



Real-Time Risk



TIMELY NEWS AND TIPS TO HELP REDUCE RISK

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STATE OF OREGON: SB 569

Employers Must Update Job Descriptions and Policies to Monitor Employees' Driver's Licenses Lawfully

By Laurie Olson, CIS Senior Risk Management Consultant

The passage of Senate Bill 569 during the 2021 Oregon legislative session left us with a new law. SB 569 made it unlawful for an employer to require a driver's license as a condition of employment unless the ability to drive is related to a legitimate business purpose or is characterized as an essential job function.

The new law means the employer **cannot require a driver's license as part of the identification step of the hiring process**. It does allow the employee to "offer" (without coercion) their driver's license as a part of the identification (I9 process), but the employer may not require it.

Driving as an Essential Function of the Job

The employer can require a driver's license if driving is an essential function of their job — and driving is related to a legitimate business purpose. The good news is

Effective January 1, 2022, employers cannot require a driver's license as part of the identification step of the hiring process.

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many organizations may already be in compliance. But if not, it's time to take stock in how your entity uses driver's licenses for identification, driving, and checking driving records.

Updating Job Descriptions is More Important Than Ever!

Now is the time for employers to take a hard look at job descriptions and make sure they accurately reflect whether jobs require driving as an "essential function."

What's more, there will likely be problems if job postings list driving as an essential job function, where the job description does not.

Scope of the Problem

As part of the best-practice survey Risk Management consultants perform, CIS members reported only **53% of pool members** had updated job descriptions. CIS reports a total of **22,908 employees** in the pool. Not all of whom drive for their employer — but hopefully, those who do — have vetted driving records. Still, the pool averages **400 motor vehicle accidents** per year, costing around **\$2 million**. This shows that even drivers with acceptable driving records get into motor vehicle accidents. Accidents are common and can be costly.

SURVEY SAYS...

53% of employers from CIS' last survey reported they have updated job descriptions.

CIS Best Practices Survey Results

Effects of Not Updating Job Descriptions as it Relates to Monitoring Employee Driving Records

Now that it's clear that SB 569 prohibits an employer from soliciting a driver's license at employment — unless driving is an essential function of the employee's job — where do we go from here?

It's time to review the Essential Functions of employee positions, which is listed in their respective job descriptions.

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For years, public sector employers have struggled to update their job descriptions. Yet, an organization risks not complying with SB 569 if they continue to use an employee's driver's license information in Oregon's DMV Automated Reporting Service when their job description does not list driving as an essential function of their job.

As a reminder, the Oregon Department of Motor Vehicles (DMV) currently allows public sector agencies to utilize the DMV Automated Reporting Service. The public sector employer can enter employee driver's license number into the DMV system, and the DMV will notify the employer in real-time if an accident, conviction, or suspension is associated with the employee's motor vehicle record. This driving record monitoring service was granted to government agencies under ORS 802.175 – 802.191 to satisfy an obligation that government agencies have a responsibility to protect their communities by ensuring people who drive publicly owned vehicles are fit to drive. Employers must be diligent about updating job descriptions and ensuring that only permitted entries are added into the Oregon DMV's Automated Reporting Service system. For more information on the DMV's ARS system, see [Oregon DMV Automated Reporting Service](#).

Discontinuing Utilizing the Oregon DMV's Automated Reporting Service is Not the Answer

SB 569 only prohibits the collection of driver's licenses from employees who do not drive as an "essential function." This means that public sector employers can continue to receive reports on employees who drive publicly owned vehicles as part of their job or whose duties require frequent, regular driving on behalf of their employers. Again, these employees should have job descriptions that identify driving as an essential function.

CIS members who use the DMV Automated Reporting Service for all employees should stop that practice immediately.

Driving as a non-essential function of the job for employees who drive occasionally for business purposes.

Develop a vehicle check-out process for employees who drive public vehicles for business purposes infrequently, checking driving records prior to issuing keys.

For employees who drive their private vehicle, the process should also include proof of insurance in accordance with Oregon Law minimum requirements or those set by the public agency.

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Public Employers Must Take Action to Address SB 569

Public Employers need to update current hiring and driving policies to reflect the new legislation. This may affect policies in the employee handbook, driving and/or fleet policies, and hiring practices. Other recommendations include:

- Review and update all job descriptions to include driving as an essential function of the employee's job if the employee drives for a legitimate business purpose or routinely drives public-entity vehicles for legitimate business.
- Review current employees enrolled in the Oregon DMV's Automated Reporting Service to ensure those who drive — as an essential function of their jobs — are up to date and in the DMV system.
- Update new employee and terminated employee checklists to include adding/removing employees to the Oregon DMV Automated Reporting Service (for those who have driving listed as an essential job function).
- Consider using authorization forms if there are discrepancies in the organization's current screening processes or if there is resistance to collecting drivers' license information for employees who drive as an essential function of their job. CIS Pre-Loss can help!
- Review job descriptions at least annually for accuracy.

Don't forget... To educate staff and supervisors!

CONSIDER UPDATING THE FOLLOWING:

- Employee Handbook
- Fleet/Driving Policies
- Update Onboarding/Offboarding Forms
- Job Descriptions — All Employees
- Oregon DMV Automated Reporting Service
- Hiring Practices/Forms

CIS HR Resources

CIS' Pre-Loss and Hire-to-Retire teams are here to help! Please contact them at (503)763-3848 or email h2r@cisoregon.org.

