

House Bill 3161

Sponsored by COMMITTEE ON JUDICIARY

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**.

Establishes that owner or operator of business where live entertainment is provided who requires performers to remit portion of tips received while performing is employer of performer.

A BILL FOR AN ACT

1
2 Relating to employment status of persons providing live entertainment; creating new provisions; and
3 amending ORS 652.310.

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

5 **SECTION 1. A person owning or operating a business that provides live entertainment**
6 **who requires the performer of the entertainment to remit a portion of tips received by the**
7 **performer to the owner or operator is the employer of the performer.**

8 **SECTION 2.** ORS 652.310 is amended to read:

9 652.310. As used in ORS 652.310 to 652.414, unless the context requires otherwise:

10 [(1) "*Employer*" means any person who in this state, directly or through an agent, engages personal
11 services of one or more employees and includes any successor to the business of any employer, or any
12 lessee or purchaser of any employer's business property for the continuance of the same business, so
13 far as such employer has not paid employees in full. "*Employer*" includes the State of Oregon or any
14 political subdivision thereof or any county, city, district, authority, public corporation or entity and any
15 of their instrumentalities organized and existing under law or charter but does not include:]

16 [(a) *The United States.*]

17 [(b) *Trustees and assignees in bankruptcy or insolvency, and receivers, whether appointed by fed-*
18 *eral or state courts, and persons otherwise falling under the definition of employers so far as the times*
19 *or amounts of their payments to employees are regulated by laws of the United States, or regulations*
20 *or orders made in pursuance thereof.*]

21 [(2)] (1) "Employee" means any individual who otherwise than as copartner of the employer or
22 as an independent contractor renders personal services wholly or partly in this state to an employer
23 who pays or agrees to pay such individual at a fixed rate, based on the time spent in the perform-
24 ance of such services or on the number of operations accomplished, or quantity produced or handled.

25 However:

26 (a) [Where] **When** services are rendered by an independent contractor, an individual shall not
27 be an employee under this section unless the individual is a musician [or], supporting technical
28 person **or a performer providing live entertainment who is required to remit any portion of**
29 **tips received while performing to the owner or operator of the business where the enter-**
30 **tainment is provided.**

31 (b) [Where] **When** services are rendered only partly in this state, an individual shall not be an

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 employee under this section unless the contract of employment of the employee has been entered
2 into, or payments thereunder are ordinarily made or to be made, within this state.

3 **(2) "Employer" means any person who in this state, directly or through an agent, en-**
4 **gages personal services of one or more employees and includes any successor to the business**
5 **of any employer, or any lessee or purchaser of any employer's business property for the**
6 **continuance of the same business, so far as such employer has not paid employees in full.**
7 **"Employer" includes the State of Oregon or any political subdivision thereof or any county,**
8 **city, district, authority, public corporation or entity and any of their instrumentalities or-**
9 **ganized and existing under law or charter but does not include:**

10 **(a) The United States.**

11 **(b) Trustees and assignees in bankruptcy or insolvency, and receivers, whether appointed**
12 **by federal or state courts, and persons otherwise falling under the definition of employers**
13 **so far as the times or amounts of their payments to employees are regulated by laws of the**
14 **United States, or regulations or orders made in pursuance thereof.**