

Senate Bill 750



The Oregon Corporate Accountability Act: Holding Corporations Accountable for Breaking the Law

Oregonians have won important victories on a range of workplace rights in the past five years: a higher minimum wage, earned sick leave, equal pay guarantees, and Fair Workweek. But severe under-enforcement of those laws has diminished their impact.

The Problem: Inadequate Enforcement

Our state agencies have talented, hardworking staff, but there aren't enough of them to investigate and prosecute every violation. Oregon's workforce has doubled since 1997, and there are numerous new employment laws to enforce - yet BOLI's staffing has declined by 34% since the mid-1990s. That's why private lawsuits by victims are an important tool to hold bad actors accountable for wage theft or discrimination. But workers face many hurdles going to court including forced arbitration clauses that deny our constitutional right to go to court. With such low odds of being caught and penalized, many corporations make a strategic calculation to ignore the law. **Ignoring labor laws hurts working families and puts law-abiding companies at a competitive disadvantage.**

How We Fight Back: Empowering Workers for Smart Enforcement

We can protect our legal rights and hold corporate wrongdoers accountable by deputizing whistleblowers to bring enforcement actions on behalf of the state. By enacting the Oregon Corporate Accountability to allow public enforcement suits, we can:

- **Expose company-wide violations** by seeking penalties for violations affecting workers.
- **Collect significant civil penalties** from scofflaw employers to invest in increased enforcement capacity. Using a similar law, California has collected over \$34 million in revenue in the last fiscal year.
- **Preserve access to courts.** Unlike a private lawsuit, a public enforcement action doesn't arise from a contract between the company and employee. Instead, it enforces the state's laws in the name of the government. Courts have ruled that the right to bring a collective public enforcement action isn't waived in private arbitration agreements.

Is it effective?

Governments have delegated enforcement authority to whistleblowers for centuries. This practice is the primary way that the federal government and most states investigate and punish fraud on the government via the False Claims Act.

How does it work?

- ◆ A worker files a complaint with BOLI to enforce current labor laws.
- ◆ The agency decides whether to bring an enforcement action or let the whistleblower manage the suit on the state's behalf. If the whistleblower proceeds, the state continues to oversee the litigation.
- ◆ If a judge finds that the company broke a law, the company is ordered to pay penalties based on the number of impacted workers - so, small businesses would pay small fines and multinational corporations would pay large ones.
- ◆ Most of the penalty revenue goes to the state, with a portion rewarding the whistleblowers. The state can use the revenue to invest in enforcement and technical assistance.



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The Oregon Corporate Accountability Act: Frequently Asked Questions

1. **Would OCAA allow workers to sue for any violations of Oregon's labor law - including minor or harmless infractions?**

Under the -1 Amendment, SB 750 will only cover serious workplace violations. SB 750 does not allow suits for items such as minor paystub violations or other posting/reporting violations.

2. **Has California's PAGA actually strengthened the state's labor agencies?**

Yes. PAGA actions have generated significant revenue for the state of California, over \$34 million in the most recent fiscal year. The revenue has funded a wide variety of enforcement programs.

3. **How do we know trial lawyers will actually protect workers' rights instead of filing nuisance lawsuits to make money?**

Analysis of whistleblower suits refutes the myth that lawyers pursue frivolous cases – in fact, attorneys are skilled at screening meritorious cases, and their expertise minimizes enforcement costs. OCAA allows BOLI to enlist workers and their attorneys to take on all the cost and risk of litigation, while the state gets the majority of recoveries.

4. **How do we know that private organizations, like labor unions, won't abuse this law to sue employers and get rich in the process?**

The bill allows workers to enlist community organizations to enforce the law on their behalf. Without this provision, workers who are vulnerable to retaliation may be unwilling to step forward. When a representative organization prevails in an action, it can recover its costs, but has to distribute the rest of the penalty money to affected workers. The distribution plan has to be submitted to the state for approval. This process ensures that organizations' only incentive to serve as OCAA plaintiffs will be to advance their mission of enforcing workers' rights.

5. **If OCAA actions are litigated on behalf of all workers, shouldn't class action requirements apply?**

Public enforcement actions have a unique purpose - to vindicate the state's interest in compliance with our laws. Public enforcement actions are filed on behalf of the state to recover penalties, most of which go to the state, not the workers.