House Bill 2686

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

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

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

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

SECTION 3. ORS 652.150 is amended to read:

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

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

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

(2)(a) If the employee or a person on behalf of the employee submits a written notice of nonpayment, the penalty may not exceed 100 percent of the employee’s unpaid wages or compensation unless the employer fails to pay the full amount of the employee’s unpaid wages or compensation within 12 days after receiving the notice.

(b) If the employee or a person on behalf of the employee fails to submit a written notice of nonpayment, the penalty may not exceed 100 percent of the employee’s unpaid wages or compensation.

NOTE: Matter in boldfaced type in an amended section is new; matter in italic and bracketed is existing law to be omitted. New sections are in boldfaced type.
(c) A written notice of nonpayment must include the estimated amount of wages or compensation alleged to be owed or an allegation of facts sufficient to estimate the amount owed. Submission of a written notice of nonpayment that fails to include the estimated amount of wages or compensation alleged to be owed or an allegation of facts sufficient to estimate the amount owed does not satisfy the requirement for written notice under this subsection unless the employer has violated ORS 652.610, 652.640 or 653.045.

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

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

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

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

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

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

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

SECTION 4. ORS 652.900 is amended to read:

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

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

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