

**PROPOSED AMENDMENTS TO
SENATE BILL 888**

1 On page 1 of the printed bill, delete lines 4 through 27 and pages 2
2 through 4 and insert:

3 **“SECTION 1. Sections 2 to 7 of this 2015 Act are added to and made**
4 **a part of ORS chapter 653.**

5 **“SECTION 2. As used in sections 2 to 7 of this 2015 Act:**

6 **“(1) ‘Bona fide business reason’ means:**

7 **“(a) Substantial cost to the employer, including the cost of lost**
8 **productivity and expenses incurred in hiring additional employees or**
9 **retraining current employees and in transferring an employee from**
10 **one location to another;**

11 **“(b) A detrimental effect on the ability of the employer to meet**
12 **organization needs or customer demands;**

13 **“(c) An inability to reorganize work among existing employees;**

14 **“(d) Lack of work during the periods the employee has requested**
15 **to work;**

16 **“(e) Scheduling requests from more than one employee that, if**
17 **granted, would result in a detrimental effect on the business or ina-**
18 **bility to reorganize work; or**

19 **“(f) Any reason specified by the Commissioner of the Bureau of**
20 **Labor and Industries by rule.**

21 **“(2) ‘Career-related educational or training program’ means:**

22 **“(a) An educational or training program;**

1 **“(b) A program of study offered by a public, private or nonprofit**
2 **career school, an institution of higher education or another entity that**
3 **provides academic, career or technical education; or**

4 **“(c) Training that leads to a post-secondary credential.**

5 **“(3) ‘Family member’ has the meaning given that term in ORS**
6 **659A.150.**

7 **“(4) ‘Interactive process’ means a timely, good faith process that**
8 **includes a discussion between the employer and the employee, and**
9 **that may include the proposal of alternatives by the employee and the**
10 **employer, in an attempt to arrive at a mutually beneficial arrange-**
11 **ment for a schedule that meets the needs of the employee and the**
12 **employer.**

13 **“(5) ‘Salaried employee’ means an employee who receives a prede-**
14 **termined amount that is not subject to reduction in any week in which**
15 **the employee performs the work, regardless of the number of days or**
16 **hours worked, consistent with state and federal law.**

17 **“(6) ‘Serious health condition’ has the meaning given that term in**
18 **ORS 659A.150.**

19 **“(7) ‘Wages’ has the meaning given that term in ORS 653.010.**

20 **“(8) ‘Work schedule’ means the days and times that an employee**
21 **is required by an employer to perform the duties for which the em-**
22 **ployee will receive compensation.**

23 **“(9) ‘Work schedule change’ means any modification to the work**
24 **schedule of an employee. A work schedule change includes, but is not**
25 **limited to, a change in or to any of the following:**

26 **“(a) The starting or ending time of an employee’s work day or work**
27 **shift.**

28 **“(b) A part-time employment arrangement.**

29 **“(c) A job-sharing arrangement.**

30 **“(d) The ability to work from home.**

1 “(e) A telecommuting arrangement.

2 “(f) An employee’s work location.

3 “(g) Work duties.

4 “(h) A more predictable or stable schedule.

5 “SECTION 3. (1) An employee may request a flexible or predictable
6 work schedule or a work schedule change from the employee’s em-
7 ployer.

8 “(2) If an employer presented with a request from an employee for
9 a flexible or predictable work schedule or work schedule change does
10 not grant the request, the employer shall initiate an interactive pro-
11 cess with the employee to attempt to agree upon a mutually acceptable
12 work schedule.

13 “(3) The employer shall notify the employee in writing of the
14 employer’s decision to grant or deny the employee’s request for a
15 flexible or predictable work schedule or work schedule change. If the
16 request is completely or partially denied, the written notification must
17 include an explanation of the reason for the denial.

18 “(4) Unless the employer has a bona fide business reason not to
19 grant the employee’s request for a flexible or predictable work sched-
20 ule or work schedule change, the request shall be granted if the re-
21 quest is based on:

22 “(a) A serious health condition of the employee;

23 “(b) The employee’s caregiving responsibilities for a family member;

24 “(c) A second job of the employee; or

25 “(d) The employee’s participation in a career-related educational or
26 training program.

27 “SECTION 4. (1) When an employer hires an employee, the em-
28 ployer shall provide the employee with a written work schedule that
29 includes the times and the number of hours the employee is scheduled
30 to work for at least the employee’s first 21 days of work.

1 “(2) After the date of hire, the employer shall provide the employee
2 with written notice of any work schedule change at least 21 days prior
3 to the first day of the new work schedule.

4 “(3) The employer shall post in a location that is accessible and
5 visible to all employees at a work location a physical copy of the work
6 schedules of all employees at the work location at least 21 days prior
7 to the first day of the work schedule and shall update the schedule as
8 soon as practicable after work schedule changes are made.

9 “(4) Employees are entitled to request and receive the current work
10 schedules of all employees at the work location at any time, whether
11 or not changes to the work schedule have been posted.

12 “(5) An employer may not require an employee to work hours not
13 included in the employee’s initial work schedule without consent in
14 writing from the employee.

15 “(6) This section does not apply to salaried employees.

16 “SECTION 5. (1)(a) If an employee scheduled to work at least four
17 hours reports for the work shift as required by an employer and is
18 given less than four hours of work, the employee shall be paid in the
19 same pay period for four hours of work for that shift at the employee’s
20 regular rate of pay.

21 “(b) If an employee scheduled to work less than four hours reports
22 for the work shift as required by an employer and is given less than
23 the scheduled hours of work, the employee shall be paid in the same
24 pay period for the number of hours that the employee was scheduled
25 to work for that shift at the employee’s regular rate of pay.

26 “(2) Subsection (1) of this section does not apply if an employee was
27 prevented from performing the work the employee was scheduled to
28 perform due to strike, flood, explosion, fire, equipment failure,
29 geological event or court order.

30 “(3) The itemized statement provided to employees as required un-

1 der ORS 652.610 shall identify the wages earned under this section. The
2 Commissioner of the Bureau of Labor and Industries may adopt rules
3 to implement this subsection.

4 “(4) This section does not apply to salaried employees.

5 **“SECTION 6. (1)(a) After an employee has been provided written**
6 **notification of the employee’s work schedule, an employer may change**
7 **a work shift of the employee less than 21 days but more than 24 hours**
8 **before the changed shift is to begin only if the employer compensates**
9 **the employee for one hour at the employee’s regular rate of pay for**
10 **each shift changed in the same pay period or the next pay period in**
11 **addition to other compensation owed to the employee.**

12 **“(b) After an employee has been provided written notification of the**
13 **employee’s work schedule, an employer may change the work shift of**
14 **the employee with less than 24 hours’ notice only if the employer**
15 **compensates the employee for four hours at the employee’s regular**
16 **rate of pay for each shift changed in the same pay period or the next**
17 **pay period in addition to other compensation owed to the employee.**

18 **“(2) Work shift changes by the employer for which additional com-**
19 **penensation must be paid under this section include, but are not limited**
20 **to:**

21 **“(a) Shortening the duration of a work shift;**

22 **“(b) Changing the starting or ending time of a work shift;**

23 **“(c) Increasing the duration of a work shift;**

24 **“(d) Adding a work shift; and**

25 **“(e) Canceling a work shift.**

26 **“(3) An employer shall pay an employee for four hours of work at**
27 **the employee’s regular rate of pay, in addition to other compensation**
28 **owed to the employee, if:**

29 **“(a) The employee is required to contact the employer or be avail-**
30 **able to be contacted by the employer at any time within 72 hours prior**

1 to the time the employee is expected to report to work to ascertain
2 whether the employee is required to report to work for that shift; or

3 “(b) An employee is required to work one or more work shifts in
4 one 24-hour period in which the hours worked are not consecutive. For
5 purposes of this paragraph, a work break of less than one hour is not
6 an interruption of consecutive hours of the work shift.

7 “(4) An employer may not require an employee to search for or find
8 a replacement employee to work any hours of the employee’s work
9 schedule that the employee is unable to work.

10 “(5) This section does not apply to:

11 “(a) Salaried employees;

12 “(b) A work shift change that results from an employee working a
13 shift in place of another employee, if the work shift change is agreed
14 to by both employees; or

15 “(c) A work shift change made at the request of an employee, in-
16 cluding, but not limited to, a request:

17 “(A) To work a work shift other than the shift scheduled by the
18 employer;

19 “(B) To use sick leave, vacation leave, personal time off, paid time
20 off or any other paid or unpaid leave to which the employee is entitled
21 under a policy of the employer; or

22 “(C) To use leave required by law.

23 “SECTION 7. The Commissioner of the Bureau of Labor and In-
24 dustries has the same enforcement powers with respect to the rights
25 established under sections 2 to 7 of this 2015 Act as are established
26 under ORS chapters 652 and 653.

27 “SECTION 8. ORS 653.060 is amended to read:

28 “653.060. (1) An employer may not discharge or in any other manner dis-
29 criminate against an employee because:

30 “(a) The employee has made a complaint that the employee has not been

1 paid wages in accordance with ORS 653.010 to 653.261.

2 “(b) The employee has caused to be instituted or is about to cause to be
3 instituted any proceedings under or related to ORS 653.010 to 653.261.

4 “(c) The employee has testified or is about to testify in any such pro-
5 ceedings.

6 **“(d) The employee has requested or discussed a flexible or predict-
7 able work schedule or a work schedule change under section 3 of this
8 2015 Act, or has made a complaint that the employer has violated the
9 provisions of section 3 to 6 of this 2015 Act.**

10 “(2) A violation of this section is an unlawful employment practice under
11 ORS chapter 659A. A person unlawfully discriminated against under this
12 section may file a complaint under ORS 659A.820 with the Commissioner of
13 the Bureau of Labor and Industries.”.

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