

A-Engrossed
Senate Bill 718

Ordered by the Senate April 27
Including Senate Amendments dated April 27

Sponsored by COMMITTEE ON WORKFORCE

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.

Defines "wages" for certain wage claims. Requires employer to maintain time and pay records of terminated employee for three years from date of termination, to provide records to employee if requested and to provide employee with written statement of reasons for termination.

Modifies information that must be included in itemized statement provided to employee each pay period.

Establishes civil right of action for certain claims for unpaid wages and for violation of certain wage statutes. [*Specifies procedures for establishing lien for amount of unpaid wages. Authorizes Commissioner of Bureau of Labor and Industries to void notice of lien if commissioner determines that employee has failed to establish prima facie case for wage claim.*]

Prohibits waiver of rights established under Act. Prohibits discrimination by employer against employee for certain actions taken by employee related to wage claims.

A BILL FOR AN ACT

1
2 Relating to regulation of employment; creating new provisions; and amending ORS 652.320, 652.610,
3 652.750, 653.010, 653.055, 658.005 and 658.405.

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

5 **SECTION 1.** ORS 653.010 is amended to read:

6 653.010. As used in ORS 653.010 to 653.261, unless the context requires otherwise:

7 (1) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

8 (2) "Employ" includes to suffer or permit to work but does not include voluntary or donated
9 services performed for no compensation or without expectation or contemplation of compensation
10 as the adequate consideration for the services performed for a public employer referred to in sub-
11 section (3) of this section, or a religious, charitable, educational, public service or similar nonprofit
12 corporation, organization or institution for community service, religious or humanitarian reasons or
13 for services performed by general or public assistance recipients as part of any work training pro-
14 gram administered under the state or federal assistance laws.

15 (3) **"Employee" means an individual employed by an employer in this state.**

16 [(3)] (4) "Employer" means any person who employs another person including the State of
17 Oregon or a political subdivision thereof or any county, city, district, authority, public corporation
18 or entity and any of their instrumentalities organized and existing under law or charter.

19 [(4)] (5) "Minor" means any person under 18 years of age.

20 [(5)] (6) "Occupation" means any occupation, service, trade, business, industry, or branch or
21 group of industries or employment or class of employment in which employees are gainfully em-
22 ployed.

23 [(6)] (7) "Organized camp" means a day or resident camp, whether or not operated for profit,

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 established to give campers recreational, creative, religious or educational experience in cooperative
2 group living wherein the activities are conducted on a closely supervised basis, whether or not the
3 camp is used primarily by an organized group or by members of the public and whether or not the
4 activities or facilities are furnished free of charge or for the payment of a fee.

5 [(7)] (8) "Outside salesperson" means any employee who is employed for the purpose of and who
6 is customarily and regularly engaged away from the employer's place or places of business in mak-
7 ing sales, or obtaining orders, or obtaining contracts for services and whose hours of work of any
8 other nature for the employer do not exceed 30 percent of the hours worked in the workweek by the
9 nonexempt employees of the employer.

10 [(8)] (9) "Piece-rate" means a rate of pay calculated on the basis of the quantity of the crop
11 harvested.

12 [(9)] (10) "Salary" means no less than the wage set pursuant to ORS 653.025, multiplied by 2,080
13 hours per year, then divided by 12 months.

14 [(10)] (11) "Wages" means [*compensation due to an employee by reason of employment*] **all com-
15 pensation for performance of service by an employee for an employer, whether paid by the
16 employer or another person**, payable in legal tender of the United States or check on banks con-
17 vertible into cash on demand at full face value, subject to such deductions, charges or allowances
18 as are permitted in ORS 653.035. **"Wages" includes, but is not limited to, gratuities or similar
19 payments for the provision of services and penalty wages owed under ORS 652.150.**

20 [(11)] (12) "Work time" includes both time worked and time of authorized attendance.

21 **SECTION 2.** ORS 652.320 is amended to read:

22 652.320. As used in ORS 652.310 to 652.414, unless the context requires otherwise:

23 (1) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

24 (2) "Court" means a court of competent jurisdiction and proper venue to entertain a proceeding
25 referred to in ORS 652.310 to 652.414.

26 (3) "Demand" means a written demand for payment made during business hours on an employer
27 or any appropriate representative of an employer by an employee or by some person having and
28 exhibiting due authority to act in said employee's behalf.

29 (4) "Pay" means to deliver or tender compensation at a previously designated and reasonably
30 convenient place in this state, during working hours, in legal tender or by order or negotiable in-
31 strument payable and paid in legal tender without discount on demand in this state or by deposit
32 without discount in an employee's account in a financial institution, as defined in ORS 706.008, in
33 this state, provided the employee and the employer have agreed to such deposit.

34 (5) "Payment" means the delivery, tender or deposit of compensation in the medium of payment
35 described in subsection (4) of this section. Such delivery, tender or deposit shall be made to or for
36 the account of the employee concerned or to or for the account of any person having due authority
37 to act in said employee's behalf.

38 (6) "Rate of payment" means the rate at which payment is made or is to be made in the manner
39 described in this section.

40 (7) "Wage claim" means an employee's claim against an employer for compensation for the
41 employee's own personal services, and includes any wages, compensation, damages or civil penalties
42 provided by law to employees in connection with a claim for unpaid wages.

43 (8) **"Wages" means all compensation for performance of service by an employee for an
44 employer, whether paid by the employer or another person, payable in legal tender of the
45 United States or check on banks convertible into cash on demand at full face value, subject**

1 **to such deductions, charges or allowances as are permitted in ORS 653.035. “Wages” includes,**
2 **but is not limited to, gratuities or similar payments for the provision of services and penalty**
3 **wages owed under ORS 652.150.**

4 **SECTION 3.** ORS 658.005 is amended to read:

5 658.005. As used in ORS 658.005 to 658.245, unless the context requires otherwise:

6 (1) “Applicant for employment” or “applicant” means an individual who is seeking or who has
7 obtained employment through the services of an employment agency.

8 (2) “Charge for services” means any money or other consideration paid or promised to be paid
9 by an applicant for employment for services rendered by an employment agency.

10 (3) “Commissioner” means the Commissioner of the Bureau of Labor and Industries.

11 (4)(a) “Employment agency” or “agency” means a business, service, bureau or club operated by
12 a person, firm, organization, limited liability company or corporation engaged in procuring for a fee,
13 employment for others and employees for employers.

14 (b) “Employment agency” or “agency” does not include:

15 (A) A nursing school, business school or career school that does not charge a fee for placement.

16 (B) Any business, person, service, bureau, organization or club that by advertisement or other-
17 wise offers as its main object or purpose to counsel, teach or prepare individuals to obtain employ-
18 ment, and which charges for its services, whether in the form of dues, tuition, membership fees,
19 registration fees or any other valuable service.

20 (C) Any business, service, bureau or club operated by a person engaged in procuring employment
21 for others when the charges for services are paid, directly or indirectly, by anyone other than the
22 applicant for employment.

23 (D) An employment listing service, as defined in ORS 658.250.

24 (5) **“Wages” has the meaning given that term in ORS 653.010.**

25 **SECTION 4.** ORS 658.405, as amended by section 1, chapter 584, Oregon Laws 2013, is amended
26 to read:

27 658.405. As used in ORS 658.405 to 658.503 and 658.991 (2) and (3), unless the context requires
28 otherwise:

29 (1) “Agricultural association” means a nonprofit or cooperative association of farmers, growers
30 or ranchers that is incorporated under applicable state law and that acts as a farm labor contractor
31 solely on behalf of members of the association.

32 (2)(a) “Construction labor contractor” includes any person that:

33 (A) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
34 to perform labor for another in construction;

35 (B) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
36 on behalf of an employer engaged in construction; or

37 (C) Enters into a subcontract with another for any of the activities described in subparagraph
38 (A) or (B) of this paragraph.

39 (b) “Construction labor contractor” does not include:

40 (A) A person that has a construction contract with an owner of real property where the con-
41 struction work is performed;

42 (B) A person that has obtained building permits to perform construction work;

43 (C) A person that supplies building materials or machinery, other than manual tools or hand-
44 operated power tools, for a construction project;

45 (D) An owner of real property engaged in the solicitation or recruitment of persons to perform

1 construction work on the owner's property;

2 (E) The Employment Department;

3 (F) A crew leader;

4 (G) Individuals who perform labor pursuant to an agreement for exchanging their own labor or
5 services with each other, provided the work is performed on land owned or leased by the individuals;

6 (H) An educational institution that is recognized as such by the Department of Education;

7 (I) A labor union;

8 (J) A local joint apprenticeship committee formed under ORS 660.135; or

9 (K) A staffing agency whose primary purpose is to provide workers to the client employers of
10 the agency under the terms of a client agreement, if the agency provides workers' compensation
11 coverage for all employees as required by ORS chapter 656 and pays employment and income taxes
12 in accordance with applicable law.

13 (3) "Crew leader" means the member of a group of workers who acts as spokesman for the
14 group, travels with the group from another state into Oregon and performs the same work along
15 with other group members. A crew leader may transport workers from their local place of residence
16 to their place of employment so long as the crew leader does not perform this service for a profit.

17 (4)(a) "Farm labor contractor" includes any person that:

18 (A) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
19 to perform labor for another person to work in forestation or reforestation of lands, including but
20 not limited to the planting, transplanting, tubing, precommercial thinning and thinning of trees and
21 seedlings, the clearing, piling and disposal of brush and slash and other related activities;

22 (B) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
23 to perform labor for another person in the production or harvesting of farm products;

24 (C) Recruits, solicits, supplies or employs workers to gather evergreen boughs, yew bark, bear
25 grass, salal or ferns from public lands for sale or market prior to processing or manufacture;

26 (D) Recruits, solicits, supplies or employs workers on behalf of an employer engaged in these
27 activities;

28 (E) In connection with the recruitment or employment of workers to work in these activities,
29 furnishes board or lodging for such workers;

30 (F) Bids or submits prices on contract offers for those activities; or

31 (G) Enters into a subcontract with another for any of those activities.

32 (b) "Farm labor contractor" does not include:

33 (A) Farmers, including owners or lessees of land intended to be used for the production of tim-
34 ber, their permanent employees, advertising media, platoon leaders or individuals engaged in the
35 solicitation or recruitment of persons for dayhaul work in connection with the growing, production
36 or harvesting of farm products;

37 (B) The Employment Department;

38 (C) A crew leader;

39 (D) An individual who performs work, other than recruiting, supplying, soliciting or employing
40 workers to perform labor for another, alone or only with the assistance of the individual's spouse,
41 son, daughter, brother, sister, mother or father;

42 (E) Individuals who perform labor pursuant to an agreement for exchanging their own labor or
43 services with each other, provided the work is performed on land owned or leased by the individuals;

44 (F) An educational institution that is recognized as such by the Department of Education;

45 (G) A farmer who operates a farmworker camp, regulated under ORS 658.750, who recruits,

1 supplies, solicits or employs workers only for the farmer's own operations, and has farmworkers
2 living in the camp who are employed by another on no more than an incidental basis, and the farmer
3 receives no remuneration by virtue of such incidental employment; or

4 (H) A labor union.

5 (5) "Labor contractor" means a construction labor contractor or a farm labor contractor.

6 **(6) "Wages" has the meaning given that term in ORS 653.010.**

7 **SECTION 5.** ORS 652.750 is amended to read:

8 652.750. (1) As used in this section:

9 (a) "Employer" has the meaning given that term in ORS 656.005.

10 (b) "Personnel records" does not include records of an individual relating to the conviction, ar-
11 rest or investigation of conduct constituting a violation of the criminal laws of this state or another
12 state or the United States, confidential reports from previous employers or records maintained in
13 compliance with ORS 351.065.

14 (c) "Public safety officer" has the meaning given that term in ORS 236.350.

15 **(d) "Time and pay records" means any documents that record the times an employee**
16 **started or stopped work, rest and meal periods received or total hours worked, documents**
17 **required under ORS 652.610 and any other documents used to determine the gross or net**
18 **wages of an employee.**

19 (2) Except as provided in subsection [(7)] **(9)** of this section, within 45 days after receipt of an
20 employee's request, an employer shall provide reasonable opportunity for the employee to inspect,
21 at the place of employment or place of work assignment, the personnel records of the employee that
22 are used or have been used to determine the employee's qualification for employment, promotion,
23 additional compensation [or], employment termination or other disciplinary action **and time and**
24 **pay records of the employee.** Within 45 days after receipt of the employee's request, the employer
25 shall furnish a certified copy of the records.

26 (3) Upon termination of employment, the employer shall keep:

27 **(a)** The terminated employee's personnel records for not less than 60 days. Within the 60-day
28 period, the employer shall provide the employee with a certified copy of the records within 45 days
29 of receiving the employee's request. After the 60-day period, the employer shall provide the certified
30 copy within 45 days of receiving the employee's request if the employer has the records at the time
31 of the request.

32 **(b) The terminated employee's time and pay records for not less than three years. The**
33 **employer shall provide the employee with a certified copy of the employee's time and pay**
34 **records within 45 days of receiving the employee's request. After the three-year period, the**
35 **employer shall provide the certified copy within 45 days of receiving the employee's request**
36 **if the employer has the records at the time of the request.**

37 (4) Notwithstanding the time periods described in subsections (2) and (3) of this section, if the
38 employee's personnel records **or time and pay records** are not readily available, the employer and
39 the employee may agree to extend the time within which the employer must provide the employee
40 reasonable opportunity to inspect the records or furnish the employee a certified copy of the re-
41 cords.

42 (5) For the services referred to in subsections (2) and (3) of this section only, an employer may
43 charge an employee no more than an amount reasonably calculated to recover the actual cost of
44 providing the services.

45 **(6) Upon receipt of a written request from a terminated employee, an employer shall**

1 provide to the employee a full, succinct and complete written statement of the reason or
2 reasons for the termination of the employee. If an employer has terminated an at-will em-
3 ployee and did not have any reason for doing so, the employer may comply with the re-
4 quirements of this subsection by providing a statement that the employee was an at-will
5 employee and the employer had no particular reason for discharging the employee. The
6 statement shall be provided to the employee within 10 days after the request has been made.

7 (7) Except by agreement between the employer and a terminated employee, an employer
8 may not make or furnish to any person a statement with respect to the reason for the ter-
9 mination of the employee that materially differs from the reason provided to the employee
10 in the statement required under subsection (6) of this section. Nothing in this subsection
11 prevents an employer from declining to provide a reason for termination of an employee to
12 third parties.

13 [(6)(a)] (8)(a) Except as provided in paragraphs (b) and (c) of this subsection, an employer may
14 not place an adverse comment in the personnel records of a public safety officer unless the officer
15 has first read and signed the document containing the adverse comment.

16 (b) If a public safety officer refuses to sign a document containing an adverse comment, the
17 employer may place the document in the officer's personnel records with a notation that the docu-
18 ment was presented to the officer and the officer refused to sign it.

19 (c) If a public safety officer is not available to read and sign the document containing an adverse
20 comment at the work location where the personnel files are maintained, the employer may place the
21 document in the officer's personnel records and mail a copy of the document to the officer by reg-
22 ular mail or interoffice mail.

23 (d) A public safety officer may write a response within 30 days of being presented with a docu-
24 ment containing an adverse comment. If a public safety officer writes a response to a document
25 containing an adverse comment, the response must be attached to the original document and placed
26 in the officer's personnel records.

27 [(7)(a)] (9)(a) Upon request, a public safety officer may inspect the officer's own personnel re-
28 cords at a reasonable time at the location where the records are kept by the employer.

29 (b) If, after inspection, a public safety officer believes that any portion of the material is
30 mistakenly or unlawfully placed in the officer's personnel records, the officer may request in writing
31 that the mistaken or unlawful material be corrected or deleted. The request must describe the cor-
32 rections or deletions requested and the reasons supporting the request and provide any documenta-
33 tion that supports the request. The employer shall respond within 30 days from the date the request
34 is received. If the employer does not correct or delete the material, the employer shall place the
35 request and the employer's response to the request in the officer's personnel records.

36 **SECTION 6.** ORS 653.055 is amended to read:

37 653.055. (1) Any employer who pays an employee less than the wages to which the employee is
38 entitled under ORS 653.010 to 653.261 **by the regular payday established by the employer as**
39 **required by ORS 652.120** is liable to the employee affected:

40 (a) For the full amount of the wages, less any amount actually paid to the employee by the
41 employer; and

42 (b) For civil penalties [*provided in ORS 652.150*] **in an amount equal to eight hours pay per**
43 **day at the employee's regular rate of pay until the earliest of the date of payment of the**
44 **unpaid wages, the date action to recover unpaid wages is commenced or 30 days from the**
45 **date the unpaid wages were due.**

1 (2) Any agreement between an employee and an employer to work at less than the wage rate
2 required by ORS 653.010 to 653.261 is no defense to an action under subsection (1) of this section.

3 (3) The Commissioner of the Bureau of Labor and Industries has the same powers and duties in
4 connection with a wage claim based on ORS 653.010 to 653.261 as the commissioner has under ORS
5 652.310 to 652.445 and in addition the commissioner may, without the necessity of assignments of
6 wage claims from employees, initiate suits against employers to enjoin future failures to pay re-
7 quired minimum wages or overtime pay and to require the payment of minimum wages and overtime
8 pay due employees but not paid as of the time of the filing of suit. The commissioner may join in a
9 single proceeding and in one cause of suit any number of wage claims against the same employer.
10 If the commissioner does not prevail in such action, the commissioner shall pay all costs and dis-
11 bursements from the Bureau of Labor and Industries Account.

12 [(4) *The court may award reasonable attorney fees to the prevailing party in any action brought*
13 *by an employee under this section.*]

14 **SECTION 7.** ORS 652.610 is amended to read:

15 652.610. (1)(a) All persons, firms, partnerships, associations, cooperative associations, corpo-
16 rations, municipal corporations, the state and its political subdivisions, except the federal govern-
17 ment and its agencies, employing, in this state, during any calendar month one or more persons,
18 [and withholding for any purpose any sum of money from the wages, salary or commission earned by
19 an employee, shall provide the employee on regular paydays with a statement sufficiently itemized to
20 show the amount and purpose of the deductions made during the respective period of service that the
21 payment covers.] **shall provide the employee on regular paydays and at the time payment of**
22 **wages, salary or commission is made, with an itemized statement as described in paragraph**
23 **(b) of this subsection.**

24 **(b) The statement required under this subsection must be a written statement suffi-**
25 **ciently itemized to show:**

26 **(A) The date of the payment;**

27 **(B) The dates of work covered by that payment of wages;**

28 **(C) The name of the employee;**

29 **(D) The name and tax identification number of the employer;**

30 **(E) The address and telephone number of the employer;**

31 **(F) The rate or rates of pay;**

32 **(G) Whether the employee is paid by the hour, shift, day or week or on a salary, piece**
33 **or commission basis;**

34 **(H) Gross wages;**

35 **(I) Net wages;**

36 **(J) The amount and purpose of each deduction made during the respective period of ser-**
37 **vice that the payment covers;**

38 **(K) Allowances, if any, claimed as part of minimum wage;**

39 **(L) Unless the employee is paid on a salary basis and is exempt from overtime compen-**
40 **sation as established by local, state and federal law, the regular hourly rate or rates of pay,**
41 **the overtime rate or rates of pay, the number of regular hours worked and pay for those**
42 **hours and the number of overtime hours worked and pay for those hours; and**

43 **(M) If the employee is paid a piece rate, the applicable piece rate or rates of pay, the**
44 **number of pieces completed at each piece rate and the total pay for each rate.**

45 [(2)(a) *The itemized statement shall be provided to the employee at the time payment of wages,*

1 *salary or commission is made.]*

2 [(b)] (2)(a) The statement may be attached to or be a part of the check, draft, voucher or other
3 instrument by which payment is made, or may be delivered separately from the instrument.

4 [(c)] (b) The statement shall be provided electronically at the time payment is made to all state
5 officers and employees paid electronically under the state payroll system as provided by ORS
6 292.026.

7 [(d)] (c) State agencies shall provide access to electronic statements to employees who do not
8 have regular access to computers in their workplace.

9 [(e)] (d) Notwithstanding paragraph [(c)] (b) of this subsection, if an officer or employee paid
10 under the state payroll system as provided by ORS 292.026 wants to receive payment of net salary
11 and wages by check or to receive a paper statement of itemized payroll deductions, the officer or
12 employee shall request paper statements or payment by check in accordance with the procedures
13 adopted by rule by the **Oregon Department of Administrative Services**.

14 (3) An employer may not withhold, deduct or divert any portion of an employee's wages unless:

15 (a) The employer is required to do so by law;

16 (b) The deductions are **voluntarily** authorized in writing by the employee, are for the employee's
17 benefit and are recorded in the employer's books;

18 (c) The employee has voluntarily signed an authorization for a deduction for any other item,
19 provided that the ultimate recipient of the money withheld is not the employer and that the de-
20 duction is recorded in the employer's books;

21 (d) The deduction is authorized by a collective bargaining agreement to which the employer is
22 a party;

23 (e) The deduction is authorized under ORS 18.736; or

24 (f) The deduction is made from the payment of wages upon termination of employment and is
25 authorized pursuant to a written agreement between the employee and employer for the repayment
26 of a loan made to the employee by the employer, if all of the following conditions are met:

27 (A) The employee has voluntarily signed the agreement;

28 (B) The loan was paid to the employee in cash or other medium permitted by ORS 652.110;

29 (C) The loan was made solely for the employee's benefit and was not used, either directly or
30 indirectly, for any purpose required by the employer or connected with the employee's employment
31 with the employer;

32 (D) The amount of the deduction at termination of employment does not exceed the amount
33 permitted to be garnished under ORS 18.385; and

34 (E) The deduction is recorded in the employer's books.

35 (4) When an employer deducts an amount from an employee's wages as required or authorized
36 by law or agreement, the employer shall pay the amount deducted to the appropriate recipient as
37 required by the law or agreement. The employer shall pay the amount deducted within the time re-
38 quired by the law or the agreement or, if the time for payment is not specified by the law or
39 agreement, within seven days after the date the wages from which the deductions are made are due.
40 Failure to pay the amount as required constitutes an unlawful deduction.

41 (5) This section does not:

42 (a) Prohibit the withholding of amounts authorized in writing by the employee to be contributed
43 by the employee to charitable organizations, including contributions made pursuant to ORS 243.666
44 and 663.110;

45 (b) Prohibit deductions by checkoff dues to labor organizations or service fees when the de-

ductions are not otherwise prohibited by law; or

(c) Diminish or enlarge the right of any person to assert and enforce a lawful setoff or counterclaim or to attach, take, reach or apply an employee's compensation on due legal process.

SECTION 8. An employee has a right of civil action for a claim for unpaid wages, as defined in ORS 653.010, against an employer in the full amount of the employee's unpaid wages due as provided under ORS 652.110, 652.120, 652.130, 652.140, 652.145, 652.150, 652.160, 652.170, 652.190, 652.200, 652.220, 652.230, 652.240, 652.250, 652.260 and 653.055. An employee may bring an action under this section against an employer without first filing a claim for unpaid wages with the Bureau of Labor and Industries under ORS 652.310 to 652.414. Notwithstanding ORS 20.077, in an action asserting multiple claims for wages under the statutes specified in this section, the prevailing party is the party to whom a money judgment is awarded on any claim, or, if no money judgement is awarded, the defendant.

SECTION 9. (1) There is hereby created a private cause of action for violation of ORS 652.610 (1) or (3), 652.750 (2), (3), (6) or (7) and section 10 of this 2015 Act.

(2) Violation of ORS 652.610 (1) or 652.750 tolls the statute of limitations for recovery of any wages or damages identified in those records for the duration of the violation.

(3) Upon a finding that ORS 652.610 (1) or (3) or section 10 of this 2015 Act has been violated, the court shall award to the prevailing employee:

(a) Actual damages, including, but not limited to, lost wages and benefits plus interest;

(b) Statutory damages of \$500;

(c) Reasonable attorney fees and costs; and

(d) Other necessary or appropriate relief as determined by the court, including, but not limited to, injunctive and declaratory relief.

(4) Upon finding a violation of ORS 652.750 (2), (3) or (6), the court shall award the aggrieved person:

(a) Actual damages, including, but not limited to, lost wages and benefits plus interest;

(b) Upon occurrence of the later of the day the statute requires compliance or the eighth day after the employee has mailed to the employer a written demand for compliance that references this section, statutory damages of \$50 per day for each day that the violation continues up to a maximum of \$5,000;

(c) Reasonable attorney fees and costs; and

(d) Other necessary or appropriate relief as determined by the court, including, but not limited to, injunctive and declaratory relief.

SECTION 10. An employer may not discharge, retaliate against or in any other manner discriminate against an employee or applicant for employment because the employee or applicant:

(1) Has complained that employer has violated any provision of this 2015 Act.

(2) Has discussed, inquired or consulted with an attorney, a state or federal agency, a collective bargaining representative, a worker advocacy organization or a coworker concerning rights granted under this 2015 Act.

(3) Has made a statement at or in contemplation of a hearing, grievance or arbitration or to the press in support of a claim or that the provisions of this 2015 Act or any rule related to this Act has been violated.

(4) Has caused to be instituted any proceeding under or related to this 2015 Act or to the collection of wages.

1 **(5) Has testified, is about to testify or has prepared to testify in any proceeding or has**
2 **participated in an investigation of a claim under or related to this 2015 Act or to the col-**
3 **lection of wages.**

4 **(6) Has assisted another employee to make a claim or has opposed any action that is**
5 **reasonably believed to be a violation of this 2015 Act.**

6 **(7) Is believed by the employer to have engaged in any of the actions described in this**
7 **section.**

8 **SECTION 11.** **(1) For purposes of ORS chapters 652, 653 and 658, an individual performing**
9 **services that are an integral part of the business of an employer is presumed to be an em-**
10 **ployee of the employer. This presumption may be rebutted by evidence demonstrating that**
11 **the individual was not authorized or permitted to perform services for the employer.**

12 **(2) This section does not apply to a general contractor in the construction industry who**
13 **subcontracts with independent subcontractors in multiple trades when determining the re-**
14 **lationship of the general contractor to employees of the subcontractors.**

15 **SECTION 12.** **(1) The rights and remedies established in this 2015 Act are cumulative, and**
16 **nothing in this 2015 Act may be construed to abrogate any existing employee right, action**
17 **or remedy.**

18 **(2) The rights and obligations established under this 2015 Act may not be waived by an**
19 **employee or an employer.**

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