

Senate Joint Memorial 7

Sponsored by Senator GIROD

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**.

Urges Congress to require United States Department of Labor to adopt standard rules and procedures for application and enforcement of certain provision of Fair Labor Standards Act.

JOINT MEMORIAL

1
2 To the President of the United States, the Senate and the House of Representatives of the United
3 States of America, in Congress assembled, the Secretary of Labor and the Secretary of Agri-
4 culture:

5 We, your memorialists, the Seventy-seventh Legislative Assembly of the State of Oregon, in
6 legislative session assembled, respectfully represent as follows:

7 Whereas agriculture is an integral part of the economy of this state and of the health, food se-
8 curity and heritage of residents of this state; and

9 Whereas agriculture relies on water, inputs, land and, most importantly, dedicated and skilled
10 workers; and

11 Whereas skilled workers are the foundation of a healthy agricultural economy at the state and
12 local level; and

13 Whereas seasonal agricultural workforce opportunities and competitive wages are multiplied by
14 the abundant diversity of fruits and vegetables that can be grown in Oregon; and

15 Whereas wages paid to workers should always be fair and equitable wages, and opportunities
16 for increased wages should be made available according to the skill of each worker; and

17 Whereas under no circumstances should wages be paid at levels below what is legally required;
18 and

19 Whereas the existing and sufficient tools available for investigation, identification and cor-
20 rection of wage and hour violations up to and including back wages, civil penalties and
21 imprisonment should be sustained; and

22 Whereas between the months of July and August 2012, the Portland District Office of the United
23 States Department of Labor, Wage and Hour Division, engaged in an initiative to invoke the "hot
24 goods" provision of the Fair Labor Standards Act (29 U.S.C. 215(a)(1)) in the agriculture industry;
25 and

26 Whereas the invocation or threat of invocation of the "hot goods" provision on perishable foods
27 can be catastrophic to a family farm, the farm workers and food produced in a year; and

28 Whereas the initiative, as conducted by the United States Department of Labor, halted the
29 harvest season and halted the ability of workers to make wages during a limited harvest season on
30 the farms involved; and

31 Whereas during the initiative, employers were not provided sufficient information regarding

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 their rights and legal options; and

2 Whereas the initiative was carried out in a way that did not demonstrate partnerships among
3 the enforcement community, employers and workers; and

4 Whereas the initiative had a chilling effect on the relationships among the enforcement com-
5 munity, employers and workers and has jeopardized future employment opportunities with compet-
6 itive wages for Oregonians; and

7 Whereas invocation of the “hot goods” provision during the initiative was conducted in a way
8 that was, on its face, coercive and extortive; and

9 Whereas enforcement of all laws of the United States, including the Fair Labor Standards Act,
10 must occur according to procedures and processes that provide the basic constitutional rights of due
11 process; now, therefore,

12 **Be It Resolved by the Legislative Assembly of the State of Oregon:**

13 (1) The Congress of the United States of America is respectfully requested to require the United
14 States Department of Labor to adopt standard rules and procedures for the application of the “hot
15 goods” provision of the Fair Labor Standards Act (29 U.S.C. 215(a)(1)) that specifically speak to full
16 disclosure of employers’ and workers’ rights and when the application of the provision is appropriate
17 or not.

18 (2) A copy of this memorial shall be sent to the President of the United States, to the Senate
19 Majority Leader, to the Speaker of the House of Representatives, to the Secretary of Labor, to the
20 Secretary of Agriculture and to each member of the Oregon Congressional Delegation.

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