

Requested by Representative RESCHKE

**PROPOSED AMENDMENTS TO
HOUSE BILL 4058**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and insert “658.405, 658.410, 658.411, 658.412, 658.415, 658.428,”.

3 In line 3, after “658.440” insert “and 658.501”.

4 Delete lines 5 through 28 and delete pages 2 through 4 and insert:

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

6 “658.405. As used in ORS 658.405 to 658.503 and 658.991 (2) and (3), unless
7 the context requires otherwise:

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

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

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

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

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

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

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

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

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

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

7 “(E) The Employment Department;

8 “(F) A crew leader;

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

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

14 “(I) A labor union;

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

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

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

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

28 “(A) For an agreed remuneration or rate of pay, recruits, solicits, supplies
29 or employs workers to perform labor for another person to work in fore-
30 station or reforestation of lands, including but not limited to the planting,

1 transplanting, tubing, precommercial thinning and thinning of trees and
2 seedlings, the clearing, piling and disposal of brush and slash and other re-
3 lated activities;

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

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

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

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

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

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

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

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

22 “(B) The Employment Department;

23 “(C) A crew leader;

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

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

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

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

8 “(H) A labor union.

9 “(5) ‘Labor contractor’ means a construction labor contractor, a farm la-
10 bor contractor or a property services contractor.

11 “(6)(a) ‘Property services contractor’ includes any person that:

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

15 “(B) For an agreed remuneration or rate of pay, recruits, solicits, supplies
16 or employs workers on behalf of an employer to provide services that include
17 janitorial services; or

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

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

21 “(A) The Employment Department;

22 “(B) [A crew leader] **Employees of a property services contractor who**
23 **is licensed under ORS 658.405 to 658.503;**

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

27 “(D) An educational institution that is recognized as such by the De-
28 partment of Education; or

29 “(E) A labor union.

30 “**SECTION 2.** ORS 658.410 is amended to read:

1 “658.410. (1) Except as provided by ORS 658.425 and subsection (3) of this
2 section, a person may not act as a labor contractor without a valid license
3 in the person’s possession issued to the person by the Commissioner of the
4 Bureau of Labor and Industries. Except as provided in subsection (3) of this
5 section, a person may not act as a farm labor contractor with regard to the
6 forestation or reforestation of lands unless the person possesses a valid farm
7 labor contractor’s license with the indorsement required by ORS 658.417 (1).
8 The Bureau of Labor and Industries shall make rules for the issuance of
9 duplicate licenses in the event of the loss or destruction of original licenses.

10 “(2) Labor contractor licenses may be issued by the commissioner only
11 as follows:

12 “(a) To a natural person operating as a sole proprietor under the person’s
13 own name or under an assumed business name registered with the Office of
14 Secretary of State.

15 “(b) To two or more natural persons operating as a partnership or as a
16 limited liability partnership under their own names or under an assumed
17 business name registered with the Office of Secretary of State.

18 “(c) Except as provided in subsection (3) of this section, to the majority
19 shareholder or majority shareholders of a corporation or a limited liability
20 company that is licensed to operate as a labor contractor.

21 “(d) Except as provided in subsection (3) of this section, to a corporation
22 or a limited liability company whose majority shareholder or majority
23 shareholders are also licensed to operate as a labor contractor and that is
24 authorized to do business in Oregon by the Office of Secretary of State.

25 “(e) To a cooperative corporation authorized to do business in Oregon by
26 the Office of Secretary of State.

27 “(f) To a private nonprofit corporation authorized to do business in
28 Oregon by the Office of Secretary of State and designated by the Internal
29 Revenue Service as exempt under section 501(c)(3) of the Internal Revenue
30 Code, provided:

1 “(A)(i) The purpose of the corporation is to provide education or training;
2 and

3 “(ii) Workers recruited, solicited, supplied or employed by the corporation
4 are recruited, solicited, supplied or employed only for the purpose of edu-
5 cating or training the workers in construction, in the forestation or
6 reforestation of lands or in the production or harvesting of farm products;
7 or

8 “(B) For at least five years before the corporation files an application for
9 a labor contractor license, the corporation has been:

10 “(i) Authorized to do business in Oregon by the Office of Secretary of
11 State;

12 “(ii) Primarily engaged in recruiting, soliciting, supplying or employing
13 workers; and

14 “(iii) Designated by the Internal Revenue Service as exempt under section
15 501(c)(3) of the Internal Revenue Code.

16 “(g) For a farm labor contractor license only, to an agricultural associ-
17 ation that is authorized to do business in Oregon by the Office of Secretary
18 of State.

19 **“(h) For a property services contractor license only:**

20 **“(A) To any of the business entities described in paragraphs (b) to**
21 **(f) of this subsection, provided that each entity includes with the ap-**
22 **plication for a license under ORS 658.415 the names and addresses of**
23 **one or more individuals who are responsible, financially and otherwise,**
24 **for fulfilling the entity’s obligations consistent with the provisions of**
25 **ORS 658.405 to 658.503.**

26 **“(B) To a private nonprofit corporation authorized to do business**
27 **in Oregon by the office of Secretary of State and designated by the**
28 **Internal Revenue Service as exempt under section 501(c)(3) of the**
29 **Internal Revenue Code provided that the corporation is primarily en-**
30 **gaged in recruiting, soliciting, supplying or employing workers.**

1 “(3) The majority shareholder or majority shareholders of a corporation
2 or limited liability company are not required to be licensed under this sec-
3 tion if the corporation or limited liability company:

4 “(a)(A) Publicly trades its shares of stock on a stock exchange regulated
5 by the United States Securities and Exchange Commission; or

6 “(B) Has 10 or more shareholders and demonstrates to the satisfaction of
7 the commissioner that the corporation or limited liability company is ade-
8 quately capitalized; and

9 “(b) Is authorized to do business in Oregon by the Office of Secretary of
10 State.

11 **“SECTION 3.** ORS 658.411 is amended to read:

12 “658.411. (1) An employee of a labor contractor who is licensed under ORS
13 658.405 to 658.503 may be licensed as a labor contractor subject to an em-
14 ployee indorsement if the employee continuously meets all of the following
15 conditions:

16 “(a) The employee’s employer has filed with the Commissioner of the Bu-
17 reau of Labor and Industries a signed statement, in a form required by the
18 commissioner, agreeing to sponsor the application and to notify the com-
19 missioner promptly upon termination of the employment of the employee;

20 “(b) The employee engages in activities that would require licensing as
21 a labor contractor solely on behalf of the employer;

22 “(c) The employee does not personally employ any workers and is not re-
23 sponsible for paying any workers;

24 “(d) The employer maintains proof of financial responsibility;

25 “(e) The employer’s license remains in good standing; and

26 “(f) The employee meets all of the conditions for licensing as a labor
27 contractor, except as provided in this section.

28 “(2) A labor contractor subject to an employee indorsement acting in
29 compliance with subsection (1) of this section need not:

30 “(a) Provide proof of financial responsibility under ORS 658.415 (3).

1 “(b) Comply with ORS 658.440 (1)(j).

2 “(c) Provide any of the following information that is of a personal
3 nature if the labor contractor subject to an employee indorsement is
4 an employee of a property services contractor:

5 “(A) A social security number;

6 “(B) A home address and telephone number;

7 “(C) Personal financial information; and

8 “(D) Personal income tax or property tax information.

9 “(3) The license of a labor contractor subject to an employee indorsement
10 shall state the conditions contained in subsection (1) of this section on its
11 face and shall state that a labor contractor subject to an employee
12 indorsement who operates out of compliance with these restrictions is an
13 unlicensed labor contractor.

14 “(4) A labor contractor who employs another labor contractor is per-
15 sonally, jointly and severally liable for any damages, attorney fees or costs
16 awarded against the employee for the actions of the labor contractor em-
17 ployee undertaken within the scope of employment, or for actions of the
18 employee that the employee takes under color of an employee’s license sub-
19 ject to an employee indorsement that are known, or reasonably should have
20 been known, by the employer. In the case of a labor contractor that is a
21 corporation, both the corporation and the licensed majority shareholder or
22 shareholders are so liable.

23 “**SECTION 4.** ORS 658.412 is amended to read:

24 “658.412. (1) The Commissioner of the Bureau of Labor and Industries may
25 not issue a license to operate as a labor contractor until an applicant for a
26 license has successfully passed a qualifying examination designed to test the
27 applicant’s ability, knowledge and proficiency to conduct and manage the
28 business of a labor contractor. The examination must also test the
29 applicant’s knowledge of an employer’s responsibility to prevent sexual as-
30 sult and sexual harassment. The commissioner shall prescribe by rule the

1 requirements for and the manner of testing the competency of license appli-
2 cants.

3 **“(2) In prescribing requirements for testing applicants for a prop-**
4 **erty services contractor license, the commissioner may establish a**
5 **process to administer the examination in-person, through an online**
6 **electronic medium or in any other manner as the commissioner may**
7 **specify.**

8 **“SECTION 5.** ORS 658.415 is amended to read:

9 “658.415. (1) A person may not act as a labor contractor unless the person
10 has first been licensed by the Commissioner of the Bureau of Labor and In-
11 dustries under ORS 658.405 to 658.503. Any person may file an application
12 for a license to act as a labor contractor at any office of the Bureau of Labor
13 and Industries. The application shall be sworn to by the applicant and shall
14 be written on a form prescribed by the commissioner. The form shall include,
15 but not be limited to, questions asking:

16 “(a) The applicant’s name, Oregon address and all other temporary and
17 permanent addresses the applicant uses or knows will be used in the future.

18 “(b) Information on all motor vehicles to be used by the applicant in op-
19 erations as a labor contractor including license number and state of
20 licensure, vehicle number and the name and address of vehicle owner for all
21 vehicles used.

22 “(c) Whether or not the applicant was ever denied a license under ORS
23 658.405 to 658.503 within the preceding three years, or in this or any other
24 jurisdiction had a labor contract license denied, revoked or suspended within
25 the preceding three years.

26 “(d) The names and addresses of all persons financially interested,
27 whether as partners, shareholders, associates or profit-sharers, in the
28 applicant’s proposed operations as a labor contractor, together with the
29 amount of their respective interests, and whether or not, to the best of the
30 applicant’s knowledge, any of these persons was ever denied a license under

1 ORS 658.405 to 658.503 within the preceding three years, or had a labor
2 contractor license denied, revoked or suspended within the preceding three
3 years in this or any other jurisdiction.

4 “(2) Each applicant shall furnish satisfactory proof with the application
5 **of the existence of:**

6 “(a) [*Of the existence of*] A policy of insurance in an amount adequate
7 under rules issued by the commissioner for vehicles to be used to transport
8 workers. [*For the purpose of this paragraph, the certificate of an insurance*
9 *producer licensed in Oregon is*] Satisfactory proof of adequate insurance[.]
10 **includes:**

11 **“(A) The certificate of an insurance producer licensed in Oregon.**

12 **“(B) For property services contractors only, documentation that**
13 **provides the insurance policy number, the amount of coverage under**
14 **the policy and the name of the insurance producer.**

15 “(b) [*Of the existence of*] Workers’ compensation insurance as provided in
16 ORS 658.440 (1)(j). The commissioner may adopt rules concerning satisfactory
17 proof of adequate workers’ compensation insurance.

18 “(3) Except as provided in subsection (6) of this section, each applicant
19 shall submit with the application and shall continually maintain thereafter,
20 until excused, proof of financial ability to promptly pay the wages of em-
21 ployees and other obligations specified in this section. The proof required in
22 this subsection shall be in the form of a corporate surety bond of a company
23 licensed to do such business in Oregon, a cash deposit or a deposit the
24 equivalent of cash. For the purposes of this subsection, it shall be deemed
25 sufficient compliance if the labor contractor procures a savings account at
26 a bank or savings and loan institution in the name of the commissioner as
27 trustee for the employees of the labor contractor and others as their interests
28 may appear and delivers proof of the account and the ability to withdraw the
29 funds to the commissioner under the terms of a bond approved by the com-
30 missioner. The amount of the bond and the security behind the bond, or the

1 cash deposit, shall be based on the maximum number of employees the labor
2 contractor employs at any time during the year. The bond or cash deposit
3 shall be:

4 “(a) \$10,000 if the labor contractor employs no more than 20 employees;
5 or

6 “(b) \$30,000, or such lesser sum as may be authorized by the commissioner
7 under ORS 658.416, if the labor contractor employs 21 or more employees.

8 “(4) In the event that a single business entity licensed as a labor con-
9 tractor has more than one natural person who, as an owner or employee of
10 the business entity, engages in activities that require the persons to be li-
11 censed individually as labor contractors, and each person engages in those
12 activities solely for that business entity, the commissioner may provide by
13 rule for lower aggregate bonding requirements for the business entity and its
14 owners and employees. If there is an unsatisfied judgment of a court or final
15 decision of an administrative agency against a license applicant, the subject
16 of which is any matter that would be covered by the bond or deposit referred
17 to in subsection (3) of this section, the commissioner may not issue a license
18 to the applicant until the judgment or decision is satisfied. As a condition
19 of licensing any such applicant, the commissioner may require the applicant
20 to submit proof of financial ability required by subsection (3) of this section
21 in an amount up to three times that ordinarily required of a license appli-
22 cant.

23 “(5) All corporate surety bonds filed under this section or ORS 658.419
24 shall be executed to cover liability for the period for which the license is
25 issued. During the period for which it is executed, the bond may not be
26 canceled or otherwise terminated.

27 “(6) A property services contractor is not required to file proof of finan-
28 cial ability under subsection (3) of this section if:

29 “(a) The property services contractor provides proof of general liability
30 insurance coverage in an amount that the commissioner determines by rule

1 is adequate; and

2 “(b) The commissioner finds that the property services contractor, within
3 the preceding two years, has not:

4 “(A) Violated ORS chapter 652 or 653; or

5 “(B) Committed an unlawful employment practice under ORS chapter
6 659A.

7 “(7) Each application must be accompanied by the fee established under
8 ORS 658.413.

9 “(8) Any person who uses the services of a labor contractor who has failed
10 to comply with any of the provisions of this section or ORS 658.419 shall:

11 “(a) Be personally and jointly and severally liable to any employee as far
12 as the employee has not been paid wages in full for the work done for that
13 person.

14 “(b) Be personally liable for all penalty wages that have occurred under
15 ORS 652.150 for the wages due under this section.

16 “(9) Any person who suffers any loss of wages from the employer of the
17 person or any other loss specified in subsection (17) of this section shall have
18 a right of action in the name of the person against the surety upon the bond
19 or against the deposit with the commissioner. The right of action:

20 “(a) Is assignable and must be included with an assignment of a wage
21 claim, of any other appropriate claim or of a judgment thereon.

22 “(b) May not be included in any action against the labor contractor but
23 must be exercised independently after first procuring a judgment or other
24 form of adequate proof of liability established by rule and procedure under
25 subsection (15) of this section establishing the labor contractor’s liability for
26 the claim.

27 “(10)(a) The surety company or the commissioner shall make prompt and
28 periodic payments on the labor contractor’s liability up to the extent of the
29 total sum of the bond or deposit.

30 “(b) Payment shall be made based upon priority of wage claims over ad-

1 vances made by the construction property owner, the grower or producer of
2 agricultural commodities or the owner or lessee of land intended to be used
3 for the production of timber, for advances made to or on behalf of the labor
4 contractor.

5 “(c) Payment shall be made in full of all sums due to each person who
6 presents adequate proof of the claim.

7 “(d) Payment shall be made in part if there are insufficient funds to pay
8 in full the person next entitled to payment in full.

9 “(11) A person may not bring any action against the surety company or
10 the commissioner on the bond or against the commissioner as the trustee for
11 the beneficiaries of the labor contractor under any deposit made pursuant
12 to this section or ORS 658.419 unless the person has first exhausted the
13 procedures contained in subsections (9) and (13) of this section or in ORS
14 658.419 and contends that the surety company or the commissioner still has
15 funds that are applicable to the person’s judgment or acknowledgment.

16 “(12) The commissioner may not be prevented from accepting assignments
17 of wage claims and enforcing liability against the surety on the bond or from
18 applying the deposit to just wage claims filed with the commissioner.

19 “(13) All claims against the bond or deposit shall be unenforceable unless
20 request for payment of a judgment or other form of adequate proof of li-
21 ability or a notice of the claim has been made by certified mail to the surety
22 or the commissioner within six months from the end of the period for which
23 the bond or deposit was executed and made.

24 “(14) If the commissioner has received no notice as provided in subsection
25 (13) of this section within six months after a labor contractor is no longer
26 required to provide and maintain a surety bond or deposit, the commissioner
27 shall terminate and surrender any bond or any deposit under the control of
28 the commissioner to the person who is entitled thereto upon receiving ap-
29 propriate proof of such entitlement.

30 “(15) The commissioner shall adopt rules reasonably necessary for ad-

1 ministration and enforcement of the provisions of this section and ORS
2 658.419.

3 “(16) Every labor contractor required by this section or ORS 658.419 to
4 furnish a surety bond or make a deposit in lieu of a surety bond shall keep
5 conspicuously posted upon the premises where employees working under the
6 contractor are employed a notice, in both English and any other language
7 used by the labor contractor to communicate with workers, specifying the
8 contractor’s compliance with the requirements of this section and ORS
9 658.419 and specifying the name and Oregon address of the surety on the
10 bond or a notice that a deposit in lieu of the bond has been made with the
11 commissioner together with the address of the commissioner.

12 “(17) The bond or deposit referred to in subsection (3) of this section shall
13 be payable to the commissioner and shall be conditioned upon:

14 “(a) Payment in full of all sums due on wage claims of employees.

15 “(b) Payment by the labor contractor of all sums due to the construction
16 property owner, the grower or producer of agricultural commodities or the
17 owner or lessee of land intended to be used for the production of timber for
18 advances made to or on behalf of the labor contractor.

19 “(18) The commissioner may not issue a license until the applicant exe-
20 cutes a written statement that shall be subscribed and sworn to and that
21 shall contain the following declaration:

22 “ _____
23 With regards to any action filed against me concerning my activities as
24 a labor contractor, I appoint the Commissioner of the Bureau of Labor and
25 Industries as my lawful agent to accept service of summons when I am not
26 present in the jurisdiction in which such action is commenced or have in any
27 other way become unavailable to accept service.

28 “ _____
29 “(19) A person who cosigns with a labor contractor for a bond required
30 by subsection (3) of this section or by ORS 658.419 is not personally or

1 jointly and severally liable for unpaid wages above the amount of the bond
2 solely because the person cosigned for the bond.

3 “(20) The court may award reasonable attorney fees to the prevailing
4 party in any action to enforce the provisions of this section or ORS 658.419.

5 **“SECTION 6.** ORS 658.428 is amended to read:

6 “658.428. (1) Rules adopted under ORS 658.427 shall require that a prop-
7 erty services contractor provide professional training through or approved
8 by the Bureau of Labor and Industries to [*managers, supervisors and*] em-
9 ployees **of the property services contractor who perform janitorial ser-**
10 **vices, and to employees who manage or supervise those employees, in**
11 **order to:**

12 “[*1*] (a) [*To*] Prevent sexual assault and sexual harassment in the
13 workplace.

14 “[*2*] (b) [*To*] Prevent discrimination in the workplace and promote cul-
15 tural competency.

16 “[*3*] (c) [*To*] Educate the workforce regarding protection for employees
17 who report a violation of a state or federal law, rule or regulation.

18 **“(2) A property services contractor shall provide the training as**
19 **follows:**

20 **“(a) At least once during the year in which a property services**
21 **contractor license is first issued to a property services contractor;**

22 **“(b) For new employees, within 90 days of the employee’s initial**
23 **hiring date; and**

24 **“(c) At least once every two years after the renewal of a license.**

25 **“SECTION 7.** ORS 658.440 is amended to read:

26 “658.440. (1) Each person acting as a labor contractor shall:

27 “(a) Carry a labor contractor’s license at all times and exhibit it upon
28 request to any person with whom the labor contractor intends to deal in the
29 capacity of a labor contractor.

30 “(b) File immediately at the United States post office serving the labor

1 contractor's address, as noted on the face of the license, a correct change
2 of address if the labor contractor permanently changes address, and notify
3 the Commissioner of the Bureau of Labor and Industries each time an ad-
4 dress change is made.

5 “(c) Pay or distribute promptly, when due, to the individuals entitled
6 thereto all money or other things of value entrusted to the labor contractor
7 by any person for that purpose.

8 “(d) Comply with the terms and provisions of all legal and valid agree-
9 ments or contracts entered into in the labor contractor's capacity as a labor
10 contractor.

11 “(e) File with the Bureau of Labor and Industries, as required by rule,
12 information relating to work agreements between the labor contractor and
13 construction property owners or farmers and between the labor contractor
14 and workers or information concerning changes in the circumstances under
15 which the license was issued.

16 “(f) Furnish to each worker, at the time of hiring, recruiting, soliciting
17 or supplying, whichever occurs first, a written statement in the English
18 language and any other language used by the labor contractor to communi-
19 cate with the workers that contains a description of:

20 “(A) The method of computing the rate of compensation.

21 “(B) The terms and conditions of any bonus offered, including the manner
22 of determining when the bonus is earned.

23 “(C) The terms and conditions of any loan made to the worker.

24 “(D) The conditions of any housing, health and child care services to be
25 provided.

26 “(E) The terms and conditions of employment, including the approximate
27 length of season or period of employment and the approximate starting and
28 ending dates thereof.

29 “(F) The terms and conditions under which the worker is furnished
30 clothing or equipment.

1 “(G) The name and address of the owner of all operations where the
2 worker will be working as a result of being recruited, solicited, supplied or
3 employed by the labor contractor.

4 “(H) The existence of a labor dispute at the worksite.

5 “(I) The worker’s rights and remedies under ORS chapters 654 and 656,
6 ORS 658.405 to 658.503, the Service Contract Act (41 U.S.C. 351-401) and any
7 other such law specified by the Commissioner of the Bureau of Labor and
8 Industries, in plain and simple language in a form specified by the commis-
9 sioner.

10 “(g) At the time of hiring and prior to the worker performing any work
11 for the labor contractor, execute a written agreement between the worker
12 and the labor contractor containing the terms and conditions described in
13 paragraph (f)(A) to (I) of this subsection. The written agreement shall be in
14 the English language and any other language used by the labor contractor
15 to communicate with the workers.

16 “(h) Furnish to the worker, each time the worker receives a compensation
17 payment from the labor contractor, a written statement itemizing the total
18 payment and amount and purpose of each deduction therefrom, hours worked
19 and rate of pay or rate of pay and pieces done if the work is done on a piece
20 rate basis, and if the work is done under the Service Contract Act (41 U.S.C.
21 351-401) or related federal or state law, a written statement of any applicable
22 prevailing wage.

23 “(i) **Except for a person acting as a property services contractor,**
24 provide to the commissioner a certified true copy of all payroll records for
25 work done as a labor contractor when the contractor pays employees di-
26 rectly. The records shall be submitted in such form and at such times and
27 shall contain such information as the commissioner, by rule, may prescribe.

28 “(j)(A) If the person is a farm labor contractor engaged in the forestation
29 or reforestation of lands, provide workers’ compensation insurance for each
30 individual who performs manual labor in forestation or reforestation activ-

1 ities regardless of the business form of the contractor and regardless of any
2 contractual relationship that may be alleged to exist between the contractor
3 and the workers notwithstanding ORS 656.027, unless workers' compensation
4 insurance is otherwise provided; or

5 “(B) If the person is a farm labor contractor but is not engaged in the
6 forestation or reforestation of lands, provide workers' compensation insur-
7 ance to the extent required under ORS chapter 656, unless workers' com-
8 pensation insurance is otherwise provided.

9 **“(k) If the person is a property services contractor, provide time**
10 **and pay records, as defined in ORS 652.750, to the commissioner or an**
11 **employee of the property services contractor who requests the records,**
12 **no later than 45 days after receipt of the request. A property services**
13 **contractor that fails to comply with the requirements of this para-**
14 **graph is subject to civil penalty under ORS 652.900.**

15 “(2) If the labor contractor:

16 “(a) Employs workers, the labor contractor shall substantially comply
17 with the provisions of ORS 654.174 relating to field sanitation, and its im-
18 plementing rules as adopted by the Department of Consumer and Business
19 Services.

20 “(b) Owns or controls housing furnished to workers in connection with
21 the recruitment or employment of workers, the labor contractor shall ensure
22 that the housing substantially complies with any applicable law relating to
23 the health, safety or habitability of the housing.

24 “(c) Recruits or solicits any worker to travel from one place to another
25 for the purpose of working at a time prior to the availability of the em-
26 ployment, the labor contractor shall furnish to the worker, at no charge,
27 lodging and an adequate supply of food until employment begins, in compli-
28 ance with rules adopted by the Bureau of Labor and Industries. If employ-
29 ment does not begin within 30 days from the date the labor contractor
30 represented employment would become available, the labor contractor shall

1 refund to the worker all sums paid by the worker to the labor contractor and
2 provide the worker, in cash or other form of payment authorized by ORS
3 652.110, the costs of transportation, including meals and lodging in transit,
4 to return the worker to the place from which the worker was induced to
5 travel or the costs of transportation, including meals and lodging in transit,
6 to another worksite selected by the worker, whichever is less. For the pur-
7 poses of this paragraph, ‘recruits or solicits’ does not include the mere pro-
8 vision of housing or employment to persons who have not otherwise been
9 recruited or solicited by the labor contractor or an agent of the labor con-
10 tractor prior to their arrival at the place of housing or employment. Workers
11 who arrive at the place of employment prior to the date they were instructed
12 by the labor contractor to arrive are not entitled to the benefits of this
13 subsection until the date they were instructed to arrive.

14 “(3) A person acting as a labor contractor, or applying for a license to
15 act as a labor contractor, may not:

16 “(a) Make any misrepresentation, false statement or willful concealment
17 in the application for a license.

18 “(b) Willfully make or cause to be made to any person any false, fraudu-
19 lent or misleading representation, or publish or circulate any false, fraudu-
20 lent or misleading information concerning the terms, condition or existence
21 of employment at any place or by any person.

22 “(c) Solicit or induce, or cause to be solicited or induced, the violation
23 of an existing contract of employment.

24 “(d) Knowingly employ an alien not legally present or legally employable
25 in the United States.

26 “(e) Assist an unlicensed person to act in violation of ORS 658.405 to
27 658.503.

28 “(f) By force, intimidation or threat of procuring dismissal or deportation
29 or by any other manner whatsoever, induce any worker employed or in a
30 subcontracting relationship to the labor contractor to give up any part of the

1 compensation to which the worker is entitled under the contract of employ-
2 ment or under federal or state wage laws.

3 “(g) Solicit or induce, or cause to be solicited or induced, the travel of a
4 worker from one place to another by representing to a worker that employ-
5 ment for the worker is available at the destination when employment for the
6 worker is not available within 30 days after the date the work was repres-
7 ented as being available.

8 **“SECTION 8.** ORS 658.501 is amended to read:

9 “658.501. (1) ORS 658.405 to 658.503 apply to all transactions, acts and
10 omissions of labor contractors and users of labor contractors that are within
11 the constitutional power of the state to regulate, and not preempted by fed-
12 eral law, including but not limited to the recruitment of workers in this state
13 to perform work outside this state, the recruitment of workers outside of this
14 state to perform work in whole or in part within this state, the housing of
15 workers in this state for work in another state, the housing of workers from
16 another state in connection with work to be performed in this state, the
17 transportation of workers through this state and the payment, terms and
18 conditions, disclosure and record keeping required with respect to work
19 performed outside this state by workers recruited in this state.

20 **“(2) The provisions of ORS 658.405 to 658.503 apply only to labor**
21 **contractors and employees of labor contractors who perform those**
22 **services for which a labor contractor license is required.**

23 **“SECTION 9. A civil action under ORS 658.453 (4) or 658.475 may be**
24 **commenced against a property services contractor on or after July 1,**
25 **2018.**

26 **“SECTION 10. Section 9 of this 2018 Act and ORS 658.511 are added**
27 **to and made a part of ORS 658.405 to 658.503.**

28 **“SECTION 11. This 2018 Act being necessary for the immediate**
29 **preservation of the public peace, health and safety, an emergency is**
30 **declared to exist, and this 2018 Act takes effect on its passage.”.**

