

D R A F T

SUMMARY

Establishes minimum wage for tipped employee of not less than \$10 per hour if employee earns at least \$5 per hour more than minimum wage otherwise required by law.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to tipped employees; creating new provisions; amending ORS
3 653.035; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and make a part**
6 **of ORS 653.010 to 653.261.**

7 **SECTION 2. (1) For the purpose of this section, a “tipped**
8 **employee” is an employee who earns tips that average, for the pay**
9 **period for which wages are computed, an hourly rate of at least the**
10 **total of:**

11 **(a) The minimum wage the employer would otherwise be required**
12 **to pay the employee under ORS 653.025; and**

13 **(b) \$5.**

14 **(2) Regardless of an employer’s location in this state, an employer**
15 **may not employ or agree to employ any tipped employee at wages**
16 **computed at a rate lower than \$10 for each hour of work time that the**
17 **tipped employee is gainfully employed.**

18 **(3) An employer may subsidize an employee’s earnings to render the**
19 **employee a tipped employee under this section.**

20 **(4) This section does not negate provisions under ORS 652.020 or the**

1 **rules of the Commissioner of the Bureau of Labor and Industries is-**
2 **sued under ORS 653.030 and 653.261.**

3 **SECTION 3.** ORS 653.035 is amended to read:

4 653.035. (1) Employers may deduct from the minimum wage to be paid
5 employees under ORS 653.025, 653.030 or 653.261, the fair market value of
6 lodging, meals or other facilities or services furnished by the employer for
7 the private benefit of the employee.

8 (2) Employers may include commission payments to employees as part of
9 the applicable minimum wage for any pay period in which the combined wage
10 and commission earnings of the employee will comply with ORS 653.010 to
11 653.261. In any pay period where the combined wage and commission pay-
12 ments to the employee do not add up to the applicable minimum wage under
13 ORS 653.010 to 653.261, the employer shall pay the minimum rate as pre-
14 scribed in ORS 653.010 to 653.261.

15 *[(3) Employers, including employers regulated under the federal Fair Labor*
16 *Standards Act, may not include any amount received by employees as tips in*
17 *determining the amount of the minimum wage required to be paid by ORS*
18 *653.010 to 653.261.]*

19 **SECTION 4.** **This 2017 Act being necessary for the immediate pres-**
20 **ervation of the public peace, health and safety, an emergency is de-**
21 **clared to exist, and this 2017 Act takes effect on its passage.**

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