

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

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

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

3 **SECTION 1. (1) The Bureau of Labor and Industries shall establish a full-time equivalent**
4 **position for an investigator whose primary duty is the investigation of employer misclassi-**
5 **fication of employees as independent contractors, as defined in ORS 670.600.**

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

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

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

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

20 **(d) For an employer that knowingly makes a false statement, representation or certifi-**
21 **cation about a misclassification, or the correction of a misclassification, the bureau shall**
22 **assess a civil penalty of not less than \$_____ and not more than \$_____.**

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

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

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

30 **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.

