

2-24-2021

TO: Chair Power, Vice-Chair Wallan, and Members of the House Subcommittee on Civil Law
RE: House Bill 2205, The Just Enforcement Act

As a resident of West Linn, OR and the Field Coordinator for the Laborers' Health & Safety Fund of North America, coordinating safety & health resources for signatory contractors and the 4000 members of the Oregon & Southern Idaho District Council of Laborers, I strongly support HB 2205. This bill gives workers the power they need to enforce their rights at work.

Over the past few decades, our state agencies charged with enforcing important labor protections have experienced a steady decline in funding and resources, while the size of Oregon's workforce has grown. Compounded by the COVID-19 pandemic, wildfires, and an economic crisis those agencies have been overwhelmed by complaints to which they do not have the capacity to respond. Furthermore, a lack of outreach, accessible information, and a fear of retaliation for speaking out has left Oregon's most vulnerable workers - those in agriculture, manufacturing, retail, and other low-wage industries - with little trust in the system that exists to protect them.

According to the U.S. Department of Labor's Bureau of Labor Statistics, Federal OSHA, and state plan OSHA's, Oregon already lags in a few areas of protecting employees when it comes to enforcement. Oregon's rate per 100 workers of workplace injuries and illnesses for private industry in 2018 was 3.6, while the national average was 2.8. Total injury and illness cases with days away from work, job transfer or restriction in private industries in Oregon is 2.2 per 100 workers, the national average is 1.6. While it would take 44 years for Oregon OSHA to inspect each workplace once, the average penalty assessed per workplace fatality in Oregon ranked 7th lowest amongst all states, just \$2,895 versus the national average of \$17,830. Oregon ranked last in the average amount of penalty assessed for serious violations of the OSH Act, coming in at just \$579 while the national average was \$2,859.

Late last year, Oregon OSHA implemented a temporary rule intended to protect workers from the current infectious disease pandemic caused by the COVID-19 virus. As per Oregon statute, the temporary rule can only last 180 days. OR OSHA is in the beginning stages of public comment pertaining to making the temporary rule permanent before the temporary rule expires. Oregon makes just the fourth state in the U.S. to have an infectious disease rule while others are struggling to develop their own before Federal OSHA. This is a very progressive and courageous step towards protecting workers, but to what extent will it be effective if there is no real incentive to comply?

Throughout the pandemic, our state agencies received record numbers of reports of workplace abuse and health and safety violations. During 2020, OR OSHA received complaints from 23 of the 35 largest workplace COVID outbreaks but were only able to investigate two. OR OSHA received ten times as many complaints as they do in a normal year. The new rules compiled with existing issues concerning the lack of effective enforcement of workplace protections for workers is just another example of the systems failure to adequately protect the citizens of Oregon in the workplace. Workers already know that OR OSHA does not have the teeth needed to be as effective as possible.

If the same penalty structure in enforcement were applied to traffic violations in Oregon as is applied to OSHA violations, what do you think our streets and highways would be like? What would be the consistent deterrent as it relates to exceeding the speed limit? If the same terms were to be applied, it would mean that a speeding ticket in Oregon would only cost 1/6th the

current fine! A \$100 fine would ultimately amount to \$16.66, or even a \$200 traffic infraction would only result in a total assessment of \$33.33!

The fear of retaliation for standing up for one's hard-earned paycheck is very real. Imagine the scenario of an employer who under pays, gets caught, and directed to pay the back wages? In other words, the current penalty structure for wage theft is not consistently a sufficient deterrent for bad actors. The Just Enforcement Act would provide workers with a voice in their workplace and create a revenue stream for state agencies to increase enforcement capacity. Providing an avenue for workers to partner with trusted community organizations to file suits on the state's behalf would allow workers who fear speaking out alone and risking their jobs to have the community at their backs while they do so. I urge you to support HB 2205.

Doug Buman

Field Coordinator

Laborers' Health & Safety Fund of North America