

**Enrolled**  
**Senate Bill 373**

Sponsored by Senator BONAMICI; Senators MORRISETTE, MORSE, Representatives BERGER, HARKER (at the request of Brett Arvidson)

CHAPTER .....

AN ACT

Relating to orders to withhold; creating new provisions; and amending ORS 25.424.

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

**SECTION 1.** ORS 25.424 is amended to read:

25.424. *[(1) A withholder is not subject to civil liability to an individual or agency for conduct or actions in compliance with an order to withhold if the withholder:]*

*[(a) Is served with an order to withhold under ORS 25.402 that is regular on its face; and]*

*[(b) Complies with the terms of the order if the order appears to be in compliance with ORS 25.402.]*

*[(2) The withholder is liable for all amounts that the withholder fails to withhold or pay as required by the order to withhold or withholds or pays in excess of the amount required by the order to withhold. The holder of support rights, the obligor, the Division of Child Support or a district attorney may bring an action against the withholder:]*

*[(a) To recover all amounts that the withholder failed to withhold or pay or withheld or paid in excess of the amount required;]*

*[(b) To recover an additional amount as damages not to exceed the amount referred to in paragraph (a) of this subsection; and]*

*[(c) If the failure to withhold was willful or the result of gross negligence by the withholder, to have an additional amount imposed as a fine payable to the court not to exceed \$250 for each time the withholder failed to withhold or pay or withheld or paid an amount exceeding the amount required and to pay reasonable costs of the action including attorney fees.]*

**(1) A person who is served with an order to withhold is not subject to civil liability to an individual or agency for conduct or actions in compliance with the order if:**

**(a) The order is served on the person in the manner provided by ORS 25.402 (1);**

**(b) The order is regular on its face; and**

**(c) The order complies with ORS 25.402 (2).**

**(2) A person who is served with an order to withhold is liable to the obligee for:**

**(a) All amounts that the person fails to withhold or pay as required by the order;**

**(b) Any damages suffered by the obligee by reason of the failure of the person to withhold or pay as required by the order; and**

**(c) Any damages suffered by the obligee by reason of the failure of the person to pay withheld amounts within the time specified by ORS 25.411.**

**(3) A person who is served with an order to withhold is liable to the obligor for:**

**(a) All amounts withheld in excess of the amount required by the terms of the order;**

(b) Any damages suffered by the obligor by reason of withholding that is in excess of the amount required by the terms of the order;

(c) Any damages suffered by the obligor by reason of the failure of the person to pay withheld amounts within the time specified by ORS 25.411; and

(d) Any other damages suffered by the obligor by reason of the failure of the person to withhold or pay as required by the order.

(4) An obligee or obligor may bring an action to recover amounts under this section, or the Division of Child Support or a district attorney may bring an action on behalf of the obligee or obligor to recover amounts under this section.

(5) If the plaintiff in an action under this section establishes that the conduct of the defendant was willful or grossly negligent, the court shall:

(a) Enter judgment against the defendant for a penalty, payable to the court, not to exceed \$250 for each time the defendant failed to withhold or pay the amount required by the terms of the order to withhold, withheld an amount exceeding the amount required by the terms of the order, or failed to pay withheld amounts within the time specified by ORS 25.411; and

(b) Enter judgment against the defendant, payable to the plaintiff, for reasonable attorney fees incurred by the plaintiff.

[3(a)] (6)(a) An employer commits an unlawful employment practice if the employer discharges an employee, refuses to hire an individual or in any other manner discriminates, retaliates or takes disciplinary action against an obligor because of the entry or service of an order to withhold under ORS 25.378 and 25.402 or because of the obligations or additional obligations that the order imposes upon the employer. An obligor may bring an action under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820. These remedies are in addition to any other remedy available in law or equity.

(b) Paragraph (a) of this subsection does not apply to actions taken by an employer pursuant to any condition of employment required by law.

[4] (7) Nothing in ORS 25.372 to 25.427 precludes an action for contempt for disobedience of a judicial order to withhold.

**SECTION 2. (1) Except as provided in subsection (2) of this section, the amendments to ORS 25.424 by section 1 of this 2009 Act apply to all orders to withhold, whether served before, on or after the effective date of this 2009 Act.**

**(2) The amendments to ORS 25.424 by section 1 of this 2009 Act do not apply to any amount that was withheld or paid under an order to withhold before the effective date of this 2009 Act.**

**Passed by Senate March 20, 2009**

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Secretary of Senate

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President of Senate

**Passed by House June 3, 2009**

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Speaker of House

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

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Governor

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

.....M,....., 2009

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Secretary of State