



OREGON
ASSOCIATION OF
NURSERIES

Testimony before the Senate Committee on Workforce and General Government

Senate Bill 1587 (Wage Theft)

By Jeff Stone, Executive Director

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Chairman Dembrow, Vice-Chair Thatcher, members of the committee, my name is Jeff Stone and I serve as the Executive Director of the Oregon Association of Nurseries. Thank you for the opportunity to weigh in on Senate Bill 1587 relating to wage theft.

The Economic Footprint of the Nursery and Greenhouse Industry

The nursery and greenhouse industry is the state's second largest agricultural sector, and is finally seeing a resurgence following years of significant economic declines during and after the great recession. Oregon's nursery industry ranks third in the nation, with over \$830 million in sales annually to customers in Oregon, the rest of the United States, and abroad. In fact, nearly 75% of the nursery stock grown in our state leaves our borders – with over half reaching markets east of the Mississippi River. We send ecologically friendly green products out of the state, and bring traded sector dollars back to Oregon.

Nursery association members represent wholesale plant growers, Christmas tree growers, retailers, and greenhouse operators. Our members are located throughout the state, with our largest nursery growing operations found in Clackamas, Marion, Washington, Yamhill and Multnomah Counties.

The Oregon legislature passed wage enforcement in 2007

We were proud of the work done in the 2007 Oregon Legislative Session on wage enforcement. **House Bill 2258** created a clear deadline by which employers must pay unpaid wages that are not the subject of a dispute. Well defined protections for the rights of workers along with a reasoned process for employers were strength of this bill. The bill did not create, like Senate Bill 1587 does, unchecked Bureau of Labor and Industries (BOLI) enforcement action funding through the Wage Security Fund, bonding provisions and legal exposure to private right of action. Wage theft is already illegal. No bill is going to make it “extra” illegal.

Oregon employers abide by the law

A concerning theme through the “wage theft” debate is the implied dishonesty by employers and an inherent desire to not compensate hard working employees. No responsible Oregon employer condones cheating workers of their wages. The Nursery and Greenhouse industry is proud of its long heritage in being an industry that inspires growth of plants and a workforce that is year-round. It is important to recognize the investment we have made as an industry with our employees, and they in us, to train a skilled workforce that is a cornerstone of our success. Our employees do hard, manual labor and are craftsmen in plant production.

Several elements of SB 1587 make the bill untenable

The association is concerned over the new legal and regulatory burdens SB 1587 would impose.

1. The bill would create a new private right of action against employers for not providing time and pay records upon request. This is unnecessary, as existing law provides avenues for legitimate records requests, and protects employers from speculative fishing expeditions by plaintiff’s attorneys. This bill unnecessarily tips the balance toward the employee regardless of the validity of the claim.
2. We are concerned that the bill unfairly penalizes employers for errors well beyond the current statute of limitations. While errors may occur, exposing employers to increased legal liability and administrative burdens goes beyond reasonable fairness. Issues surrounding wage claims should be promptly addressed – by both employers and employees alike.
3. The most galling of the elements in SB 1587 is the section that allows BOLI unfettered access to the Wage Security Fund, which is an employer paid program to make sure workers receive payment for hours worked if the employer goes bankrupt. We believe that it is important for BOLI to maintain enforcement capacity on critical issues. But this fund was never meant to be a blank check for BOLI enforcement actions.

Instead of a bill, let’s bring people together

There is little disagreement that employers and employees believe that workers should be paid what they are owed in a timely manner. Employers who take advantage of their workers should be prosecuted to the full extent of the law. The duress realized by employees who do not receive pay for work they perform is real and it impacts families. But, it is wrong to pass a bill that penalizes all Oregon employers for the bad acts of a small number of unscrupulous employers.

Wage enforcement is critical. There should be a clear process that leads to undeniable rules for fair treatment and payment to hard working employees. Instead of SB 1587, the legislature should pull together groups who are invested in creating a solution to any issues missed with the forward looking legislation approved in 2007. SB 1587 creates a more litigious system and impugns the integrity of employers who work hard every day to provide a product or service and employ dedicated Oregonians. In its current form, the OAN opposes SB 1587 and would respectfully urge committee members to vote no.