

Requested by Representative HOLVEY

**PROPOSED AMENDMENTS TO
HOUSE BILL 3458**

1 On page 1 of the printed bill, line 2, after the second semicolon delete the
2 rest of the line and delete line 3 and insert “and amending ORS 652.010,
3 652.020, 652.355, 652.990, 653.060, 653.256, 653.261, 653.265 and 659A.885.”.

4 Delete lines 5 through 27 and delete pages 2 through 7 and insert:

5 **“SECTION 1.** ORS 652.020 is amended to read:

6 **“652.020. (1) As used in this section:**

7 **“(a) ‘Perishable product’ means any product that may spoil, dete-**
8 **riorate or undergo other material changes that render it unsuitable for**
9 **the use for which it was produced. ‘Perishable product’ includes agri-**
10 **cultural crops, meat and fish.**

11 **“(b) ‘Undue hardship period’ means the period of time during which**
12 **perishable product must be processed after harvesting, slaughter or**
13 **catch.**

14 **“(c) ‘Workweek’ means a fixed period of time established by an**
15 **employer that reflects a regularly recurring period of 168 hours or**
16 **seven consecutive 24-hour periods. A workweek may begin on any day**
17 **of the week and any hour of the day and need not coincide with a**
18 **calendar week. The beginning of the workweek may be changed if the**
19 **change is intended to be permanent and is not designed to evade**
20 **overtime requirements.**

21 **“[(1)] (2)(a) [No person shall be] Except as provided in paragraphs (b)**

1 **and (c) of this subsection and subsection (3) of this section, an em-**
2 **ployer may not require or permit an employee** employed in any mill,
3 factory or manufacturing establishment in this state **to work** more than:

4 **“(A) 10 hours in any one day**, *or in sawmills, planing mills, shingle mills*
5 *and logging camps more than*]; **or**

6 **“(B) 55 hours in one workweek.**

7 **“(b) An employer may permit an employee described in paragraph**
8 **(a) of this subsection to work up to 60 hours in one workweek if the**
9 **employee requests or consents in writing to work more than 55 hours**
10 **in the workweek.**

11 **“(c) An employer may permit an employee who has consented to**
12 **work more than 55 hours in one workweek under paragraph (b) of this**
13 **subsection to work up to 80 hours in one workweek during the period**
14 **of time that the employer is eligible for an undue hardship period ex-**
15 **emption under subsection (4) of this section.**

16 **“(d) Except as provided in subsection (3) of this section, an em-**
17 **ployer may not require or permit an employee employed in a sawmill,**
18 **planing mill, shingle mill or logging camp to work more than:**

19 **“(A) Eight hours, exclusive of one hour, more or less, in one day; or**
20 *[more than]*

21 **“(B) 48 hours in one workweek.** *[calendar week, except logging train*
22 *crews, guards, boiler operators and persons engaged in the transportation to*
23 *and from work, and employees when engaged in making necessary repairs, or*
24 *in the case of emergency where life and property are in imminent danger.*
25 *However, employees may work overtime not to exceed three hours in one day,*
26 *conditioned that payment be made for said overtime at the rate of time and*
27 *one-half the regular wage.]*

28 **“(3)(a) An employee may work overtime up to three hours more**
29 **than the applicable limit for the maximum allowable hours of em-**
30 **ployment in one day as described in subsection (2) of this section.**

1 **“(b) An employer shall compensate an employee who works over-**
2 **time hours described in paragraph (a) of this subsection at one and**
3 **one-half times the employee’s regular rate of pay for each overtime**
4 **hour or portion of an hour the employee works.**

5 **“(c) An employer shall calculate an employee’s overtime compen-**
6 **sation on a daily basis under paragraph (b) of this subsection and on**
7 **a weekly basis under ORS 653.261 (1) and pay the greater of the two**
8 **amounts if, during the same workweek, the employee works more**
9 **than:**

10 **“(A) The applicable limit for the maximum allowable hours of em-**
11 **ployment in one day as described in subsection (2) of this section; and**

12 **“(B) Forty hours in one workweek as described in ORS 653.261 (1).**

13 **“(d) An employer that makes an overtime payment to an employee**
14 **pursuant to paragraph (c) of this subsection satisfies the overtime**
15 **compensation requirements under this subsection and ORS 653.261 (1).**

16 **“(4)(a) An employer is eligible for an undue hardship period ex-**
17 **emption from the restrictions on work hours under subsection (2)(a)**
18 **and (b) of this section if the employer, in the ordinary course of the**
19 **employer’s business, processes perishable products. The undue hard-**
20 **ship period exemption shall be effective only during an undue hardship**
21 **period. An employer may be eligible for more than one undue hardship**
22 **period exemption in a calendar year. However, the combined total**
23 **duration of the employer’s undue hardship period exemptions may not**
24 **exceed 120 days in a calendar year.**

25 **“(b) To claim an undue hardship period exemption, an employer**
26 **must provide notice of the undue hardship period to the Commissioner**
27 **of the Bureau of Labor and Industries and obtain written consent from**
28 **each employee who the employer will request to work up to 80 hours**
29 **in a workweek during the undue hardship period.**

30 **“(c)(A) The notice the employer sends to the commissioner under**

1 paragraph (b) of this subsection must be in a form prescribed by the
2 commissioner by rule and include a description of the reasons for the
3 undue hardship period, the start and expected end dates of the undue
4 hardship period and any other information required by the commis-
5 sioner.

6 “(B) The employee’s written consent shall be in a form prescribed
7 by the commissioner by rule and include a description of the
8 employer’s reasons for the undue hardship period, the start and ex-
9 pected end dates of the undue hardship period, a statement that the
10 employee consents to working up to 80 hours in a workweek during
11 the undue hardship period, contact information for the Bureau of La-
12 bor and Industries and any other information required by the com-
13 missioner.

14 “(d) An employee’s consent under this subsection to work up to 80
15 hours in one workweek during an undue hardship period is in addition
16 to, and not in lieu of, the employee’s consent under subsection (2)(b)
17 of this section to work more than 55 hours in one workweek.

18 “(e) The commissioner shall adopt rules to implement the pro-
19 visions of this subsection.

20 “(5) An employer may not:

21 “(a) Require any employee employed in a mill, factory or manufac-
22 turing establishment in this state to begin a work shift less than 10
23 hours after the end of the employee’s previous work shift if the
24 employee’s previous work shift totaled eight or more hours, unless the
25 employer requires the employee to work additional hours due to dis-
26 ruptions in business operations caused by a power outage, major
27 equipment breakdown, severe weather or similar emergency outside
28 the employer’s control;

29 “[2)] (b) [No employer shall] Require or permit any [person] employee to
30 work in any place [mentioned] described in this section for more hours than

1 the hours provided for in this section during any day of 24 hours[.];

2 “(c) [*No employer shall permit or suffer*] **Permit** an overseer, superinten-
3 dent or other agent of the employer to violate this section[.];

4 “(d) **Coerce an employee into consenting under subsection (2)(b) of**
5 **this section to work more than 55 hours in one workweek; or**

6 “(e) **Coerce an employee into consenting under subsection (2)(c) of**
7 **this section to work up to 80 hours in one workweek.**

8 “[3] (6) This section does not apply to:

9 “(a) **An employee performing work as a member of a logging train**
10 **crew, as a guard or as a boiler operator;**

11 “(b) **An employee engaged in the transportation of workers to and**
12 **from work;**

13 “(c) [*Persons employed*] **An employee engaged** in the care of quarters
14 or livestock, **the** conducting **of** mess halls, **the** superintendence and direction
15 of work[,], or [*to*] the loading and removal of [*the*] finished forest product[.];
16 **or**

17 “(d) **An employee when engaged in making necessary repairs or in**
18 **the case of emergency where life or property is in imminent danger.**

19 “[4] (7) Subsections [(1) and] (2) to (5) of this section do not apply to
20 employees who are represented by a labor organization for purposes of col-
21 lective bargaining with their employer, provided limits on the required hours
22 of work and overtime payment have been agreed to between the employer and
23 labor organization, or if no agreement is reached, then, for the purposes of
24 this subsection, such limits and payments shall not be deemed to be changed
25 from the previous collective bargaining agreement between the employer and
26 labor organization unless the employees have been locked out, are engaged
27 in a strike or the employer has unilaterally implemented new terms and
28 conditions of employment.

29 “(8)(a) **In addition to any other remedy provided by law, an em-**
30 **ployee has a private cause of action against an employer if the em-**

1 **ployer violates subsection (2) or (3) of this section by requiring the**
2 **employee to work more than:**

3 **“(A) Three hours more than the applicable limit for the maximum**
4 **allowable hours of employment in one day; or**

5 **“(B) The applicable limit for the maximum allowable hours of em-**
6 **ployment in one workweek.**

7 **“(b) If the employee prevails in an action under this section, the**
8 **court shall enter judgment against the employer for:**

9 **“(A) Actual damages or \$3,000 per claim, whichever is greater;**

10 **“(B) Equitable relief; and**

11 **“(C) Liquidated damages in an amount equal to twice the**
12 **employee’s overtime wages earned during the period not allowed under**
13 **subsection (2) or (3) of this section.**

14 **“(c) In an action brought under this subsection, the court may**
15 **award to the prevailing plaintiff costs, disbursements and reasonable**
16 **attorney fees. Any attorney fee agreement is subject to approval by**
17 **the court.**

18 **“(9)(a) Notwithstanding ORS 652.900, in addition to any other pen-**
19 **alty provided by law, the commissioner may assess the following civil**
20 **penalties against an employer that the commissioner determines has**
21 **coerced an employee into consenting to work more than 55 hours in**
22 **one workweek:**

23 **“(A) \$2,000 per violation if the employer coerced an employee into**
24 **consenting under subsection (2)(b) of this section to work up to 60**
25 **hours in one workweek; and**

26 **“(B) \$3,000 per violation if the employer coerced an employee into**
27 **consenting under subsection (2)(c) of this section to work up to 80**
28 **hours in one workweek.**

29 **“(b) Each violation described in paragraph (a) of this subsection is**
30 **a separate and distinct offense. In the case of a continuing violation,**

1 **each week’s continuance is a separate and distinct violation.**

2 **“(c) Civil penalties authorized by this subsection shall be imposed**
3 **in the manner provided in ORS 183.745. All sums collected as penalties**
4 **under this subsection shall be applied and paid over as provided in ORS**
5 **652.900.**

6 **“SECTION 2.** ORS 652.355 is amended to read:

7 **“652.355. (1) An employer may not discharge or in any other manner dis-**
8 **criminate against an employee because:**

9 **“(a) The employee has made a wage claim or discussed, inquired about**
10 **or consulted an attorney or agency about a wage claim[.];**

11 **“(b) The employee has caused to be instituted any proceedings under or**
12 **related to ORS 652.310 to 652.414[.];**

13 **“(c) The employee has testified or is about to testify in any such**
14 **proceedings[.];**

15 **“(d) The employee has inquired about the provisions of ORS 652.020**
16 **or has reported a violation of or filed a complaint related to ORS**
17 **652.020;**

18 **“(e) The employee has declined to consent to work more than 55**
19 **hours in a workweek under ORS 652.020 or 653.265; or**

20 **“(f) The employee has declined to consent to work up to 80 hours**
21 **in a workweek under ORS 652.020 or 653.265.**

22 **“(2) A violation of this section is an unlawful employment practice under**
23 **ORS chapter 659A. A person unlawfully discriminated against under this**
24 **section may file a complaint under ORS 659A.820 with the Commissioner of**
25 **the Bureau of Labor and Industries.**

26 **“SECTION 3.** ORS 653.060 is amended to read:

27 **“653.060. (1) An employer may not discharge or in any other manner dis-**
28 **criminate against an employee because:**

29 **“(a) The employee has [*made a complaint that the employee has not been***
30 ***paid wages in accordance with*] inquired about the provisions of ORS**

1 653.010 to 653.261 **or 653.265 or has reported a violation of or filed a**
2 **complaint related to ORS 653.010 to 653.261 or 653.265.**

3 “(b) The employee has caused to be instituted or is about to cause to be
4 instituted any proceedings under or related to ORS 653.010 to 653.261 **or**
5 **653.265.**

6 “(c) The employee has testified or is about to testify in any such pro-
7 ceedings.

8 “(2) A violation of this section is an unlawful employment practice under
9 ORS chapter 659A. A person unlawfully discriminated against under this
10 section may file a complaint under ORS 659A.820 with the Commissioner of
11 the Bureau of Labor and Industries.

12 **“SECTION 4.** ORS 653.256 is amended to read:

13 “653.256. (1) In addition to any other penalty provided by law, the Com-
14 missioner of the Bureau of Labor and Industries may assess a civil penalty
15 not to exceed \$1,000 against any person that willfully violates ORS 653.025,
16 653.030, 653.045, 653.050, 653.060, 653.261, **653.265**, [or] 653.606, 653.611, 653.616,
17 653.621, 653.626, 653.631 [and] **or** 653.636 [and] **or** section 5, chapter 537,
18 Oregon Laws 2015, or any rule adopted thereunder.

19 “(2) In addition to any other penalty provided by law, the commissioner
20 may assess a civil penalty not to exceed \$1,000 against any person that in-
21 tentiously violates ORS 653.077 or any rule adopted thereunder.

22 “(3) Civil penalties authorized by this section shall be imposed in the
23 manner provided in ORS 183.745.

24 “(4)(a) All sums collected as penalties under this section shall be first
25 applied toward reimbursement of costs incurred in determining the vio-
26 lations, conducting hearings under this section and addressing and collecting
27 the penalties.

28 “(b) The remainder, if any, of the sums collected as penalties under sub-
29 section (1) of this section shall be paid over by the commissioner to the De-
30 partment of State Lands for the benefit of the Common School Fund of this

1 state. The department shall issue a receipt for the money to the commis-
2 sioner.

3 “(c) The remainder, if any, of the sums collected as penalties under sub-
4 section (2) of this section shall be paid over by the commissioner to the De-
5 partment of Human Services for the benefit of the Breastfeeding Mother
6 Friendly Employer Project. The department shall issue a receipt for the
7 moneys to the commissioner.

8 **“SECTION 5.** ORS 653.261 is amended to read:

9 “653.261. (1)(a) The Commissioner of the Bureau of Labor and Industries
10 may adopt rules prescribing such minimum conditions of employment, ex-
11 cluding minimum wages, in any occupation as may be necessary for the
12 preservation of the health of employees. The rules may include, but are not
13 limited to, minimum meal periods and rest periods, and maximum hours of
14 work, but not less than eight hours per day or 40 hours per [*week*]
15 **workweek**; however, after 40 hours of work in one [*week*] **workweek** over-
16 time may be paid, but in no case at a rate higher than one and one-half times
17 the regular rate of pay of the employees when computed without benefit of
18 commissions, overrides, spiffs and similar benefits.

19 **“(b) As used in this subsection, ‘workweek’ means a fixed period**
20 **of time established by an employer that reflects a regularly recurring**
21 **period of 168 hours or seven consecutive 24-hour periods. A workweek**
22 **may begin on any day of the week and any hour of the day and need**
23 **not coincide with a calendar week. The beginning of the workweek**
24 **may be changed if the change is intended to be permanent and is not**
25 **designed to evade overtime requirements.**

26 “[*(2) Nothing contained in ORS 653.010 to 653.261 shall be construed to*
27 *confer authority upon the commissioner to regulate the hours of employment*
28 *of employees engaged in production, harvesting, packing, curing, canning,*
29 *freezing or drying any variety of agricultural crops, livestock, poultry or*
30 *fish.*]

1 “[(3)] (2) Rules adopted by the commissioner pursuant to subsection (1)
2 of this section do not apply to individuals employed by this state or a poli-
3 tical subdivision or quasi-municipal corporation thereof if other provisions
4 of law or collective bargaining agreements prescribe rules pertaining to
5 conditions of employment referred to in subsection (1) of this section, in-
6 cluding meal periods, rest periods, maximum hours of work and overtime.

7 “[(4)] (3) Rules adopted by the commissioner pursuant to subsection (1)
8 of this section regarding meal periods and rest periods do not apply to nurses
9 who provide acute care in hospital settings if provisions of collective bar-
10 gaining agreements entered into by the nurses prescribe rules concerning
11 meal periods and rest periods.

12 “[(5)(a)] (4)(a) The commissioner shall adopt rules regarding meal periods
13 for employees who serve food or beverages, receive tips and report the tips
14 to the employer.

15 “(b) In rules adopted by the commissioner under paragraph (a) of this
16 subsection, the commissioner shall permit an employee to waive a meal pe-
17 riod. However, an employer may not coerce an employee into waiving a meal
18 period.

19 “(c) Notwithstanding ORS 653.256 (1), in addition to any other penalty
20 provided by law, the commissioner may assess a civil penalty not to exceed
21 \$2,000 against an employer that the commissioner finds has coerced an em-
22 ployee into waiving a meal period in violation of this subsection. Each vio-
23 lation is a separate and distinct offense. In the case of a continuing
24 violation, each day’s continuance is a separate and distinct violation.

25 “(d) Civil penalties authorized by this subsection shall be imposed in the
26 manner provided in ORS 183.745. All sums collected as penalties under this
27 subsection shall be applied and paid over as provided in ORS 653.256 (4).

28 “**SECTION 6.** ORS 653.265 is amended to read:

29 “653.265. *[When employed in canneries or driers or packing plants, exclud-*
30 *ing canneries or driers or packing plants located on farms and primarily pro-*

1 *cessing products produced on such farms, employees shall be paid time and a*
2 *half for time over 10 hours per day and piece workers shall be paid one and*
3 *a half the regular prices for all work done during the time they are employed*
4 *over 10 hours per day.]*

5 **“(1) As used in this section:**

6 **“(a) ‘Perishable product’ means any product that may spoil, dete-**
7 **riorate or undergo other material changes that render it unsuitable for**
8 **the use for which it was produced. ‘Perishable product’ includes agri-**
9 **cultural crops, meat and fish.**

10 **“(b) ‘Undue hardship period’ means the period of time during which**
11 **perishable product must be processed after harvesting, slaughter or**
12 **catch.**

13 **“(c) ‘Workweek’ means a fixed period of time established by an**
14 **employer that reflects a regularly recurring period of 168 hours or**
15 **seven consecutive 24-hour periods. A workweek may begin on any day**
16 **of the week and any hour of the day and need not coincide with a**
17 **calendar week. The beginning of the workweek may be changed if the**
18 **change is intended to be permanent and is not designed to evade**
19 **overtime requirements.**

20 **“(2)(a) Except as provided in paragraphs (b) to (e) of this subsection,**
21 **an employer may not require or permit an employee employed in any**
22 **cannery, drier or packing plant in this state to work more than:**

23 **“(A) 10 hours in any one day; or**

24 **“(B) 55 hours in one workweek.**

25 **“(b) Paragraph (a) of this subsection does not apply to an employee**
26 **employed in a cannery, drier or packing plant located on a farm and**
27 **primarily processing products produced on the farm.**

28 **“(c) An employer may permit an employee described in paragraph**
29 **(a) of this subsection to work up to 60 hours in one workweek if the**
30 **employee requests or consents in writing to work more than 55 hours**

1 in the workweek.

2 “(d) An employer may permit an employee described in paragraph
3 (a) of this subsection who has consented to work more than 55 hours
4 in one workweek under paragraph (c) of this subsection to work up to
5 80 hours in one workweek during the period of time that the employer
6 is eligible for an undue hardship period exemption under subsection
7 (5) of this section.

8 “(e) An employer may permit an employee described in paragraph
9 (a) of this subsection to work more than 10 hours in any one day if the
10 employer compensates the employee as follows:

11 “(A) One and one-half times the employee’s regular rate of pay for
12 each hour the employee works over 10 hours in any one day if the
13 employee is an hourly employee; or

14 “(B) One and one-half times the regular price for all work done
15 during the time the employee is employed over 10 hours per day if the
16 employee is a piece worker.

17 “(3) An employer shall calculate an employee’s overtime on a daily
18 basis under subsection (2)(e) of this section and on a weekly basis un-
19 der ORS 653.261 (1) and pay the greater of the two amounts if, during
20 the same workweek, the employee works more than:

21 “(a) 10 hours in one day as described in subsection (2)(e) of this
22 section; and

23 “(b) 40 hours in one workweek as described in ORS 653.261 (1).

24 “(4) An employer that makes an overtime payment to an employee
25 pursuant to subsection (3) of this section satisfies the overtime com-
26 pensation requirements under this section and ORS 653.261 (1).

27 “(5)(a) An employer is eligible for an undue hardship period ex-
28 emption from the restrictions on work hours under subsection (2)(a)
29 and (c) of this section if the employer, in the ordinary course of its
30 business, processes perishable products. The undue hardship period

1 exemption shall be effective only during an undue hardship period. An
2 employer may be eligible for more than one undue hardship period
3 exemption in a calendar year. However, the combined total duration
4 of the employer's undue hardship period exemptions may not exceed
5 120 days in a calendar year.

6 “(b) To claim an undue hardship period exemption, an employer
7 must provide notice of the undue hardship period to the Commissioner
8 of the Bureau of Labor and Industries and obtain written consent from
9 each employee who the employer will request to work up to 80 hours
10 in a workweek during the undue hardship period.

11 “(c)(A) The notice the employer sends to the commissioner under
12 paragraph (b) of this subsection must be in a form prescribed by the
13 commissioner by rule and include a description of the reasons for the
14 undue hardship period, the start and expected end dates of the undue
15 hardship period and any other information required by the commis-
16 sioner.

17 “(B) The employee's written consent shall be in a form prescribed
18 by the commissioner by rule and include a description of the
19 employer's reasons for the undue hardship period, the start and ex-
20 pected end dates of the undue hardship period, a statement that the
21 employee consents to working up to 80 hours in a workweek during
22 the undue hardship period, contact information for the Bureau of La-
23 bor and Industries and any other information required by the com-
24 missioner.

25 “(d) An employee's consent under this subsection to work up to 80
26 hours in one workweek during an undue hardship period is in addition
27 to, and not in lieu of, the employee's consent under subsection (2)(c)
28 of this section to work more than 55 hours in one workweek.

29 “(e) The commissioner shall adopt rules to implement the pro-
30 visions of this subsection.

1 **“(6) An employer may not coerce an employee into:**

2 **“(a) Consenting under subsection (2)(c) of this section to work more**
3 **than 55 hours in one workweek; or**

4 **“(b) Consenting under subsection (2)(d) of this section to work up**
5 **to 80 hours in one workweek.**

6 **“(7)(a) Notwithstanding ORS 653.256, as amended by section 4 of this**
7 **2017 Act, in addition to any other penalty provided by law, the com-**
8 **missioner may assess the following civil penalties against an employer**
9 **that the commissioner determines has coerced an employee into con-**
10 **senting to work more than 55 hours in one workweek:**

11 **“(A) \$2,000 per violation if the employer coerced an employee into**
12 **consenting under subsection (2)(c) of this section to work up to 60**
13 **hours in one workweek; and**

14 **“(B) \$3,000 per violation if the employer coerced an employee into**
15 **consenting under subsection (2)(d) of this section to work up to 80**
16 **hours in one workweek.**

17 **“(b) Each violation described in paragraph (a) of this subsection is**
18 **a separate and distinct offense. In the case of a continuing violation,**
19 **each week’s continuance is a separate and distinct violation.**

20 **“(c) Civil penalties authorized by this subsection shall be imposed**
21 **in the manner provided in ORS 183.745. All sums collected as penalties**
22 **under this subsection shall be applied and paid over as provided in ORS**
23 **653.256.**

24 **“(8)(a) In addition to any other remedy provided by law, an em-**
25 **ployee has a private cause of action against an employer if the em-**
26 **ployer violates subsection (2) of this section by requiring the employee**
27 **to work more than the applicable limit for the maximum allowable**
28 **hours of employment in one workweek.**

29 **“(b) If the employee prevails in an action brought under this sec-**
30 **tion, the court shall enter judgment against the employer for:**

1 “(A) Actual damages or \$3,000 per claim, whichever is greater;

2 “(B) Equitable relief; and

3 “(C) Liquidated damages in an amount equal to twice the
4 employee’s overtime wages earned during the period not allowed under
5 subsection (2) of this section.

6 “(c) In an action brought under this section, the court may award
7 to the prevailing plaintiff costs, disbursements and reasonable attor-
8 ney fees. Any attorney fee agreement is subject to approval by the
9 court.

10 “SECTION 7. (1) Any employee asserting a violation of ORS 652.020
11 or 653.265 may file a complaint with the Commissioner of the Bureau
12 of Labor and Industries under ORS 659A.820 or a civil action as pro-
13 vided in ORS 659A.885.

14 “(2) In addition to any other damages provided by law, the com-
15 missioner may assess a civil penalty against the employer in the
16 amount of \$1,000.

17 “(3) The commissioner shall waive 50 percent of the amount of any
18 civil penalty imposed by order under this section if the commissioner
19 determines that the employer paid the full remedy due, not including
20 any civil penalty, within 14 days after the order imposing the remedy
21 became final by operation of law or on appeal.

22 “(4) Civil penalties authorized by this section shall be imposed in
23 the manner provided in ORS 183.745.

24 “(5) An employer may not retaliate or in any way discriminate
25 against an individual with respect to hire or tenure or any other term
26 or condition of employment because the individual has inquired about
27 the provisions of this section or ORS 652.020, 653.261 or 653.265 or has
28 reported a violation to, or filed a complaint with, the Bureau of Labor
29 and Industries.

30 “SECTION 8. ORS 659A.885, as amended by section 5, chapter 73, Oregon

1 Laws 2016, is amended to read:

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

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

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

20 “(2) An action may be brought under subsection (1) of this section alleg-
21 ing a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237
22 (2), 475B.233, 476.574, **652.020**, 652.355, 653.060, **653.265**, 653.601 to 653.661,
23 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082,
24 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.199,
25 659A.203, 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to
26 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315,
27 659A.318, 659A.320, 659A.355, 659A.421, 653.547 or 653.549.

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

1 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.421, 653.547 or
2 653.549:

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

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

7 “(c) Upon appeal of any judgment finding a violation, the appellate court
8 shall review the judgment pursuant to the standard established by ORS
9 19.415 (1); and

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

11 “(4) In any action under subsection (1) of this section alleging a violation
12 of ORS 652.355 or 653.060, the court may award, in addition to the relief
13 authorized under subsection (1) of this section, compensatory damages or
14 \$200, whichever is greater.

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

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

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

1 place or person. Notwithstanding subsection (1) of this section, in an action
2 under this subsection:

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

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

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

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

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

15 “(f) Upon any appeal of a judgment under this subsection, the appellate
16 court shall review the judgment pursuant to the standard established by ORS
17 19.415 (1).

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

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

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

30 “(9) In any action under subsection (1) of this section alleging a violation

1 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing
2 law, when the commissioner is pursuing the action on behalf of an aggrieved
3 complainant, the court shall award reasonable attorney fees to the commis-
4 sioner if the commissioner prevails in the action. The court may award rea-
5 sonable attorney fees and expert witness fees incurred by a defendant that
6 prevails in the action if the court determines that the commissioner had no
7 objectively reasonable basis for asserting the claim or for appealing an ad-
8 verse decision of the trial court.

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

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

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

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

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

22 “**SECTION 9.** ORS 652.010 is amended to read:

23 “652.010. (1) It is the public policy of this state that no person shall be
24 hired, nor permitted to work for wages, under any conditions or terms, for
25 longer hours or days of service than is consistent with the person’s health
26 and physical well-being and ability to promote the general welfare by the
27 person’s increasing usefulness as a healthy and intelligent citizen.

28 “(2) It hereby is declared that the working of any person more than 10
29 hours in one day in any mill, factory or manufacturing establishment or the
30 working of any person more than eight hours, exclusive of one hour, more

1 or less, in one day, or more than 48 hours in one [*calendar week*] **workweek**,
2 **as defined in ORS 652.020**, in sawmills, planing mills, shingle mills and
3 logging camps is injurious to the physical health and well-being of such
4 person, and tends to prevent the person from acquiring that degree of intel-
5 ligence that is necessary to make the person a useful and desirable citizen
6 of the state.

7 **“SECTION 10.** ORS 652.990 is amended to read:

8 “652.990. (1) Violation of ORS 652.020 [(2)] **(5)(b) or (c)** is a Class A vio-
9 lation. Every day’s violation is deemed a separate offense.

10 “(2) Any person, body corporate, general manager or employer who vio-
11 lates ORS 652.040 or causes ORS 652.040 to be violated commits a Class C
12 misdemeanor.

13 “(3) Violation of ORS 652.110 or 652.120 is a Class A violation.

14 “(4) Violation of ORS 652.130 by any employer is a Class C misdemeanor.

15 “(5) In addition to the civil damages recoverable under ORS 652.230, vio-
16 lation of ORS 652.210 to 652.230 is a Class A misdemeanor.

17 “(6) The violation of ORS 652.240 is a Class A misdemeanor.

18 “(7) Violation of ORS 652.355 is a Class C misdemeanor.

19 “(8) Violation of ORS 652.610 or 652.620 is a Class D violation.

20 “(9) Willful violation of ORS 652.635 or 652.640 by a producer or agent
21 of the producer is a Class A misdemeanor.

22 “(10) Violation of any of the provisions of ORS 652.710 or 652.720 by any
23 employer is a Class A violation.”.

24
