

# House Bill 3561

Sponsored by Representative WITT (at the request of Bill Street, IAM Woodworkers District Lodge W1)

## 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**.

Creates process for forestland owners or cooperative associations of log haulers to petition Commissioner of Bureau of Labor and Industries to determine rate of compensation for log haulers. Requires commissioner to determine rate of compensation for log haulers. Prohibits forestland owners from paying rate of compensation lower than rate of compensation determined by commissioner and from discriminating against any person or cooperative association for participating in determination process.

## A BILL FOR AN ACT

1  
2 Relating to rate of compensation for log haulers.

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

4 **SECTION 1. (1) The Legislative Assembly finds that:**

5 (a) **Oregon's forest products industry is a vital component of Oregon's economy and has**  
6 **a direct relationship to the economic health and welfare of workers, rural communities and**  
7 **businesses.**

8 (b) **Central to the viability of the forest products industry is a stable workforce of skilled,**  
9 **experienced loggers and log haulers available to harvest and transport wood from Oregon's**  
10 **forests.**

11 (c) **Stability of this workforce is endangered when inadequate compensation rates for log**  
12 **haulers induce the haulers to shortchange safety through inadequate equipment mainte-**  
13 **nance, inadequate investment in new equipment and violation of hours of service limitations**  
14 **to earn a living wage.**

15 (d) **The safety of Oregonians using the public highways is endangered when log haulers**  
16 **are induced to compromise safety to earn a living wage.**

17 (e) **Many log haulers serving Oregon's forest products industry own and operate a single**  
18 **log-hauling vehicle, and a log hauler's compensation from forestland owners compensates the**  
19 **log hauler for both the hauler's personal services and the cost of maintaining and operating**  
20 **the hauler's vehicle.**

21 (f) **The cost of maintaining a log-hauling vehicle in safe operating condition is increased**  
22 **by the need to operate the vehicle on unpaved roadways in forest areas.**

23 (g) **Based on patterns and configurations of forestland ownership, the hauling of forest**  
24 **products is performed by numerous log haulers who are economically dependent on a small**  
25 **group of large commercial forestland owners.**

26 (h) **An imbalance of market power exists when one forestland owner owns, possesses or**  
27 **acquires economic control over more than 100,000 acres of forest in a labor market area.**

28 (i) **The imbalance of market power in determining compensation and the lack of oppor-**  
29 **tunity to join together to bargain over compensation prevents log haulers from operating in**

**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 a manner suitable for the public interest of Oregonians and results in inadequate compen-  
 2 sation for log haulers.

3 (j) It is in the public interest to ensure a reasonable rate of compensation for log haulers  
 4 to ensure that log haulers earn a reasonable living wage without compromising the safety  
 5 of their vehicles or the safety of their operation.

6 (k) It is in the public interest to create a process whereby the Commissioner of the Bu-  
 7 reau of Labor and Industries will oversee a system to ensure adequate rates of compensation  
 8 for log haulers and thereby ensure that the public welfare of the State of Oregon is pro-  
 9 tected.

10 (L)(A) 49 U.S.C. 14501 (c)(1) limits the authority of states to enact or enforce laws related  
 11 to a price, route or service of a motor carrier with respect to the transportation of property.

12 (B) 49 U.S.C. 13506 (a)(6) provides that the United States Secretary of Transportation and  
 13 the Surface Transportation Board have no jurisdiction over the transportation by motor ve-  
 14 hicle of agricultural or horticultural commodities, other than the manufactured products  
 15 thereof.

16 (C) 49 C.F.R. 372.115 lists "Trees: Sawed into lumber" as a commodity that is not  
 17 statutorily exempt from regulation by the United States Secretary of Transportation and the  
 18 Surface Transportation Board, but not logs that are not sawn into lumber or otherwise un-  
 19 processed.

20 (2) The Legislative Assembly finds that:

21 (a) The transportation of unprocessed logs by motor carrier is the transportation of an  
 22 unmanufactured agricultural commodity that is exempt from regulation by the secretary and  
 23 the board under 49 U.S.C. 13506 (a)(6); and

24 (b) The preemption under 49 U.S.C. 14501 (c)(1) of state regulation of transportation of  
 25 property by motor carrier does not apply to the provisions of sections 1 to 6 of this 2007 Act.

26 SECTION 2. As used in sections 1 to 6 of this 2007 Act:

27 (1) "Cooperative association" means a cooperative membership-based entity:

28 (a) Whose purpose is to promote the interests of log haulers through participation in a  
 29 process to determine rates of compensation under section 3 of this 2007 Act;

30 (b) That is registered as a cooperative association with the State of Oregon; and

31 (c) That represents at least 50 log haulers in a labor market area.

32 (2) "Economic control" means the legal right, whether through ownership, contract or  
 33 otherwise, to make or influence decisions regarding the harvest of trees and disposition of  
 34 logs harvested from the subject land.

35 (3) "Forestland" means agricultural forestland used primarily for the growth of trees to  
 36 be harvested for commercial use.

37 (4) "Forestland owner" means:

38 (a) A person or public body, as defined in ORS 174.109, that owns directly, or through  
 39 affiliated persons, or possesses economic control over, more than 100,000 acres in a labor  
 40 market area; or

41 (b) An agent or subsidiary of a person or public body described in paragraph (a) of this  
 42 subsection if that agent or subsidiary is involved in contracting or negotiating contracts or  
 43 other arrangements, written or oral, with forest products harvesters or log haulers.

44 (5) "Labor market area" means:

45 (a) Contiguous counties located in the Willamette Valley; or

1 (b) Contiguous counties not located in the Willamette Valley.

2 (6) "Log hauler" means a person having a place of business in this state who is engaged  
3 in the agricultural activity of hauling harvested trees from forestland in this state to a point  
4 of delivery within this state under a contract or subcontract, directly or indirectly, with a  
5 forestland owner.

6 **SECTION 3.** (1) The Commissioner of the Bureau of Labor and Industries shall determine  
7 rates of compensation for log haulers when petitioned to do so by a forestland owner or co-  
8 operative association.

9 (2) In determining a rate of compensation with respect to any given forestland owner,  
10 the commissioner shall consider the following criteria:

11 (a) Prevailing wage rates for log haulers in the same labor market area;

12 (b) Prevailing wage rates for similar types of hauling in the same labor market area;

13 (c) The log haulers' costs, including but not limited to overhead, fuel, insurance including  
14 health insurance, and pension or other retirement costs;

15 (d) Environmental and highway laws and rules;

16 (e) The effect of the log haulers' compensation on the competitive position of the  
17 forestland owner in the labor market area or competing market areas;

18 (f) The amount of log hauling conducted on private roads and the amount of log hauling  
19 conducted on public roads, including travel time from the loading site to the delivery site and  
20 the conditions of the roads;

21 (g) Cost to comply with all applicable safety rules, including but not limited to rules for  
22 safety equipment and rules for maintenance of vehicles;

23 (h) The number of hours normally worked each day and each week by log haulers; and

24 (i) Limitations imposed by law or rules on the number of hours per day and per week that  
25 a log hauler may drive or work.

26 (3) A request for a determination of a rate of compensation may be submitted to the  
27 commissioner by:

28 (a) A joint petition submitted by a forestland owner and a cooperative association that  
29 have agreed on a rate of compensation; or

30 (b) An individual petition submitted by a forestland owner or a cooperative association.

31 (4) To reduce costs, the commissioner may adopt a rate of compensation, from among  
32 rates proposed by petitioners, that best meets the criteria listed in subsection (2) of this  
33 section. If, in the opinion of the commissioner, none of the proposed rates of compensation  
34 is in the best interests of the State of Oregon, the commissioner may set a different rate  
35 of compensation based on the criteria.

36 (5) The state, as a forestland owner, may pay rates of compensation that are the average  
37 rates proposed in joint petitions submitted to the commissioner during the previous 12  
38 months or may submit a joint petition with a cooperative association.

39 (6) Every petition submitted to the commissioner for a determination of a rate of com-  
40 pensation must be accompanied by the following information:

41 (a) The identity of the forestland owner that owns or possesses economic control over  
42 the forestland for which the rate of compensation is to apply and the geographic area in  
43 which the rate is to apply;

44 (b) The proposed rate of compensation, which may take into consideration alternative pay  
45 systems such as pay per mile, pay per weight, percentage of truck revenue and pay per hour;

1 (c) A summary of or minutes from relevant meetings held by or between forestland  
2 owners and log haulers; and

3 (d) Other information relevant to the criteria listed in subsection (2) of this section and  
4 as otherwise requested by the commissioner.

5 (7) When the commissioner receives a petition under this section, the commissioner shall  
6 promptly notify all persons who have requested to be notified of petitions. A person has 30  
7 days from the date of the notice to file written comments about the petition with the com-  
8 missioner. The commissioner shall review the comments before determining the rate of  
9 compensation.

10 (8) The commissioner may approve a proposed rate of compensation only if the commis-  
11 sioner determines that the rate is adequate to ensure log haulers a reasonable living wage  
12 without compromising the safe maintenance and operation of the log haulers' vehicles on the  
13 public highways of this state.

14 (9) Once a rate of compensation has been determined by the commissioner, the rate re-  
15 mains in effect for that labor market area for 12 months.

16 **SECTION 4.** A forestland owner may not:

17 (1) Pay a rate of compensation for log hauling services that is less than the applicable  
18 rate of compensation determined by the Commissioner of the Bureau of Labor and Industries  
19 under section 3 of this 2007 Act.

20 (2) Discriminate against any person or cooperative association for filing a petition for a  
21 determination of a rate of compensation or for participating in the determination process  
22 under section 3 of this 2007 Act.

23 **SECTION 5.** If the Commissioner of the Bureau of Labor and Industries has not deter-  
24 mined a rate of compensation applicable to an affected labor market area, nothing in sections  
25 1 to 6 of this 2007 Act prohibits a forestland owner, logger or log hauler from negotiating and  
26 executing a contract between the forestland owner or logger and the log hauler providing for  
27 a rate of compensation that is applicable in that area and is different from any rate of  
28 compensation determined under section 3 of this 2007 Act.

29 **SECTION 6.** (1) Sections 1 to 6 of this 2007 Act are intended to displace existing market  
30 forces based on a legislative finding that the existing market forces do not permit the af-  
31 fected market to function normally and do not ensure the safety and stability of the log-  
32 hauling industry or ensure the safety of the general public.

33 (2) Activities carried out under sections 1 to 6 of this 2007 Act do not constitute a con-  
34 spiracy or a combination in restraint of trade or an illegal monopoly, nor are they carried  
35 out for the purposes of lessening competition or fixing prices arbitrarily, as long as the ac-  
36 tivities are carried out for the purpose of preparing for, initiating or participating in a de-  
37 termination of a rate of compensation under sections 1 to 6 of this 2007 Act.

38 (3) A contract entered into between a forestland owner and a cooperative association  
39 relating to a rate of compensation is not an unlawful restraint in trade or part of a con-  
40 spiracy or combination to accomplish an improper or illegal purpose or act, as long as the  
41 Commissioner of the Bureau of Labor and Industries determines the applicable rate of com-  
42 pensation.

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