

HOUSE AMENDMENTS TO HOUSE BILL 2386

By COMMITTEE ON BUSINESS AND LABOR

March 24

1 On page 1 of the printed bill, line 3, delete “and 652.332.” and insert “, 652.120, 652.125, 652.332,
2 652.340 and 652.900.”.

3 On page 2, line 14, after the period insert “For the purpose of this subsection, the
4 commissioner’s ‘reason to believe’ may be based on factors that include but are not limited to:

5 “(a) A previous violation by the employer;

6 “(b) More than one complaint filed against the employer;

7 “(c) A complaint filed with another agency related to issues that are relevant to the current
8 case; or

9 “(d) Information from the Interagency Compliance Network, established under ORS 670.700, re-
10 lated to issues that are relevant to the current case.”.

11 On page 3, after line 40, insert:

12 “**SECTION 4.** ORS 652.120 is amended to read:

13 “652.120. (1) Every employer shall establish and maintain a regular payday, at which date the
14 employer shall pay all employees the wages due and owing to them.

15 “(2) Payday may not extend beyond a period of 35 days from the time that the employees entered
16 upon their work, or from the date of the last regular payday.

17 “(3) This section does not prevent the employer from establishing and maintaining paydays at
18 more frequent intervals.

19 “(4) This section does not prevent any employer from entering into a written agreement, prior
20 to the rendering of any services, and mutually satisfactory with the employer’s employees, as to the
21 payment of wages at a future date.

22 “(5)(a) **Except as provided in subsection (6) of this section, if an employer fails to pay**
23 **wages due and owing to an employee on the regular payday established as required by sub-**
24 **section (1) of this section, and the failure to pay those wages is not the result of circum-**
25 **stances beyond the control of the employer, the employer is subject to a civil penalty as**
26 **provided in ORS 652.900.**

27 “(b) **For purposes of determining when an employer has paid wages or compensation**
28 **under this section, payment occurs on the date the employer delivers the payment to the**
29 **employee or sends the payment by first class mail, express mail or courier service.**

30 “[5] (6) When an employer has notice that an employee has not been paid the full amount the
31 employee is owed on a regular payday and there is no dispute between the employer and the em-
32 ployee regarding the amount of the unpaid wages:

33 “(a) If the unpaid amount is less than five percent of the employee’s gross wages due on the
34 regular payday, the employer shall pay the employee the unpaid amount no later than the next
35 regular payday; or

1 “(b) If the unpaid amount is five percent or more of the employee’s gross wages due on the
2 regular payday, the employer shall pay the employee the unpaid amount within three days after the
3 employer has notice of the unpaid amount, excluding Saturdays, Sundays and holidays.

4 “**SECTION 5.** ORS 652.900 is amended to read:

5 “652.900. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau
6 of Labor and Industries may assess a civil penalty not to exceed \$1,000 against any person who vi-
7 olates ORS 652.020, 652.110, **652.120**, 652.140, 652.145, 652.260, 652.610 (4) or 652.750 or any rule
8 adopted under those statutes.

9 “(2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

10 “(3) All sums collected as penalties under this section shall be first applied toward reimburse-
11 ment of costs incurred in determining the violations, conducting hearings under this section and
12 addressing and collecting the penalties. The remainder, if any, of the sums collected as penalties
13 under this section shall be paid into the State Treasury and credited to the General Fund and is
14 available for general governmental expenses.

15 “**SECTION 6.** ORS 652.125 is amended to read:

16 “652.125. (1) If, upon complaint by an employee, and after investigation, it appears to the Com-
17 missioner of the Bureau of Labor and Industries that an employer [*is failing to pay wages within five*
18 *days of a payday scheduled by the employer,*] **has failed to establish or maintain a regular payday**
19 **as required by ORS 652.120**, the commissioner may require the employer to [*give a bond in such*
20 *amount as*] **provide a bond in an amount that** the commissioner determines necessary, with suffi-
21 cient surety, to [*assure*] **ensure** timely payment of wages due employees for [*such*] **a** future period
22 [*as*] **that** the commissioner considers appropriate. In lieu of a bond, the commissioner may accept
23 a letter of credit from an issuer approved by the commissioner, upon [*such*] terms and conditions
24 and for [*such*] **an** amount [*as*] **that** the commissioner determines necessary to [*assure*] **ensure** timely
25 payment of wages for [*such*] **a** future period [*as*] **that** the commissioner determines appropriate.

26 “(2) If[,] **an employer fails to provide the required bond** within 10 days after demand for [*such*
27 *bond, the employer fails to provide the same, the commissioner may commence court action against the*
28 *employer in the circuit court of appropriate jurisdiction*] **the bond, the commissioner may com-**
29 **mence an administrative action** to compel the employer to [*furnish such*] **provide the** bond or
30 cease doing business until the employer has done so. The employer shall have the burden of proving
31 the amount [*thereof*] **of the required bond** to be excessive.

32 “(3) If the [*court*] **commissioner** finds that there is just cause for requiring [*such*] **the** bond and
33 that the [*same*] **bond** is reasonably necessary or appropriate to secure the prompt payment of the
34 wages of the employees of [*such*] **the** employer, the [*court*] **commissioner** shall enjoin [*such*] **the**
35 employer from doing business in this state until the requirement is met, or shall make other, and
36 may make further, orders appropriate to compel compliance with the requirement.

37 “(4) **If an employer fails to comply with the requirements of this section, the commis-**
38 **sioner may commence an action in the circuit court of appropriate jurisdiction to enforce**
39 **the provisions of subsection (3) of this section.**

40 “**SECTION 7.** ORS 652.340 is amended to read:

41 “652.340. (1) If upon investigation by the Commissioner of the Bureau of Labor and Industries,
42 after taking assignments of any wage claims under ORS 652.330, it appears to the commissioner that
43 the employer is representing to employees that the employer is able to pay wages for their services
44 and that the employees are not being paid for their services, the commissioner may require the
45 employer to give a bond in [*such sum as*] **an amount that** the commissioner deems reasonable and

1 adequate in the circumstances, with sufficient surety, conditioned that the employer will for a [*def-*
2 *inite future period not exceeding six months*] **future period that the commissioner considers ap-**
3 **propriate** conduct business and pay employees in accordance with the laws of Oregon.

4 “(2) If **an employer fails to provide the required bond** within 10 days after demand for [*such*
5 *bond the employer fails to provide the same, the commissioner may commence a suit against the em-*
6 *ployer in the circuit court of appropriate jurisdiction*] **the bond, the commissioner may commence**
7 **an administrative action** to compel the employer to [*furnish such*] **provide the** bond or cease doing
8 business until the employer has done so. The employer shall have the burden of proving the amount
9 [*thereof*] **of the required bond** to be excessive.

10 “(3) If the [*court*] **commissioner** finds that there is just cause for requiring [*such*] **the** bond and
11 that the [*same*] **bond** is reasonably necessary or appropriate to secure the prompt payment of the
12 wages of the employees of [*such*] **the** employer and the employer’s compliance with ORS 652.310 to
13 652.414, the [*court*] **commissioner** shall enjoin [*such*] **the** employer from doing business in this state
14 until the requirement is met, or shall make other, and may make further, orders appropriate to
15 compel compliance with the requirement.

16 “(4) **If an employer fails to comply with the requirements of this section, the commis-**
17 **sioner may commence an action in the circuit court of appropriate jurisdiction to enforce**
18 **the provisions of subsection (3) of this section.”.**

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