

(To Resolve Conflicts)

## B-Engrossed Senate Bill 1560

Ordered by the House March 3  
Including Senate Amendments dated February 15 and House Amendments  
dated March 3 to resolve conflicts

Sponsored by Senators JAMA, PROZANSKI, DEMBROW, LAWRENCE SPENCE, MANNING JR, PATTERSON, TAYLOR, Representatives ALONSO LEON, CAMPOS, GRAYBER, REARDON, RUIZ, SCHOUTEN; Senators ANDERSON, ARMITAGE, FREDERICK, GELSER BLOUIN, GOLDEN, GORSEK, HANSELL, KENNEMER, LIEBER, SOLLMAN, STEINER HAYWARD, WAGNER, Representatives BYNUM, DEXTER, EVANS, FAHEY, HELM, HOY, HUDSON, KROPF, MARSH, MCLAIN, MEEK, NERON, NOSSE, PHAM, POWER, PRUSAK, REYNOLDS, SANCHEZ, VALDERRAMA, WILDE, WILLIAMS (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.

Updates statutory references to individual who is not citizen or national of United States to replace "alien" with "noncitizen."

Directs state agencies to use "noncitizen" in rules and regulations to reference individual who is not citizen or national of United States and to update rules and regulations that use "alien" to use "noncitizen." Authorizes agencies to amend rule without prior notice or hearing for purpose of changing term or phrase in order to conform with change made by law.

Makes nonsubstantive changes.

### A BILL FOR AN ACT

1  
2 Relating to noncitizens; creating new provisions; and amending ORS 12.200, 165.800, 166.291, 183.335,  
3 238.015, 316.027, 316.567, 316.695, 408.010, 411.139, 497.006, 656.005, 656.232, 657.045, 657.184 and  
4 658.440.

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

#### 6 **SECTION 1. (1) As used in this section:**

7 (a) "Noncitizen" means an individual who is not a citizen or national of the United States.

8 (b) "State agency" means any state officer, board, commission, department, division, in-  
9 stitution, branch or agency of the state government.

10 (2) A state agency shall use the term "noncitizen" to reference an individual who is not  
11 a citizen or national of the United States when promulgating a rule or regulation that ref-  
12 erences an individual who is not a citizen or national of the United States.

#### 13 **SECTION 2. (1) As used in this section:**

14 (a) "Noncitizen" means an individual who is not a citizen or national of the United States.

15 (b) "State agency" means any state officer, board, commission, department, division, in-  
16 stitution, branch or agency of the state government.

17 (2) A state agency shall amend any existing rule or regulation promulgated by the state  
18 agency that uses the term "alien" to reference an individual who is not a citizen or national  
19 of the United States to replace the term "alien" with "noncitizen" no later than six months  
20 after the effective date of this 2022 Act.

**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        **SECTION 3.** ORS 12.200 is amended to read:

2        12.200. When a person is [*an alien*] a **noncitizen and a** subject or citizen of a country at war  
3 with the United States, the time of the continuance of the war shall not be a part of the period  
4 limited for the commencement of the action.

5        **SECTION 4.** ORS 165.800 is amended to read:

6        165.800. (1) A person commits the crime of identity theft if the person, with the intent to deceive  
7 or to defraud, obtains, possesses, transfers, creates, utters or converts to the person's own use the  
8 personal identification of another person.

9        (2) Identity theft is a Class C felony.

10       (3) It is an affirmative defense to violating subsection (1) of this section that the person charged  
11 with the offense:

12       (a) Was under 21 years of age at the time of committing the offense and the person used the  
13 personal identification of another person solely for the purpose of purchasing alcohol, tobacco pro-  
14 ducts as defined in ORS 431A.175 or inhalant delivery systems as defined in ORS 431A.175; or

15       (b) Used the personal identification of another person solely for the purpose of misrepresenting  
16 the person's age to gain access to a:

17       (A) Place the access to which is restricted based on age; or

18       (B) Benefit based on age.

19       (4) As used in this section:

20       (a) "Another person" means an individual, whether living or deceased, an imaginary person or  
21 a firm, association, organization, partnership, business trust, company, corporation, limited liability  
22 company, professional corporation or other private or public entity.

23       (b) "Personal identification" includes, but is not limited to, any written document or electronic  
24 data that does, or purports to, provide information concerning:

25       (A) A person's name, address or telephone number;

26       (B) A person's driving privileges;

27       (C) A person's Social Security number or tax identification number;

28       (D) A person's citizenship status or [*alien*] **an** identification number **assigned to a noncitizen**;

29       (E) A person's employment status, employer or place of employment;

30       (F) The identification number assigned to a person by a person's employer;

31       (G) The maiden name of a person or a person's mother;

32       (H) The identifying number of a person's depository account at a "financial institution" or "trust  
33 company," as those terms are defined in ORS 706.008, or a credit card account;

34       (I) A person's signature or a copy of a person's signature;

35       (J) A person's electronic mail name, electronic mail signature, electronic mail address or elec-  
36 tronic mail account;

37       (K) A person's photograph;

38       (L) A person's date of birth; and

39       (M) A person's personal identification number.

40       **SECTION 5.** ORS 166.291 is amended to read:

41       166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed  
42 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set  
43 out in this section, shall issue the person a concealed handgun license if the person:

44       (a)(A) Is a citizen of the United States; or

45       (B) Is a legal resident [*alien*] **noncitizen** who can document continuous residency in the county

1 for at least six months and has declared in writing to the United States Citizenship and Immigration  
2 Services the intent to acquire citizenship status and can present proof of the written declaration to  
3 the sheriff at the time of application for the license;

4 (b) Is at least 21 years of age;

5 (c) Is a resident of the county;

6 (d) Has no outstanding warrants for arrest;

7 (e) Is not free on any form of pretrial release;

8 (f) Demonstrates competence with a handgun by any one of the following:

9 (A) Completion of any hunter education or hunter safety course approved by the State Depart-  
10 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component  
11 of the course;

12 (B) Completion of any National Rifle Association firearms safety or training course if handgun  
13 safety was a component of the course;

14 (C) Completion of any firearms safety or training course or class available to the general public  
15 offered by law enforcement, community college, or private or public institution or organization or  
16 firearms training school utilizing instructors certified by the National Rifle Association or a law  
17 enforcement agency if handgun safety was a component of the course;

18 (D) Completion of any law enforcement firearms safety or training course or class offered for  
19 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-  
20 cers if handgun safety was a component of the course;

21 (E) Presents evidence of equivalent experience with a handgun through participation in organ-  
22 ized shooting competition or military service;

23 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been  
24 revoked; or

25 (G) Completion of any firearms training or safety course or class conducted by a firearms in-  
26 structor certified by a law enforcement agency or the National Rifle Association if handgun safety  
27 was a component of the course;

28 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,  
29 of a felony;

30 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS  
31 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor  
32 conviction for the possession of marijuana as described in paragraph (L) of this subsection;

33 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

34 (j) Has not been found to be a person with mental illness and is not subject to an order under  
35 ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of  
36 that mental illness;

37 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,  
38 while a minor, the person was found to be within the jurisdiction of the juvenile court for having  
39 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-  
40 volving violence, as defined in ORS 166.470;

41 (L) Has not been convicted of an offense involving controlled substances or participated in a  
42 court-supervised drug diversion program, except this disability does not operate to exclude a person  
43 if:

44 (A) The person can demonstrate that the person has been convicted only once of a marijuana  
45 possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of

1 the offense, and has not completed a drug diversion program for a marijuana possession offense that  
2 constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or

3 (B) The person can demonstrate that the person has only once completed a drug diversion pro-  
4 gram for a marijuana possession offense that constituted a misdemeanor or violation under the law  
5 of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that  
6 constituted a misdemeanor or violation under the law of the jurisdiction of the offense;

7 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,  
8 107.700 to 107.735 or 163.738;

9 (n) Has not received a dishonorable discharge from the Armed Forces of the United States;

10 (o) Is not required to register as a sex offender in any state; and

11 (p) Is not presently subject to an order under ORS 426.133 prohibiting the person from pur-  
12 chasing or possessing a firearm.

13 (2) A person who has been granted relief under ORS 166.273, 166.274 or 166.293 or 18 U.S.C.  
14 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of  
15 other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

16 (3) Before the sheriff may issue a license:

17 (a) The application must state the applicant's legal name, current address and telephone number,  
18 date and place of birth, hair and eye color and height and weight. The application must also list the  
19 applicant's residence address or addresses for the previous three years. The application must contain  
20 a statement by the applicant that the applicant meets the requirements of subsection (1) of this  
21 section. The application may include the Social Security number of the applicant if the applicant  
22 voluntarily provides this number. The application must be signed by the applicant.

23 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff  
24 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to  
25 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal  
26 records check is necessary, the sheriff shall request the Department of State Police to conduct the  
27 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal  
28 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records  
29 check and may not keep any record of the fingerprints. The Department of State Police shall report  
30 the results of the fingerprint-based criminal records check to the sheriff. The Department of State  
31 Police shall also furnish the sheriff with any information about the applicant that the Department  
32 of State Police may have in its possession including, but not limited to, manual or computerized  
33 criminal offender information.

34 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-  
35 quest. The forms shall be uniform throughout this state in substantially the following form:

36  
37  
38 APPLICATION FOR LICENSE TO CARRY  
39 CONCEALED HANDGUN

40 Date \_\_\_\_\_

41 I hereby declare as follows:

42 I am a citizen of the United States or a legal resident [*alien*] **noncitizen** who can document  
43 continuous residency in the county for at least six months and have declared in writing to the  
44 United States Citizenship and Immigration Services my intention to become a citizen and can pres-  
45 ent proof of the written declaration to the sheriff at the time of this application. I am at least 21

1 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four  
2 years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having  
3 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-  
4 volving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty,  
5 except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not,  
6 within the last four years, been convicted of a misdemeanor or found guilty, except for insanity  
7 under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been  
8 convicted of an offense involving controlled substances or completed a court-supervised drug diver-  
9 sion program. There are no outstanding warrants for my arrest and I am not free on any form of  
10 pretrial release. I have not been committed to the Oregon Health Authority under ORS 426.130, nor  
11 have I been found to be a person with mental illness and presently subject to an order prohibiting  
12 me from purchasing or possessing a firearm because of mental illness. I am not under a court order  
13 to participate in assisted outpatient treatment that includes an order prohibiting me from purchasing  
14 or possessing a firearm. If any of the previous conditions do apply to me, I have been granted relief  
15 or wish to petition for relief from the disability under ORS 166.273, 166.274 or 166.293 or 18 U.S.C.  
16 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735  
17 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dis-  
18 honorable discharge from the Armed Forces of the United States. I am not required to register as  
19 a sex offender in any state. I understand I will be fingerprinted and photographed.

20

21 Legal name \_\_\_\_\_  
22 Age \_\_\_\_\_ Date of birth \_\_\_\_\_  
23 Place of birth \_\_\_\_\_  
24 Social Security number \_\_\_\_\_

25 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-  
26 thorized under ORS 166.291. It will be used only as a means of identification.)

27

28 Proof of identification (Two pieces of current identification are required, one of which must bear a  
29 photograph of the applicant. The type of identification and the number on the identification are to  
30 be filled in by the sheriff.):

31 1. \_\_\_\_\_  
32 2. \_\_\_\_\_

33

34 Height \_\_\_\_\_ Weight \_\_\_\_\_  
35 Hair color \_\_\_\_\_ Eye color \_\_\_\_\_

36

37 Current address \_\_\_\_\_

38

(List residence addresses for the  
past three years on the back.)

39

40

41 City \_\_\_\_\_ County \_\_\_\_\_ Zip \_\_\_\_\_

42 Phone \_\_\_\_\_

43

44 I have read the entire text of this application, and the statements therein are correct and true.  
45 (Making false statements on this application is a misdemeanor.)

\_\_\_\_\_  
(Signature of Applicant)

Character references.

\_\_\_\_\_  
Name: Address

\_\_\_\_\_  
Name: Address

Approved \_\_\_\_\_ Disapproved \_\_\_\_\_ by \_\_\_\_\_

Competence with handgun demonstrated by \_\_\_\_\_ (to be filled in by sheriff)

Date \_\_\_\_\_ Fee Paid \_\_\_\_\_

License No. \_\_\_\_\_

(5)(a) Fees for concealed handgun licenses are:

(A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

(B) \$100 to the sheriff for the initial issuance of a concealed handgun license.

(C) \$75 to the sheriff for the renewal of a concealed handgun license.

(D) \$15 to the sheriff for the duplication of a license because of loss or change of address.

(b) The sheriff may enter into an agreement with the Department of Transportation to produce the concealed handgun license.

(6) No civil or criminal liability shall attach to the sheriff or any authorized representative engaged in the receipt and review of, or an investigation connected with, any application for, or in the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful performance of duties under those sections.

(7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the person is an applicant for a concealed handgun license or is a license holder.

(8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section for a resident of a contiguous state who has a compelling business interest or other legitimate demonstrated need.

(9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the person:

(a) Has a current Oregon driver license issued to the person showing a residence address in the county;

(b) Is registered to vote in the county and has a voter notification card issued to the person under ORS 247.181 showing a residence address in the county;

(c) Has documentation showing that the person currently leases or owns real property in the county; or

(d) Has documentation showing that the person filed an Oregon tax return for the most recent tax year showing a residence address in the county.

(10) As used in this section, "drug diversion program" means a program in which a defendant charged with a marijuana possession offense completes a program under court supervision and in

1 which the marijuana possession offense is dismissed upon successful completion of the diversion  
2 program.

3 **SECTION 6.** ORS 183.335 is amended to read:

4 183.335. (1) Prior to the adoption, amendment or repeal of any rule, the agency shall give notice  
5 of its intended action:

6 (a) In the manner established by rule adopted by the agency under ORS 183.341 (4), which pro-  
7 vides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

8 (b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;

9 (c) At least 28 days before the effective date, to persons who have requested notice pursuant to  
10 subsection (8) of this section; and

11 (d) Delivered only by electronic mail, at least 49 days before the effective date, to the persons  
12 specified in subsection (15) of this section.

13 (2)(a) The notice required by subsection (1) of this section must include:

14 (A) A caption of not more than 15 words that reasonably identifies the subject matter of the  
15 agency's intended action. The agency shall include the caption on each separate notice, statement,  
16 certificate or other similar document related to the intended action.

17 (B) An objective, simple and understandable statement summarizing the subject matter and  
18 purpose of the intended action in sufficient detail to inform a person that the person's interests may  
19 be affected, and the time, place and manner in which interested persons may present their views on  
20 the intended action.

21 (b) The agency shall include with the notice of intended action given under subsection (1) of this  
22 section:

23 (A) A citation of the statutory or other legal authority relied upon and bearing upon the  
24 promulgation of the rule;

25 (B) A citation of the statute or other law the rule is intended to implement;

26 (C) A statement of the need for the rule and a statement of how the rule is intended to meet the  
27 need;

28 (D) A list of the principal documents, reports or studies, if any, prepared by or relied upon by  
29 the agency in considering the need for and in preparing the rule, and a statement of the location  
30 at which those documents are available for public inspection. The list may be abbreviated if neces-  
31 sary, and if so abbreviated there shall be identified the location of a complete list;

32 (E) A statement of fiscal impact identifying state agencies, units of local government and the  
33 public that may be economically affected by the adoption, amendment or repeal of the rule and an  
34 estimate of that economic impact on state agencies, units of local government and the public. In  
35 considering the economic effect of the proposed action on the public, the agency shall utilize avail-  
36 able information to project any significant economic effect of that action on businesses which shall  
37 include a cost of compliance effect on small businesses affected. For an agency specified in ORS  
38 183.530, the statement of fiscal impact shall also include a housing cost impact statement as de-  
39 scribed in ORS 183.534;

40 (F) A statement identifying how adoption of the rule will affect racial equity in this state;

41 (G) If an advisory committee is not appointed under the provisions of ORS 183.333, an explana-  
42 tion as to why no advisory committee was used to assist the agency in drafting the rule; and

43 (H) A request for public comment on whether other options should be considered for achieving  
44 the rule's substantive goals while reducing the negative economic impact of the rule on business.

45 (c) The Secretary of State may omit the information submitted under paragraph (b) of this sub-

1 section from publication in the bulletin referred to in ORS 183.360.

2 (d) When providing notice of an intended action under subsection (1)(c) of this section, the  
3 agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or an  
4 explanation of how the person may acquire a copy of the rule. The copy of an amended rule shall  
5 show all changes to the rule by striking through material to be deleted and underlining all new  
6 material, or by any other method that clearly shows all new and deleted material.

7 (3)(a) When an agency proposes to adopt, amend or repeal a rule, it shall give interested persons  
8 reasonable opportunity to submit data or views. Opportunity for oral hearing shall be granted upon  
9 request received from 10 persons or from an association having not less than 10 members before the  
10 earliest date that the rule could become effective after the giving of notice pursuant to subsection  
11 (1) of this section. An agency holding a hearing upon a request made under this subsection shall give  
12 notice of the hearing at least 21 days before the hearing to the person who has requested the  
13 hearing, to persons who have requested notice pursuant to subsection (8) of this section and to the  
14 persons specified in subsection (15) of this section. The agency shall publish notice of the hearing  
15 in the bulletin referred to in ORS 183.360 at least 14 days before the hearing. The agency shall  
16 consider fully any written or oral submission.

17 (b) If an agency is required to conduct an oral hearing under paragraph (a) of this subsection,  
18 and the rule for which the hearing is to be conducted applies only to a limited geographical area  
19 within this state, or affects only a limited geographical area within this state, the hearing shall be  
20 conducted within the geographical area at the place most convenient for the majority of the resi-  
21 dents within the geographical area. At least 14 days before a hearing conducted under this para-  
22 graph, the agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 and  
23 in a newspaper of general circulation published within the geographical area that is affected by the  
24 rule or to which the rule applies. If a newspaper of general circulation is not published within the  
25 geographical area that is affected by the rule or to which the rule applies, the publication shall be  
26 made in the newspaper of general circulation published closest to the geographical area.

27 (c) Notwithstanding paragraph (a) of this subsection, the Department of Corrections and the  
28 State Board of Parole and Post-Prison Supervision may adopt rules limiting participation by adults  
29 in custody in the proposed adoption, amendment or repeal of any rule to written submissions.

30 (d) If requested by at least five persons before the earliest date that the rule could become ef-  
31 fective after the agency gives notice pursuant to subsection (1) of this section, the agency shall  
32 provide a statement that identifies the objective of the rule and a statement of how the agency will  
33 subsequently determine whether the rule is in fact accomplishing that objective.

34 (e) An agency that receives data or views concerning proposed rules from interested persons  
35 shall maintain a record of the data or views submitted. The record shall contain:

36 (A) All written materials submitted to an agency in response to a notice of intent to adopt,  
37 amend or repeal a rule.

38 (B) A recording or summary of oral submissions received at hearings held for the purpose of  
39 receiving those submissions.

40 (C) Any public comment received in response to the request made under subsection (2)(b)(H) of  
41 this section and the agency's response to that comment.

42 (D) Any statements provided by the agency under paragraph (d) of this subsection.

43 (4) Upon request of an interested person received before the earliest date that the rule could  
44 become effective after the giving of notice pursuant to subsection (1) of this section, the agency shall  
45 postpone the date of its intended action no less than 21 nor more than 90 days in order to allow the



1 requesting person an opportunity to submit data, views or arguments concerning the proposed  
2 action. Nothing in this subsection shall preclude an agency from adopting a temporary rule pursuant  
3 to subsection (5) of this section.

4 (5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or sus-  
5 pend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds  
6 practicable, if the agency prepares:

7 (a) A statement of its findings that its failure to act promptly will result in serious prejudice to  
8 the public interest or the interest of the parties concerned and the specific reasons for its findings  
9 of prejudice;

10 (b) A citation of the statutory or other legal authority relied upon and bearing upon the  
11 promulgation of the rule;

12 (c) A statement of the need for the rule and a statement of how the rule is intended to meet the  
13 need;

14 (d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by  
15 the agency in considering the need for and in preparing the rule, and a statement of the location  
16 at which those documents are available for public inspection; and

17 (e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS  
18 183.534.

19 (6)(a) A rule adopted, amended or suspended under subsection (5) of this section is temporary  
20 and may be effective for a period of not longer than 180 days. The adoption of a rule under this  
21 subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to  
22 (4) of this section.

23 (b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary  
24 period of suspension unless the rule is repealed under subsections (1) to (4) of this section.

25 (7) Notwithstanding subsections (1) to (4) of this section, an agency may amend a rule without  
26 prior notice or hearing if the amendment is solely for the purpose of:

27 (a) Changing the name of an agency by reason of a name change prescribed by law;

28 (b) Changing the name of a program, office or division within an agency as long as the change  
29 in name does not have a substantive effect on the functions of the program, office or division;

30 (c) Correcting spelling;

31 (d) Correcting grammatical mistakes in a manner that does not alter the scope, application or  
32 meaning of the rule;

33 (e) Correcting statutory or rule references; *[or]*

34 (f) Correcting addresses or telephone numbers referred to in the rules; **or**

35 **(g) Changing a term or phrase in order to conform with a change prescribed by law.**

36 (8)(a) Any person may request in writing that an agency send to the person copies of the  
37 agency's notices of intended action issued under subsection (1) of this section. The person must  
38 provide an address where the person elects to receive notices. The address provided may be a postal  
39 mailing address or, if the agency provides notice by electronic mail, may be an electronic mailing  
40 address.

41 (b) A request under this subsection must indicate that the person requests one of the following:

42 (A) The person may request that the agency mail paper copies of the proposed rule and other  
43 information required by subsection (2) of this section to the postal mailing address.

44 (B) If the agency posts notices of intended action on a website, the person may request that the  
45 agency mail the information required by subsection (2)(a) of this section to the postal mailing ad-

1 dress with a reference to the website where electronic copies of the proposed rule and other infor-  
2 mation required by subsection (2) of this section are posted.

3 (C) The person may request that the agency electronically mail the information required by  
4 subsection (2)(a) of this section to the electronic mailing address, and either provide electronic  
5 copies of the proposed rule and other information required by subsection (2) of this section or pro-  
6 vide a reference to a website where electronic copies of the proposed rule and other information  
7 required by subsection (2) of this section are posted.

8 (c) Upon receipt of any request under this subsection, the agency shall acknowledge the request,  
9 establish a mailing list and maintain a record of all mailings made pursuant to the request. Agen-  
10 cies may establish procedures for establishing the mailing lists and keeping the mailing lists current.  
11 Agencies by rule may establish fees necessary to defray the costs of mailings and maintenance of  
12 the lists.

13 (d) Members of the Legislative Assembly who receive notices under subsection (15) of this sec-  
14 tion may request that an agency furnish paper copies of the notices.

15 (9) This section does not apply to rules establishing an effective date for a previously effective  
16 rule or establishing a period during which a provision of a previously effective rule will apply.

17 (10) This section does not apply to ORS 279.835 to 279.855, 279A.140 to 279A.161, 279A.250 to  
18 279A.290, 279A.990, 279B.050 to 279B.085, 279B.200 to 279B.240, 279B.270, 279B.275, 279B.280,  
19 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.500 to 279C.530, 279C.540, 279C.545,  
20 279C.550 to 279C.570, 279C.580, 279C.585, 279C.590, 279C.600 to 279C.625, 279C.650 to 279C.670 and  
21 279C.800 to 279C.870 relating to public contracts and purchasing.

22 (11)(a) Except as provided in paragraph (c) of this subsection, a rule is not valid unless adopted  
23 in substantial compliance with the provisions of this section in effect on the date that the notice  
24 required under subsection (1) of this section is delivered to the Secretary of State for the purpose  
25 of publication in the bulletin referred to in ORS 183.360.

26 (b) In addition to all other requirements with which rule adoptions must comply, a rule other  
27 than a rule amended for a purpose described in subsection (7) of this section is not valid if the rule  
28 has not been submitted to the Legislative Counsel in the manner required by ORS 183.355 and  
29 183.715.

30 (c) A rule is not subject to judicial review or other challenge by reason of failing to comply with  
31 subsection (2)(a)(A) of this section.

32 (12)(a) Notwithstanding the provisions of subsection (11) of this section, but subject to paragraph  
33 (b) of this subsection, an agency may correct its failure to substantially comply with the require-  
34 ments of subsections (2) and (5) of this section in adoption of a rule by an amended filing, as long  
35 as the noncompliance did not substantially prejudice the interests of persons to be affected by the  
36 rule.

37 (b) An agency may use an amended filing to correct a failure to include a fiscal impact state-  
38 ment in a notice of intended action, as required by subsection (2)(b)(E) of this section, or to correct  
39 an inaccurate fiscal impact statement, only if the agency developed the fiscal impact statement with  
40 the assistance of an advisory committee or fiscal impact advisory committee appointed under ORS  
41 183.333.

42 (13) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by an  
43 agency need not be based upon or supported by an evidentiary record.

44 (14) When an agency has established a deadline for comment on a proposed rule under the pro-  
45 visions of subsection (3)(a) of this section, the agency may not extend that deadline for another

1 agency or person unless the extension applies equally to all interested agencies and persons. An  
2 agency shall not consider any submission made by another agency after the final deadline has  
3 passed.

4 (15) The notices required under subsections (1) and (3) of this section must be given by the  
5 agency to the following persons:

6 (a) If the proposed adoption, amendment or repeal results from legislation that was passed  
7 within two years before notice is given under subsection (1) of this section, notice shall be given to  
8 the legislator who introduced the bill that subsequently was enacted into law, and to the chair or  
9 cochair of all committees that reported the bill out, except for those committees whose sole action  
10 on the bill was referral to another committee.

11 (b) If the proposed adoption, amendment or repeal does not result from legislation that was  
12 passed within two years before notice is given under subsection (1) of this section, notice shall be  
13 given to the chair or cochair of any interim or session committee with authority over the subject  
14 matter of the rule.

15 (c) If notice cannot be given under paragraph (a) or (b) of this subsection, notice shall be given  
16 to the Speaker of the House of Representatives and to the President of the Senate who are in office  
17 on the date the notice is given.

18 (16)(a) Upon the request of a member of the Legislative Assembly or of a person who would be  
19 affected by a proposed adoption, amendment or repeal, the committees receiving notice under sub-  
20 section (15) of this section shall review the proposed adoption, amendment or repeal for compliance  
21 with the legislation from which the proposed adoption, amendment or repeal results.

22 (b) The committees shall submit their comments on the proposed adoption, amendment or repeal  
23 to the agency proposing the adoption, amendment or repeal.

24 **SECTION 7.** ORS 238.015 is amended to read:

25 238.015. (1) No person may become a member of the system unless that person is in the service  
26 of a public employer and has completed six months' service uninterrupted by more than 30 consec-  
27 utive working days during the six months' period. Every employee of a participating employer shall  
28 become a member of the system at the beginning of the first full pay period of the employee fol-  
29 lowing the six months' period. Contributions for new members shall first be made for those wages  
30 that are attributable to services performed by the employee during the first full pay period following  
31 the six months' period, without regard to when those wages are considered earned for other pur-  
32 poses under this chapter. All public employers participating in the Public Employees Retirement  
33 System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of that  
34 chapter, and all school districts of the state, shall participate in, and their employees shall be  
35 members of, the system, except as otherwise specifically provided by law.

36 (2) Any active member of the Public Employees Retirement System who, through the annexation  
37 of a political subdivision employing the member or by change of employment, becomes the employee  
38 of another political subdivision which is participating in the Public Employees Retirement System  
39 and has also a separate retirement system for its employees, shall remain an active member of the  
40 Public Employees Retirement System unless, within 60 days after the effective date of the  
41 annexation or change of employment or April 8, 1953, the member shall by written notice to the  
42 Public Employees Retirement Board and to the administrative body of the new public employer elect  
43 to relinquish membership in the Public Employees Retirement System and become a member of the  
44 separate retirement system of the employer, if eligible for membership in that retirement system, and  
45 the member shall be so carried by the new employer. Immediately upon such annexation of any

1 political subdivision or such change of employment, the new public employer shall inform such em-  
2 ployee in writing of the right of the employee to exercise an election as in this section provided.

3 (3) A political subdivision (other than a school district) not participating in the retirement sys-  
4 tem established by chapter 401, Oregon Laws 1945, as amended, which employs one or more em-  
5 ployees, each of whose position requires 600 hours of service per year, or an agency created by two  
6 or more political subdivisions to provide themselves governmental services, which employs one or  
7 more employees, each of whose position requires 600 hours of service per year, may, through its  
8 governing body, notify the board in writing, that it elects to include its employees in the system  
9 hereby established. Such public employer may request the board to make a study and estimate of the  
10 cost of including it and its eligible employees, other than volunteer firefighters, in the system, which  
11 the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon  
12 completion of the study and estimate the employer may apply for admission to the system, where-  
13 upon it shall begin to participate therein and its eligible employees other than volunteer firefighters  
14 shall become members of the system. If the employer is an agency created by two or more political  
15 subdivisions to provide themselves governmental services and ceases thereafter to transmit to the  
16 board contributions for any of its eligible employees, the benefits based upon employer contributions  
17 to which such employees would otherwise be entitled shall be reduced accordingly.

18 (4) No adult in custody in a state institution or [*an alien*] **a noncitizen** on a training or educa-  
19 tional visa working for any participating employer, even though the adult in custody or [*alien*]  
20 **noncitizen** received compensation from a participating employer, shall be eligible to become a  
21 member of the system. No person employed by a participating employer and defined by such em-  
22 ployer as a student employee is eligible to become a member of the system for such student em-  
23 ployment.

24 (5) A person holding an elective office or an appointive office with a fixed term or an office as  
25 head of a department to which the person is appointed by the Governor may become a member of  
26 the system by giving the board written notice of desire to do so within 30 days after taking the of-  
27 fice or, in the event that the officer is not eligible to become a member of the system at the time  
28 of taking the office, within 30 days after becoming so eligible. Membership so established shall not  
29 be discontinued during the appointive or elective term of the officer except upon separation of the  
30 officer from service.

31 (6) A public employer employing volunteer firefighters may apply to the board at any time for  
32 them to become members of the system. Upon receiving the application the board shall fix a wage  
33 at which, for purposes of this chapter only, they shall be considered to be employed and which shall  
34 be the basis for computing the amounts of the contributions, if any, which they pay into, and of the  
35 benefits which they and their beneficiaries receive from, the fund; and if the wage so fixed is satis-  
36 factory to the employer, shall include the firefighters in the system.

37 (7)(a) In the event that an employee enters the service of a public employer which is partic-  
38 ipating in or later begins to participate in the system and in the event that at the time of entering  
39 that service or at the time that the employer begins to participate in the system the employee has  
40 commenced to purchase and is continuing to purchase a retirement annuity, if the employer deems  
41 the annuity adequate for the purposes of this chapter, it may enter into an agreement with the em-  
42 ployee and the board pursuant to which the employee may be exempted from contributing to the  
43 Public Employees Retirement Fund, and, if no public funds are being used to purchase the annuity  
44 or a corresponding pension, the employer, in lieu of the contributions which it otherwise would  
45 make to the fund on account of the employee, may make contributions toward the cost of purchasing

1 the annuity. Such employee otherwise shall be subject to the provisions of this chapter, except that  
2 neither the employee nor any person claiming under the employee shall receive any payments from  
3 the retirement fund as service or disability allowance.

4 (b) An employee who enters into an agreement under paragraph (a) of this subsection may elect  
5 at any time thereafter to start to participate in the system by giving written notice of desire to  
6 participate to the board and to the employer. The employee shall receive no retirement credit for  
7 the period during which the employee was exempted from contributing to the fund under the  
8 agreement, but the employee shall be considered to have completed the six months' service required  
9 for membership in the system. When the employee starts to participate in the system the employer  
10 shall start to contribute to the fund on account of the employee in the same manner as the employer  
11 contributes on account of other employees who are active members of the system and the employer  
12 shall stop making contributions toward the cost of purchasing the retirement annuity.

13 (8)(a) All new appointees in the Federal Cooperative Extension Service or in any other service  
14 in which participation in the Federal Civil Service retirement program is mandatory, who receive  
15 a federal appointment on or after July 1, 1955, may participate in the Public Employees Retirement  
16 System only by giving written notice of their election to so participate to the Public Employees  
17 Retirement Board within six months after the effective date of their appointment.

18 (b) All persons employed by the Federal Cooperative Extension Service or by any other service  
19 in which participation in the Federal Civil Service retirement program is mandatory, who are under  
20 federal appointment as of July 1, 1955, and who are members of the state retirement system, shall  
21 continue such membership unless, prior to February 1, 1956, they give written notice to the Public  
22 Employees Retirement Board of their desire to cancel their membership.

23 (c) Any person who is an active member of the Public Employees Retirement System, who, on  
24 or after July 1, 1955, is employed by the Federal Cooperative Extension Service or by any other  
25 service in which participation in the Federal Civil Service retirement program is mandatory, and  
26 who is given a federal appointment, shall continue such membership in the Public Employees Re-  
27 tirement System unless, within six months after the effective date of the appointment, the person  
28 gives written notice to the Public Employees Retirement Board of the desire to cancel membership.

29 (d) A cancellation of membership under paragraph (b) or (c) of this subsection terminates mem-  
30 bership in the Public Employees Retirement System and cancels the right to any benefits from, or  
31 claims against, that system. Such cancellation prevents the withdrawing member from claiming  
32 thereafter any retirement credit for any period of employment before the cancellation. Upon receipt  
33 of a notice of cancellation, the Public Employees Retirement Board shall refund the member account  
34 of the withdrawing member, regardless of the age of the withdrawing member.

35 (9) Employees, including managers, of foreign trade offices of the Oregon Business Development  
36 Department who live and perform services in foreign countries under the provisions of ORS 285A.075  
37 (1)(g) shall not be members of the system. However, any person who is an active member of the  
38 system immediately before becoming an employee of a foreign trade office shall continue to be a  
39 member of the system during the period of time the person serves as an employee of the foreign  
40 trade office.

41 (10) An employee who is participating in an alternative retirement program established pursuant  
42 to ORS 353.250 or an optional retirement plan established pursuant to ORS 341.551 may not be an  
43 active member of the Public Employees Retirement System.

44 **SECTION 8.** ORS 316.027 is amended to read:

45 316.027. (1) For purposes of this chapter, unless the context requires otherwise:

1 (a) "Resident" or "resident of this state" means:

2 (A) An individual who is domiciled in this state unless the individual:

3 (i) Maintains no permanent place of abode in this state;

4 (ii) Does maintain a permanent place of abode elsewhere; and

5 (iii) Spends in the aggregate not more than 30 days in the taxable year in this state; or

6 (B) An individual who is not domiciled in this state but maintains a permanent place of abode  
7 in this state and spends in the aggregate more than 200 days of the taxable year in this state unless  
8 the individual proves that the individual is in the state only for a temporary or transitory purpose.

9 (b) "Resident" or "resident of this state" does not include:

10 (A) An individual who is a qualified individual under section 911(d)(1) of the Internal Revenue  
11 Code for the tax year;

12 (B) A spouse of a qualified individual under section 911(d)(1) of the Internal Revenue Code, if  
13 the spouse has a principal place of abode for the tax year that is not located in this state;

14 (C) A resident [*alien*] **noncitizen** under section 7701(b) of the Internal Revenue Code who would  
15 be considered a qualified individual under section 911(d)(1) of the Internal Revenue Code if the res-  
16 ident [*alien*] **noncitizen** were a citizen of the United States; or

17 (D) A member of the Armed Forces who performs active service as defined in 10 U.S.C. 101(d)(3),  
18 other than annual training duty or inactive-duty training, if the member's residency as reflected in  
19 the payroll records of the Defense Finance and Accounting Service is outside this state.

20 (2) For purposes of subsection (1)(a)(B) of this section, a fraction of a calendar day shall be  
21 counted as a whole day.

22 **SECTION 9.** ORS 316.567 is amended to read:

23 316.567. (1) Except as provided in subsection (2) of this section, spouses in a marriage may make  
24 a single declaration jointly under ORS 316.557 to 316.589. The liability of the spouses making such  
25 a declaration shall be joint and several.

26 (2) Spouses may not make a joint declaration:

27 (a) If either spouse is a nonresident [*alien*] **noncitizen**;

28 (b) If the spouses are separated under a judgment of divorce or of separate maintenance; or

29 (c) If the spouses have different taxable years.

30 (3) If spouses make a joint declaration but not a joint return for the taxable year, the spouses  
31 may, in such manner as they may agree, and after giving notice of the agreement to the Department  
32 of Revenue:

33 (a) Treat the estimated tax for the year as the estimated tax of either spouse; or

34 (b) Divide the estimated tax between them.

35 (4) If the spouses fail to agree, or fail to notify the department of the manner in which they  
36 agree, to the treatment of estimated tax for a taxable year for which they make a joint declaration  
37 but not a joint return, the payments shall be allocated between them according to rules adopted by  
38 the department. Notwithstanding ORS 314.835, 314.840 or 314.991, the department may disclose to  
39 either spouse the information upon which an allocation of estimated tax was made under this sec-  
40 tion.

41 **SECTION 10.** ORS 316.695 is amended to read:

42 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,  
43 there shall be added to or subtracted from federal taxable income:

44 (a) If, in computing federal income tax for a tax year, the taxpayer deducted itemized deductions,  
45 as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of

1 itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized  
2 deductions are reduced under section 68 of the Internal Revenue Code).

3 (b) If, in computing federal income tax for a tax year, the taxpayer deducted the standard de-  
4 duction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount  
5 of the standard deduction deducted.

6 (c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's  
7 itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section,  
8 for purposes of this subparagraph, "standard deduction" means the sum of the basic standard de-  
9 duction and the additional standard deduction.

10 (B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

11 (i) \$3,280, in the case of joint return filers or a surviving spouse;

12 (ii) \$1,640, in the case of an individual who is not a married individual and is not a surviving  
13 spouse;

14 (iii) \$1,640, in the case of a married individual who files a separate return; or

15 (iv) \$2,640, in the case of a head of household.

16 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after  
17 January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction  
18 for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard  
19 deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price  
20 Index for the 12 consecutive months ending August 31 of the prior calendar year by the average  
21 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-  
22 tient by the amount listed under subparagraph (B) of this paragraph for each category of return  
23 filer.

24 (ii) If any change in the maximum household income determined under this subparagraph is not  
25 a multiple of \$5, the increase shall be rounded to the next lower multiple of \$5.

26 (iii) As used in this subparagraph, "U.S. City Average Consumer Price Index" means the U.S.  
27 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau  
28 of Labor Statistics of the United States Department of Labor.

29 (D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the  
30 sum of each additional amount to which the taxpayer is entitled under subsection (7) of this section.

31 (E) As used in subparagraph (B) of this paragraph, "surviving spouse" and "head of household"  
32 have the meanings given those terms in section 2 of the Internal Revenue Code.

33 (F) In the case of the following, the standard deduction referred to in subparagraph (A) of this  
34 paragraph shall be zero:

35 (i) One of the spouses in a marriage filing a separate return where the other spouse has claimed  
36 itemized deductions under subparagraph (A) of this paragraph;

37 (ii) A nonresident [*alien individual*] **noncitizen**;

38 (iii) An individual making a return for a period of less than 12 months on account of a change  
39 in the individual's annual accounting period;

40 (iv) An estate or trust;

41 (v) A common trust fund; or

42 (vi) A partnership.

43 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions  
44 are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Re-  
45 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)

1 minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the re-  
2 duction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears  
3 to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal  
4 Revenue Code).

5 (2)(a) There shall be subtracted from federal taxable income any portion of the distribution of  
6 a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contri-  
7 butions which were taxed by the State of Oregon but not taxed by the federal government under  
8 laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which  
9 the amount that was contributed to the plan under the Internal Revenue Code was greater than the  
10 amount allowed under this chapter.

11 (b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock  
12 bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection  
13 may not be added to federal taxable income in the year earned by the plan and may not be sub-  
14 tracted from federal taxable income in the year received by the taxpayer.

15 (3)(a) Except as provided in subsection (4) of this section, there shall be added to federal taxable  
16 income the amount of any federal income taxes in excess of the amount provided in paragraphs (b)  
17 to (d) of this subsection, accrued by the taxpayer during the tax year as described in ORS 316.685,  
18 less the amount of any refund of federal taxes previously accrued for which a tax benefit was re-  
19 ceived.

20 (b) The limits applicable to this subsection are:

21 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than  
22 \$125,000, or, if reported on a joint return, less than \$250,000.

23 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or  
24 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than  
25 \$260,000.

26 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or  
27 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than  
28 \$270,000.

29 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or  
30 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than  
31 \$280,000.

32 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or  
33 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than  
34 \$290,000.

35 (c) If the federal adjusted gross income of the taxpayer is \$145,000 or more for the tax year, or,  
36 if reported on a joint return, \$290,000 or more, the limit is zero and the taxpayer is not allowed a  
37 subtraction for federal income taxes under ORS 316.680 (1) for the tax year.

38 (d) In the case of spouses in a marriage filing separate tax returns, the amount added shall be  
39 in the amount of any federal income taxes in excess of 50 percent of the amount provided for indi-  
40 vidual taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of  
41 federal taxes previously accrued for which a tax benefit was received.

42 (e) For purposes of this subsection, the limits applicable to a joint return shall apply to a head  
43 of household or a surviving spouse, as defined in section 2(a) and (b) of the Internal Revenue Code.

44 (f)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue  
45 shall make a cost-of-living adjustment to the federal income tax threshold amounts described in



1 paragraphs (b) and (d) of this subsection.

2 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly  
3 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31  
4 of the prior calendar year exceeds the monthly averaged index for the period beginning September  
5 1, 2005, and ending August 31, 2006.

6 (C) As used in this paragraph, "U.S. City Average Consumer Price Index" means the U.S. City  
7 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of  
8 Labor Statistics of the United States Department of Labor.

9 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of  
10 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

11 (E) The adjustment shall apply to all tax years beginning in the calendar year for which the  
12 adjustment is made.

13 (4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual  
14 shall add to taxable income a proportion of any accrued federal income taxes as computed under  
15 ORS 316.685 in excess of the amount provided in subsection (3) of this section in the proportion  
16 provided in ORS 316.117.

17 (b) In the case of spouses in a marriage filing separate tax returns, the amount added under this  
18 subsection shall be computed in a manner consistent with the computation of the amount to be  
19 added in the case of spouses in a marriage filing separate returns under subsection (3) of this sec-  
20 tion. The method of computation shall be determined by the Department of Revenue by rule.

21 (5) Subsections (3)(d) and (4)(b) of this section shall not apply to married individuals living apart  
22 as defined in section 7703(b) of the Internal Revenue Code.

23 (6)(a) For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income  
24 or loss taken into account in determining federal taxable income by a shareholder of an S corpo-  
25 ration pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes  
26 of determining Oregon taxable income, to the extent that as income or loss of the S corporation,  
27 they were required to be adjusted under the provisions of ORS chapter 317.

28 (b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken  
29 into account in determining federal taxable income by a shareholder of an S corporation pursuant  
30 to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining  
31 Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder  
32 the items are required to be adjusted under the provisions of this chapter.

33 (c) The tax years referred to in paragraphs (a) and (b) of this subsection are those of the S  
34 corporation.

35 (d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small  
36 business corporation.

37 (7)(a) The taxpayer shall be entitled to an additional amount, as referred to in subsection  
38 (1)(c)(A) and (D) of this section, of \$1,000:

39 (A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's tax  
40 year; and

41 (B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the tax  
42 year and an additional exemption is allowable to the taxpayer for such spouse for federal income  
43 tax purposes under section 151(b) of the Internal Revenue Code.

44 (b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A)  
45 and (D) of this section, of \$1,000:

1 (A) For the taxpayer if the taxpayer is blind at the close of the tax year; and

2 (B) For the spouse of the taxpayer if the spouse is blind as of the close of the tax year and an  
3 additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes  
4 under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse  
5 dies during the tax year, the determination of whether such spouse is blind shall be made imme-  
6 diately prior to death.

7 (c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a)  
8 and (b) of this subsection shall be applied by substituting “\$1,200” for “\$1,000.”

9 (d) For purposes of this subsection, an individual is blind only if the individual’s central visual  
10 acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual’s visual  
11 acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the  
12 widest diameter of the visual field subtends an angle no greater than 20 degrees.

13 (8) In the case of an individual with respect to whom a deduction under section 151 of the  
14 Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax  
15 year beginning in the calendar year in which the individual’s tax year begins, the basic standard  
16 deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such  
17 individual’s tax year shall equal the lesser of:

18 (a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for  
19 federal income tax purposes for the tax year for which the deduction is being claimed; or

20 (b) The amount determined under subsection (1)(c)(B) of this section.

21 **SECTION 11.** ORS 408.010 is amended to read:

22 408.010. As used in ORS 408.010 to 408.090, unless otherwise required by the context, “benefici-  
23 ary” means any person who served in the active Armed Forces of the United States on or after June  
24 25, 1950, who was relieved or discharged from that service under honorable conditions and who was  
25 also a resident of Oregon at the time the person applied for benefits under ORS 408.010 to 408.090.  
26 “Beneficiary” does not include [*an alien, an alien*] **a noncitizen, a noncitizen** enemy, a person who  
27 avoided combat service by claiming to be a conscientious objector, a person who served less than  
28 90 days in the Armed Forces of the United States or a person inducted or enlisted in the military  
29 or naval service who received civilian pay for civilian work.

30 **SECTION 12.** ORS 411.139 is amended to read:

31 411.139. (1) As used in this section:

32 (a) “Eligible agency” means an agency that has contracted with the United States Department  
33 of State under 8 U.S.C. 1522(c) to provide initial resettlement and case management services to ref-  
34 ugees.

35 (b) “Refugee” means an individual who is not a United States citizen, who has been in the  
36 United States for 60 months or less and who is any of the following:

37 (A) A refugee admitted under 8 U.S.C. 1157.

38 (B) An asylee admitted under 8 U.S.C. 1158.

39 (C) A Cuban or Haitian entrant as defined in 45 C.F.R. 401.2.

40 (D) A parolee admitted under 8 U.S.C. 1182(d)(5).

41 (E) An Amerasian immigrant lawfully admitted to the United States who is described in 8 U.S.C.  
42 1612(a)(2)(A)(v).

43 (F) A victim of a severe form of trafficking in persons and the victim’s family members who are  
44 eligible for benefits and services from federal and state programs under 22 U.S.C. 7105(b)(1)(A).

45 (G) An Iraqi or an Afghan citizen who is a principal [*alien*] **noncitizen** provided with the status

1 of special immigrant by the United States Department of Homeland Security under:

2 (i) Section 1059(a) of the National Defense Authorization Act for Fiscal Year 2006, P.L. 109-163,  
3 119 Stat. 3444;

4 (ii) Section 1244(b) of the Refugee Crisis in Iraq Act of 2007, P.L. 110-181, 122 Stat. 397; or

5 (iii) Section 602(b) of the Afghan Allies Protection Act of 2009, P.L. 111-8, 123 Stat. 807.

6 (2) The Department of Human Services shall award grants to eligible agencies to provide the  
7 following services to refugees residing in this state, for up to 24 months:

8 (a) Assisting refugees with department programs by:

9 (A) Referring refugees to the department within three days of the refugee's arrival in this state;

10 (B) Completing applications for assistance;

11 (C) Transporting the refugee to the initial appointments with the department;

12 (D) Providing to the department all necessary eligibility information known to the eligible  
13 agency; and

14 (E) Coordinating services of the department with other social service agencies.

15 (b) Assisting refugees with:

16 (A) Navigating the health care and mental health systems, including providing assistance in  
17 applying for medical assistance;

18 (B) Accessing housing assistance and finding stable housing;

19 (C) Setting up utilities and paying utility bills;

20 (D) Issues with landlords;

21 (E) Navigating legal or criminal issues including services for victims of crime;

22 (F) Accessing in-home services including parenting assistance, English as a second language in-  
23 struction, medical and psychosocial support; and

24 (G) Navigating the culture of the United States.

25 (c) Providing transportation to appointments.

26 (d) Training refugees on using public transportation.

27 (e) Providing immigration assistance and referrals.

28 (f) Advocating on behalf of refugees regarding domestic violence, federal laws and hate crimes.

29 (g) Providing refugees with interpretation services and assistance with access to language ser-  
30 vices.

31 (h) Providing referrals for refugees to culturally specific support groups and services, including  
32 religious organizations.

33 (i) Pairing refugees with volunteers for English as a second language training and ongoing lan-  
34 guage support.

35 (j) Providing support to refugees in budgeting and achieving financial literacy.

36 (k) Identifying refugees' employment skills and providing referrals to employment skills training  
37 and other job support services.

38 (L) Problem solving with refugees and assisting refugees with life skills development.

39 (m) Ensuring that refugees have access to psychosocial support and emotional wellness educa-  
40 tion.

41 (n) Coordinating medical services for refugees including referring to and coordinating with  
42 agencies that determine eligibility for disability benefits.

43 (o) Providing family preservation services, legal services and social service support for domestic  
44 violence and child welfare issues.

45 (p) Assisting newly arrived refugee children in accessing services to strengthen the children's

1 academic performance and successful integration into the community.

2 (q) Other services necessary to assist refugees in accessing programs administered by the de-  
3 partment.

4 **SECTION 13.** ORS 497.006 is amended to read:

5 497.006. (1) As used in this section:

6 (a) "Dependent children" includes any children of an active member of the Armed Forces of the  
7 United States who:

8 (A) Are under 18 years of age and not married, otherwise emancipated or self-supporting; or

9 (B) Are under 23 years of age, unmarried, enrolled in a full-time course of study in an institution  
10 of higher learning and dependent on the resident member of the uniformed services for over one-half  
11 of their support.

12 (b) "Resident member of the uniformed services" means a member of the uniformed services who:

13 (A) Resides in this state while assigned to duty at any base, station, shore establishment or  
14 other facility in this state;

15 (B) Resides in this state while serving as a member of the crew of a ship that has an Oregon  
16 port or shore establishment as its home port or permanent station; or

17 (C) Resides in another state or a foreign country and establishes Oregon residency by filing  
18 Oregon state income taxes no later than 12 months before leaving active duty.

19 (c) "Uniformed services" means:

20 (A) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

21 (B) The reserves of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United  
22 States;

23 (C) The Oregon National Guard and the National Guard of any other state or territory;

24 (D) The commissioned corps of the National Oceanic and Atmospheric Administration; and

25 (E) The Public Health Service of the United States Department of Health and Human Services  
26 while detailed by proper authority for duty with the Army or Navy of the United States.

27 (2) The following persons are resident persons for the purpose of purchasing licenses, tags and  
28 permits issued by the State Fish and Wildlife Commission:

29 (a) A resident member of the uniformed services and the member's spouse and dependent chil-  
30 dren.

31 (b) A member of the uniformed services who is not a resident member of the uniformed services,  
32 except for the purpose of purchasing controlled hunt tags issued by the commission.

33 (c) [*An alien*] **A noncitizen** who furnishes to the commission evidence satisfactory to the com-  
34 mission that the [*alien*] **noncitizen** is attending a school in this state pursuant to a foreign student  
35 exchange program.

36 **SECTION 14.** ORS 656.005 is amended to read:

37 656.005. (1) "Average weekly wage" means the Oregon average weekly wage in covered em-  
38 ployment, as determined by the Employment Department, for the last quarter of the calendar year  
39 preceding the fiscal year in which the injury occurred.

40 (2)(a) "Beneficiary" means an injured worker, and the spouse in a marriage, child or dependent  
41 of a worker, who is entitled to receive payments under this chapter.

42 (b) "Beneficiary" does not include:

43 (A) A spouse of an injured worker living in a state of abandonment for more than one year at  
44 the time of the injury or subsequently. A spouse who has lived separate and apart from the worker  
45 for a period of two years and who has not during that time received or attempted by process of law

1 to collect funds for support or maintenance is considered living in a state of abandonment.

2 (B) A person who intentionally causes the compensable injury to or death of an injured worker.

3 (3) "Board" means the Workers' Compensation Board.

4 (4) "Carrier-insured employer" means an employer who provides workers' compensation cover-  
5 age with the State Accident Insurance Fund Corporation or an insurer authorized under ORS  
6 chapter 731 to transact workers' compensation insurance in this state.

7 (5) "Child" means a child of an injured worker, including:

8 (a) A posthumous child;

9 (b) A child legally adopted before the injury;

10 (c) A child toward whom the worker stands in loco parentis;

11 (d) A child born out of wedlock;

12 (e) A stepchild, if the stepchild was, at the time of the injury, a member of the worker's family  
13 and substantially dependent upon the worker for support; and

14 (f) A child of any age who was an invalid at the time of the accident and thereafter remains an  
15 invalid substantially dependent on the worker for support.

16 (6) "Claim" means a written request for compensation from a subject worker or someone on the  
17 worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

18 (7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appli-  
19 ances, arising out of and in the course of employment requiring medical services or resulting in  
20 disability or death. An injury is accidental if the result is an accident, whether or not due to acci-  
21 dental means, if it is established by medical evidence supported by objective findings, subject to the  
22 following limitations:

23 (A) An injury or disease is not compensable as a consequence of a compensable injury unless  
24 the compensable injury is the major contributing cause of the consequential condition.

25 (B) If an otherwise compensable injury combines at any time with a preexisting condition to  
26 cause or prolong disability or a need for treatment, the combined condition is compensable only if,  
27 so long as and to the extent that the otherwise compensable injury is the major contributing cause  
28 of the disability of the combined condition or the major contributing cause of the need for treatment  
29 of the combined condition.

30 (b) "Compensable injury" does not include:

31 (A) Injury to any active participant in assaults or combats that are not connected to the job  
32 assignment and that amount to a deviation from customary duties;

33 (B) Injury incurred while engaging in or performing, or as the result of engaging in or per-  
34 forming, any recreational or social activities primarily for the worker's personal pleasure; or

35 (C) Injury the major contributing cause of which is demonstrated to be by a preponderance of  
36 the evidence the injured worker's consumption of alcoholic beverages or cannabis or the unlawful  
37 consumption of any controlled substance, unless the employer permitted, encouraged or had actual  
38 knowledge of such consumption.

39 (c) A "disabling compensable injury" is an injury that entitles the worker to compensation for  
40 disability or death. An injury is not disabling if no temporary benefits are due and payable, unless  
41 there is a reasonable expectation that permanent disability will result from the injury.

42 (d) A "nondisabling compensable injury" is any injury that requires medical services only.

43 (8) "Compensation" includes all benefits, including medical services, provided for a compensable  
44 injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pur-  
45 suant to this chapter.

1 (9) "Department" means the Department of Consumer and Business Services.

2 (10)(a) "Dependent" means any of the following relatives of the worker who, at the time of an  
3 accident, depended in whole or in part for the relative's support on the earnings of a worker who  
4 dies as a result of an injury:

5 (A) A parent, grandparent or stepparent;

6 (B) A grandson or granddaughter;

7 (C) A brother or sister or half-brother or half-sister; and

8 (D) A niece or nephew.

9 (b) "Dependent" does not include [*an alien*] a **noncitizen** who does not reside within the United  
10 States at the time of the accident, other than a parent, a spouse or children, unless a treaty provides  
11 otherwise.

12 (11) "Director" means the Director of the Department of Consumer and Business Services.

13 (12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the  
14 healing arts in any country or in any state, territory or possession of the United States within the  
15 limits of the license of the licensee.

16 (b) Except as otherwise provided for workers subject to a managed care contract, "attending  
17 physician" means a doctor, physician or physician assistant who is primarily responsible for the  
18 treatment of a worker's compensable injury and who is:

19 (A) A physician licensed under ORS 677.100 to 677.228 by the Oregon Medical Board, or a  
20 podiatric physician and surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical  
21 Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly  
22 licensed doctor in any country or in any state, territory or possession of the United States; or

23 (B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative  
24 total of 18 visits, whichever occurs first, to any of the medical service providers listed in this sub-  
25 paragraph, a:

26 (i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of  
27 Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any  
28 state, territory or possession of the United States;

29 (ii) Physician assistant licensed by the Oregon Medical Board in accordance with ORS 677.505  
30 to 677.525 or a similarly licensed physician assistant in any country or in any state, territory or  
31 possession of the United States; or

32 (iii) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of  
33 Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any  
34 country or in any state, territory or possession of the United States.

35 (c) Except as otherwise provided for workers subject to a managed care contract, "attending  
36 physician" does not include a physician who provides care in a hospital emergency room and refers  
37 the injured worker to a primary care physician for follow-up care and treatment.

38 (d) "Consulting physician" means a doctor or physician who examines a worker or the worker's  
39 medical record to advise the attending physician or nurse practitioner authorized to provide  
40 compensable medical services under ORS 656.245 regarding treatment of a worker's compensable  
41 injury.

42 (13)(a) "Employer" means any person, including receiver, administrator, executor or trustee, and  
43 the state, state agencies, counties, municipal corporations, school districts and other public corpo-  
44 rations or political subdivisions, that contracts to pay a remuneration for the services of any  
45 worker.

1 (b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of  
2 a temporary service provider is not the employer of temporary workers provided by the temporary  
3 service provider.

4 (c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning  
5 for that term provided in ORS 656.850.

6 (d) For the purposes of this chapter, “subject employer” means an employer that is subject to  
7 this chapter as provided in ORS 656.023.

8 (14) “Insurer” means the State Accident Insurance Fund Corporation or an insurer authorized  
9 under ORS chapter 731 to transact workers’ compensation insurance in this state or an assigned  
10 claims agent selected by the director under ORS 656.054.

11 (15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

12 (16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

13 (17) “Medically stationary” means that no further material improvement would reasonably be  
14 expected from medical treatment or the passage of time.

15 (18) “Noncomplying employer” means a subject employer that has failed to comply with ORS  
16 656.017.

17 (19) “Objective findings” in support of medical evidence are verifiable indications of injury or  
18 disease that may include, but are not limited to, range of motion, atrophy, muscle strength and  
19 palpable muscle spasm. “Objective findings” does not include physical findings or subjective re-  
20 sponses to physical examinations that are not reproducible, measurable or observable.

21 (20) “Palliative care” means medical service rendered to reduce or moderate temporarily the  
22 intensity of an otherwise stable medical condition, but does not include those medical services ren-  
23 dered to diagnose, heal or permanently alleviate or eliminate a medical condition.

24 (21) “Party” means a claimant for compensation, the employer of the injured worker at the time  
25 of injury and the insurer, if any, of the employer.

26 (22) “Payroll” means a record of wages payable to workers for their services and includes  
27 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or  
28 similar advantage received from the employer. However, “payroll” does not include overtime pay,  
29 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments  
30 to reward workers for safe working practices. Bonus pay is limited to payments that are not antic-  
31 ipated under the contract of employment and that are paid at the sole discretion of the employer.  
32 The exclusion from payroll of bonus payments to reward workers for safe working practices is only  
33 for the purpose of calculations based on payroll to determine premium for workers’ compensation  
34 insurance, and does not affect any other calculation or determination based on payroll for the pur-  
35 poses of this chapter.

36 (23) “Person” includes a partnership, joint venture, association, limited liability company and  
37 corporation.

38 (24)(a) “Preexisting condition” means, for all industrial injury claims, any injury, disease, con-  
39 genital abnormality, personality disorder or similar condition that contributes to disability or need  
40 for treatment, provided that:

41 (A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the  
42 worker has been diagnosed with the condition, or has obtained medical services for the symptoms  
43 of the condition regardless of diagnosis; and

44 (B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes  
45 the initial injury;

1 (ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the  
2 new medical condition; or

3 (iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment  
4 precedes the onset of the worsened condition.

5 (b) “Preexisting condition” means, for all occupational disease claims, any injury, disease, con-  
6 genital abnormality, personality disorder or similar condition that contributes to disability or need  
7 for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim  
8 for worsening in such claims pursuant to ORS 656.273 or 656.278.

9 (c) For the purposes of industrial injury claims, a condition does not contribute to disability or  
10 need for treatment if the condition merely renders the worker more susceptible to the injury.

11 (25) “Self-insured employer” means an employer or group of employers certified under ORS  
12 656.430 as meeting the qualifications set out by ORS 656.407.

13 (26) “State Accident Insurance Fund Corporation” and “corporation” mean the State Accident  
14 Insurance Fund Corporation created under ORS 656.752.

15 (27) “Wages” means the money rate at which the service rendered is recompensed under the  
16 contract of hiring in force at the time of the accident, including reasonable value of board, rent,  
17 housing, lodging or similar advantage received from the employer, and includes the amount of tips  
18 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of  
19 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips  
20 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-  
21 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at  
22 which any worker shall be carried upon the payroll of the employer for the purpose of determining  
23 the premium of the employer.

24 (28)(a) “Worker” means any person, other than an independent contractor, who engages to fur-  
25 nish services for a remuneration, including a minor whether lawfully or unlawfully employed and  
26 salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts  
27 and other public corporations, but does not include any person whose services are performed as an  
28 adult in custody or ward of a state institution or as part of the eligibility requirements for a general  
29 or public assistance grant.

30 (b) For the purpose of determining entitlement to temporary disability benefits or permanent  
31 total disability benefits under this chapter, “worker” does not include a person who has withdrawn  
32 from the workforce during the period for which such benefits are sought.

33 (c) For the purposes of this chapter, “subject worker” means a worker who is subject to this  
34 chapter as provided in ORS 656.027.

35 (29) “Independent contractor” has the meaning for that term provided in ORS 670.600.

36 **SECTION 14a. If House Bill 4086 becomes law, section 14 of this 2022 Act (amending ORS**  
37 **656.005) is repealed.**

38 **SECTION 15.** ORS 656.232 is amended to read:

39 656.232. (1) If a beneficiary is [*an alien*] **a noncitizen** residing outside of the United States or  
40 its dependencies, payment of the sums due such beneficiary may, in the discretion of the Director  
41 of the Department of Consumer and Business Services, be made to the consul general of the country  
42 in which such beneficiary resides on behalf of the beneficiary. The receipt of the consul general to  
43 the director for the amounts thus paid shall be a full and sufficient receipt for the payment of the  
44 funds thus due the beneficiary.

45 (2) If a beneficiary is [*an alien*] **a noncitizen** residing outside of the United States or its de-



1 dependencies, the director may, in lieu of awarding such beneficiary compensation in the amount  
2 provided by this chapter, award such beneficiary such lesser sum by way of compensation which,  
3 according to the conditions and costs of living in the place of residence of such beneficiary will, in  
4 the opinion of the director, maintain the beneficiary in a like degree of comfort as a beneficiary of  
5 the same class residing in this state and receiving the full compensation authorized by this chapter.  
6 The director shall determine the amount of compensation benefits upon the basis of the rate of ex-  
7 change between the United States and any foreign country as determined by the Federal Reserve  
8 Bank as of January 1 and July 1 of the year when paid.

9 (3) All benefit rights shall be canceled upon the commencement of a state of war between the  
10 United States and the country of a beneficiary's domicile.

11 **SECTION 15a. If House Bill 4086 becomes law, section 15 of this 2022 Act (amending ORS**  
12 **656.232) is repealed and ORS 656.232, as amended by section 3, chapter \_\_, Oregon Laws 2022**  
13 **(Enrolled House Bill 4086), is amended to read:**

14 656.232. (1) If a beneficiary is [*an alien*] a **noncitizen** residing outside of the United States or  
15 its dependencies, payment of the sums due such beneficiary may, in the discretion of the Director  
16 of the Department of Consumer and Business Services, be made to the consul general of the country  
17 in which such beneficiary resides on behalf of the beneficiary. The receipt of the consul general to  
18 the director for the amounts thus paid shall be a full and sufficient receipt for the payment of the  
19 funds thus due the beneficiary.

20 (2) All benefit rights shall be canceled upon the commencement of a state of war between the  
21 United States and the country of a beneficiary's domicile.

22 **SECTION 16.** ORS 657.045 is amended to read:

23 657.045. (1) "Employment" does not include agricultural labor unless such labor is performed  
24 after December 31, 1977, for an employing unit who:

25 (a) During any calendar quarter in the current calendar year or the preceding calendar year  
26 paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor; or

27 (b) On each of 20 days during the current calendar year or the preceding calendar year, each  
28 day being in a different calendar week, employed in agricultural labor for some portion of the day  
29 (whether or not at the same moment of time) 10 or more individuals.

30 (2) Notwithstanding subsection (1)(a) and (b) of this section, "employment" does not include  
31 services performed before January 1, 1993, by an individual who is [*an alien*] a **noncitizen** admitted  
32 to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a) (15) (H) of  
33 the Immigration and Nationality Act.

34 (3) "Agricultural labor" does not include services performed for the state or a political subdivi-  
35 sion but does include all services performed:

36 (a) On a farm, in the employ of any person, in connection with cultivating the soil, or in con-  
37 nection with raising or harvesting any agricultural or horticultural commodity, including the rais-  
38 ing, shearing, feeding, caring for, training and management of livestock, bees, poultry and  
39 fur-bearing animals and wildlife.

40 (b) In the employ of the owner or tenant or other operator of a farm, in connection with the  
41 operation, management, conservation, improvement or maintenance of such farm and its tools and  
42 equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if  
43 the major part of such services is performed on a farm.

44 (c) In connection with the production or harvesting of any commodity defined as an agricultural  
45 commodity in section 15(g) of the Federal Agricultural Marketing Act, as amended, or in connection

1 with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals,  
2 reservoirs or waterways not owned or operated for profit used exclusively for supplying and storing  
3 water for farming purposes.

4 (d) In the employ of the operator or group of operators of a farm or farms (or a cooperative  
5 organization of which such operator or operators are members) in handling, planting, drying, pack-  
6 ing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a  
7 carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural  
8 commodity, but only if such operator or group of operators produced more than one-half of the  
9 commodity, as measured by volume, weight or other customary means, with respect to which such  
10 service is performed.

11 (4) Subsection (3)(d) of this section does not apply to service performed in connection with:

12 (a) Commercial canning, commercial freezing or brining of cherries;

13 (b) Any agricultural or horticultural commodity after its delivery to a terminal market for dis-  
14 tribution for consumption; or

15 (c) Any activity enumerated in subsection (3)(d) of this section when performed for an employer  
16 also engaged in any activity enumerated in paragraph (a) or (b) of this subsection.

17 (5) "Farms," as used in this section, includes stock, dairy, poultry, fruit, fur-bearing animal,  
18 Christmas tree and truck farms, plantations, orchards, ranches, nurseries, ranges, greenhouses or  
19 other similar structures used primarily for the raising of agricultural or horticultural commodities.

20 (6) For the purpose of this section, service in connection with the raising of forestry-type  
21 seedlings is agricultural labor when performed in a nursery.

22 (7)(a) For purposes of this chapter, and for services performed after December 31, 1977, any in-  
23 dividual who is a member of a crew furnished by a crew leader to perform agricultural labor for any  
24 other person shall be treated as an employee of such crew leader if:

25 (A) Such crew leader holds a valid certificate of registration under the federal Migrant and  
26 Seasonal Agricultural Worker Protection Act; or

27 (B) Substantially all the members of such crew operate or maintain mechanized equipment which  
28 is provided by such crew leader; and

29 (C) Such individual is not an employee of such other persons under the usual common law rules  
30 applicable in determining the employer-employee relationship.

31 (b) Any individual who is furnished by a crew leader to perform agricultural labor for any other  
32 person and who is not treated as an employee of such crew leader under paragraph (a) of this sub-  
33 section shall be an employee of such other person and such other person shall be treated as having  
34 paid cash remuneration to such individual in an amount equal to the amount of cash remuneration  
35 paid to such individual by the crew leader, either on behalf of the crew leader or on behalf of such  
36 other person, for agricultural labor performed for such other person.

37 (c) For purposes of this subsection, the term "crew leader" means an individual who:

38 (A) Furnishes individuals to perform agricultural labor for any other person;

39 (B) Pays, either on behalf of the crew leader or on behalf of such other person, the individuals  
40 so furnished by the crew leader for the agricultural labor performed by them; and

41 (C) Has not entered into a written agreement with such other person under which such indi-  
42 vidual is designated as an employee of such other person.

43 **SECTION 17.** ORS 657.184 is amended to read:

44 657.184. Benefits shall not be paid on the basis of services performed by [*an alien*] **a noncitizen**  
45 unless [*such alien*] **the noncitizen** is an individual who was lawfully admitted to the United States

1 for permanent residence at the time such services were performed, was lawfully present for purposes  
2 of performing such services, or was permanently residing in the United States under color of law  
3 at the time such services were performed, including [*an alien*] **a noncitizen** who was lawfully pres-  
4 ent in the United States as a result of the application of the provisions of section 212(d)(5) of the  
5 Immigration and Nationality Act.

6 **SECTION 18.** ORS 658.440 is amended to read:

7 658.440. (1) Each person acting as a labor contractor shall:

8 (a) Carry a labor contractor's license at all times and exhibit it upon request to any person with  
9 whom the labor contractor intends to deal in the capacity of a labor contractor.

10 (b) File immediately at the United States post office serving the labor contractor's address, as  
11 noted on the face of the license, a correct change of address if the labor contractor permanently  
12 changes address, and notify the Commissioner of the Bureau of Labor and Industries each time an  
13 address change is made.

14 (c) Pay or distribute promptly, when due, to the individuals entitled thereto all money or other  
15 things of value entrusted to the labor contractor by any person for that purpose.

16 (d) Comply with the terms and provisions of all legal and valid agreements or contracts entered  
17 into in the labor contractor's capacity as a labor contractor.

18 (e) File with the Bureau of Labor and Industries, as required by rule, information relating to  
19 work agreements between the labor contractor and construction property owners or farmers and  
20 between the labor contractor and workers or information concerning changes in the circumstances  
21 under which the license was issued.

22 (f) Furnish to each worker, at the time of hiring, recruiting, soliciting or supplying, whichever  
23 occurs first, a written statement in the English language and any other language used by the labor  
24 contractor to communicate with the workers that contains a description of:

25 (A) The method of computing the rate of compensation.

26 (B) The terms and conditions of any bonus offered, including the manner of determining when  
27 the bonus is earned.

28 (C) The terms and conditions of any loan made to the worker.

29 (D) The conditions of any housing, health and child care services to be provided.

30 (E) The terms and conditions of employment, including the approximate length of season or pe-  
31 riod of employment and the approximate starting and ending dates thereof.

32 (F) The terms and conditions under which the worker is furnished clothing or equipment.

33 (G) The name and address of the owner of all operations where the worker will be working as  
34 a result of being recruited, solicited, supplied or employed by the labor contractor.

35 (H) The existence of a labor dispute at the worksite.

36 (I) The worker's rights and remedies under ORS chapters 654 and 656, ORS 658.405 to 658.511,  
37 the Service Contract Act (41 U.S.C. 351-401) and any other such law specified by the Commissioner  
38 of the Bureau of Labor and Industries, in plain and simple language in a form specified by the  
39 commissioner.

40 (g) At the time of hiring and prior to the worker performing any work for the labor contractor,  
41 execute a written agreement between the worker and the labor contractor containing the terms and  
42 conditions described in paragraph (f)(A) to (I) of this subsection. The written agreement shall be in  
43 the English language and any other language used by the labor contractor to communicate with the  
44 workers.

45 (h) Furnish to the worker, each time the worker receives a compensation payment from the la-

1 bor contractor, a written statement itemizing the total payment and amount and purpose of each  
2 deduction therefrom, hours worked and rate of pay or rate of pay and pieces done if the work is  
3 done on a piece rate basis, and if the work is done under the Service Contract Act (41 U.S.C.  
4 351-401) or related federal or state law, a written statement of any applicable prevailing wage.

5 (i) Except for a person acting as a property services contractor, provide to the commissioner a  
6 certified true copy of all payroll records for work done as a labor contractor when the contractor  
7 pays employees directly. The records shall be submitted in such form and at such times and shall  
8 contain such information as the commissioner, by rule, may prescribe.

9 (j)(A) If the person is a farm labor contractor engaged in the forestation or reforestation of  
10 lands, provide workers' compensation insurance for each individual who performs manual labor in  
11 forestation or reforestation activities regardless of the business form of the contractor and regard-  
12 less of any contractual relationship that may be alleged to exist between the contractor and the  
13 workers notwithstanding ORS 656.027, unless workers' compensation insurance is otherwise pro-  
14 vided; or

15 (B) If the person is a farm labor contractor but is not engaged in the forestation or reforestation  
16 of lands, provide workers' compensation insurance to the extent required under ORS chapter 656,  
17 unless workers' compensation insurance is otherwise provided.

18 (k) If the person is a property services contractor, provide time and pay records, as defined in  
19 ORS 652.750, to the commissioner or an employee of the property services contractor who requests  
20 the records, no later than 45 days after receipt of the request. A property services contractor that  
21 fails to comply with the requirements of this paragraph is subject to civil penalty under ORS  
22 652.900.

23 (2) If the labor contractor:

24 (a) Employs workers, the labor contractor shall substantially comply with the provisions of ORS  
25 654.174 relating to field sanitation, and its implementing rules as adopted by the Department of  
26 Consumer and Business Services.

27 (b) Owns or controls housing furnished to workers in connection with the recruitment or em-  
28 ployment of workers, the labor contractor shall ensure that the housing substantially complies with  
29 any applicable law relating to the health, safety or habitability of the housing.

30 (c) Recruits or solicits any worker to travel from one place to another for the purpose of  
31 working at a time prior to the availability of the employment, the labor contractor shall furnish to  
32 the worker, at no charge, lodging and an adequate supply of food until employment begins, in com-  
33 pliance with rules adopted by the Bureau of Labor and Industries. If employment does not begin  
34 within 30 days from the date the labor contractor represented employment would become available,  
35 the labor contractor shall refund to the worker all sums paid by the worker to the labor contractor  
36 and provide the worker, in cash or other form of payment authorized by ORS 652.110, the costs of  
37 transportation, including meals and lodging in transit, to return the worker to the place from which  
38 the worker was induced to travel or the costs of transportation, including meals and lodging in  
39 transit, to another worksite selected by the worker, whichever is less. For the purposes of this  
40 paragraph, "recruits or solicits" does not include the mere provision of housing or employment to  
41 persons who have not otherwise been recruited or solicited by the labor contractor or an agent of  
42 the labor contractor prior to their arrival at the place of housing or employment. Workers who ar-  
43 rive at the place of employment prior to the date they were instructed by the labor contractor to  
44 arrive are not entitled to the benefits of this subsection until the date they were instructed to ar-  
45 rive.

1 (3) A person acting as a labor contractor, or applying for a license to act as a labor contractor,  
2 may not:

3 (a) Make any misrepresentation, false statement or willful concealment in the application for a  
4 license.

5 (b) Willfully make or cause to be made to any person any false, fraudulent or misleading repre-  
6 sentation, or publish or circulate any false, fraudulent or misleading information concerning the  
7 terms, condition or existence of employment at any place or by any person.

8 (c) Solicit or induce, or cause to be solicited or induced, the violation of an existing contract  
9 of employment.

10 (d) Knowingly employ [*an alien*] **a noncitizen** not legally present or legally employable in the  
11 United States.

12 (e) Assist an unlicensed person to act in violation of ORS 658.405 to 658.511.

13 (f) By force, intimidation or threat of procuring dismissal or deportation or by any other manner  
14 whatsoever, induce any worker employed or in a subcontracting relationship to the labor contractor  
15 to give up any part of the compensation to which the worker is entitled under the contract of em-  
16 ployment or under federal or state wage laws.

17 (g) Solicit or induce, or cause to be solicited or induced, the travel of a worker from one place  
18 to another by representing to a worker that employment for the worker is available at the destina-  
19 tion when employment for the worker is not available within 30 days after the date the work was  
20 represented as being available.

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