process, and possible increases at the time they are interviewing someone they are seriously considering for a position. In other words, employers should be talking a lot more about pay, and candidates should not have to talk about past pay at all. For the Oregon employers, it is OK to ask an applicant what their desired salary is...but that is as far as it can go.

## CLIENT ACCOLADES

Congratulations to our clients who made it on the *Portland Business Journal's* "THE LIST"

Largest Metro-Area Architecture Firms: **GBD Architects, Inc. and Hennebery Eddy Architects Inc.**

Largest Oregon & SW Washington Commercial Lenders: **Advantis Credit Union and First Tech Federal Credit Union.**

Largest Commercial/ Civil General Contractors: **Anderson Construction Co., Lease Crutcher Lewis, Walsh Construction Co., R&H Construction, Fortis Construction, Nutter Corp., P&C Construction, Todd Construction, Robertson & Olson Construction Inc., Yorke & Curtis Inc., Russel Construction Inc., INLINE Commercial Construction, Emerick Construction Co., and James E. John Construction.**

Largest Private Companies in Oregon and SW Washington: **Walsh Construction Co., Harder Mechanical Contractors Inc., R&H Construction, Charter Mechanical Contractors Inc., P&C Construction, PMC Construction, Willowood USA LLC, and Nutter Corp.**

## FOR YOUR CALENDAR

Open up your Daytimers, Outlook, Palm Pilots, and all those Smart Phones. The following is a look at upcoming events, special days and other diverse and fun activities you will want to be aware of and get scheduled. **To register for our workshops, please call any of our offices, or send an e-mail to Petrina Bigford at [info@hranswers.com](mailto:info@hranswers.com), or fax it to (503) 352-5582.**

### **AUGUST**

Month of Family Fun, Catfish, Gold, Peaches, Romance Awareness, Eye Exam

Aug. 12 World Elephant Day

**Aug. 15 HRA Workshop – Tigard  
Customer Service... Is About Building Relationships  
8:30am – 12:30pm**

Aug. 18 National Ice Cream Pie Day

Aug. 20 National Radio Day

Aug. 23 National Hug Your Boss Day

Aug. 26 National Women's Equality Day

**Aug. 30 HR Lunch Bunch – HRA Office – Salem Internal  
Investigations  
12:00pm – 1:00pm**

### **Planning Ahead:**

**Oct. 10 HRA Workshop – HRA Office – Tigard  
Critical Thinking; Decision Making and  
Problem Solving  
8:30am – 12:00pm**

**Oct. 17 HRA Workshop – HRA Office – Tigard  
Compensation & Classification with  
Oregon's Equal Pay Act  
8:30am – 12:30pm**

**Oct. 31 HRA Workshop – HRA Office – Tigard  
Effective Meeting Facilitation  
8:30am – 12:00pm**

Flyers for our workshops can be found on our events page under each workshop. View more details and register on our website here [www.hranswers.com](http://www.hranswers.com).

### **Coming up:**

**Sept. 7 - HRA Workshop – HRA Office - Tigard  
Oct. 26 Supervisory Success (8 Part Series)  
8:30am – 12:30pm (13 spots left)**

**Sept. 12 HRA Workshop – HRA Office – Tigard  
Compensation & Classification with Oregon's  
Equal Pay Act  
1:00pm – 4:00pm**

**Sept 19 HRA Workshop – HRA Office – Tigard  
Transitioning Employees to Management 8:30am –  
12:30pm**

**Sept 27 HRA Workshop – HRA Office – Tigard Getting  
Organized  
8:30am – 12:30pm**

## ON MY SOAPBOX

I remember when the word “gravitas” seemed to appear out of nowhere. It was in speeches, on TV, in articles, and well, just about anywhere you can think of. And after it had been around for a couple of months, it was gone. I haven’t heard it for years now.

We have a new one that is beginning to show up everywhere – **mindfulness**. Last week, I ran into it three times. It was in an article about leadership, in a presentation blurb about benefits, and a cartoon that suggested that to have mindfulness, you had to have a mind. I think I am on the very front side of this so I had to go check it out.

As soon as I hit search on Google, I knew I had to be correct. Why? Because the very first entry of my search was “Mindfulness Everywhere.” I was surprised to find that it was the name of a company of specialized apps for smartphones. My search for mindfulness garnered 68,500,000 results.

I scanned the first few pages of results seeking to understand why all of a sudden it was a topic of conversation. I discovered that mindfulness often goes with meditation. It is thought of as being intentional; focusing on one thing; and, being fully present in the moment. After reading for a few minutes, I realized that I had read all these things before. Years ago, it was referred to as bio feedback. People were taught to lower their blood pressure and heart rate. It can be used to relax specific muscles, manage pain, decrease a person’s temperature, etc. Upon reflection, I could see why the two terms might net the same result – the ability to impact a person’s physical properties. But that doesn’t seem to be the whole story. I think mindfulness can be something else altogether. Say that I was trying to break a habit. By being aware of what I was trying to stop; by figuring out what behaviors happen just before I embark on whatever I am trying to cease; and catching myself when I first commence the behavior I wish to stop, I can work to break that habit.

And I have a perfect example from my own past. I served on a national Board of Directors for six years. At one point, I was contacted to see if I would be willing to change positions and be responsible for something else. (Don’t you wish that you knew in advance when not to say yes to something like this?) But having no fear, I said “Of course, happy to help.” To make what could be a long story much shorter, what I was asked to do turned out to be a major challenge; one that required me to be far more tactful than was my custom. While I wasn’t using the word mindfulness at that time, I certainly needed to use the concept. My new job was to work with six special groups of folks I didn’t know, get them to give up their group activities and merge into a new concept that took away many of the perks they were receiving. The kicker was, I was asked to have them like it!

As you might imagine, that seemed like an impossible task; and candidly, it pretty much was. I had to modify my vocabulary to find new words that were more encouraging; learn a lot about how to guide people through a change process and how to support their natural feelings of loss; how to help them find new things to be proud of; and, how not to be defensive about all the negative emotions they were experiencing. I didn’t do it all well, and on some days, I just wanted to go home and hide in my bedroom. But as we kept working at it, testing out new ideas, getting to know each other better and acknowledging that in many respects this was just not fun, I was able to reconcile people to the new reality. The way it had been done before just wasn’t going to continue and the groups could take pride in the fact that they minimized the pain for others by bringing their best selves to the necessary changes.

As I look back on that experience, I learned a lot about mindfulness. About having to bring something to the top of my mind and hold it there as a primary focus of my mental activity. I had to let the groups know that I understood the sorrow they were feeling but that didn’t mean we could go back. I know I was not the only one working on mindfulness. The groups were working on that too. They were able to find a way to be mindful of how this could be built to be a positive for others even though that meant a loss to themselves. The results were far better than could be expected. It was easy to be so proud of them!

Being mindful means that we are present in the moment, we are thoughtful about how things will impact others and we are thinking about the long term, not just a short-term advantage. If we are doing all these things, we are not only mindful, but we are considerate as well.

- Judy Clark, Founder



ANSWERS, Inc.  
“Whatever the Question”

PLEASE FEEL FREE TO VISIT OUR WEBSITE:

[WWW.HRANSWERS.COM](http://WWW.HRANSWERS.COM)