

**A-Engrossed**  
**House Bill 4093**

Ordered by the House February 15  
Including House Amendments dated February 15

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

**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.

Specifies that amateur athlete [*who plays for junior ice hockey team*] **is nonsubject worker for purposes of workers' compensation and is not employee for purposes of certain employment-related provisions when amateur athlete is [*playing for team*] training or conditioning for, and participating in, amateur sports activities for amateur sports organization.**

**Requires amateur sports organization to submit annual report to Director of Department of Consumer and Business Services that includes contact information for certifying authority that has certified organization as amateur sports organization and that includes contact information for each team, league, club and association that is affiliated with or governed by organization.**

**Requires amateur sports organization to make copies of report available to interested persons. Requires director to make reports available to public.**

**A BILL FOR AN ACT**

1  
2 Relating to amateur athletes; creating new provisions; and amending ORS 652.210, 652.310, 653.010,  
3 653.362 and 656.027.

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

5 **SECTION 1. (1) As used in this section:**

6 **(a) "Amateur athlete" means an individual who:**

7 **(A)(i) Has been declared an amateur athlete under the rules of the United States Olympic**  
8 **Committee or the Canadian Olympic Committee; or**

9 **(ii) Participates in training or conditioning for, and participating in, amateur sports ac-**  
10 **tivities, events or competitions for a team, league, club or association included in the report**  
11 **made available under subsection (3) of this section; and**

12 **(B) Receives no remuneration for performance of services as an athlete while actively**  
13 **engaged in training or conditioning for, or participating in, amateur sports activities, events**  
14 **or competitions other than board, room, rent, housing, lodging or other reasonable incidental**  
15 **subsistence allowance.**

16 **(b) "Amateur sports organization" means a group or association that fosters amateur**  
17 **sports activities and competitions for amateur athletes and is organized under a regional,**  
18 **national or international certifying authority.**

19 **(2)(a) On or before January 1 of each year, an amateur sports organization shall submit**  
20 **to the Director of the Department of Consumer and Business Services a report that includes**  
21 **the following information:**

22 **(A) A list of the names, addresses and any other contact information for the regional,**

**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 national and international certifying authority that has certified the organization as an am-  
2 teur sports organization; and

3 (B) A roster that lists the names, addresses and other contact information for each  
4 team, league, club and association that is affiliated with or governed by the amateur sports  
5 organization and that participates in amateur sports activities, events or competitions in this  
6 state.

7 (b) Upon request, an amateur sports organization shall make copies of the report avail-  
8 able to interested persons.

9 (3) The director shall make available to the public the reports submitted to the Depart-  
10 ment of Consumer and Business Services under subsection (2) of this section.

11 (4) For the purposes of section 8 of this 2018 Act, the provisions of ORS 656.027 and ORS  
12 chapters 652 and 653, an individual is an amateur athlete during the time in which the indi-  
13 vidual is actively engaged in training or conditioning for, or participating in, amateur sports  
14 activities, events or competitions.

15 **SECTION 2.** ORS 656.027 is amended to read:

16 656.027. All workers are subject to this chapter except those nonsubject workers described in  
17 the following subsections:

18 (1) A worker employed as a domestic servant in or about a private home. For the purposes of  
19 this subsection “domestic servant” means any worker engaged in household domestic service by  
20 private employment contract, including, but not limited to, home health workers.

21 (2) A worker employed to do gardening, maintenance, repair, remodeling or similar work in or  
22 about the private home of the person employing the worker.

23 (3)(a) A worker whose employment is casual and either:

24 (A) The employment is not in the course of the trade, business or profession of the employer;  
25 or

26 (B) The employment is in the course of the trade, business or profession of a nonsubject em-  
27 ployer.

28 (b) For the purpose of this subsection, “casual” refers only to employments where the work in  
29 any 30-day period, without regard to the number of workers employed, involves a total labor cost  
30 of less than \$500.

31 (4) A person for whom a rule of liability for injury or death arising out of and in the course of  
32 employment is provided by the laws of the United States.

33 (5) A worker engaged in the transportation in interstate commerce of goods, persons or property  
34 for hire by rail, water, aircraft or motor vehicle, and whose employer has no fixed place of business  
35 in this state.

36 (6) Firefighter and police employees of any city having a population of more than 200,000 that  
37 provides a disability and retirement system by ordinance or charter.

38 (7)(a) Sole proprietors, except those described in paragraph (b) of this subsection. When labor  
39 or services are performed under contract, the sole proprietor must qualify as an independent con-  
40 tractor **to be a nonsubject worker under this subsection.**

41 (b) Sole proprietors actively licensed under ORS 671.525 or 701.021. When labor or services are  
42 performed under contract for remuneration, notwithstanding ORS 656.005 (30), the sole proprietor  
43 must qualify as an independent contractor **to be a nonsubject worker under this subsection.** Any  
44 sole proprietor licensed under ORS 671.525 or 701.021 and involved in activities subject thereto is  
45 conclusively presumed to be an independent contractor.

1 (8) Except as provided in subsection (23) of this section, partners who are not engaged in work  
2 performed in direct connection with the construction, alteration, repair, improvement, moving or  
3 demolition of an improvement on real property or appurtenances thereto. When labor or services  
4 are performed under contract, the partnership must qualify as an independent contractor **to be a**  
5 **nonsubject worker under this subsection.**

6 (9) Except as provided in subsection (25) of this section, members, including members who are  
7 managers, of limited liability companies, regardless of the nature of the work performed. However,  
8 members, including members who are managers, of limited liability companies with more than one  
9 member, while engaged in work performed in direct connection with the construction, alteration,  
10 repair, improvement, moving or demolition of an improvement on real property or appurtenances  
11 thereto, are subject workers. When labor or services are performed under contract, the limited li-  
12 ability company must qualify as an independent contractor **to be a nonsubject worker under this**  
13 **subsection.**

14 (10) Except as provided in subsection (24) of this section, corporate officers who are directors  
15 of the corporation and who have a substantial ownership interest in the corporation, regardless of  
16 the nature of the work performed by such officers, subject to the following limitations:

17 (a) If the activities of the corporation are conducted on land that receives farm use tax assess-  
18 ment pursuant to ORS chapter 308A, corporate officer includes all individuals identified as directors  
19 in the corporate bylaws, regardless of ownership interest, and who are members of the same family,  
20 whether related by blood, marriage or adoption.

21 (b) If the activities of the corporation involve the commercial harvest of timber and all officers  
22 of the corporation are members of the same family and are parents, daughters or sons, daughters-  
23 in-law or sons-in-law or grandchildren, then all such officers may elect to be nonsubject workers.  
24 For all other corporations involving the commercial harvest of timber, the maximum number of ex-  
25 empt corporate officers for the corporation shall be whichever is the greater of the following:

26 (A) Two corporate officers; or

27 (B) One corporate officer for each 10 corporate employees.

28 (c) When labor or services are performed under contract, the corporation must qualify as an  
29 independent contractor **to be a nonsubject worker under this subsection.**

30 (11) A person performing services primarily for board and lodging received from any religious,  
31 charitable or relief organization.

32 (12) A newspaper carrier utilized in compliance with the provisions of ORS 656.070 and 656.075.

33 *[(13) A person who has been declared an amateur athlete under the rules of the United States*  
34 *Olympic Committee or the Canadian Olympic Committee and who receives no remuneration for per-*  
35 *formance of services as an athlete other than board, room, rent, housing, lodging or other reasonable*  
36 *incidental subsistence allowance, or]*

37 **(13)(a) An amateur athlete as defined in section 1 of this 2018 Act; or**

38 **(b) Any amateur sports official who is certified by a recognized Oregon or national certifying**  
39 **authority, which requires or provides liability and accident insurance for such officials. [A roster**  
40 **of recognized Oregon and national certifying authorities will be maintained by the Department of**  
41 **Consumer and Business Services, from lists of certifying organizations submitted by the Oregon School**  
42 **Activities Association and the Oregon Park and Recreation Society.]**

43 (14) Volunteer personnel participating in the ACTION programs, organized under the Domestic  
44 Volunteer Service Act of 1973, P.L. 93-113, known as the Foster Grandparent Program and the  
45 Senior Companion Program, whether or not the volunteers receive a stipend or nominal reimburse-

1 ment for time and travel expenses.

2 (15) A person who has an ownership or leasehold interest in equipment and who furnishes,  
3 maintains and operates the equipment. As used in this subsection "equipment" means:

4 (a) A motor vehicle used in the transportation of logs, poles or piling.

5 (b) A motor vehicle used in the transportation of rocks, gravel, sand, dirt or asphalt concrete.

6 (c) A motor vehicle used in the transportation of property by a for-hire motor carrier that is  
7 required under ORS 825.100 or 825.104 to possess a certificate or permit or to be registered.

8 (16) A person engaged in the transportation of the public for recreational down-river boating  
9 activities on the waters of this state pursuant to a federal permit when the person furnishes the  
10 equipment necessary for the activity. As used in this subsection, "recreational down-river boating  
11 activities" means those boating activities for the purpose of recreational fishing, swimming or  
12 sightseeing utilizing a float craft with oars or paddles as the primary source of power.

13 (17) A person who receives no wage other than ski passes or other noncash remuneration for  
14 performing volunteer:

15 (a) Ski patrol activities; or

16 (b) Ski area program activities sponsored by a ski area operator, as defined in ORS 30.970, or  
17 by a nonprofit corporation or organization.

18 (18) A person 19 years of age or older who contracts with a newspaper publishing company or  
19 independent newspaper dealer or contractor to distribute newspapers to the general public and  
20 perform or undertake any necessary or attendant functions related thereto.

21 (19) A person performing foster parent or adult foster care duties pursuant to ORS 412.001 to  
22 412.161 and 412.991 or ORS chapter 411, 418, 430 or 443.

23 (20) A person performing services on a volunteer basis for a nonprofit, religious, charitable or  
24 relief organization, whether or not such person receives meals or lodging or nominal reimbursements  
25 or vouchers for meals, lodging or expenses.

26 (21) A person performing services under a property tax work-off program established under ORS  
27 310.800.

28 (22) A person who performs service as a caddy at a golf course in an established program for  
29 the training and supervision of caddies under the direction of a person who is an employee of the  
30 golf course.

31 (23)(a) Partners who are actively licensed under ORS 671.525 or 701.021 and who have a sub-  
32 stantial ownership interest in a partnership. If all partners are members of the same family and are  
33 parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grandchil-  
34 dren, all such partners may elect to be nonsubject workers. For all other partnerships licensed un-  
35 der ORS 671.510 to 671.760 or 701.021, the maximum number of exempt partners shall be whichever  
36 is the greater of the following:

37 (A) Two partners; or

38 (B) One partner for each 10 partnership employees.

39 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS  
40 656.005 (30), the partnership qualifies as an independent contractor. Any partnership licensed under  
41 ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an  
42 independent contractor.

43 (24)(a) Corporate officers who are directors of a corporation actively licensed under ORS 671.525  
44 or 701.021 and who have a substantial ownership interest in the corporation, regardless of the na-  
45 ture of the work performed. If all officers of the corporation are members of the same family and

1 are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law or grand-  
2 children, all such officers may elect to be nonsubject workers. For all other corporations licensed  
3 under ORS 671.510 to 671.760 or 701.021, the maximum number of exempt corporate officers shall  
4 be whichever is the greater of the following:

5 (A) Two corporate officers; or

6 (B) One corporate officer for each 10 corporate employees.

7 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS  
8 656.005 (30), the corporation qualifies as an independent contractor. Any corporation licensed under  
9 ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an  
10 independent contractor.

11 (25)(a) Limited liability company members who are members of a company actively licensed un-  
12 der ORS 671.525 or 701.021 and who have a substantial ownership interest in the company, regard-  
13 less of the nature of the work performed. If all members of the company are members of the same  
14 family and are parents, spouses, sisters, brothers, daughters or sons, daughters-in-law or sons-in-law  
15 or grandchildren, all such members may elect to be nonsubject workers. For all other companies  
16 licensed under ORS 671.510 to 671.760 or 701.021, the maximum number of exempt company members  
17 shall be whichever is the greater of the following:

18 (A) Two company members; or

19 (B) One company member for each 10 company employees.

20 (b) When labor or services are performed under contract for remuneration, notwithstanding ORS  
21 656.005 (30), the company qualifies as an independent contractor. Any company licensed under ORS  
22 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an in-  
23 dependent contractor.

24 (26) A person serving as a referee or assistant referee in a youth or adult recreational soccer  
25 match whose services are retained on a match-by-match basis.

26 (27) A person performing language translator or interpreter services that are provided for others  
27 through an agent or broker.

28 (28) A person who operates, and who has an ownership or leasehold interest in, a passenger  
29 motor vehicle that is operated as a taxicab or for nonemergency medical transportation. As used in  
30 this subsection:

31 (a) "Lease" means a contract under which the lessor provides a vehicle to a lessee for consid-  
32 eration.

33 (b) "Leasehold" includes, but is not limited to, a lease for a shift or a longer period.

34 (c) "Passenger motor vehicle that is operated as a taxicab" means a vehicle that:

35 (A) Has a passenger seating capacity that does not exceed seven persons;

36 (B) Is transporting persons, property or both on a route that begins or ends in Oregon; and

37 (C)(i) Carries passengers for hire when the destination and route traveled may be controlled by  
38 a passenger and the fare is calculated on the basis of any combination of an initial fee, distance  
39 traveled or waiting time; or

40 (ii) Is in use under a contract to provide specific service to a third party to transport designated  
41 passengers or to provide errand services to locations selected by the third party.

42 (d) "Passenger motor vehicle that is operated for nonemergency medical transportation" means  
43 a vehicle that:

44 (A) Has a passenger seating capacity that does not exceed seven persons;

45 (B) Is transporting persons, property or both on a route that begins or ends in Oregon; and

1 (C) Provides medical transportation services under contract with or on behalf of a mass transit  
2 or transportation district.

3 **SECTION 3.** ORS 652.210, as amended by section 1, chapter 197, Oregon Laws 2017, is amended  
4 to read:

5 652.210. As used in ORS 652.210 to 652.235, unless the context requires otherwise:

6 (1) "Compensation" includes wages, salary, bonuses, benefits, fringe benefits and equity-based  
7 compensation.

8 (2)(a) "Employee" means any individual who[, *otherwise than as a copartner of the employer, as*  
9 *an independent contractor or as a participant in a work training program administered under the state*  
10 *or federal assistance laws,*] renders personal services wholly or partly in this state to an employer  
11 who pays or agrees to pay such individual at a fixed rate. [*However, when services are rendered only*  
12 *partly in this state, an individual is not an employee unless the contract of employment of the employee*  
13 *has been entered into, or payments thereunder are ordinarily made or to be made, within this state.*]

14 (b) "Employee" does not include:

15 (A) A partner or copartner of the employer;

16 (B) An independent contractor;

17 (C) A participant in a work training program that is administered under state or federal  
18 assistance laws;

19 (D) An individual who renders services to an employer only partly in this state, unless  
20 the contract of employment of the employee has been entered into, or payments are made  
21 or to be made, within this state; or

22 (E) An individual who is an amateur athlete as defined in section 1 of this 2018 Act.

23 (3)(a) "Employer" means any person employing one or more employees, including the State of  
24 Oregon or any political subdivision thereof or any county, city, district, authority, public corpo-  
25 ration or entity and any of [*their*] **its** instrumentalities organized and existing under law or charter.

26 (b) "Employer" does not include the federal government.

27 (4) "Equal-pay analysis" means an evaluation process to assess and correct wage disparities  
28 among employees who perform work of comparable character.

29 (5) "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual  
30 orientation, national origin, marital status, veteran status, disability or age.

31 (6) "Rate" with reference to wages means:

32 (a) The basis of compensation for services by an employee for an employer; and

33 (b) Compensation based on the time spent in the performance of the services, on the number of  
34 operations accomplished or on the quantity produced or handled.

35 (7) "Sexual orientation" has the meaning given that term in ORS 174.100.

36 (8) "Unpaid wages" means the difference between the wages actually paid to an employee and  
37 the wages required under ORS 652.220 to be paid to the employee.

38 (9) "Veteran status" means an individual is a veteran as defined in ORS 408.225.

39 (10) "Wages" means all compensation for performance of service by an employee for an em-  
40 ployer, whether paid by the employer or another person, or paid in cash or any medium other than  
41 cash.

42 (11) "Working conditions" includes work environment, hours, time of day, physical surroundings  
43 and potential hazards encountered by an employee.

44 (12) "Work of comparable character" means work that requires substantially similar knowledge,  
45 skill, effort, responsibility and working conditions in the performance of work, regardless of job de-

1 scription or job title.

2 **SECTION 4.** ORS 652.310 is amended to read:

3 652.310. As used in ORS 652.310 to 652.414, unless the context requires otherwise:

4 [(1) “Employer” means any person who in this state, directly or through an agent, engages personal  
5 services of one or more employees and includes any successor to the business of any employer, or any  
6 lessee or purchaser of any employer’s business property for the continuance of the same business, so  
7 far as such employer has not paid employees in full. “Employer” includes the State of Oregon or any  
8 political subdivision thereof or any county, city, district, authority, public corporation or entity and any  
9 of their instrumentalities organized and existing under law or charter but does not include:]

10 [(a) The United States.]

11 [(b) Trustees and assignees in bankruptcy or insolvency, and receivers, whether appointed by fed-  
12 eral or state courts, and persons otherwise falling under the definition of employers so far as the times  
13 or amounts of their payments to employees are regulated by laws of the United States, or regulations  
14 or orders made in pursuance thereof.]

15 [(2)] (1)(a) “Employee” means any individual who [otherwise than as copartner of the employer  
16 or as an independent contractor] renders personal services wholly or partly in this state to an em-  
17 ployer who pays or agrees to pay such individual at a fixed rate, based on the time spent in the  
18 performance of such services or on the number of operations accomplished, or quantity produced  
19 or handled. [However:]

20 [(a) Where services are rendered by an independent contractor, an individual shall not be an em-  
21 ployee under this section unless the individual is a musician or supporting technical person.]

22 [(b) Where services are rendered only partly in this state, an individual shall not be an employee  
23 under this section unless the contract of employment of the employee has been entered into, or payments  
24 thereunder are ordinarily made or to be made, within this state.]

25 **(b) “Employee” does not include:**

26 **(A) A partner or copartner of the employer;**

27 **(B) An independent contractor, unless the individual is a musician or supporting techni-  
28 cal person;**

29 **(C) An individual who renders services to an employer only partly in this state, unless  
30 the contract of employment of the employee has been entered into, or payments are made  
31 or to be made, within this state; or**

32 **(D) An individual who is an amateur athlete as defined in section 1 of this 2018 Act.**

33 **(2)(a) “Employer” means:**

34 **(A) Any person who in this state, directly or through an agent, engages personal services  
35 of one or more employees and includes any successor to the business of any employer, or  
36 any lessee or purchaser of any employer’s business property for the continuance of the same  
37 business, so far as such employer has not paid employees in full.**

38 **(B) The State of Oregon or any political subdivision thereof or any county, city, district,  
39 authority, public corporation or entity and any of its instrumentalities organized and existing  
40 under law or charter.**

41 **(b) “Employer” does not include:**

42 **(A) The United States.**

43 **(B) Trustees and assignees in bankruptcy or insolvency, and receivers, whether appointed  
44 by federal or state courts, and persons otherwise falling under the definition of employers  
45 so far as the times or amounts of their payments to employees are regulated by laws of the**

1 **United States, or regulations or orders made in pursuance thereof.**

2 **SECTION 5.** ORS 653.010 is amended to read:

3 653.010. As used in ORS 653.010 to 653.261, unless the context requires otherwise:

4 (1) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

5 (2)(a) "Employ" includes to suffer or permit to work [*but*].

6 (b) "**Employ**" does not include:

7 (A) Voluntary or donated services performed for no compensation or without expectation or  
8 contemplation of compensation as the adequate consideration for the services performed:

9 (i) For a public employer referred to in subsection (3) of this section[, *or*];

10 (ii) **For** a religious, charitable, educational, public service or similar nonprofit corporation, or-  
11 ganization or institution for community service, religious or humanitarian reasons [*or for services*  
12 *performed*]; **or**

13 (iii) By general or public assistance recipients as part of any work training program adminis-  
14 tered under the state or federal assistance laws[.]; **or**

15 (B) **Services performed by an individual who is an amateur athlete as defined in section**  
16 **1 of this 2018 Act.**

17 (3) "Employer" means:

18 (a) Any person who employs another person [*including*].

19 (b) The State of Oregon or a political subdivision thereof or any county, city, district, authority,  
20 public corporation or entity and any of [*their*] **its** instrumentalities organized and existing under law  
21 or charter.

22 (4) "Minor" means any person under 18 years of age.

23 (5) "Occupation" means any occupation, service, trade, business, industry, or branch or group  
24 of industries or employment or class of employment in which employees are gainfully employed.

25 (6) "Organized camp" means a day or resident camp, whether or not operated for profit, estab-  
26 lished to give campers recreational, creative, religious or educational experience in cooperative  
27 group living wherein the activities are conducted on a closely supervised basis, whether or not the  
28 camp is used primarily by an organized group or by members of the public and whether or not the  
29 activities or facilities are furnished free of charge or for the payment of a fee.

30 (7) "Outside salesperson" means any employee who is employed for the purpose of and who is  
31 customarily and regularly engaged away from the employer's place or places of business in making  
32 sales, or obtaining orders, or obtaining contracts for services and whose hours of work of any other  
33 nature for the employer do not exceed 30 percent of the hours worked in the workweek by the  
34 nonexempt employees of the employer.

35 (8) "Piece-rate" means a rate of pay calculated on the basis of the quantity of the crop har-  
36 vested.

37 (9) "Salary" means no less than the wage set pursuant to ORS 653.025, multiplied by 2,080 hours  
38 per year, then divided by 12 months.

39 (10) "Wages" means compensation due to an employee by reason of employment, payable in legal  
40 tender of the United States or check on banks convertible into cash on demand at full face value,  
41 subject to such deductions, charges or allowances as are permitted in ORS 653.035.

42 (11) "Work time" includes both time worked and time of authorized attendance.

43 **SECTION 6.** ORS 653.362 is amended to read:

44 653.362. The provisions of ORS 653.305 to 653.370 do not apply to:

45 (1) A person under 18 years of age serving as a referee or assistant referee in a youth or adult



1 recreational soccer match.

2 **(2) An individual who is an amateur athlete as defined in section 1 of this 2018 Act.**

3 **SECTION 7. Section 8 of this 2018 Act is added to and made a part of ORS 657.043 to**  
4 **657.094.**

5 **SECTION 8. (1) "Employment" does not include services performed by an individual who**  
6 **is an amateur athlete as defined in section 1 of this 2018 Act.**

7 **(2) The provisions of subsection (1) of this section do not apply to services performed by**  
8 **an individual described in subsection (1) of this section who performs services for:**

9 **(a) A nonprofit employing unit;**

10 **(b) This state;**

11 **(c) A political subdivision of this state; or**

12 **(d) An Indian tribe.**

13 **SECTION 9. Nothing in section 1 or 8 of this 2018 Act or the amendments to statutes by**  
14 **sections 2 to 6 of this 2018 Act is intended to apply to student athletes as defined in ORS**  
15 **702.005.**

16