

HOUSE AMENDMENTS TO HOUSE BILL 2040

By COMMITTEE ON BUSINESS AND LABOR

March 22

1 On page 1 of the printed bill, line 2, delete “652.140,” and insert “652.020, 652.150,”.

2 Delete lines 4 through 30.

3 On page 2, delete lines 1 through 15 and insert:

4 “**SECTION 1.** ORS 652.020 is amended to read:

5 “652.020. (1) No person shall be employed in any mill, factory or manufacturing establishment
6 in this state more than 10 hours in any one day, or in sawmills, planing mills, shingle mills and
7 logging camps more than eight hours, exclusive of one hour, more or less, in one day or more than
8 48 hours in one calendar week, except logging train crews, guards, [*firefighters*] **boiler operators**
9 and persons engaged in the transportation to and from work, and employees when engaged in mak-
10 ing necessary repairs, or in the case of emergency where life and property are in imminent danger.
11 However, employees may work overtime not to exceed three hours in one day, conditioned that
12 payment be made for said overtime at the rate of time and one-half the regular wage.

13 “(2) No employer shall require or permit any person to work in any place mentioned in this
14 section more than the hours provided for in this section during any day of 24 hours. No employer
15 shall permit or suffer an overseer, superintendent or other agent of the employer to violate this
16 section.

17 “(3) This section does not apply to persons employed in the care of quarters or livestock, con-
18 ducting messhalls, superintendence and direction of work, or to the loading and removal of the fin-
19 ished forest product.

20 “(4) Subsections (1) and (2) of this section do not apply to employees who are represented by a
21 labor organization for purposes of collective bargaining with their employer, provided limits on the
22 required hours of work and overtime payment have been agreed to between the employer and labor
23 organization, or if no agreement is reached, then, for the purposes of this subsection, such limits and
24 payments shall not be deemed to be changed from the previous collective bargaining agreement be-
25 tween the employer and labor organization unless the employees have been locked out, are engaged
26 in a strike or the employer has unilaterally implemented new terms and conditions of employment.

27 “**SECTION 2.** ORS 652.150 is amended to read:

28 “652.150. (1) Except as provided in subsections (2) and (3) of this section, if an employer willfully
29 fails to pay any wages or compensation of any employee whose employment ceases, as provided in
30 ORS 652.140 and 652.145, then, as a penalty for the nonpayment, the wages or compensation of the
31 employee shall continue from the due date thereof at the same hourly rate for eight hours per day
32 until paid or until action therefor is commenced. However:

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

35 “(b) A penalty may not be assessed under this section when an employer pays an employee the

1 wages the employer estimates are due and payable under ORS 652.140 (2)(c) and the estimated
2 amount of wages paid is less than the actual amount of earned and unpaid wages, as long as the
3 employer pays the employee all wages earned and unpaid within five days after the employee sub-
4 mits the time records.

5 “(2)(a) If the employee or a person on behalf of the employee [*sends*] **submits** a written notice
6 of nonpayment, the penalty may not exceed 100 percent of the employee’s unpaid wages or com-
7 pensation unless the employer fails to pay the full amount of the employee’s unpaid wages or com-
8 pensation within 12 days after receiving the [*written*] notice.

9 “(b) If the employee or a person on behalf of the employee fails to [*send the*] **submit a** written
10 notice **of nonpayment**, the penalty may not exceed 100 percent of the employee’s unpaid wages or
11 compensation.

12 “(c) **A written notice of nonpayment must include the estimated amount of wages or**
13 **compensation alleged to be owed or an allegation of facts sufficient to estimate the amount**
14 **owed. Submission of a written notice of nonpayment that fails to include the estimated**
15 **amount of wages or compensation alleged to be owed or an allegation of facts sufficient to**
16 **estimate the amount owed does not satisfy the requirement for written notice under this**
17 **subsection unless the employer has violated ORS 652.610, 652.640 or 653.045.**

18 “(d) For purposes of determining when an employer has paid wages or compensation under this
19 subsection, payment occurs on the date the employer delivers the payment to the employee or sends
20 the payment by first class mail, express mail or courier service.

21 “(3)(a) For purposes of this section, a commission owed to an employee by a business that pri-
22 marily sells motor vehicles or farm implements is not due until all of the terms and conditions of
23 an agreement between the employer and employee concerning the method of payment of commissions
24 are fulfilled. If no such agreement exists, the commission is due with all other earned and unpaid
25 wages or compensation as provided in ORS 652.140.

26 “(b) Notwithstanding subsection (2) of this section, when there is a dispute between an employer
27 and an employee concerning the amount of commission due under paragraph (a) of this subsection,
28 if the amount of unpaid commission is found to be less than 20 percent of the amount of unpaid
29 commission claimed by the employee, the penalty may not exceed the amount of the unpaid com-
30 mission or \$200, whichever is greater.

31 “(4) Subsections (2) and (3)(b) of this section do not apply when:

32 “(a) The employer has violated ORS 652.140 or 652.145 one or more times in the year before the
33 employee’s employment ceased; or

34 “(b) The employer terminated one or more other employees on the same date that the employee’s
35 employment ceased.

36 “(5) The employer may avoid liability for the penalty described in this section by showing fi-
37 nancial inability to pay the wages or compensation at the time the wages or compensation
38 accrued.”

39 In line 16, delete “2” and insert “3”.

40 In line 28, delete “3” and insert “4”.