

# AG tells Labor Law crowd he will fight hard to defend Worker Freedom Act

A sold out crowd of nearly 275 people jammed the International Brotherhood of Electrical Workers Local 48 hall Jan. 29 for the 14th annual Oregon Labor Law Conference.

The daylong event, coordinated by Norm Malbin, general counsel for IBEW Local 48, was co-sponsored by the Oregon AFL-CIO, Oregon State and Columbia-Pacific Building and Construction Trades Councils, Northwest Oregon Labor Council, the Labor Education and Research Center at the University of Oregon, and the Center for Worker Rights.

The conference is geared for union officers and representatives. Workshops focused on how to prepare for arbitrations, creative organizing strategies, grievance mediation, recordkeeping, updates on the Family Medical Leave Act, and a class on how to handle employers who discipline employees for off-duty misconduct.

Speakers included Oregon Attorney General John Kroger; Dr. John Lund, deputy assistant secretary for the U.S. Department of Labor's Labor-Management Programs; R. Bruce Edgington,

district director of the U.S. Department of Labor's Office of Labor-Management Standards; Richard Ahearn, regional director of the National Labor



**Dr. John Lund, deputy assistant secretary at the U.S. Department of Labor, gives keynote address during lunch at Oregon Labor Law Conference.**

Relations Board; Darrell Clark, a commissioner with the Federal Mediation and Conciliation Service, college professors, several labor attorneys, and one management attorney, who gave an update on recent employment law court decisions.

Kroger told a luncheon audience that the AG's office will do everything in its

power to defend the State of Oregon against a lawsuit filed by Associated Oregon Industries (AOI) and the U.S. Chamber of Commerce that would rescind the Worker Freedom Act from becoming law.

Senate Bill 519 — the Worker Freedom Act — was labor's top priority bill at the Oregon Legislature last session. The new law prevents employers from punishing workers who opt-out of mandatory meetings on topics such as politics, religion and union organizing.

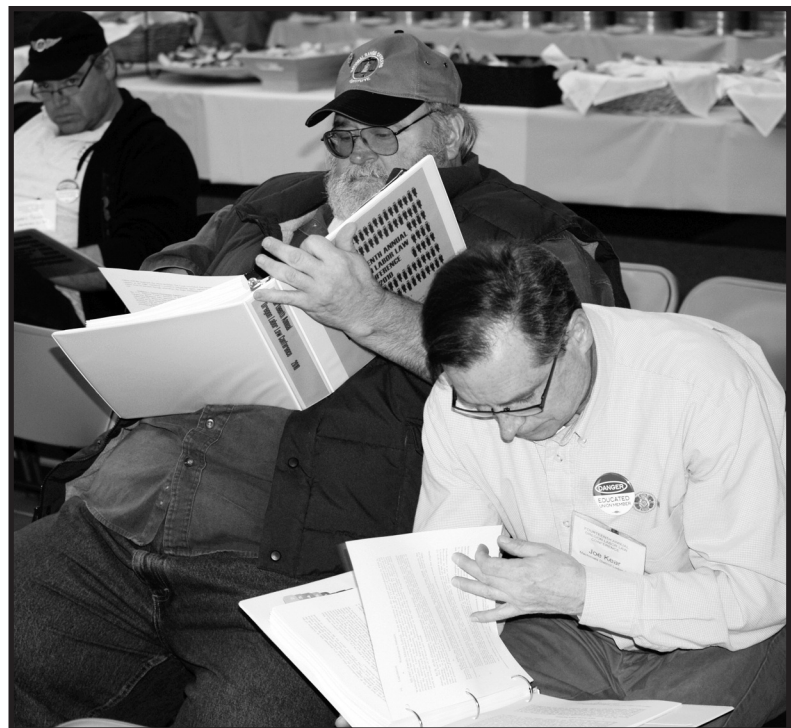
Oregon is the first state to pass such a law. It was to take affect Jan. 1.

The AOI lawsuit specifies Laborers Local 296 and Oregon Labor Commissioner Brad Avakian as defendants.

AOI and the U.S. Chamber claim SB 519 violates federal law and the First Amendment.

"We've put our very best lawyers on the case," Kroger said, "and we're going to fight it extremely hard."

Kroger said because of its national importance, his office is working closely with attorneys at the national



**Terry Cook (left) of Machinists Lodge 1432 and Joe Kear, a business representative of Machinists District Lodge 24, scan through 213-page packet handed out at the Oregon Labor Law Conference Jan. 29 in Portland.**

AFL-CIO, not only to coordinate strategy on defending the statute, but also to work on potential modifications in the next legislative session to make it that much more secure from future challenges in the courts.

"I feel very confident that we're going to win this case," Kroger said.

In the morning plenary session,

management attorney Rick Liebman of Barran Liebman LLP said that in his view, the Worker Freedom Act preempts the National Labor Relations Act.

"A lot of money is being poured into this lawsuit by both sides," Liebman said, further predicting that the case will wind up at the U.S. Supreme Court.

# Driving in Oregon? Keep your hands off your phone

Oregon's new ban on cell phone use while driving went into effect Jan. 1. The minimum fine is \$142, and it's a primary offense, which means police can pull you over just for talking or texting on a cell phone.

The ban has exceptions. The biggest one is that drivers can talk on a cell phone if they use a hands-free accessory such as an earpiece or headset — if they're 18 or over. Under 18, no cell

phone use is allowed while driving.

The point is that a person should be able to drive without distraction, and be able to maintain both hands on the steering wheel. The new law is aimed at making the roads safer for everyone. In Oregon, drivers talking on cell phones were involved in more than 1,660 vehicle crashes and 21 fatalities from 2003 through 2008, according to the Oregon Department of Transporta-

tion (ODOT). At least six other states — including Washington and California — ban or severely limit using cell phones while driving.

The new law also has exceptions for drivers of emergency vehicles, drivers who are calling to report an emergency situation if no one else in the car can do that, and drivers talking on cell phones for the purpose of agricultural operations. The new law doesn't apply to CB radios, which have long been used by some workers, especially truckers, who must communicate with dispatchers.

And there's an exception for "a person operating a motor vehicle in the scope of the person's employment, if operation of the motor vehicle is necessary for the person's job." That work-related exception may be pretty hard for

police to interpret. Simply commuting to work won't trigger the exception, but many other workers who must drive a vehicle and communicate with employers might fall under it. Oregon Department of Transportation (ODOT) Safety Division spokesperson Shelley Snow said it's likely police will issue tickets, and traffic court judges will be the ones to interpret the exception.

Violating the law is a Class D traffic offense. That means it's the lowest level violation, but it could still affect a driver's ability to hold a commercial drivers license if there are other more serious violations on their record.

Many employers already provide hands-free devices, or, like UPS, have existing no-cell-phone-use policies. ODOT told its own employees to use

hand-free accessories, even if they qualify for an exemption.

Technically, there's also an exception for a person while they're activating or deactivating the device, i.e., making or taking a call. Problem is, to a police officer, that can look like texting, and if it looks like you're breaking the law, an officer will pull you over.

If they're not sure about the law, Snow advised drivers to err on the side of safety, and pull over before talking, though not on the side of a highway, which isn't safe.

"If you need to make or take a call, go to a rest area or parking lot. The same goes for text messaging. Don't do it while you're on the road, even at a stoplight. Driving is complex. It's dangerous. You should pay attention to your driving."

At the 14th annual Oregon Labor Law Conference hosted by organized labor, employment attorney Rick Liebman recommended that anyone who works at a union as an employee get a hands-free device for their phone.

"If you get a ticket, it's on you. If you have an accident, it's on you and your employer. Get hands-free," he said.

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