



Support Oregon Sick Time Fixes

SB 779/ HB 2936: Employee Count

SB 454 (2015) exempts parents, spouses and children of employers from the employee threshold for Oregon Sick Time. However, under recent interpretations, if an owner issues himself or herself a W-2 for taxation purposes, or to their family members, they are counted the same as any other employee. This will likely push many unsuspecting family businesses over the Oregon Sick Time threshold from unpaid to paid sick leave. We believe this interpretation is beyond the bounds of Legislative intent as expressed in 2015.

SB 779 and HB 2936 clarify that family members and business owners are exempt from the employee count for the purposes of paid sick time—in line with Unemployment Insurance and Oregon worker's compensation. This fix will assist small and mid-sized family businesses working to comply with Oregon Sick Time.

HB 2966: Employer Location

SB 454 (2015) and subsequent rules failed to clarify that a business with operations within the city of Portland on a temporary basis (i.e. a farmer's market stand) is not subject to the six-employee threshold for determining whether sick time will be paid or unpaid.

HB 2966 clarifies that farms/ businesses located outside of the City of Portland are eligible for Oregon Sick Time, not Portland Sick Time.

Piece Rate (SB 972, HB 3233)

Recent rule interpretations depart from legislative intent and SB 454 by requiring farmers (and other industries that pay by the piece) to average employees' earnings over a pay period to calculate the "regular rate of pay" for piece rate employees. SB 454, Section 3(5)(c)(B) states: *"For an employee employed on a commission or piece-rate basis by an employer that employs 10 or more employees working anywhere in this state, the employer shall pay the employee for accrued sick time used at the employee's regular rate of pay. If the employee is paid on a commission or piece rate basis and does not have a previously established regular rate of pay, the employer shall pay the employee at a rate equal to at least the minimum wage specified in ORS 653.025."*

This is a step backwards from BOLI technical assistance in April 2016 and forces many family farmers into a scenario where workforce availability is uncertain (at best) at the critical time of harvest. Under a piece-rate pay system, workers have the ability to earn more than the stated hourly rate, based on a 'productivity incentive.' Unfortunately, this recent interpretation runs counter to this logic, requiring that employers pay a 'productivity incentive' to employees taking their paid sick days.

SB 972 and HB 3233 clarify that unless the employee has a regular rate of pay (i.e. hourly rate for pruning or laying irrigation pipe), piece rate employees can be paid the state minimum wage.