

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
HOUSE BILL 3279**

1 On page 1 of the printed bill, line 3, after “658.405” insert “, 658.412”.

2 Delete lines 5 through 29 and delete pages 2 through 4 and insert:

3 **“SECTION 1.** ORS 658.405 is amended to read:

4 “658.405. As used in ORS 658.405 to 658.503 and 658.991 (2) and (3), unless
5 the context requires otherwise:

6 “(1) ‘Agricultural association’ means a nonprofit or cooperative associ-
7 ation of farmers, growers or ranchers that is incorporated under applicable
8 state law and that acts as a farm labor contractor solely on behalf of mem-
9 bers of the association.

10 “(2)(a) ‘Construction labor contractor’ includes any person that:

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

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

15 “(C) Enters into a subcontract with another for any of the activities de-
16 scribed in subparagraph (A) or (B) of this paragraph.

17 “(b) ‘Construction labor contractor’ does not include:

18 “(A) A person that has a construction contract with an owner of real
19 property where the construction work is performed;

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

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

3 “(D) An owner of real property engaged in the solicitation or recruitment
4 of persons to perform construction work on the owner’s property;

5 “(E) The Employment Department;

6 “(F) A crew leader;

7 “(G) Individuals who perform labor pursuant to an agreement for ex-
8 changing their own labor or services with each other, provided the work is
9 performed on land owned or leased by the individuals;

10 “(H) An educational institution that is recognized as such by the De-
11 partment of Education;

12 “(I) A labor union;

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

14 “(K) A staffing agency whose primary purpose is to provide workers to
15 the client employers of the agency under the terms of a client agreement, if
16 the agency provides workers’ compensation coverage for all employees as
17 required by ORS chapter 656 and pays employment and income taxes in ac-
18 cordance with applicable law.

19 “(3) ‘Crew leader’ means the member of a group of workers who acts as
20 spokesman for the group, travels with the group from another state into
21 Oregon and performs the same work along with other group members. A crew
22 leader may transport workers from their local place of residence to their
23 place of employment so long as the crew leader does not perform this service
24 for a profit.

25 “(4)(a) ‘Farm labor contractor’ includes any person that:

26 “(A) For an agreed remuneration or rate of pay, recruits, solicits, supplies
27 or employs workers to perform labor for another person to work in fore-
28 station or reforestation of lands, including but not limited to the planting,
29 transplanting, tubing, precommercial thinning and thinning of trees and
30 seedlings, the clearing, piling and disposal of brush and slash and other re-

1 lated activities;

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

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

8 “(D) Recruits, solicits, supplies or employs workers on behalf of an em-
9 ployer engaged in these activities;

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

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

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

14 “(b) ‘Farm labor contractor’ does not include:

15 “(A) Farmers, including owners or lessees of land intended to be used for
16 the production of timber, their permanent employees, advertising media,
17 platoon leaders or individuals engaged in the solicitation or recruitment of
18 persons for dayhaul work in connection with the growing, production or
19 harvesting of farm products;

20 “(B) The Employment Department;

21 “(C) A crew leader;

22 “(D) An individual who performs work, other than recruiting, supplying,
23 soliciting or employing workers to perform labor for another, alone or only
24 with the assistance of the individual’s spouse, son, daughter, brother, sister,
25 mother or father;

26 “(E) Individuals who perform labor pursuant to an agreement for ex-
27 changing their own labor or services with each other, provided the work is
28 performed on land owned or leased by the individuals;

29 “(F) An educational institution that is recognized as such by the Depart-
30 ment of Education;

1 “(G) A farmer who operates a farmworker camp, regulated under ORS
2 658.750, who recruits, supplies, solicits or employs workers only for the
3 farmer’s own operations, and has farmworkers living in the camp who are
4 employed by another on no more than an incidental basis, and the farmer
5 receives no remuneration by virtue of such incidental employment; or

6 “(H) A labor union.

7 “(5)(a) ‘Property services contractor’ includes any person that:

8 “(A) For an agreed remuneration or rate of pay, recruits, solicits,
9 supplies or employs workers to perform labor for another person to
10 provide services that include janitorial services;

11 “(B) For an agreed remuneration or rate of pay, recruits, solicits,
12 supplies or employs workers on behalf of an employer to provide ser-
13 vices that include janitorial services; or

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

16 “(b) ‘Property services contractor’ does not include:

17 “(A) The Employment Department;

18 “(B) A crew leader;

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

22 “(D) An educational institution that is recognized as such by the
23 Department of Education; or

24 “(E) A labor union.

25 “[5] (6) ‘Labor contractor’ means a construction labor contractor, [or]
26 a farm labor contractor or a property services contractor.

27 “SECTION 2. Sections 3 and 4 of this 2017 Act are added to and
28 made a part of ORS 658.405 to 658.503.

29 “SECTION 3. (1) Every property services contractor shall be li-
30 censed by the Commissioner of the Bureau of Labor and Industries.

1 **“(2) The commissioner shall establish, by rule, procedures for the**
2 **licensing of property services contractors and the imposition of civil**
3 **penalties under ORS 183.745.**

4 **“(3) Rules adopted under this section must require that a property**
5 **services contractor provide the following information to the commis-**
6 **sioner:**

7 **“(a) The total number of employees employed by the property ser-**
8 **vices contractor who perform janitorial services.**

9 **“(b) The physical address of the work location or locations at which**
10 **janitorial services are provided by an employee of the property services**
11 **contractor.**

12 **“(c) Demographic data that is voluntarily provided by employees**
13 **relating to race, sex, sexual orientation, national origin, marital status**
14 **and age.**

15 **“SECTION 4. Rules adopted under ORS 658.750 and section 3 of this**
16 **2017 Act shall require that a property services contractor provide pro-**
17 **fessional training through or approved by the Bureau of Labor and**
18 **Industries to managers, supervisors and employees:**

19 **“(1) To prevent sexual assault and sexual harassment in the**
20 **workplace.**

21 **“(2) To prevent discrimination in the workplace and promote cul-**
22 **tural competency.**

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

25 **“SECTION 5. ORS 658.412 is amended to read:**

26 **“658.412. The Commissioner of the Bureau of Labor and Industries may**
27 **not issue a license to operate as a labor contractor until an applicant for a**
28 **license has successfully passed a qualifying examination designed to test the**
29 **applicant’s ability, knowledge and proficiency to conduct and manage the**
30 **business of a labor contractor. The examination must also test the**

1 **applicant’s knowledge of an employer’s responsibility to prevent sexual**
2 **assault and sexual harassment.** The commissioner shall prescribe by rule
3 the requirements for and the manner of testing the competency of license
4 applicants.

5 **“SECTION 6.** ORS 658.511 is amended to read:

6 “658.511. Nothing in ORS 658.405 to 658.503 affects whether a person is
7 an employee of a **property services contractor, of a** construction labor
8 contractor or of a user of services provided by a **property services con-**
9 **tractor or** a construction labor contractor for purposes of a wage claim
10 under ORS chapters 652 and 653 or ORS 658.415.”.

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