

House Bill 3307

Sponsored by Representatives WITT, DEMBROW; Representative REARDON

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 employer who fails to provide meal period or rest period breaks in accordance with rules adopted by Commissioner of Bureau of Labor and Industries to pay additional one and one-half hours of wages for each day employer is in violation of rules.

A BILL FOR AN ACT

1
2 Relating to required payment for break periods not provided to employees; amending ORS 653.261.

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

4 **SECTION 1.** ORS 653.261 is amended to read:

5 653.261. (1) The Commissioner of the Bureau of Labor and Industries may adopt rules prescrib-
6 ing such minimum conditions of employment, excluding minimum wages, in any occupation as may
7 be necessary for the preservation of the health of employees. The rules may include, but are not
8 limited to, minimum meal periods and rest periods, and maximum hours of work, but not less than
9 eight hours per day or 40 hours per week; however, after 40 hours of work in one week overtime
10 may be paid, but in no case at a rate higher than one and one-half times the regular rate of pay of
11 the employees when computed without benefit of commissions, overrides, spiffs and similar benefits.

12 **(2) If an employer fails to provide an employee a meal period or rest period in accordance**
13 **with the applicable rules adopted by the commissioner pursuant to subsection (1) of this**
14 **section, the employer shall pay the employee, in addition to any other compensation other-**
15 **wise due, one and one-half additional hours of pay at the employee's regular rate of com-**
16 **ensation for each workday in which the meal or rest period is not provided.**

17 [(2)] (3) Nothing contained in ORS 653.010 to 653.261 shall be construed to confer authority upon
18 the commissioner to regulate the hours of employment of employees engaged in production, har-
19 vesting, packing, curing, canning, freezing or drying any variety of agricultural crops, livestock,
20 poultry or fish.

21 [(3)] (4) Rules adopted by the commissioner pursuant to subsection (1) of this section do not
22 apply to individuals employed by this state or a political subdivision or quasi-municipal corporation
23 thereof if other provisions of law or collective bargaining agreements prescribe rules pertaining to
24 conditions of employment referred to in subsection (1) of this section, including meal periods, rest
25 periods, maximum hours of work and overtime.

26 [(4)] (5) Rules adopted by the commissioner pursuant to subsection (1) of this section regarding
27 meal periods and rest periods do not apply to nurses who provide acute care in hospital settings if
28 provisions of collective bargaining agreements entered into by the nurses prescribe rules concerning
29 meal periods and rest periods.

30 [(5)(a)] (6)(a) The commissioner shall adopt rules regarding meal periods for employees who
31 serve food or beverages, receive tips and report the tips to the employer.

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 (b) In rules adopted by the commissioner under paragraph (a) of this subsection, the commis-
2 sioner shall permit an employee to waive a meal period. However, an employer may not coerce an
3 employee into waiving a meal period.

4 (c) Notwithstanding ORS 653.256 (1), in addition to any other penalty provided by law, the
5 commissioner may assess a civil penalty not to exceed \$2,000 against an employer that the commis-
6 sioner finds has coerced an employee into waiving a meal period in violation of this subsection. Each
7 violation is a separate and distinct offense. In the case of a continuing violation, each day's con-
8 tinuance is a separate and distinct violation.

9 (d) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS
10 183.745. All sums collected as penalties under this subsection shall be applied and paid over as
11 provided in ORS 653.256 (4).

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