## House Bill 2907

Sponsored by COMMITTEE ON BUSINESS AND LABOR (at the request of American Federation of Labor and Congress of Industrial Organizations-Oregon)

## 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**.

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

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

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

4 <u>SECTION 1.</u> (1) The Bureau of Labor and Industries shall establish a full-time equivalent 5 position for an investigator whose primary duty is the investigation of employer misclassi-

6 fication of employees as independent contractors, as defined in ORS 670.600.

7 (2) The bureau shall assess civil penalties as provided in this section for the misclassi 8 fication of employees as independent contractors, as follows:

9 (a) For an employer cited for a misclassification that the bureau determines is a first 10 offense and an offense that is limited in scope, accidental, unintentional or not reflective of 11 a common business practice of the employer, the bureau shall assess a civil penalty of not 12 more than \$\_\_\_\_\_ for each misclassification cited.

(b) For an employer cited for a misclassification, including a first offense, that the bureau determines is intentional, widespread or reflective of a common business practice of the
employer, the bureau shall assess a civil penalty of not less than \$\_\_\_\_\_ and not more than
\$\_\_\_\_\_ for each violation cited.

17 (c) For an employer cited for failure to correct a misclassification previously cited within 18 the time established by rule of the bureau, the bureau shall assess a civil penalty of not more 19 than \$\_\_\_\_\_ for each day during which the failure to correct the misclassification contin-20 ues.

(d) For an employer that knowingly makes a false statement, representation or certif ication about a misclassification, or the correction of a misclassification, the bureau shall
 assess a civil penalty of not less than \$\_\_\_\_\_\_ and not more than \$\_\_\_\_\_\_.

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

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

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

**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.

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(c) The penalty provided in the order, when recorded under paragraph (b) of this subsection, becomes a lien upon the title to any interest in property owned by the employer
against which the order is entered.
(d) Execution may be issued upon the order in the same manner as execution upon a
judgment of a court of record.
(4) The bureau shall deposit civil penalties assessed under this section in a subaccount

of the Bureau of Labor and Industries Account established in ORS 651.160 and use the moneys to pay the costs of administration of this section, including the costs of investigations conducted under this section.

10 <u>SECTION 2.</u> This 2013 Act being necessary for the immediate preservation of the public 11 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect 12 July 1, 2013.

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