

House Bill 2240

Sponsored by Representative MATTHEWS; Representatives BUCKLEY, DOHERTY (Presession filed.)

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**.

Repeals sunset on provisions permitting employee who serves food or beverages, receives tips and reports tips to employer to waive meal period and prohibiting employer from coercing employee into waiving meal period.

A BILL FOR AN ACT

1
2 Relating to meal periods for tipped employees; amending ORS 653.261; and repealing section 3,
3 chapter 167, Oregon Laws 2007.

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

5 **SECTION 1.** ORS 653.261, as amended by section 2, chapter 167, Oregon Laws 2007, is amended
6 to read.

7 653.261. (1) The Commissioner of the Bureau of Labor and Industries may adopt rules prescrib-
8 ing such minimum conditions of employment, excluding minimum wages, in any occupation as may
9 be necessary for the preservation of the health of employees. The rules may include, but are not
10 limited to, minimum meal periods and rest periods, and maximum hours of work, but not less than
11 eight hours per day or 40 hours per week; however, after 40 hours of work in one week overtime
12 may be paid, but in no case at a rate higher than one and one-half times the regular rate of pay of
13 the employees when computed without benefit of commissions, overrides, spiffs and similar benefits.

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

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

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

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

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

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

6 (d) Civil penalties authorized by this subsection shall be imposed in the manner provided
7 in ORS 183.745. All sums collected as penalties under this subsection shall be applied and paid
8 over as provided in ORS 653.256 (4).

9 SECTION 2. Section 3, chapter 167, Oregon Laws 2007, is repealed.

10