

# D R A F T

## SUMMARY

Authorizes Commissioner of Bureau of Labor and Industries to require employer that is able to pay but has not paid wages to provide bond for a period of time determined by commissioner or cease conducting business until employer has provided bond. Authorizes commissioner to require employer that has not established or maintained regular payday to provide bond or cease conducting business until employer has provided bond.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to wages; amending ORS 652.125, 652.340 and 652.380; and declaring  
3 emergency.

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

5 **SECTION 1.** ORS 652.125 is amended to read:

6 652.125. (1) If, upon complaint by an employee, and after investigation, it  
7 appears to the Commissioner of the Bureau of Labor and Industries that an  
8 employer [*is failing to pay wages within five days of a payday scheduled by*  
9 *the employer,*] **has failed to establish or maintain a regular payday as**  
10 **required by ORS 652.120**, the commissioner may require the employer to  
11 [*give a bond in such amount as*] **provide a bond in an amount that** the  
12 commissioner determines necessary, with sufficient surety, to [*assure*] **ensure**  
13 timely payment of wages due employees for [*such*] **a** future period [*as*] **that**  
14 the commissioner considers appropriate. In lieu of a bond, the commissioner  
15 may accept a letter of credit from an issuer approved by the commissioner,  
16 upon [*such*] terms and conditions and for [*such*] **an** amount [*as*] **that** the  
17 commissioner determines necessary to [*assure*] **ensure** timely payment of  
18 wages for [*such*] **a** future period [*as*] **that** the commissioner determines ap-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 appropriate.

2 (2) If[,] **an employer fails to provide the required bond** within 10 days  
 3 after demand for [*such bond, the employer fails to provide the same, the com-*  
 4 *missioner may commence court action against the employer in the circuit court*  
 5 *of appropriate jurisdiction*] **the bond, the commissioner may commence**  
 6 **an administrative action** to compel the employer to [*furnish such*] **provide**  
 7 **the bond** or cease doing business until the employer has done so. The em-  
 8 ployer shall have the burden of proving the amount [*thereof*] **of the required**  
 9 **bond** to be excessive.

10 (3) If the [*court*] **commissioner** finds that there is just cause for requir-  
 11 ing [*such*] **the bond** and that the [*same*] **bond** is reasonably necessary or  
 12 appropriate to secure the prompt payment of the wages of the employees of  
 13 [*such*] **the employer, the [court shall] commissioner shall issue an order**  
 14 **subject to challenge or appeal under ORS chapter 183 to enjoin [such]**  
 15 **the employer** from doing business in this state until the requirement is met,  
 16 or shall make other, and may make further, **appealable** orders appropriate  
 17 to compel compliance with the requirement.

18 (4) **If an employer fails to comply with the requirements of this**  
 19 **section, the commissioner may commence an action in the circuit**  
 20 **court of appropriate jurisdiction to enforce the provisions of sub-**  
 21 **section (3) of this section.**

22 **SECTION 2.** ORS 652.340 is amended to read:

23 652.340. (1) If upon investigation by the Commissioner of the Bureau of  
 24 Labor and Industries, after taking assignments of any wage claims under  
 25 ORS 652.330, it appears to the commissioner that the employer is represent-  
 26 ing to employees that the employer is able to pay wages for their services  
 27 and that the employees are not being paid for their services, the commis-  
 28 sioner may require the employer to [*give*] **provide** a bond in [*such sum as*]  
 29 **an amount that** the commissioner deems reasonable and adequate in the  
 30 circumstances, with sufficient surety, conditioned that the employer will for  
 31 a [*definite future period not exceeding six months*] **future period that the**

1 **commissioner considers appropriate** conduct business and pay employees  
 2 in accordance with the laws of Oregon.

3 (2) If **an employer fails to provide the required bond** within 10 days  
 4 after demand for [*such bond the employer fails to provide the same, the com-*  
 5 *missioner may commence a suit against the employer in the circuit court of*  
 6 *appropriate jurisdiction*] **the bond, the commissioner may commence an**  
 7 **administrative action** to compel the employer to [*furnish such*] **provide the**  
 8 bond or cease doing business until the employer has done so. The employer  
 9 shall have the burden of proving the amount [*thereof*] **of the required bond**  
 10 to be excessive.

11 (3) If the [*court*] **commissioner** finds that there is just cause for requir-  
 12 ing [*such*] **the bond** and that the [*same*] **bond** is reasonably necessary or  
 13 appropriate to secure the prompt payment of the wages of the employees of  
 14 [*such*] **the employer** and the employer's compliance with ORS 652.310 to  
 15 652.414, the [*court*] **commissioner** shall **issue an order subject to chal-**  
 16 **lenge or appeal under ORS chapter 183 to** enjoin [*such*] **the employer** from  
 17 doing business in this state until the requirement is met, or shall make  
 18 other, and may make further, **appealable** orders appropriate to compel com-  
 19 pliance with the requirement.

20 (4) **If an employer fails to comply with the requirements of this**  
 21 **section, the commissioner may commence an action in the circuit**  
 22 **court of appropriate jurisdiction to enforce the provisions of this sec-**  
 23 **tion.**

24 **SECTION 3.** ORS 652.380 is amended to read:

25 652.380. (1) The remedies provided by ORS 652.310 to 652.414 shall be ad-  
 26 ditional to and not in substitution for and in no manner impair other reme-  
 27 dies and may be enforced simultaneously or consecutively so far as not  
 28 inconsistent with each other.

29 (2) No payment or tender after the filing of a criminal complaint or  
 30 commencement of any proceeding by the Commissioner of the Bureau of La-  
 31 bor and Industries shall affect the liability therein of an employer for ex-

1 penses, or prevent such employer from being subject to fine or forfeitures,  
2 or to the [*giving*] **providing** of bond under ORS 652.340.

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

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