



## TESTIMONY

House Committee on Business & Labor

May 24, 2017

OFB Supports SB 299-A and the -A4 amendment

### Section 1(3)(b): Employer Location

SB 454 (2015) 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.

**SB 299-A clarifies that certain businesses located outside of the City of Portland, but with seasonal operations within the city, are eligible for Oregon Sick Time not Portland Sick Time. This narrowly applies to seasonal farmer's market stands and temporary construction trailers.**

### Section 2(2)(c-d): Employee Count

SB 454 (2015) exempted 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 pushes many family businesses over the threshold from unpaid to paid sick leave.

**The -A4 amendment clarifies that family members and business owners are exempt from the employee count for the purposes of paid sick time. Negotiated language requires that business owners have no less than a 15% ownership interest in the business.**

### Section 2(5)(c)(B-C): Piece Rate

Implementation of SB 454 (2015) requires farmers (and other businesses that pay by the piece) to average employees' earnings over a pay period to calculate the "regular rate of pay" for piece-rate employees who take paid sick leave. This is counter to legislative intent and forces many family farmers into a scenario where workforce availability is uncertain at the critical time of harvest.

**The SB 299-A clarifies that unless the employee has an hourly, weekly or monthly rate of pay (i.e. hourly rate for pruning), piece-rate employees can be paid the state minimum wage.**

### Section 3(1)(a-b): First 40 hours

Employers may provide PTO policies that are more generous than the 40 hours of sick time. The original intent of SB 454 (2015) was that only the first 40 hours of such a policy would be covered by the protections of the Oregon Sick Time law, regardless of what the employee used the time for. That way, employers and employees would not have to track the use of each hour, which is an advantage of a PTO policy.

**SB 299-A clarifies that only the first 40 hours of a PTO policy are covered by the specific protections of the Oregon Sick Time law.**