

SENATE AMENDMENTS TO SENATE BILL 403

By COMMITTEE ON COMMERCE

March 23

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating new provisions; and”.

2 Delete lines 26 and 27 and insert:

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

5 In line 28, delete “pursuant to subsection (1) of this section re-” and insert “under paragraph (a)
6 of this subsection,”.

7 In line 29, delete “garding meal periods,”.

8 On page 2, line 3, after the period insert “Each violation is a separate and distinct offense. In
9 the case of a continuing violation, each day’s continuance is a separate and distinct violation.”.

10 After line 6, insert:

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

12 “653.261. (1) The Commissioner of the Bureau of Labor and Industries may adopt rules pre-
13 scribing such minimum conditions of employment, excluding minimum wages, in any occupation as
14 may be necessary for the preservation of the health of employees. The rules may include, but are
15 not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less
16 than eight hours per day or 40 hours per week; however, after 40 hours of work in one week over-
17 time may be paid, but in no case at a rate higher than one and one-half times the regular rate of
18 pay of the employees when computed without benefit of commissions, overrides, spiffs and similar
19 benefits.

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

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

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

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

35 “[b) *In rules adopted by the commissioner under paragraph (a) of this subsection, the commis-*

1 sioner shall permit an employee to waive a meal period. However, an employer may not coerce an em-
2 ployee into waiving a meal period.]

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

8 “[d] Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS
9 183.745. All sums collected as penalties under this subsection shall be applied and paid over as pro-
10 vided in ORS 653.256 (3).]

11 **“SECTION 3. The amendments to ORS 653.261 by section 2 of this 2007 Act become op-**
12 **erative on January 2, 2012.”.**

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