

HB 3458 A STAFF MEASURE SUMMARY

Carrier: Rep. Hack

House Committee On Rules

Minority Report

Action Date: 06/22/17

Action: Do pass with different amendments. (Printed A-Eng.) Minority

Fiscal: No fiscal impact

Revenue: No revenue impact

Report Signers: Rep. Greg Barreto, Rep. Jodi Hack

Prepared By: Erin Seiler, LPRO Analyst

WHAT THE MEASURE DOES:

Directs employer in manufacturing and food processing sectors to pay greater of daily or weekly overtime when employee is eligible for both in same week, as defined, and declares employer compliant with certain overtime laws by doing so. Creates private cause of action to enforce certain overtime laws in manufacturing sector. Authorizes court to award costs, disbursements and reasonable attorney fees to prevailing party for violations of certain overtime laws in manufacturing sector.

ISSUES DISCUSSED:

- Clarifying interaction between two overtime statutes
- Application of overtime statutes to manufacturing sector
- Bureau of Labor and Industries guidance to employers concerning calculation of overtime pay
- March 2017 court ruling concerning calculation of overtime pay
- Undue hardship period exemption available to employers
- Worker protections
- Utilization of voluntary overtime
- Work conditions of manufacturing jobs
- Hardship period exemption for time- or season-sensitive processing of goods
- Legislative history of overtime issue
- Process for seeking undue hardship period exemption

EFFECT OF AMENDMENT:

Replaces measure.

BACKGROUND:

The payment of overtime is required by both federal and state laws. The Bureau of Labor and Industries (BOLI) administers Oregon's wage and hour statutes, including provisions concerning overtime payments, and provides guidance to employers. Oregon law requires most employers to pay overtime to eligible employees at one-and-a-half times the employee's regular pay rate for all hours worked beyond 40 in the workweek. Special rules provide for payment of overtime on a daily basis at government agencies, hospitals, canneries and manufacturing establishments.

Prior to December 2016, BOLI's Wage and Hour Laws Handbook for Oregon Employers advised that employers should calculate overtime wages for hours worked on both a daily basis and a weekly basis, and then pay the greater amount of the two. BOLI's guidance changed after situations arose where employees exceeded both maximums for hours worked on one or more days and in the workweek. BOLI currently advises employers to calculate overtime wages earned for hours worked on both a daily and a weekly basis, and then pay both amounts. In March 2017, the Multnomah County Circuit Court decided a case inconsistent with BOLI's guidance, denying a claim in *Mazahua Reyes, et al. v. Portland Specialty Baking, LLC*, that would have required an employer to pay both daily and weekly amounts for overtime.

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House Bill 3458-MRA modifies daily overtime payment by employers in the manufacturing and food processing sectors to require calculation on both daily and weekly basis and payment of the larger of the two amounts.