

D R A F T

SUMMARY

Directs those agencies that administer certain state laws to use specific criteria to determine whether individual is employee or independent contractor and to cooperate in adopting rules to facilitate consistency in application of definition of independent contractor and provisions of Act.

Creates rebuttable presumption that individual who performs services for remuneration for hiring entity is employee when employment status of individual is at issue.

A BILL FOR AN ACT

Relating to employment status; creating new provisions; and amending ORS 670.605.

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

SECTION 1. For purposes of classifying an individual's status as an employee or an independent contractor as necessary for those agencies that administer ORS 671.510 to 671.760 and ORS chapters 316, 656, 657 and 701, and the wage and hour laws under ORS chapters 652 and 653, each respective agency shall determine the individual's status as follows:

(1) The agency shall determine whether the individual meets the criteria of an independent contractor, as defined in ORS 670.600.

(2) If the agency determines that the individual meets the criteria of an independent contractor, the agency shall then consider and weigh the following factors and find that an employment relationship exists when the factors, on balance, demonstrate that the individual is not economically dependent on the entity for whom the individual performs services:

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 (a) The degree of control that is exercised by the entity for whom
2 the individual performs services.

3 (b) The extent of the relative investments of the individual and the
4 entity for whom the individual performs services.

5 (c) The degree to which the individual's opportunity for profit and
6 loss is determined by the entity for whom the individual performs
7 services.

8 (d) The skill and initiative required of the individual in performing
9 the services.

10 (e) The permanence of the relationship between the individual and
11 the entity for whom the individual performs services.

12 (f) Whether the individual performs work that is outside the usual
13 course of business of the entity for whom the individual performs
14 services.

15 **SECTION 2.** Notwithstanding any other provision of law, in any
16 proceeding where a question of fact regarding the classification of an
17 individual as an employee or an independent contractor is at issue,
18 there is a rebuttable presumption that the individual is an employee
19 whenever another individual or entity engages the individual to per-
20 form services or labor in exchange for remuneration. An individual
21 or entity that engages an individual to perform such services or labor
22 may overcome the presumption by demonstrating by a preponderance
23 of the evidence that the individual is an independent contractor.

24 **SECTION 3.** ORS 670.605 is amended to read:

25 670.605. (1) In accordance with ORS chapter 183, those agencies responsi-
26 ble for the administration of ORS 671.510 to 671.760 and ORS chapters 316,
27 656, 657 and 701, **and the wage and hour laws under ORS chapters 652**
28 **and 653**, jointly shall adopt rules to carry out the provisions of ORS 670.600
29 **and section 1 of this 2021 Act.**

30 (2) The agencies responsible for the administration of ORS 671.510 to
31 671.760 and ORS chapters 316, 656, 657 and 701, **and the wage and hour**

1 **laws under ORS chapters 652 and 653**, shall cooperate as necessary in
2 their compliance and enforcement activities to ensure among the agencies
3 the consistent interpretation and application of ORS 670.600 **and section 1**
4 **of this 2021 Act.**

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