

# House Bill 2915

Sponsored by Representatives BARKER, ROSENBAUM, SCHAUFLEER; Representative WITT

## 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 **as introduced**.

Repeals certain limit on penalty wages due employee because of employer's failure to pay final wages upon termination.

## A BILL FOR AN ACT

1  
2 Relating to penalty wages for employer's failure to pay final wages when due; amending ORS  
3 652.150.

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

5 **SECTION 1.** ORS 652.150 is amended to read:

6 652.150. (1) Except as provided in [*subsections (2) and (3)*] **subsection (2)** of this section, if an  
7 employer willfully fails to pay any wages or compensation of any employee whose employment  
8 ceases, as provided in ORS 652.140 and 652.145, then, as a penalty for the nonpayment, the wages  
9 or compensation of the employee shall continue from the due date thereof at the same hourly rate  
10 for eight hours per day until paid or until action therefor is commenced. However:

11 (a) In no case shall the penalty wages or compensation continue for more than 30 days from the  
12 due date; and

13 (b) A penalty may not be assessed under this section when an employer pays an employee the  
14 wages the employer estimates are due and payable under ORS 652.140 (2)(c) and the estimated  
15 amount of wages paid is less than the actual amount of earned and unpaid wages, as long as the  
16 employer pays the employee all wages earned and unpaid within five days after the employee sub-  
17 mits the time records.

18 [*(2) If the employee or a person on behalf of the employee sends a written notice of nonpayment,*  
19 *the penalty may not exceed 100 percent of the employee's unpaid wages or compensation unless the*  
20 *employer fails to pay the full amount of the employee's unpaid wages or compensation within 12 days*  
21 *after receiving the written notice. If the employee or a person on behalf of the employee fails to send*  
22 *the written notice, the penalty may not exceed 100 percent of the employee's unpaid wages or compen-*  
23 *sation. For purposes of determining when an employer has paid wages or compensation under this*  
24 *subsection, payment occurs on the date the employer delivers the payment to the employee or sends the*  
25 *payment by first class mail, express mail or courier service.*]

26 [(3)(a)] **(2)(a)** For purposes of this section, a commission owed to an employee by a business that  
27 primarily sells motor vehicles or farm implements is not due until all of the terms and conditions  
28 of an agreement between the employer and employee concerning the method of payment of commis-  
29 sions are fulfilled. If no such agreement exists, the commission is due with all other earned and  
30 unpaid wages or compensation as provided in ORS 652.140.

31 (b) [*Notwithstanding subsection (2) of this section,*] When there is a dispute between an employer

**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 and an employee concerning the amount of commission due under paragraph (a) of this subsection,  
2 if the amount of unpaid commission is found to be less than 20 percent of the amount of unpaid  
3 commission claimed by the employee, the penalty may not exceed the amount of the unpaid com-  
4 mission or \$200, whichever is greater.

5 [(4)] (3) [*Subsections (2) and (3)(b) of this section do*] **Subsection (2)(b) of this section does** not  
6 apply when:

7 (a) The employer has violated ORS 652.140 or 652.145 one or more times in the year before the  
8 employee's employment ceased; or

9 (b) The employer terminated one or more other employees on the same date that the employee's  
10 employment ceased.

11 [(5)] (4) The employer may avoid liability for the penalty described in this section by showing  
12 financial inability to pay the wages or compensation at the time the wages or compensation accrued.

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