

Requested by HOUSE COMMITTEE ON BUSINESS AND LABOR

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2193**

1 On page 1 of the printed bill, line 2, after “provisions;” delete the rest  
2 of the line and insert “amending ORS 659A.885 and sections 1 and 2, chapter  
3 591, Oregon Laws 2015; and declaring an emergency.”.

4 Delete lines 5 through 8 and delete pages 2 through 24 and insert:

5 **“SECTION 1. Sections 2 to 13 of this 2017 Act are added to and made**  
6 **a part of ORS chapter 653.**

7 **“SECTION 2. Definitions. As used in sections 2 to 13 of this 2017**  
8 **Act, unless the context requires otherwise:**

9 **“(1) ‘Aggrieved party’ means an employee who suffers tangible or**  
10 **intangible harm due to an employer’s violation of sections 2 to 13 of**  
11 **this 2017 Act.**

12 **“(2) ‘Bona fide business reason’ means:**

13 **“(a) An action that would cause an employer to violate a law, rule,**  
14 **ordinance or regulation;**

15 **“(b) A significant and identifiable burden of additional costs to an**  
16 **employer; or**

17 **“(c) A significant and identifiable detrimental effect on the**  
18 **employer’s ability to meet organizational demands, including:**

19 **“(A) A significant inability of the employer, despite the employer’s**  
20 **best efforts, to reorganize work among existing employees;**

21 **“(B) A significant detrimental effect on business performance;**

1       **“(C) A significant inability to meet customer needs or demands; or**

2       **“(D) A significant insufficiency of work during the periods an em-**  
3 **ployee proposes to work.**

4       **“(3)(a) ‘Employee’ has the meaning given that term in ORS 652.310.**

5       **“(b) ‘Employee’ does not include a salaried employee described un-**  
6 **der ORS 653.020 (3).**

7       **“(4) ‘Employer’ means an employer described in section 3 (1) of this**  
8 **2017 Act.**

9       **“(5) ‘Food services establishment’ means the fixed point of sale lo-**  
10 **cation for establishments defined under the North American Industry**  
11 **Classification System as food services and drinking places.**

12       **“(6) ‘Franchise’ has the meaning provided in ORS 650.005.**

13       **“(7) ‘Franchisor’ has the meaning provided in ORS 650.005.**

14       **“(8) ‘Full service restaurant’ means a food service establishment**  
15 **that regularly provides table service to customers.**

16       **“(9) ‘Hospitality establishment’ has the meaning provided in the**  
17 **North American Industry Classification System for hotels and motels.**

18       **“(10) ‘Interactive process’ means a timely, good faith process that**  
19 **includes a discussion between the employer and the employee for the**  
20 **purpose of arriving at a mutually beneficial arrangement for a work**  
21 **schedule that meets the needs of the employee and the employer. The**  
22 **discussion may include the proposal of alternatives by the employee**  
23 **and the employer.**

24       **“(11) ‘On-call shift’ means any time that an employer requires an**  
25 **employee to be available to work or to contact the employer or wait**  
26 **to be contacted by the employer for the purpose of determining**  
27 **whether the employee must report to work. During the shift, on-call**  
28 **status applies regardless of whether the employee is located on or off**  
29 **the employer’s premises.**

30       **“(12) ‘Regular rate of pay’ means a regular hourly rate as defined**

1 by the Commissioner of the Bureau of Labor and Industries.

2 “(13) ‘Retail establishment’ has the meaning provided in the North  
3 American Industry Classification System for retail trade.

4 “(14) ‘Successor’ means an entity that is substantially the same  
5 entity as the predecessor as determined by the following criteria, ex-  
6 cept that a determination of whether or not a successor in interest  
7 exists is not determined by the application of any single criterion, but  
8 rather the entire circumstances are to be viewed in their totality:

9 “(a) Substantial continuity of the same business operations;

10 “(b) Use of the same plant;

11 “(c) Continuity of the work force;

12 “(d) Similarity of jobs and working conditions;

13 “(e) Similarity of supervisory personnel;

14 “(f) Similarity in machinery, equipment and production methods;

15 “(g) Similarity of products or services; and

16 “(h) The ability of the predecessor to provide relief.

17 “(15) ‘Time of hire’ means the period after an offer of employment  
18 and acceptance of the offer of employment and on or before the com-  
19 mencement of employment.

20 “(16) ‘Wages’ means all compensation for performance of service  
21 by an employee for an employer, whether paid by the employer or  
22 another person, including the cash value of all compensation paid in  
23 a medium other than cash.

24 “(17) ‘Work schedule’ means the hours, days and times, including  
25 regular work shifts and on-call shifts, when an employee is required  
26 by an employer to perform duties of employment for which the em-  
27 ployee will receive compensation.

28 “(18) ‘Work shift’ means the specific and consecutive hours the  
29 employer requires the employee to work.

30 “(19) ‘Work week’ means a fixed period of time established by an

1 employer that reflects a regularly recurring period of 168 hours or  
2 seven consecutive 24-hour periods. A work week may begin on any day  
3 of the week and any hour of the day and need not coincide with a  
4 calendar week.

5 “(20) ‘Writing’ means a printed or printable communication in  
6 physical or electronic format including a communication that is  
7 transmitted through electronic mail, text message or a computer sys-  
8 tem or is otherwise sent and stored electronically.

9 “(21) ‘Year’ means any fixed, consecutive 12-month period of time.

10 **“SECTION 3. Large employers in certain employment sectors. (1)**  
11 **Sections 2 to 13 of this 2017 Act apply to an employee employed by an**  
12 **employer, as defined in ORS 652.310, or a successor to an employer,**  
13 **that is also one or more of the following:**

14 “(a) A retail establishment that employs 100 or more employees in  
15 this state, including but not limited to a chain, an integrated enter-  
16 prise or a franchise associated with a franchisor or network of fran-  
17 chises that employs more than 100 employees in this state.

18 “(b) A hospitality establishment that employs 100 or more employ-  
19 ees in this state, including but not limited to a chain, an integrated  
20 enterprise or a franchise associated with a franchisor or network of  
21 franchises that employs more than 100 employees in this state.

22 “(c) A food services establishment that employs 100 or more em-  
23 ployees in this state, including but not limited to a chain, an inte-  
24 grated enterprise or a franchise associated with a franchisor or  
25 network of franchises that employs more than 100 employees in this  
26 state. In addition to employing 100 or more employees in this state, a  
27 food service establishment that is a full service restaurant also must  
28 have 40 or more full service restaurant locations nationwide, including  
29 but not limited to locations that are a part of a chain, integrated en-  
30 terprise or franchise where the franchisor owns or operates 40 or more

1 such establishments in aggregate.

2 “(2) To determine the number of employees employed by an em-  
3 ployer, the calculation shall be based upon the number of employees  
4 employed on each working day during each of 20 or more work weeks  
5 in the current calendar year or immediately preceding calendar year.

6 “(3) Separate entities that form an integrated enterprise are con-  
7 sidered a single employer under this section. Separate entities will be  
8 considered an integrated enterprise and a single employer under this  
9 section where a separate entity controls the operation of another en-  
10 tity. The factors to consider in determining whether separate entities  
11 form an integrated enterprise include, but are not limited to:

12 “(a) The degree of interrelation between the operations of multiple  
13 entities;

14 “(b) The degree to which the entities share common management;

15 “(c) The degree to which the entities have centralized control of  
16 labor relations; and

17 “(d) The degree of common ownership or financial control over the  
18 entities.

19 “(4) The Commissioner of the Bureau of Labor and Industries shall  
20 adopt rules in accordance with the provisions of subsection (3) of this  
21 section regarding how to determine when separate entities form an  
22 integrated enterprise for the purposes of this section.

23 “(5) Sections 2 to 13 of this 2017 Act do not apply to an employee  
24 of a public employer, as defined in ORS 243.650, including Oregon  
25 Health and Science University.

26 “SECTION 4. Good faith estimate of work schedule. (1) An employer  
27 shall provide a new employee with a written good faith estimate of the  
28 employee’s work schedule at the time of hire. The good faith estimate  
29 shall:

30 “(a) State the average number of hours the employee can expect to

1 work each work week; and

2 “(b) Indicate whether the employee can expect to work on-call  
3 shifts and, if so, set forth an objective standard for when an employee  
4 may be expected to be available to work on-call shifts.

5 “(2) The employer shall revise the good faith estimate for an em-  
6 ployee:

7 “(a) Once every year calculated from the date of the last good faith  
8 estimate; and

9 “(b) When there is a significant change to the employee’s work  
10 schedule due to changes in the employee’s availability or to the  
11 employer’s business needs.

12 “(3) The employer shall initiate an interactive process with the  
13 employee to discuss any significant change from the good faith esti-  
14 mate and, if applicable, state a bona fide business reason for the  
15 change.

16 “(4) The employer shall include the good faith estimate in English  
17 and in the employee’s primary language.

18 “SECTION 5. Advance notice of work schedule. (1) An employer  
19 shall provide an employee with a work schedule in writing at least 14  
20 calendar days before the first day of the work schedule.

21 “(2) The employer shall post the written work schedule in a con-  
22 spicuous and accessible location, in English and in the predominant  
23 language of the employees at the particular workplace.

24 “(3) The employer shall provide a new employee at time of hire, or  
25 an existing employee upon returning to work after a leave of absence,  
26 with a written work schedule that runs through the last date of the  
27 posted work schedule in effect at time of hire or date of return to  
28 work.

29 “(4) The written work schedule shall include all work shifts and  
30 on-call shifts for the work period.

1       “(5) If the employer requests changes to the written work schedule  
2 after the advance notice required in this section:

3       “(a) The employer shall provide the employee with timely notice of  
4 the change by in-person conversation, telephone call, electronic mail,  
5 text message or other accessible electronic or written format; and

6       “(b) The employee may decline any work shifts or on-call shifts not  
7 included in the employee’s written work schedule.

8       “SECTION 6. Right to rest between work shifts. (1) Unless the em-  
9 ployee requests or consents to work such hours, the employer may not  
10 schedule or require the employee to work:

11       “(a) Less than 10 hours after the end of the previous calendar day’s  
12 work shift or on-call shift; or

13       “(b) Less than 10 hours following the end of a work shift or on-call  
14 shift that spanned two calendar days.

15       “(2) The employer shall compensate an employee who works hours  
16 described under subsection (1) of this section at one and one-half times  
17 the employee’s regular rate of pay for each hour in a work shift or  
18 on-call shift that began less than 10 hours after the previous work  
19 shift or on-call shift ended.

20       “(3) An employee compensated as described in subsection (2) of this  
21 section may not be additionally compensated under section 7 of this  
22 2017 Act for work schedule changes.

23       “SECTION 7. Compensation for work schedule changes. (1) An em-  
24 ployer shall provide the following compensation to an employee for  
25 each employer-requested change that occurs to the employee’s written  
26 work schedule without the advance notice required in section 5 of this  
27 2017 Act:

28       “(a) One hour of pay at the employee’s regular rate of pay, in ad-  
29 dition to wages earned, when the employer:

30       “(A) Adds an hour or hours of work to the employee’s work shift;

1 **or**

2 **“(B) Changes the date or start or end time of the employee’s work**  
3 **shift with no loss of hours.**

4 **“(b) No less than one-half times the employee’s regular rate of pay**  
5 **per hour for each scheduled hour the employee does not work when**  
6 **the employer:**

7 **“(A) Subtracts hours from the employee’s work shift before or after**  
8 **the employee reports for duty;**

9 **“(B) Changes the date or start or end time of the employee’s work**  
10 **shift resulting in a loss of work shift hours;**

11 **“(C) Cancels the employee’s work shift; or**

12 **“(D) Schedules the employee for an on-call shift and the employee**  
13 **is not asked to perform work.**

14 **“(2) The requirements for additional compensation in this section**  
15 **do not apply when:**

16 **“(a) An employee mutually agrees with another employee to**  
17 **employee-initiated work shift swaps or coverage. The employer may**  
18 **require that work shift swaps or coverage under this paragraph be**  
19 **preapproved by the employer. The employer may assist employees in**  
20 **finding such arrangements provided that any employer assistance**  
21 **must be limited to helping an employee identify other employees who**  
22 **may be available to provide work shift swaps or coverage and may not**  
23 **include the employer arranging the work shift swap or coverage.**

24 **“(b) An employer requests an employee to work additional hours**  
25 **as the result of another employee’s failure to notify the employer of**  
26 **the other employee’s unavailability to work a work shift or on-call**  
27 **shift within the advance notice period required in section 5 of this 2017**  
28 **Act.**

29 **“(c) An employer requests an employee to work additional hours in**  
30 **order to address present and unanticipated customer needs and:**



1       “(A) The request is made through an in-person group communi-  
2 cation;

3       “(B) The employee is working at the time the request is made;

4       “(C) The additional hours are consecutive to the employee’s current  
5 work shift; and

6       “(D) The employee consents to work the additional hours.

7       “(d) An employee requests changes to the employee’s work sched-  
8 ule, including adding or subtracting hours, and the employee docu-  
9 ments the request in writing.

10       “(e) An employer subtracts hours from an employee’s work sched-  
11 ule for disciplinary reasons for just cause, provided the employer doc-  
12 uments the incident leading to the employee’s discipline in writing.

13       “(f) An employee’s work shift or on-call shift cannot begin or con-  
14 tinue due to threats to employees or property or due to the recom-  
15 mendation of a public official.

16       “(g) Operations cannot begin or continue because public utilities  
17 fail to supply electricity, water or gas or there is a failure in the public  
18 utilities or sewer system.

19       “(h) Operations cannot begin or continue due to natural disaster  
20 or a similar cause not within the employer’s control.

21       “SECTION 8. Pattern or practice of underscheduling. An employer  
22 may not engage in a systemic pattern or practice of significant  
23 underscheduling where the hours that employees actually work are  
24 significantly above the hours in the written work schedule required  
25 under section 5 of this 2017 Act.

26

27                   “NOTICE AND RECORDKEEPING REQUIREMENTS

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29       “SECTION 9. Notice and posting requirements. (1) The Commis-  
30 sioner of the Bureau of Labor and Industries shall create and distrib-

1 **ute a poster giving notice of the rights described in sections 2 to 13**  
2 **of this 2017 Act. The commissioner shall create and distribute the**  
3 **poster in English, Spanish and any other languages that are necessary**  
4 **for employers to comply with this section.**

5 **“(2) An employer shall display the poster in a conspicuous and ac-**  
6 **cessible place at any workplace or job site where any of their employ-**  
7 **ees work. Employers shall display the poster in English and in the**  
8 **predominant language of the employees at the particular workplace.**  
9 **If display of the poster is not feasible, including situations when the**  
10 **employee works remotely or does not have a regular workplace or job**  
11 **site, the employer may provide the poster on an individual basis in an**  
12 **employee’s primary language in physical or electronic format that is**  
13 **reasonably conspicuous and accessible.**

14 **“SECTION 10. Employer recordkeeping. (1) An employer shall retain**  
15 **records that document the employer’s compliance with sections 2 to**  
16 **13 of this 2017 Act, including:**

17 **“(a) Good faith estimates of employee work schedules;**

18 **“(b) Original and modified work schedules, and documentation of**  
19 **the employer’s delivery of the same to each employee pursuant to**  
20 **section 5 of this 2017 Act;**

21 **“(c) Payroll records, including documentation of additional com-**  
22 **penensation paid to an employee under section 6 or 7 of this 2017 Act;**

23 **“(d) Mass communications that are provided to employees about the**  
24 **availability of additional hours;**

25 **“(e) Documentation of an incident leading to employee discipline**  
26 **that results in hours subtracted from the employee’s work schedule;**

27 **“(f) Confirmation from an employee that the employee is not in-**  
28 **terested in accepting additional hours of work; and**

29 **“(g) Other records that are substantially related to compliance with**  
30 **sections 2 to 13 of this 2017 Act.**

1       **“(2) The records listed in this section shall be retained for a period**  
2 **of three years.**

3       **“(3) An employer’s failure to retain adequate records required by**  
4 **this section creates a rebuttable presumption that the employer vio-**  
5 **lated a provision in sections 2 to 13 of this 2017 Act for the employee**  
6 **for whom a record was not retained.**

7

8

## **“RETALIATION**

9

10       **“SECTION 11. Retaliation prohibited. (1) It is an unlawful practice**  
11 **for an employer to:**

12       **“(a) Interfere with, restrain, deny or attempt to deny the exercise**  
13 **of any right protected under sections 2 to 13 of this 2017 Act; or**

14       **“(b) Retaliate or in any way discriminate against an individual with**  
15 **respect to hire or tenure or any other term or condition of employ-**  
16 **ment because the individual has inquired about the provisions of**  
17 **sections 2 to 13 of this 2017 Act.**

18       **“(2) The protections afforded under this section apply to any person**  
19 **who mistakenly but in good faith and with an objectively reasonable**  
20 **belief asserts a right protected by sections 2 to 13 of this 2017 Act.**

21

22

## **“ENFORCEMENT**

23

24       **“SECTION 12. Enforcement, right of action and administrative**  
25 **remedies. (1) An employee asserting a violation of section 11 of this**  
26 **2017 Act may file a complaint with the Commissioner of the Bureau**  
27 **of Labor and Industries under ORS 659A.820 or a civil action as pro-**  
28 **vided in ORS 659A.885.**

29       **“(2) The commissioner has the same enforcement powers with re-**  
30 **spect to the rights established under sections 2 to 13 of this 2017 Act**

1 as are established in ORS chapters 652 and 653.

2 “(3) In addition to any other damages provided by law, the com-  
3 missioner may assess a statutory penalty payable to the aggrieved  
4 party, as follows:

5 “(a) \$500 for the first violation of a provision in sections 2 to 13 of  
6 this 2017 Act.

7 “(b) \$1,000 for any subsequent violation that occurs within 10 years  
8 of the first violation of the provision in sections 2 to 13 of this 2017  
9 Act.

10 “(4) If the commissioner determines that the employer paid the full  
11 remedy due to an aggrieved party, not including any statutory penalty,  
12 within 14 days of service of an order, the commissioner shall waive 50  
13 percent of the amount of any statutory penalty imposed by order un-  
14 der this section.

15

16 **“LIMITS TO LEGISLATIVE INTENT**

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18 **“SECTION 13.** Nothing in sections 2 to 13 of this 2017 Act or the  
19 amendments to ORS 659A.885 by section 14 of this 2017 Act is intended  
20 to:

21 **“(1) Limit employee rights or protections otherwise provided by law;**

22 **“(2) Create a contractual right for an at-will employee; or**

23 **“(3) Create an additional remedy for an employee if a remedy equal**  
24 **to or better than a remedy in section 6 or 7 of this 2017 Act is required**  
25 **by a collective bargaining agreement or other contract.**

26

27 **“ACTION FOR RETALIATION**

28

29 **“SECTION 14.** ORS 659A.885, as amended by section 5, chapter 73,  
30 Oregon Laws 2016, is amended to read:

1 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-  
2 tice specified in subsection (2) of this section may file a civil action in cir-  
3 cuit court. In any action under this subsection, the court may order  
4 injunctive relief and any other equitable relief that may be appropriate, in-  
5 cluding but not limited to reinstatement or the hiring of employees with or  
6 without back pay. A court may order back pay in an action under this sub-  
7 section only for the two-year period immediately preceding the filing of a  
8 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-  
9 bor and Industries, or if a complaint was not filed before the action was  
10 commenced, the two-year period immediately preceding the filing of the  
11 action. In any action under this subsection, the court may allow the pre-  
12 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-  
13 cept as provided in subsection (3) of this section:

14 “(a) The judge shall determine the facts in an action under this sub-  
15 section; and

16 “(b) Upon any appeal of a judgment in an action under this subsection,  
17 the appellate court shall review the judgment pursuant to the standard es-  
18 tablished by ORS 19.415 (3).

19 “(2) An action may be brought under subsection (1) of this section alleg-  
20 ing a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237  
21 (2), 475B.233, 476.574, 652.355, 653.060, 653.601 to 653.661, 659.852, 659A.030,  
22 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103  
23 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218,  
24 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277,  
25 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320,  
26 659A.355, 659A.421, 653.547 or 653.549 **or section 11 of this 2017 Act.**

27 “(3) In any action under subsection (1) of this section alleging a violation  
28 of ORS 25.337, 25.424, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,  
29 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228,  
30 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.421, 653.547 or

1 653.549:

2 “(a) The court may award, in addition to the relief authorized under  
3 subsection (1) of this section, compensatory damages or \$200, whichever is  
4 greater, and punitive damages;

5 “(b) At the request of any party, the action shall be tried to a jury;

6 “(c) Upon appeal of any judgment finding a violation, the appellate court  
7 shall review the judgment pursuant to the standard established by ORS  
8 19.415 (1); and

9 “(d) Any attorney fee agreement shall be subject to approval by the court.

10 “(4) In any action under subsection (1) of this section alleging a violation  
11 of ORS 652.355 or 653.060, the court may award, in addition to the relief  
12 authorized under subsection (1) of this section, compensatory damages or  
13 \$200, whichever is greater.

14 “(5) In any action under subsection (1) of this section alleging a violation  
15 of ORS 171.120, 476.574 or 659A.218, the court may award, in addition to the  
16 relief authorized under subsection (1) of this section, compensatory damages  
17 or \$250, whichever is greater.

18 “(6) In any action under subsection (1) of this section alleging a violation  
19 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-  
20 thorized under subsection (1) of this section, a civil penalty in the amount  
21 of \$720.

22 “(7) Any individual against whom any distinction, discrimination or re-  
23 striction on account of race, color, religion, sex, sexual orientation, national  
24 origin, marital status or age, if the individual is 18 years of age or older,  
25 has been made by any place of public accommodation, as defined in ORS  
26 659A.400, by any employee or person acting on behalf of the place or by any  
27 person aiding or abetting the place or person in violation of ORS 659A.406  
28 may bring an action against the operator or manager of the place, the em-  
29 ployee or person acting on behalf of the place or the aider or abettor of the  
30 place or person. Notwithstanding subsection (1) of this section, in an action

1 under this subsection:

2 “(a) The court may award, in addition to the relief authorized under  
3 subsection (1) of this section, compensatory and punitive damages;

4 “(b) The operator or manager of the place of public accommodation, the  
5 employee or person acting on behalf of the place, and any aider or abettor  
6 shall be jointly and severally liable for all damages awarded in the action;

7 “(c) At the request of any party, the action shall be tried to a jury;

8 “(d) The court shall award reasonable attorney fees to a prevailing  
9 plaintiff;

10 “(e) The court may award reasonable attorney fees and expert witness fees  
11 incurred by a defendant who prevails only if the court determines that the  
12 plaintiff had no objectively reasonable basis for asserting a claim or no  
13 reasonable basis for appealing an adverse decision of a trial court; and

14 “(f) Upon any appeal of a judgment under this subsection, the appellate  
15 court shall review the judgment pursuant to the standard established by ORS  
16 19.415 (1).

17 “(8) When the commissioner or the Attorney General has reasonable cause  
18 to believe that a person or group of persons is engaged in a pattern or  
19 practice of resistance to the rights protected by ORS 659A.145 or 659A.421  
20 or federal housing law, or that a group of persons has been denied any of the  
21 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the  
22 commissioner or the Attorney General may file a civil action on behalf of  
23 the aggrieved persons in the same manner as a person or group of persons  
24 may file a civil action under this section. In a civil action filed under this  
25 subsection, the court may assess against the respondent, in addition to the  
26 relief authorized under subsections (1) and (3) of this section, a civil penalty:

27 “(a) In an amount not exceeding \$50,000 for a first violation; and

28 “(b) In an amount not exceeding \$100,000 for any subsequent violation.

29 “(9) In any action under subsection (1) of this section alleging a violation  
30 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing

1 law, when the commissioner is pursuing the action on behalf of an aggrieved  
2 complainant, the court shall award reasonable attorney fees to the commis-  
3 sioner if the commissioner prevails in the action. The court may award rea-  
4 sonable attorney fees and expert witness fees incurred by a defendant that  
5 prevails in the action if the court determines that the commissioner had no  
6 objectively reasonable basis for asserting the claim or for appealing an ad-  
7 verse decision of the trial court.

8 “(10) In an action under subsection (1) or (8) of this section alleging a  
9 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-  
10 ing law:

11 “(a) ‘Aggrieved person’ includes a person who believes that the person:

12 “(A) Has been injured by an unlawful practice or discriminatory housing  
13 practice; or

14 “(B) Will be injured by an unlawful practice or discriminatory housing  
15 practice that is about to occur.

16 “(b) An aggrieved person in regard to issues to be determined in an action  
17 may intervene as of right in the action. The Attorney General may intervene  
18 in the action if the Attorney General certifies that the case is of general  
19 public importance. The court may allow an intervenor prevailing party costs  
20 and reasonable attorney fees at trial and on appeal.

21 **“SECTION 15.** Section 1, chapter 591, Oregon Laws 2015, is amended to  
22 read:

23 **“Sec. 1.** (1) As used in this section:

24 “(a) ‘Enact’ includes but is not limited to adopt, amend, refer or pass with  
25 a delayed operative or effective date.

26 “(b) ‘Local government’ includes a county, city, district or other public  
27 corporation, authority or entity organized and existing under statute or city  
28 or county charter.

29 “(c) ‘Work schedule’ means the days and times during which an employee  
30 is required by an employer to perform the duties for which the employee will



1 receive compensation. ‘Work schedule’ does not include employee time off for  
2 medical reasons or sick time.

3 “(2) The State of Oregon preempts all charter and statutory authority of  
4 local governments to enact a requirement relating to work schedules before  
5 [the date of adjournment sine die of the 2017 regular session of the Legislative  
6 Assembly] **July 1, 2022.**

7 “(3) Notwithstanding subsection (2) of this section, a local government  
8 may set work schedule requirements:

9 “(a) For public employers; and

10 “(b) In specifications for public contracts or subcontracts entered into by  
11 the local government.

12 “**SECTION 16.** Section 2, chapter 591, Oregon Laws 2015, is amended to  
13 read:

14 “**Sec. 2.** Section 1 [of this 2015 Act], **chapter 591, Oregon Laws 2015,** is  
15 repealed on [August 31, 2017] **July 1, 2022.**

16

17 **“OPERATIVE DATE**

18

19 “**SECTION 17.** (1) **Sections 2 to 13 of this 2017 Act and the amend-**  
20 **ments to ORS 659A.885 by section 14 of this 2017 Act become operative**  
21 **on July 1, 2018.**

22 “(2) **The Commissioner of the Bureau of Labor and Industries may**  
23 **take any action before the operative date specified in subsection (1)**  
24 **of this section that is necessary to enable the commissioner to exer-**  
25 **cise, on and after the operative date specified in subsection (1) of this**  
26 **section, the duties, functions and powers of the commissioner pursu-**  
27 **ant to sections 3, 9 and 12 of this 2017 Act.**

28

29 **“CAPTIONS**

30

1       **“SECTION 18. The unit and section captions used in this 2017 Act**  
2       **are provided only for the convenience of the reader and do not become**  
3       **part of the statutory law of this state or express any legislative intent**  
4       **in the enactment of this 2017 Act.**

5

6

**“EMERGENCY CLAUSE**

7

8       **“SECTION 19. This 2017 Act being necessary for the immediate**  
9       **preservation of the public peace, health and safety, an emergency is**  
10       **declared to exist, and this 2017 Act takes effect on its passage.”.**

11

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