

**PROPOSED AMENDMENTS TO
HOUSE BILL 2386**

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

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

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

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

8 “(c) A complaint filed with another agency related to issues that are rel-
9 evant to the current case; or

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

12 On page 3, after line 40, insert:

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

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

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

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

22 “(4) This section does not prevent any employer from entering into a

1 written agreement, prior to the rendering of any services, and mutually sat-
2 isfactory with the employer's employees, as to the payment of wages at a
3 future date.

4 **“(5)(a) Except as provided in subsection (6) of this section, if an**
5 **employer fails to pay wages due and owing to an employee on the**
6 **regular payday established as required by subsection (1) of this section,**
7 **and the failure to pay those wages is not the result of circumstances**
8 **beyond the control of the employer, the employer is subject to a civil**
9 **penalty as provided in ORS 652.900.**

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

14 **“[(5)] (6) When an employer has notice that an employee has not been**
15 **paid the full amount the employee is owed on a regular payday and there is**
16 **no dispute between the employer and the employee regarding the amount of**
17 **the unpaid wages:**

18 **“(a) If the unpaid amount is less than five percent of the employee's gross**
19 **wages due on the regular payday, the employer shall pay the employee the**
20 **unpaid amount no later than the next regular payday; or**

21 **“(b) If the unpaid amount is five percent or more of the employee's gross**
22 **wages due on the regular payday, the employer shall pay the employee the**
23 **unpaid amount within three days after the employer has notice of the unpaid**
24 **amount, excluding Saturdays, Sundays and holidays.**

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

26 **“652.900. (1) In addition to any other penalty provided by law, the Com-**
27 **missioner of the Bureau of Labor and Industries may assess a civil penalty**
28 **not to exceed \$1,000 against any person who violates ORS 652.020, 652.110,**
29 **652.120, 652.140, 652.145, 652.260, 652.610 (4) or 652.750 or any rule adopted**
30 **under those statutes.**

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

3 “(3) All sums collected as penalties under this section shall be first ap-
4 plied toward reimbursement of costs incurred in determining the violations,
5 conducting hearings under this section and addressing and collecting the
6 penalties. The remainder, if any, of the sums collected as penalties under this
7 section shall be paid into the State Treasury and credited to the General
8 Fund and is available for general governmental expenses.

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

10 “652.125. (1) If, upon complaint by an employee, and after investigation,
11 it appears to the Commissioner of the Bureau of Labor and Industries that
12 an employer [*is failing to pay wages within five days of a payday scheduled*
13 *by the employer,*] **has failed to establish or maintain a regular payday**
14 **as required by ORS 652.120,** the commissioner may require the employer to
15 [*give a bond in such amount as*] **provide a bond in an amount that** the
16 commissioner determines necessary, with sufficient surety, to [*assure*] **ensure**
17 timely payment of wages due employees for [*such*] **a future period [as] that**
18 the commissioner considers appropriate. In lieu of a bond, the commissioner
19 may accept a letter of credit from an issuer approved by the commissioner,
20 upon [*such*] terms and conditions and for [*such*] **an amount [as] that** the
21 commissioner determines necessary to [*assure*] **ensure** timely payment of
22 wages for [*such*] **a future period [as] that** the commissioner determines ap-
23 propriate.

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

1 **bond** to be excessive.

2 “(3) If the [*court*] **commissioner** finds that there is just cause for re-
3 quiring [*such*] **the** bond and that the [*same*] **bond** is reasonably necessary
4 or appropriate to secure the prompt payment of the wages of the employees
5 of [*such*] **the** employer, the [*court*] **commissioner** shall enjoin [*such*] **the**
6 employer from doing business in this state until the requirement is met, or
7 shall make other, and may make further, orders appropriate to compel com-
8 pliance with the requirement.

9 “(4) **If an employer fails to comply with the requirements of this**
10 **section, the commissioner may commence an action in the circuit**
11 **court of appropriate jurisdiction to enforce the provisions of sub-**
12 **section (3) of this section.**

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

14 “652.340. (1) If upon investigation by the Commissioner of the Bureau of
15 Labor and Industries, after taking assignments of any wage claims under
16 ORS 652.330, it appears to the commissioner that the employer is represent-
17 ing to employees that the employer is able to pay wages for their services
18 and that the employees are not being paid for their services, the commis-
19 sioner may require the employer to give a bond in [*such sum as*] **an amount**
20 **that** the commissioner deems reasonable and adequate in the circumstances,
21 with sufficient surety, conditioned that the employer will for a [*definite fu-*
22 *ture period not exceeding six months*] **future period that the commissioner**
23 **considers appropriate** conduct business and pay employees in accordance
24 with the laws of Oregon.

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

1 shall have the burden of proving the amount [*thereof*] **of the required bond**
2 to be excessive.

3 “(3) If the [*court*] **commissioner** finds that there is just cause for re-
4 quiring [*such*] **the** bond and that the [*same*] **bond** is reasonably necessary
5 or appropriate to secure the prompt payment of the wages of the employees
6 of [*such*] **the** employer and the employer’s compliance with ORS 652.310 to
7 652.414, the [*court*] **commissioner** shall enjoin [*such*] **the** employer from
8 doing business in this state until the requirement is met, or shall make
9 other, and may make further, orders appropriate to compel compliance with
10 the requirement.

11 “(4) **If an employer fails to comply with the requirements of this**
12 **section, the commissioner may commence an action in the circuit**
13 **court of appropriate jurisdiction to enforce the provisions of sub-**
14 **section (3) of this section.”.**

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