

# Senate Bill 279

Sponsored by Senator ROBLAN, Representative MCKEOWN (at the request of Nancy Faubel) (Pre-session filed.)

## 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**.

Requires that notice of nonpayment of wages or compensation to employer include statement that payment of unpaid wages or compensation to employee within 12 days limits penalty to 100 percent of unpaid wages or compensation owed to employee.

## A BILL FOR AN ACT

1  
2 Relating to notice of nonpayment of wages; amending 652.150.

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

4 **SECTION 1.** ORS 652.150 is amended to read:

5 652.150. (1) Except as provided in subsections (2) and (3) of this section, if an employer willfully  
6 fails to pay any wages or compensation of any employee whose employment ceases, as provided in  
7 ORS 652.140 and 652.145, then, as a penalty for the nonpayment, the wages or compensation of the  
8 employee shall continue from the due date thereof at the same hourly rate for eight hours per day  
9 until paid or until action therefor is commenced. However:

10 (a) In no case shall the penalty wages or compensation continue for more than 30 days from the  
11 due date; and

12 (b) A penalty may not be assessed under this section when an employer pays an employee the  
13 wages the employer estimates are due and payable under ORS 652.140 (2)(c) and the estimated  
14 amount of wages paid is less than the actual amount of earned and unpaid wages, as long as the  
15 employer pays the employee all wages earned and unpaid within five days after the employee sub-  
16 mits the time records.

17 (2)(a) If the employee or a person on behalf of the employee submits a written notice of non-  
18 payment, the penalty may not exceed 100 percent of the employee's unpaid wages or compensation  
19 unless the employer fails to pay the full amount of the employee's unpaid wages or compensation  
20 within 12 days after receiving the notice.

21 (b) If the employee or a person on behalf of the employee fails to submit a written notice of  
22 nonpayment, the penalty may not exceed 100 percent of the employee's unpaid wages or compen-  
23 sation.

24 (c) A written notice of nonpayment must include the estimated amount of wages or compensation  
25 alleged to be owed or an allegation of facts sufficient to estimate the amount owed. Submission of  
26 a written notice of nonpayment that fails to include the estimated amount of wages or compensation  
27 alleged to be owed or an allegation of facts sufficient to estimate the amount owed does not satisfy  
28 the requirement for written notice under this subsection unless the employer has violated ORS  
29 652.610, 652.640 or 653.045.

30 (d) For purposes of determining when an employer has paid wages or compensation under this  
31 subsection, payment occurs on the date the employer delivers the payment to the employee or sends

**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 the payment by first class mail, express mail or courier service.

2 **(e) A written notice of nonpayment must include a clear and unambiguous statement**  
 3 **that if the employer pays the full amount of the employee's unpaid wages or compensation**  
 4 **within 12 days after the employer receives the written notice of nonpayment, the penalty**  
 5 **may not exceed 100 percent of the employee's unpaid wages or compensation.**

6 (3)(a) For purposes of this section, a commission owed to an employee by a business that pri-  
 7 marily sells motor vehicles or farm implements is not due until all of the terms and conditions of  
 8 an agreement between the employer and employee concerning the method of payment of commissions  
 9 are fulfilled. If no such agreement exists, the commission is due with all other earned and unpaid  
 10 wages or compensation as provided in ORS 652.140.

11 (b) Notwithstanding subsection (2) of this section, when there is a dispute between an employer  
 12 and an employee concerning the amount of commission due under paragraph (a) of this subsection,  
 13 if the amount of unpaid commission is found to be less than 20 percent of the amount of unpaid  
 14 commission claimed by the employee, the penalty may not exceed the amount of the unpaid com-  
 15 mission or \$200, whichever is greater.

16 (4) Subsections (2) and (3)(b) of this section do not apply when:

17 (a) The employer has violated ORS 652.140 or 652.145 one or more times in the year before the  
 18 employee's employment ceased; or

19 (b) The employer terminated one or more other employees on the same date that the employee's  
 20 employment ceased.

21 (5) The employer may avoid liability for the penalty described in this section by showing finan-  
 22 cial inability to pay the wages or compensation at the time the wages or compensation accrued.

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