

**Enrolled**  
**Senate Bill 403**

Sponsored by COMMITTEE ON RULES

CHAPTER .....

AN ACT

Relating to meal periods for tipped employees; creating new provisions; and amending ORS 653.261.

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

**SECTION 1.** ORS 653.261 is amended to read:

653.261. (1) The Commissioner of the Bureau of Labor and Industries may [*issue*] **adopt** rules prescribing such minimum conditions of employment, excluding minimum wages, in any occupation as may be necessary for the preservation of the health of employees. [*Such*] **The** rules may include, but are not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less than eight hours per day or 40 hours per week; however, after 40 hours of work in one week overtime may be paid, but in no case at a rate higher than one and one-half times the regular rate of pay of [*such*] **the** employees when computed without benefit of commissions, overrides, spiffs and similar benefits.

(2) Nothing contained in ORS 653.010 to 653.261 shall be construed to confer authority upon the commissioner to regulate the hours of employment of employees engaged in production, harvesting, packing, curing, canning, freezing or drying any variety of agricultural crops, livestock, poultry or fish.

(3) Rules [*promulgated*] **adopted** by the commissioner pursuant to subsection (1) of this section do not apply to individuals employed by this state or a political subdivision or quasi-municipal corporation thereof if other provisions of law or collective bargaining agreements prescribe rules pertaining to conditions of employment referred to in subsection (1) of this section, including meal periods, rest periods, maximum hours of work and overtime.

(4) Rules [*promulgated*] **adopted** by the commissioner pursuant to subsection (1) of this section regarding meal periods and rest periods do not apply to nurses who provide acute care in hospital settings if provisions of collective bargaining agreements entered into by the nurses prescribe rules concerning meal periods and rest periods.

**(5)(a) The commissioner shall adopt rules regarding meal periods for employees who serve food or beverages, receive tips and report the tips to the employer.**

**(b) In rules adopted by the commissioner under paragraph (a) of this subsection, the commissioner shall permit an employee to waive a meal period. However, an employer may not coerce an employee into waiving a meal period.**

**(c) Notwithstanding ORS 653.256 (1), in addition to any other penalty provided by law, the commissioner may assess a civil penalty not to exceed \$2,000 against an employer that the commissioner finds has coerced an employee into waiving a meal period in violation of this subsection. Each violation is a separate and distinct offense. In the case of a continuing violation, each day's continuance is a separate and distinct violation.**

**(d) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS 183.745. All sums collected as penalties under this subsection shall be applied and paid over as provided in ORS 653.256 (3).**

**SECTION 2.** ORS 653.261, as amended by section 1 of this 2007 Act, is amended to read:

653.261. (1) The Commissioner of the Bureau of Labor and Industries may adopt rules prescribing such minimum conditions of employment, excluding minimum wages, in any occupation as may be necessary for the preservation of the health of employees. The rules may include, but are not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less than eight hours per day or 40 hours per week; however, after 40 hours of work in one week overtime may be paid, but in no case at a rate higher than one and one-half times the regular rate of pay of the employees when computed without benefit of commissions, overrides, spiffs and similar benefits.

(2) Nothing contained in ORS 653.010 to 653.261 shall be construed to confer authority upon the commissioner to regulate the hours of employment of employees engaged in production, harvesting, packing, curing, canning, freezing or drying any variety of agricultural crops, livestock, poultry or fish.

(3) Rules adopted by the commissioner pursuant to subsection (1) of this section do not apply to individuals employed by this state or a political subdivision or quasi-municipal corporation thereof if other provisions of law or collective bargaining agreements prescribe rules pertaining to conditions of employment referred to in subsection (1) of this section, including meal periods, rest periods, maximum hours of work and overtime.

(4) Rules adopted by the commissioner pursuant to subsection (1) of this section regarding meal periods and rest periods do not apply to nurses who provide acute care in hospital settings if provisions of collective bargaining agreements entered into by the nurses prescribe rules concerning meal periods and rest periods.

*[(5)(a) The commissioner shall adopt rules regarding meal periods for employees who serve food or beverages, receive tips and report the tips to the employer.]*

*[(b) In rules adopted by the commissioner under paragraph (a) of this subsection, the commissioner shall permit an employee to waive a meal period. However, an employer may not coerce an employee into waiving a meal period.]*

*[(c) Notwithstanding ORS 653.256 (1), in addition to any other penalty provided by law, the commissioner may assess a civil penalty not to exceed \$2,000 against an employer that the commissioner finds has coerced an employee into waiving a meal period in violation of this subsection. Each violation is a separate and distinct offense. In the case of a continuing violation, each day's continuance is a separate and distinct violation.]*

*[(d) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS 183.745. All sums collected as penalties under this subsection shall be applied and paid over as provided in ORS 653.256 (3).]*

**SECTION 3. The amendments to ORS 653.261 by section 2 of this 2007 Act become operative on January 2, 2012.**

**Passed by Senate March 27, 2007**

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Secretary of Senate

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President of Senate

**Passed by House May 10, 2007**

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Speaker of House

**Received by Governor:**

.....M,....., 2007

**Approved:**

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2007

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Secretary of State