

House Bill 3279

Sponsored by Representatives LININGER, SANCHEZ, Senator MANNING JR; Representatives BARKER, GORSEK, GREENLICK, Senators DEMBROW, PROZANSKI

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies definition of "labor contractor" to include property services contractor. Requires property services contractor to register with Commissioner of Bureau of Labor and Industries. Requires commissioner and Department of Consumer and Business Services to adopt rules for property services contractors and farmworker camp operators to provide training to employees with respect to sexual harassment, discrimination and whistleblower protection.

A BILL FOR AN ACT

1
2 Relating to the regulation of property services contractors; creating new provisions; and amending
3 ORS 658.405 and 658.511.

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

5 **SECTION 1.** ORS 658.405 is amended to read:

6 658.405. As used in ORS 658.405 to 658.503 and 658.991 (2) and (3), unless the context requires
7 otherwise:

8 (1) "Agricultural association" means a nonprofit or cooperative association of farmers, growers
9 or ranchers that is incorporated under applicable state law and that acts as a farm labor contractor
10 solely on behalf of members of the association.

11 (2)(a) "Construction labor contractor" includes any person that:

12 (A) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
13 to perform labor for another in construction;

14 (B) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
15 on behalf of an employer engaged in construction; or

16 (C) Enters into a subcontract with another for any of the activities described in subparagraph
17 (A) or (B) of this paragraph.

18 (b) "Construction labor contractor" does not include:

19 (A) A person that has a construction contract with an owner of real property where the con-
20 struction work is performed;

21 (B) A person that has obtained building permits to perform construction work;

22 (C) A person that supplies building materials or machinery, other than manual tools or hand-
23 operated power tools, for a construction project;

24 (D) An owner of real property engaged in the solicitation or recruitment of persons to perform
25 construction work on the owner's property;

26 (E) The Employment Department;

27 (F) A crew leader;

28 (G) Individuals who perform labor pursuant to an agreement for exchanging their own labor or
29 services with each other, provided the work is performed on land owned or leased by the individuals;

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 (H) An educational institution that is recognized as such by the Department of Education;

2 (I) A labor union;

3 (J) A local joint apprenticeship committee formed under ORS 660.135; or

4 (K) A staffing agency whose primary purpose is to provide workers to the client employers of
5 the agency under the terms of a client agreement, if the agency provides workers' compensation
6 coverage for all employees as required by ORS chapter 656 and pays employment and income taxes
7 in accordance with applicable law.

8 (3) "Crew leader" means the member of a group of workers who acts as spokesman for the
9 group, travels with the group from another state into Oregon and performs the same work along
10 with other group members. A crew leader may transport workers from their local place of residence
11 to their place of employment so long as the crew leader does not perform this service for a profit.

12 (4)(a) "Farm labor contractor" includes any person that:

13 (A) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
14 to perform labor for another person to work in forestation or reforestation of lands, including but
15 not limited to the planting, transplanting, tubing, precommercial thinning and thinning of trees and
16 seedlings, the clearing, piling and disposal of brush and slash and other related activities;

17 (B) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs workers
18 to perform labor for another person in the production or harvesting of farm products;

19 (C) Recruits, solicits, supplies or employs workers to gather evergreen boughs, yew bark, bear
20 grass, salal or ferns from public lands for sale or market prior to processing or manufacture;

21 (D) Recruits, solicits, supplies or employs workers on behalf of an employer engaged in these
22 activities;

23 (E) In connection with the recruitment or employment of workers to work in these activities,
24 furnishes board or lodging for such workers;

25 (F) Bids or submits prices on contract offers for those activities; or

26 (G) Enters into a subcontract with another for any of those activities.

27 (b) "Farm labor contractor" does not include:

28 (A) Farmers, including owners or lessees of land intended to be used for the production of tim-
29 ber, their permanent employees, advertising media, platoon leaders or individuals engaged in the
30 solicitation or recruitment of persons for dayhaul work in connection with the growing, production
31 or harvesting of farm products;

32 (B) The Employment Department;

33 (C) A crew leader;

34 (D) An individual who performs work, other than recruiting, supplying, soliciting or employing
35 workers to perform labor for another, alone or only with the assistance of the individual's spouse,
36 son, daughter, brother, sister, mother or father;

37 (E) Individuals who perform labor pursuant to an agreement for exchanging their own labor or
38 services with each other, provided the work is performed on land owned or leased by the individuals;

39 (F) An educational institution that is recognized as such by the Department of Education;

40 (G) A farmer who operates a farmworker camp, regulated under ORS 658.750, who recruits,
41 supplies, solicits or employs workers only for the farmer's own operations, and has farmworkers
42 living in the camp who are employed by another on no more than an incidental basis, and the farmer
43 receives no remuneration by virtue of such incidental employment; or

44 (H) A labor union.

45 **(5)(a) "Property services contractor" includes any person that:**

1 (A) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs
2 workers to perform labor for another person to provide janitorial services or security ser-
3 vices;

4 (B) For an agreed remuneration or rate of pay, recruits, solicits, supplies or employs
5 workers on behalf of an employer to provide janitorial services or security services; or

6 (C) Enters into a subcontract with another for any of the activities described in subpar-
7 agraph (A) or (B) of this paragraph.

8 (b) "Property services contractor" does not include:

9 (A) A person that has a property service contract with an owner of real property where
10 the janitorial or security services are performed;

11 (B) The Employment Department;

12 (C) A crew leader;

13 (D) Individuals who perform labor pursuant to an agreement for exchanging their own
14 labor or services with each other, provided the work is performed on land owned or leased
15 by the individuals;

16 (E) An educational institution that is recognized as such by the Department of Educa-
17 tion;

18 (F) A labor union; or

19 (G) A staffing agency whose primary purpose is to provide workers to the client em-
20 ployers of the agency under the terms of a client agreement, if the agency provides workers'
21 compensation coverage for all employees as required by ORS chapter 656 and pays employ-
22 ment and income taxes in accordance with applicable law.

23 [(5)] (6) "Labor contractor" means a construction labor contractor, [or] a farm labor contractor
24 or a property services contractor.

25 **SECTION 2.** Sections 3 and 4 of this 2017 Act are added to and made a part of ORS 658.405
26 to 658.503.

27 **SECTION 3.** (1) Every property services contractor shall register with the Commissioner
28 of the Bureau of Labor and Industries.

29 (2) The commissioner shall establish, by rule, procedures for the annual registration of
30 property services contractors and the imposition of civil penalties under ORS 183.745.

31 (3) Rules adopted under this section must require that a property services contractor
32 provide the following information to the commissioner:

33 (a) The total number of employees employed by the property services contractor.

34 (b) The physical address of the work location or locations of each employee of the prop-
35 erty services contractor.

36 (c) Demographic data that is voluntarily provided by employees relating to race, sex,
37 sexual orientation, national origin, marital status and age.

38 **SECTION 4.** Rules adopted under ORS 658.750 and section 3 of this 2017 Act shall require
39 that a farmworker camp operator and a property services contractor provide professional
40 training to managers, supervisors and employees:

41 (1) To prevent sexual assault and sexual harassment in the workplace.

42 (2) To prevent discrimination in the workplace and promote cultural competency and
43 respect.

44 (3) To educate the workforce regarding protection for employees who report a violation
45 of a state or federal law, rule or regulation.

1 **SECTION 5.** ORS 658.511 is amended to read:

2 658.511. Nothing in ORS 658.405 to 658.503 affects whether a person is an employee of a **prop-**
3 **erty services contractor, of a** construction labor contractor or of a user of services provided by
4 **a property services contractor or** a construction labor contractor for purposes of a wage claim
5 under ORS chapters 652 and 653 or ORS 658.415.

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