



Associated Oregon Industries

1149 Court Street NE
Salem, OR 97301-4030

telephone: 503.588.0050
portland: 503.227.5636
statewide: 800.452.7862
fax: 503.588.0052

www.aoi.org

AOI Testimony on House Bill 2112 House Business & Labor Committee

February 6, 2013

MEASURE: _____
EXHIBIT: _____
H BUSINESS & LABOR
DATE: _____ PAGES: _____
SUBMITTED BY: _____

HB 2112 allows BOLI to levy civil penalties, up to \$1,000 per violation, for all subsections of ORS 652.610 regarding wage deductions. To date, BOLI only has the authority to levy civil penalties for violations of 652.610 (4) –the obligation for an employer to promptly pay the appropriate recipient when deducting amounts from an employee’s wages – but not the rest of the chapter.

AOI opposes HB 2112 for the following reasons:

- ✓ Subsections (1) and (2) of ORS 652.610 require the employer to provide an itemized statement of deductions from wages and to provide it at the time wages are paid. HB 2112 would allow BOLI to penalize employers for failing to do so. Currently, ORS 652.990 already says that violation of ORS 652.610 (any section) is a Class D criminal violation, which is subject to fines. The failure to issue a properly itemized statement is the sort of violation that is easily corrected without BOLI intervention.

Aside from the frightening prospect of a \$1,000 penalty for failing to provide (or to provide a *proper*) itemized statement (presumably per violation), HB 2112 would open the door to enforcement of itemized statements which would be very invasive and might lead to audits of employers' wage/hour practices and further penalties.

- ✓ Subsection (3) specifies the types of wage deductions that are authorized. This is already a cash cow for plaintiff’s attorneys, and there’s no need for BOLI to pile on top with their own \$1,000 penalty. ORS 652.615 provides a private right of action for an aggrieved employee to sue for violations of ORS 652.610(3) for actual damages or \$200, whichever is greater.

Here’s what makes this already such an expensive mistake for an employer: The court may award costs and attorneys’ fees to the prevailing party. AOI is aware of one recent case where an employer’s improper deduction of \$65 resulted in over \$10,000 in liability once attorneys’ fees were paid out.

- ✓ The civil penalties levied in these proceedings are excessive. For instance, the civil penalty is up to \$1,000 per violation while the private right of action starts at \$200. It seems perverse that the state of Oregon could recover more than an affected employee. And in the case of potential enforcement of subsections (1) and (2), it creates the impression of an incentive to issue civil penalties in these instances.