

House Bill 2686

Sponsored by Representative NOSSE (Presession filed.)

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 **as introduced**.

Creates exemption to requirement that wages due to employee who is participant in Oregon Youth Employment Program must be paid immediately after termination of employment.

A BILL FOR AN ACT

1
2 Relating to payment of wages to participants in Oregon Youth Employment Program; creating new
3 provisions; and amending ORS 652.150 and 652.900.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 652.140 to**
6 **652.160.**

7 **SECTION 2. Notwithstanding ORS 652.140, whenever an employer discharges an employee**
8 **who has worked for the employer as a participant in the Oregon Youth Employment Program**
9 **created under ORS 660.353 or the employment is otherwise terminated, all wages earned and**
10 **unpaid become due and payable at the next regularly scheduled payday after the employment**
11 **termination.**

12 **SECTION 3. ORS 652.150 is amended to read:**

13 652.150. (1) Except as provided in subsections (2) and (3) of this section, if an employer willfully
14 fails to pay any wages or compensation of any employee whose employment ceases, as provided in
15 ORS 652.140 and 652.145 **and section 2 of this 2019 Act**, then, as a penalty for the nonpayment, the
16 wages or compensation of the employee shall continue from the due date thereof at the same hourly
17 rate for eight hours per day until paid or until action therefor is commenced. However:

18 (a) In no case shall the penalty wages or compensation continue for more than 30 days from the
19 due date; and

20 (b) A penalty may not be assessed under this section when an employer pays an employee the
21 wages the employer estimates are due and payable under ORS 652.140 (2)(c) and the estimated
22 amount of wages paid is less than the actual amount of earned and unpaid wages, as long as the
23 employer pays the employee all wages earned and unpaid within five days after the employee sub-
24 mits the time records.

25 (2)(a) If the employee or a person on behalf of the employee submits a written notice of non-
26 payment, the penalty may not exceed 100 percent of the employee's unpaid wages or compensation
27 unless the employer fails to pay the full amount of the employee's unpaid wages or compensation
28 within 12 days after receiving the notice.

29 (b) If the employee or a person on behalf of the employee fails to submit a written notice of
30 nonpayment, the penalty may not exceed 100 percent of the employee's unpaid wages or compen-
31 sation.

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 (c) A written notice of nonpayment must include the estimated amount of wages or compensation
 2 alleged to be owed or an allegation of facts sufficient to estimate the amount owed. Submission of
 3 a written notice of nonpayment that fails to include the estimated amount of wages or compensation
 4 alleged to be owed or an allegation of facts sufficient to estimate the amount owed does not satisfy
 5 the requirement for written notice under this subsection unless the employer has violated ORS
 6 652.610, 652.640 or 653.045.

7 (d) For purposes of determining when an employer has paid wages or compensation under this
 8 subsection, payment occurs on the date the employer delivers the payment to the employee or sends
 9 the payment by first class mail, express mail or courier service.

10 (3)(a) For purposes of this section, a commission owed to an employee by a business that pri-
 11 marily sells motor vehicles or farm implements is not due until all of the terms and conditions of
 12 an agreement between the employer and employee concerning the method of payment of commissions
 13 are fulfilled. If no such agreement exists, the commission is due with all other earned and unpaid
 14 wages or compensation as provided in ORS 652.140.

15 (b) Notwithstanding subsection (2) of this section, when there is a dispute between an employer
 16 and an employee concerning the amount of commission due under paragraph (a) of this subsection,
 17 if the amount of unpaid commission is found to be less than 20 percent of the amount of unpaid
 18 commission claimed by the employee, the penalty may not exceed the amount of the unpaid com-
 19 mission or \$200, whichever is greater.

20 (4) Subsections (2) and (3)(b) of this section do not apply when:

21 (a) The employer has violated ORS 652.140 or 652.145 one or more times in the year before the
 22 employee's employment ceased; or

23 (b) The employer terminated one or more other employees on the same date that the employee's
 24 employment ceased.

25 (5) The employer may avoid liability for the penalty described in this section by showing finan-
 26 cial inability to pay the wages or compensation at the time the wages or compensation accrued.

27 **SECTION 4.** ORS 652.900 is amended to read:

28 652.900. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau
 29 of Labor and Industries may assess a civil penalty not to exceed \$1,000 against any person who vi-
 30 olates ORS 652.020, 652.110, 652.140, 652.145, 652.260, 652.610 (4) or 652.750 **or section 2 of this 2019**
 31 **Act** or any rule adopted under those statutes.

32 (2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

33 (3) All sums collected as penalties under this section shall be first applied toward reimbursement
 34 of costs incurred in determining the violations, conducting hearings under this section and ad-
 35 dressing and collecting the penalties. The remainder, if any, of the sums collected as penalties under
 36 this section shall be paid into the State Treasury and credited to the General Fund and is available
 37 for general governmental expenses.

38