

SB 1026 A STAFF MEASURE SUMMARY

Senate Committee On Workforce

Action Date: 04/09/19

Action: Without recommendation as to passage, but with amendments and requesting referral to Rules. (Printed A-Eng.)

Vote: 4-0-1-0

Yeas: 4 - Golden, Knopp, Monnes Anderson, Taylor

Exc: 1 - Hansell

Fiscal: No fiscal impact

Revenue: No revenue impact

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Meeting Dates: 4/4, 4/9

WHAT THE MEASURE DOES:

Repeals ORS 653.263 specifying overtime requirements applicable to seafood processors. Eliminates exemption for seafood processors from overtime requirements applicable to employees employed in a cannery, drier, or packing plant. Takes effect 91st day following adjournment sine die.

ISSUES DISCUSSED:

- General application of overtime laws
- Exemption from cap on daily and weekly hours when undue hardship exists
- Culture and history of seasonal overtime work for seafood processors

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

The payment of overtime is required by both federal and state laws. The Bureau of Labor and Industries (BOLI) enforces Oregon’s wage and hour statutes, including provisions concerning overtime payments, and provides guidance to employers. Oregon law requires most employers to pay overtime to eligible employees at a rate of one-and-a-half times the employee’s regular pay for all hours worked beyond 40 in the workweek. Special rules provide for payment of overtime on a daily basis at government agencies, hospitals, canneries, and manufacturing establishments.

Prior to December 2016, BOLI’s Wage and Hour Laws Handbook for Oregon Employers advised that employers should calculate overtime wages for hours worked on both a daily basis and a weekly basis, and then pay the greater amount of the two. BOLI’s guidance changed after situations arose where employees exceeded both maximums for hours worked in a day and in the workweek. BOLI began advising employers to calculate overtime wages earned for hours worked on both a daily and a weekly basis, and then pay both amounts. In March 2017, the Multnomah County Circuit Court decided a case inconsistent with BOLI’s guidance, denying a claim in *Mazahua Reyes, et al. v. Portland Specialty Baking, LLC*, that would have required an employer to pay both daily and weekly amounts for overtime.

Oregon House Bill 3458 (2017) modified overtime payment by employers in the manufacturing and food processing sectors to require calculation on both daily and weekly basis and payment of the larger of the two amounts. In addition, the measure prohibited those same employers from requiring employees to work more than 55 hours in a workweek without employee consent in which case the employee could work up to 84 hours for four workweeks, and up to 80 hours for 17 workweeks if the employer claimed an undue hardship. HB 3458 specifically exempted seafood processing employees from the weekly cap on hours but allowed them to continue

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to be eligible for both daily and weekly overtime.

SB 1026-A repeals the statute applicable to seafood processors and subjects such processors to the overtime requirements for food processors described above.