

D R A F T

SUMMARY

Requires Bureau of Labor and Industries to establish full-time equivalent position for investigator to investigate misclassification of employees as independent contractors. Directs bureau to assess civil penalties for misclassification.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to misclassification of employees as independent contractors; and
3 declaring an emergency.

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

5 **SECTION 1. (1) The Bureau of Labor and Industries shall establish**
6 **a full-time equivalent position for an investigator whose primary duty**
7 **is the investigation of employer misclassification of employees as in-**
8 **dependent contractors, as defined in ORS 670.600.**

9 **(2) The bureau shall assess civil penalties as provided in this section**
10 **for the misclassification of employees as independent contractors, as**
11 **follows:**

12 **(a) For an employer cited for a misclassification that the bureau**
13 **determines is a first offense and an offense that is limited in scope,**
14 **accidental, unintentional or not reflective of a common business**
15 **practice of the employer, the bureau shall assess a civil penalty of not**
16 **more than \$_____ for each misclassification cited.**

17 **(b) For an employer cited for a misclassification, including a first**
18 **offense, that the bureau determines is intentional, widespread or re-**
19 **fective of a common business practice of the employer, the bureau**

1 shall assess a civil penalty of not less than \$_____ and not more than
2 \$_____ for each violation cited.

3 (c) For an employer cited for failure to correct a misclassification
4 previously cited within the time established by rule of the bureau, the
5 bureau shall assess a civil penalty of not more than \$_____ for each
6 day during which the failure to correct the misclassification continues.

7 (d) For an employer that knowingly makes a false statement, rep-
8 resentation or certification about a misclassification, or the correction
9 of a misclassification, the bureau shall assess a civil penalty of not less
10 than \$_____ and not more than \$_____.

11 (3) When an order assessing a civil penalty under this section be-
12 comes final by operation of law or on appeal, unless the amount of
13 penalty is paid within 20 days after the order becomes final:

14 (a) The order constitutes a judgment and may be recorded with the
15 county clerk in any county of this state.

16 (b) The clerk shall record the name of the employer incurring the
17 penalty in the order and the amount of the penalty in the County
18 Clerk Lien Record.

19 (c) The penalty provided in the order, when recorded under para-
20 graph (b) of this subsection, becomes a lien upon the title to any in-
21 terest in property owned by the employer against which the order is
22 entered.

23 (d) Execution may be issued upon the order in the same manner
24 as execution upon a judgment of a court of record.

25 (4) The bureau shall deposit civil penalties assessed under this sec-
26 tion in a subaccount of the Bureau of Labor and Industries Account
27 established in ORS 651.160 and use the moneys to pay the costs of ad-
28 ministration of this section, including the costs of investigations con-
29 ducted under this section.

30 SECTION 2. This 2013 Act being necessary for the immediate pres-
31 ervation of the public peace, health and safety, an emergency is de-

1 **clared to exist, and this 2013 Act takes effect July 1, 2013.**

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