

B-Engrossed
House Bill 2256

Ordered by the Senate May 29
Including House Amendments dated April 4 and Senate Amendments
dated May 29

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Commissioner of the Bureau of Labor and Industries Dan Gardner)

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.

Allows employer and employee to agree that employer may pay wages through electronic transfer if employee may make initial withdrawal of entire amount of net pay without cost to employee or employee may choose other means of payment that involves no cost to employee. Allows Commissioner of Bureau of Labor and Industries to assess civil penalty for violation of law relating to medium of paying wages.

A BILL FOR AN ACT

1
2 Relating to payment of wages; amending ORS 652.110, 652.200 and 652.900.

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

4 **SECTION 1.** ORS 652.110 is amended to read:

5 652.110. (1) [*No*] **A** person engaged in any business or enterprise of any kind in this state
6 [*shall*] **may not** issue, in payment of or as evidence of indebtedness for wages due an employee, any
7 order, check, memorandum or other [*acknowledgment*] **instrument** of indebtedness[,] unless the
8 [*same*] **instrument** is negotiable[,] and [*is*] payable without discount in cash on demand at some
9 bank or other established place of business in the county where the [*same is issued,*] **employee lives**
10 **or works** and where a sufficient amount of funds have been provided and are or will be available
11 for the payment of [*such order, check or other acknowledgment of indebtedness*] **the instrument** when
12 due. [*Such*] **The** person shall, upon presentation and demand, pay [*any such order, check, memoran-*
13 *dum or other acknowledgment of indebtedness,*] **the instrument** in lawful money of the United States.

14 (2) This section does not in any way limit or interfere with the right of any employee to accept
15 from any person, as an evidence or acknowledgment of indebtedness for wages due the employee, a
16 negotiable instrument, payable at some future date with interest.

17 (3) An employer and an employee may agree to authorize [*an*] **the** employer to deposit without
18 discount wages due the employee in the employee's account in a financial institution, as defined in
19 ORS 706.008, in this state.

20 (4) **An employer and an employee may agree that the employer may pay wages through**
21 **a direct deposit system, automated teller machine card, payroll card or other means of**
22 **electronic transfer if the employee may:**

23 (a) **Make an initial withdrawal of the entire amount of net pay without cost to the em-**
24 **ployee; or**

25 (b) **Choose to use another means of payment of wages that involves no cost to the em-**

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 **ployee.**

2 (5) **An agreement described in subsection (4) of this section must be made in the language**
3 **that the employer principally uses to communicate with the employee.**

4 (6)(a) **Except as provided in paragraph (b) of this subsection, to revoke an agreement**
5 **described in subsection (4) of this section, an employee shall give the employer a written**
6 **notice of revocation of the agreement. Unless the employer and employee agree otherwise,**
7 **the agreement is revoked 30 days after the date the notice is received by the employer.**

8 (b) **To revoke an agreement described in subsection (4) of this section, an employee who**
9 **works for an employer as a seasonal farmworker as defined in ORS 652.145 or an employee**
10 **who is employed in packing, canning, freezing or drying any variety of agricultural crops**
11 **shall give the employer notice of revocation of the agreement either orally or in writing.**
12 **Unless the employer and the employee agree otherwise, the agreement is revoked 10 days**
13 **after the date the notice is received by the employer.**

14 **SECTION 2.** ORS 652.200 is amended to read:

15 652.200. (1) In any action for the collection of any order, check, memorandum or other [*ac-*
16 *knowledge*ment] **instrument** of indebtedness referred to in ORS 652.110, if it is shown that the order,
17 check, memorandum or other [*acknowledge*ment] **instrument** of indebtedness was not paid for a pe-
18 riod of 48 hours, excluding Saturdays, Sundays and holidays, after presentation and demand for the
19 payment thereof, the court shall, upon entering judgment for the plaintiff, include in [*such*] **the**
20 judgment, in addition to the costs and disbursements otherwise prescribed by statute, a reasonable
21 sum for attorney fees at trial and on appeal for prosecuting [*said*] **the** action, unless it appears that
22 the employee has willfully violated the contract of employment.

23 (2) In any action for the collection of wages, if it is shown that the wages were not paid for a
24 period of 48 hours, excluding Saturdays, Sundays and holidays, after the [*same*] **wages** became due
25 and payable, the court shall, upon entering judgment for the plaintiff, include in [*such*] **the** judgment,
26 in addition to the costs and disbursements otherwise prescribed by statute, a reasonable sum for
27 attorney fees at trial and on appeal for prosecuting [*said*] **the** action, unless it appears that the
28 employee has willfully violated the contract of employment or unless the court finds that the
29 plaintiff's attorney unreasonably failed to give written notice of the wage claim to the employer
30 before filing the action.

31 **SECTION 3.** ORS 652.900 is amended to read:

32 652.900. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau
33 of Labor and Industries may assess a civil penalty not to exceed \$1,000 against any person who vi-
34 olates ORS 652.020, **652.110**, 652.140 or 652.145 or any rule adopted pursuant thereto.

35 (2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

36 (3) All penalties recovered under this section shall be paid into the State Treasury and credited
37 to the General Fund and are available for general governmental expenses.

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