House Bill 2699

Sponsored by Representative GAMBA (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Provides minimum wage rate beginning July 1, 2024. Directs Bureau of Labor and Industries to establish formula by rule for setting minimum wage rate.

Makes conforming amendments.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to minimum wage rates; creating new provisions; amending ORS 137.103, 315.262, 464.250, 653.010, 653.020, 653.025, 653.030, 653.033, 653.035, 653.070, 653.261 and 653.606; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 653.010 to 653.261.

SECTION 2. (1) As used in this section, “fair market rent calculation methodology” is the methodology used by the federal Department of Housing and Urban Development to calculate fair market rent estimates of 40th percentile gross rents for standard quality one-bedroom rental units within each Oregon county and metropolitan area.

(2) Subject to subsection (3) of this section, beginning on July 1, 2024, the minimum wage rate shall be $2 more than the minimum wage established under ORS 653.025 (1)(j), and shall be increased by $2 every year thereafter, except that in no case may the minimum wage rate exceed the minimum wage rate calculated pursuant to the formula established by the Bureau of Labor and Industries under subsection (3) of this section.

(3) The Bureau of Labor and Industries shall establish by rule a formula for setting minimum wage rates in this state. At a minimum, the formula must be designed to:

(a) Use the fair market rent calculation methodology to determine the 50th percentile gross rents for standard quality one-bedroom units within each Oregon county or metropolitan area.

(b) Ensure, as a minimum, that the minimum wage rate set by the bureau is sufficient to allow an individual who is paid at that rate to afford a one-bedroom apartment at a monthly rental rate that does not exceed 30 percent of the individual's monthly income.

(4)(a) Each year, the Commissioner of the Bureau of Labor and Industries shall calculate an adjustment of the wage rate as determined pursuant to the formula established under subsection (3) of this section, based on fair market rent estimates as prepared by the federal Department of Housing and Urban Development for the federal fiscal year immediately following the year in which the wage rate determination is to be made.

(b) The commissioner shall adopt by rule a process for making the annual adjustments

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.

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to the minimum wage rate required under this subsection.

SECTION 3. ORS 653.025 is amended to read:

653.025. (1) Except as provided in subsections (2) and (3) of this section, ORS 652.020 and the rules of the Commissioner of the Bureau of Labor and Industries issued under ORS 653.030 and 653.261, for each hour of work time that the employee is gainfully employed, no employer shall em-
ploy or agree to employ any employee at wages computed at a rate lower than:

(a) For calendar year 2003, $6.90.

(b) From January 1, 2004, to June 30, 2016, a rate adjusted for inflation as calculated by the commissioner.

(c) From July 1, 2016, to June 30, 2017, $9.75.

(d) From July 1, 2017, to June 30, 2018, $10.25.

(e) From July 1, 2018, to June 30, 2019, $10.75.

(f) From July 1, 2019, to June 30, 2020, $11.25.

(g) From July 1, 2020, to June 30, 2021, $12.

(h) From July 1, 2021, to June 30, 2022, $12.75.

(i) From July 1, 2022, to June 30, 2023, $13.50.

(j) [After June 30, 2023, Beginning on July 1 of each year,] From July 1, 2023, to June 30, 2024, a rate adjusted [annually] for inflation as described in subsection (5) of this section.

(k) Beginning on July 1, 2024, and every year thereafter, a rate determined in section 2 of this 2023 Act.

(2) If the employer is located within the urban growth boundary of a metropolitan service dis-

tric organized under ORS chapter 268, except as provided by ORS 652.020 and the rules of the commissioner issued under ORS 653.030 and 653.261, for each hour of work time that the employee is gainfully employed, no employer shall employ or agree to employ any employee at wages computed at a rate lower than:

(a) From July 1, 2016, to June 30, 2017, $9.75.

(b) From July 1, 2017, to June 30, 2018, $11.25.

(c) From July 1, 2018, to June 30, 2019, $12.

(d) From July 1, 2019, to June 30, 2020, $12.50.

(e) From July 1, 2020, to June 30, 2021, $13.25.

(f) From July 1, 2021, to June 30, 2022, $14.

(g) From July 1, 2022, to June 30, 2023, $14.75.

(h) [After] From June 30, 2023, to June 30, 2024, $1.25 per hour more than the minimum wage determined under subsection (1)(j) of this section.

(i) Beginning on July 1, 2024, and every year thereafter, a rate determined under section 2 of this 2023 Act.

(3) If the employer is located within a nonurban county as described in ORS 653.026, except as provided by ORS 652.020 and the rules of the commissioner issued under ORS 653.030 and 653.261, for each hour of work time that the employee is gainfully employed, no employer shall employ or agree to employ any employee at wages computed at a rate lower than:

(a) From July 1, 2016, to June 30, 2017, $9.50.

(b) From July 1, 2017, to June 30, 2018, $10.

(c) From July 1, 2018, to June 30, 2019, $10.50.

(d) From July 1, 2019, to June 30, 2020, $11.

(e) From July 1, 2020, to June 30, 2021, $11.50.
(f) From July 1, 2021, to June 30, 2022, $12.

(g) From July 1, 2022, to June 30, 2023, $12.50.

(h) [After] From June 30, 2023, to June 30, 2024, $1 per hour less than the minimum wage determined under subsection (1)(j) of this section.

(i) Beginning on July 1, 2024, and every year thereafter, a rate determined under section 2 of this 2023 Act.

(4) The commissioner shall adopt rules for determining an employer’s location under subsection (2) of this section.

(5)(a) The Oregon minimum wage shall be adjusted for inflation as provided in paragraph (b) of this subsection.

(b) No later than April 30, [of each year, beginning in] 2023, the commissioner shall calculate an adjustment of the wage amount specified in subsection (1)(j) of this section based upon the increase, if any, from March of the preceding year to March of the year in which the calculation is made in the U.S. City Average Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor or its successor.

(c) The wage amount as adjusted under this subsection shall be rounded to the nearest five cents.

(d) The wage amount as adjusted under this subsection becomes effective as the new Oregon minimum wage amount, replacing the minimum wage amount specified in subsection (1)(j) of this section, on July 1 of the year in which the calculation is made.

SECTION 4. ORS 137.103 is amended to read:

137.103. As used in ORS 137.101 to 137.109:

(1) “Criminal activities” means any offense with respect to which the defendant is convicted or any other criminal conduct admitted by the defendant.

(2) “Economic damages”:

(a) Has the meaning given that term in ORS 31.705, except that “economic damages” does not include future impairment of earning capacity; and

(b) In cases involving criminal activities described in ORS 163.263, 163.264 or 163.266, includes the greater of:

(A) The value to the defendant of the victim’s services as defined in ORS 163.261; or

(B) The value of the victim’s services, as defined in ORS 163.261, computed using the minimum wage established under ORS 653.025 and section 2 of this 2023 Act, as applicable, and the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(3) “Restitution” means full, partial or nominal payment of economic damages to a victim. Restitution is independent of and may be awarded in addition to a compensatory fine awarded under ORS 137.101.

(4) “Victim” means:

(a) The person or decedent against whom the defendant committed the criminal offense, if the court determines that the person or decedent has suffered or did suffer economic damages as a result of the offense.

(b) Any person not described in paragraph (a) of this subsection whom the court determines has suffered economic damages as a result of the defendant’s criminal activities.

(c) The Criminal Injuries Compensation Account, if it has expended moneys on behalf of a victim described in paragraph (a) of this subsection.
(d) An insurance carrier, if it has expended moneys on behalf of a victim described in paragraph
(a) of this subsection.

(e) Upon the death of a victim described in paragraph (a) or (b) of this subsection, the estate
of the victim.

(f) The estate, successor in interest, trust, trustee, successor trustee or beneficiary of a trust
against which the defendant committed the criminal offense, if the court determines that the estate,
successor in interest, trust, trustee, successor trustee or beneficiary of a trust suffered economic
damages as a result of the offense.

(5) “Victim” does not include any coparticipant in the defendant’s criminal activities.

SECTION 5. ORS 315.262 is amended to read:
315.262. (1) As used in this section:
(a) “Child care” means care provided to a qualifying child of the taxpayer for the purpose of
allowing the taxpayer to be gainfully employed, to seek employment or to attend school on a full-
time or part-time basis, except that the term does not include care provided by:
(A) The child’s parent or guardian, unless the care is provided in a certified or registered child
care facility; or
(B) A person who has a relationship to the taxpayer that is described in section 152(a) of the
Internal Revenue Code who has not yet attained 19 years of age at the close of the tax year.
(b) “Child care expenses” means the costs associated with providing child care to a qualifying
child of a qualified taxpayer.
(c) “Disability” means a physical or cognitive condition that results in a person requiring as-
sistance with activities of daily living.
(d) “Earned income” has the meaning given that term in section 32 of the Internal Revenue
Code.
(e) “Qualified taxpayer” means a taxpayer:
(A) Who is an Oregon resident with at least $6,000 of earned income for the tax year or who is
a nonresident of Oregon with at least $6,000 of earned income from Oregon sources for the tax year;
(B) With federal adjusted gross income for the tax year that does not exceed 250 percent of the
federal poverty level;
(C) With Oregon adjusted gross income for the tax year that does not exceed 250 percent of the
federal poverty level; and
(D) Who does not have more than the maximum amount of disqualified income under section
32(i) of the Internal Revenue Code that is allowed to a taxpayer entitled to the earned income tax
credit for federal tax purposes.
(f) “Qualifying child” has the meaning given that term in section 152(c) of the Internal Revenue
Code, determined without regard to section 152(c)(1)(D) of the Internal Revenue Code or section
152(e) of the Internal Revenue Code, except that it is limited to an individual who is under 13 years
of age, or who is a child with a disability, as that term is defined in ORS 316.099.
(2) A taxpayer is not disqualified from claiming the credit under this section solely because the
taxpayer’s spouse has a disability, if the disability is such that it prevents the taxpayer’s spouse
from providing child care, being gainfully employed, seeking employment and attending school. The
Department of Revenue may require that a physician verify the existence of the disability and its
severity.

(3) A qualified taxpayer shall be allowed a credit against the taxes otherwise due under ORS
chapter 316 equal to the applicable percentage of the qualified taxpayer’s child care expenses
(rounded to the nearest $50).

(4) The applicable percentage to be used in calculating the amount of the credit provided in this section shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Applicable Percentage</th>
<th>Greater of Oregon Adjusted Gross Income or Federal Adjusted Gross Income, as Percent of Federal Poverty Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>40</td>
<td>200 or less</td>
</tr>
<tr>
<td>36</td>
<td>Greater than 200 and less than or equal to 210</td>
</tr>
<tr>
<td>32</td>
<td>Greater than 210 and less than or equal to 220</td>
</tr>
<tr>
<td>24</td>
<td>Greater than 220 and less than or equal to 230</td>
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<tr>
<td>16</td>
<td>Greater than 230 and less than or equal to 240</td>
</tr>
<tr>
<td>8</td>
<td>Greater than 240 and less than or equal to 250</td>
</tr>
<tr>
<td>0</td>
<td>Greater than 250 percent of federal poverty level</td>
</tr>
</tbody>
</table>

(5) The department may:

(a) Adopt rules for carrying out the provisions of this section; and

(b) Prescribe the form used to claim a credit and the information required on the form. The form may provide for verification of an individual's disability by a physician, if applicable, as described in subsection (2) of this section.

(6) In the case of a credit allowed under this section:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

(d) In the case of a qualified taxpayer who is married, a credit shall be allowed under this section only if:

(A) The taxpayer files a joint return;

(B) The taxpayer files a separate return and is legally separated or subject to a separate maintenance agreement; or
(C) The taxpayer files a separate return and the taxpayer and the taxpayer’s spouse reside in separate households on the last day of the tax year with the intent of remaining in separate households in the future.

(7) If the amount allowable as a credit under this section, when added to the sum of the amounts allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax), other tax prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes of ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the taxpayer as provided in ORS 316.502.

(8)(a) The minimum amount of earned income a taxpayer must earn in order to be a qualified taxpayer shall be adjusted for tax years beginning in each calendar year by multiplying $6,000 by the ratio of the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar year over the monthly averaged index for the second quarter of the calendar year 1998.

(b) As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of Labor Statistics of the United States Department of Labor.

(c) If any adjustment determined under paragraph (a) of this subsection is not a multiple of $50, the adjustment shall be rounded to the nearest multiple of $50.

(d) Notwithstanding paragraphs (a) to (c) of this subsection, the adjusted minimum amount of earned income a taxpayer must earn may not exceed the amount an individual would earn if the individual worked 1,040 hours at the minimum wage established under ORS 653.025 and section 2 of this 2023 Act, as applicable, and in effect on January 1 of the calendar year in which begins the tax year of the taxpayer, rounded to the next lower multiple of $50.

SECTION 6. ORS 464.250 is amended to read:

464.250. (1) The Department of Justice has the following powers and duties relating to the regulation of bingo, lotto or raffle games or Monte Carlo events:

(a) To authorize and regulate the operation of bingo, lotto and raffle games and Monte Carlo events permitted under ORS 167.117 and to adopt rules in accordance with applicable provisions of ORS chapter 183 for the performance of the department’s duties.

(b) To issue and renew licenses and permits for operation of bingo, lotto and raffle games and Monte Carlo events, including the manufacturers and suppliers of equipment and supplies necessary for the operation of the games and events and escrow agents holding money or property to be awarded as a prize, and to adopt license and permit fees. Licenses and permits are valid for one year unless renewed. The department shall set fees at an amount sufficient to cover all costs incurred by the department in its activities. License fees consist of an initial payment, in an amount established by rule, prior to issuance or renewal of the license, together with a monthly payment constituting a percentage of the licensee’s monthly gross income from the operation each month thereafter. An applicant for a license or a permit shall submit with the application a sum adequate to pay the required initial fee payment. If the applicant later withdraws the application or the department denies the application, the department shall retain the portion of the amount submitted to it that will pay the reasonable costs expended for processing and investigating the application. If the fee adopted by the department is less than the actual expenses of the department to investigate an application, the department may charge to the applicant an additional fee to repay the department for those costs. The department may refuse to proceed with its investigation or to issue a li-
cense until the department has been fully paid for those costs. The department shall create at least
two classes of licenses for each activity regulated under this section. The licensing and operational
requirements for licensees and the extent to which background checks are conducted under para-
graph (d)(B) of this subsection must be commensurate with the size of the licensee's bingo, lotto,
raffle or Monte Carlo event operations. The department shall adopt rules exempting from licensing
any organization that would otherwise qualify for a license and that is engaged in minimal bingo,
lotto or Monte Carlo event activity.

(c) To prescribe the manner and method of payment of all moneys to be paid to or collected by
the department.

(d) To adopt requirements as to what information an applicant must provide to the department.
However, each license applicant must provide, and the department shall require, the names and ad-
dresses of all persons having a management or ownership interest in the bingo, lotto, raffle or Monte
Carlo event operation or in the premises on which the operation is conducted and the names and
addresses of all officers and directors of the applicant organization. The department shall also re-
quire the names and addresses of all persons employed in bingo, lotto, raffle or Monte Carlo event
operations. The following apply to applications under this paragraph:

(A) An applicant shall certify, under oath, that the persons named on the application are all of
the persons known by the applicant to have an interest in the bingo, lotto, raffle or Monte Carlo
event operation or the premises on which the operation is conducted including all officers and di-
rectors of the applicant organization.

(B) The department may require fingerprints, a photograph, a handwriting sample and back-
ground checks, including state and nationwide criminal records checks under ORS 181A.195, on any
person seeking a license from it or any person holding an interest in any bingo, lotto, raffle or
Monte Carlo event operation or in the premises on which it is conducted. The department may also
require fingerprints or background checks, including state and nationwide criminal records checks
under ORS 181A.195, of any manager or other employee of such a bingo, lotto, raffle or Monte Carlo
event operation.

(e) To adopt record keeping requirements for licensees of the department and the submission of
reports to the department as the department determines necessary. The department may require
licensees to record and report income from bingo, lotto, raffle, Monte Carlo events, concessions and
other related operations, the amounts received from each player, the costs and expenses of oper-
ations, the nature and value of prizes and the fact of distribution of such prizes to the winners
thereof. The department may adopt internal financial and inventory control requirements under this
paragraph that are based on and commensurate with the size of a licensee’s bingo, lotto, raffle or
Monte Carlo event operations.

(f) To regulate and establish maximum limits on income derived by licensees from bingo, lotto,
raffles or Monte Carlo events. However, in establishing limits, the department shall take into ac-
count:

(A) The nature, character and scope of the activities of the licensee;

(B) The sources of other income to the licensee; and

(C) The percentage or extent to which income derived from bingo, lotto, raffles or Monte Carlo
events is used for charitable purposes, as distinguished from nonprofit purposes other than charity.

(g) To regulate the manner of operation of bingo, lotto and raffle games and Monte Carlo events
conducted by licensees, including the approval of which games may be played and the equipment to
be used. The department shall regulate the types of equipment, rules and methods of play to ensure
the integrity and fairness of the games.

(h) To cooperate with state and local law enforcement agencies in investigating matters within the scope of the department’s duties and responsibilities.

(i) To establish maximum limits on compensation paid to persons employed by charitable, fraternal or religious licensees, for the purpose of conducting licensed games, not to exceed 200 percent of the applicable Oregon minimum wage rate under ORS 653.025 or, if applicable, under section 2 of this 2023 Act, or, for a person who supervises a bingo, lotto, raffle or Monte Carlo event operation for a charitable, fraternal or religious organization and is subject to the limitations of ORS 464.340, 300 percent of the applicable Oregon minimum wage rate under ORS 653.025 or under section 2 of this 2023 Act, if applicable, and to establish maximum limits for other expenses connected with such operations. In establishing these limits, the department shall consider the amount of income received, or expected to be received, by the organization from the bingo, lotto, raffle, Monte Carlo events, concessions and other related operations and the amount of money the operation could generate for the organization’s purposes absent such expenses. The department may also take into account other factors, including but not limited to whether charitable purposes are benefited by the activities.

(2) The department may not require a person working as a volunteer in a bingo, lotto, raffle or Monte Carlo event operation conducted by a bona fide charitable, fraternal or religious organization to obtain a permit for such work if the person does not receive compensation of any kind from the organization, other than reimbursement for actual or reasonable expenses, or have any managerial or supervisory responsibility in connection with it. The department may require that bingo, lotto, raffle and Monte Carlo event operators employing unlicensed volunteers submit to the department periodically the names, addresses and dates of birth of the volunteers. The department may adopt reasonable character standards for volunteers, and if a volunteer does not meet the standards, the department may require that the licensee not allow the volunteer to work for the licensee.

(3) Subject to ORS 167.118, the department may establish by rule value limits for prizes awarded at bingo, lotto or raffle games or Monte Carlo events and may regulate or prohibit the giving to patrons of any other thing of value to promote attendance at the games.

(4) The department may establish by rule a maximum amount that a person may wager at a Monte Carlo event.

SECTION 7. ORS 653.010 is amended to read:

653.010. As used in ORS 653.010 to 653.261, unless the context requires otherwise:

(1) “Commissioner” means the Commissioner of the Bureau of Labor and Industries.

(2) “Employ” includes to suffer or permit to work but does not include voluntary or donated services performed for no compensation or without expectation or contemplation of compensation as the adequate consideration for the services performed for a public employer referred to in subsection (3) of this section, or a religious, charitable, educational, public service or similar nonprofit corporation, organization or institution for community service, religious or humanitarian reasons or for services performed by general or public assistance recipients as part of any work training program administered under the state or federal assistance laws.

(3) “Employer” means any person who employs another person including the State of Oregon or a political subdivision thereof or any county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter.

(4) “Minor” means any person under 18 years of age.

(5) “Occupation” means any occupation, service, trade, business, industry, or branch or group
of industries or employment or class of employment in which employees are gainfully employed.

(6) “Organized camp” means a day or resident camp, whether or not operated for profit, established to give campers recreational, creative, religious or educational experience in cooperative group living wherein the activities are conducted on a closely supervised basis, whether or not the camp is used primarily by an organized group or by members of the public and whether or not the activities or facilities are furnished free of charge or for the payment of a fee.

(7) “Outside salesperson” means any employee who is employed for the purpose of and who is customarily and regularly engaged away from the employer’s place or places of business in making sales, or obtaining orders, or obtaining contracts for services and whose hours of work of any other nature for the employer do not exceed 30 percent of the hours worked in the workweek by the nonexempt employees of the employer.

(8) “Piece-rate” means a rate of pay calculated on the basis of the quantity of the crop harvested.

(9) “Salary” means no less than the wage set pursuant to ORS 653.025 or section 2 of this Act, multiplied by 2,080 hours per year, then divided by 12 months.

(10) “Wages” means compensation due to an employee by reason of employment, payable in legal tender of the United States or check on banks convertible into cash on demand at full face value, subject to such deductions, charges or allowances as are permitted in ORS 653.035.

(11) “Work time” includes both time worked and time of authorized attendance.

SECTION 8. ORS 653.020 is amended to read:

ORS 653.020. ORS 653.010 to 653.261 do not apply to any of the following employees:

(1) An individual employed in agriculture if:

(a) Such individual is employed as a hand harvest or pruning laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment and is employed by an employer who did not, during any calendar quarter during the preceding year, use more than 500 piece-rate-work-days of agricultural labor;

(b) Such individual is the parent, spouse, child or other member of the employer’s immediate family;

(c) Such individual:

(A) Is employed as a hand harvest or pruning laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment;

(B) Commutes daily from a permanent residence to the farm on which the individual is so employed; and

(C) Has been employed in agricultural labor less than 13 weeks during the preceding calendar year;

(d) Such individual, other than an individual described in paragraph (c) of this subsection:

(A) Is 16 years of age or under and is employed as a hand harvest laborer, is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment; and

(B) Is paid at the same piece-rate as employees over 16 years of age on the same farm; or

(e) Such employee is principally engaged in the range production of livestock and earns a salary and is paid on a salary basis.

(2) An individual employed in domestic service on a casual basis in or about a family home.
(3) An individual engaged in administrative, executive or professional work who:
(a) Performs predominantly intellectual, managerial or creative tasks;
(b) Exercises discretion and independent judgment; and
(c) Earns a salary and is paid on a salary basis.

(4) An individual employed by the United States.

(5) An individual who is employed by an institution whose function is primary or secondary education, and in which the individual is an enrolled student.

(6) An individual engaged in the capacity of an outside salesperson or taxicab operator.

(7) An individual domiciled at a place of employment for the purpose of being available for emergency or occasional duties for time other than that spent performing these duties, provided that when the individual performs emergency or occasional duties, the individual must be paid no less than the wage specified in ORS 653.025 or section 2 of this 2023 Act, if applicable.

(8) An individual paid for specified hours of employment, the only purpose of which is to be available for recall to duty.

(9) An individual domiciled at multiunit accommodations designed to provide other people with temporary or permanent lodging, for the purpose of maintenance, management or assisting in the management of same.

(10) An individual employed on a seasonal basis at:
(a) An organized camp operated for profit that generates gross annual income of less than $500,000; or
(b) A nonprofit organized camp.

(11) An individual employed at a nonprofit conference ground or center operated for educational, charitable or religious purposes.

(12) An individual who performs services as a volunteer firefighter, as defined in ORS 652.050.

(13) An individual who performs child care services in the home of the individual or in the home of the child.

(14) An individual employed in domestic service employment in or about a family home to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves.

(15) An individual who performs service as a caddy at a golf course in an established program for the training and supervision of caddies under the direction of a person who is an employee of the golf course.

(16) An individual who volunteers as a golf course marshal if:
(a) The services the individual provides are limited to monitoring starting times and speed of play and informing golfers of golf course etiquette;
(b) The individual is not allowed to provide volunteer golf course marshal services for more than 30 hours in a calendar week; and
(c) The individual receives no wage other than golf passes for providing the volunteer golf course marshal services.

(17) An individual employed as a resident manager by an adult foster home that is licensed pursuant to ORS 443.705 to 443.825 and who is domiciled at the adult foster home.

(18) An individual residing in a mobile home park or manufactured dwelling park designed to provide other people with temporary or permanent lodging, for the purpose of maintenance, management or in assisting in the management of same.

(19) An individual who volunteers as a campground host and who resides in a campground
owned by a public agency that provides temporary accommodations for travelers, whether under public or private management, and who provides information and emergency assistance.

(20) An individual who:

(a) Is registered with the National Ski Patrol or a similar nonprofit ski patrol organization as a nonprofessional ski patroller and who receives no wage other than passes authorizing access to and use of a ski area, as defined in ORS 30.970, for performing ski patrol services, including but not limited to services related to preserving the safety of and providing information to skiers or snowboarders; or

(b) Receives no wage other than passes authorizing access to and use of a ski area, as defined in ORS 30.970, for performing services directly related to the organizing or conducting of skiing or snowboarding races or other similar competitions that are:

(A) Sponsored and organized by a nonprofit corporation, as defined in ORS 65.001; and

(B) Held in a ski area, as defined in ORS 30.970.

SECTION 9. ORS 653.030 is amended to read:

653.030. The Commissioner of the Bureau of Labor and Industries shall issue rules prescribing the employment of other types of persons at fixed minimum hourly wage rates lower than the minimum wage rate required by ORS 653.025 or section 2 of this 2023 Act, as applicable, when the commissioner has determined that the application of ORS 653.025 or section 2 of this 2023 Act would substantially curtail opportunities for employment for specific types of persons. The types of persons for whom a minimum hourly wage rate may be set are limited to persons who are student-learners, as defined in ORS 653.070.

SECTION 10. ORS 653.033 is amended to read:

653.033. (1) An employer who is authorized to employ individuals with disabilities at subminimum wage pursuant to a special certificate issued under 29 U.S.C. 214(c) or in accordance with rules under ORS 653.030 or of the Department of Human Services may not employ or agree to employ individuals with disabilities at an hourly rate lower than:

(a) From July 1, 2020, to June 30, 2021, $9.25.

(b) From July 1, 2021, to June 30, 2022, $10.75.

(c) From July 1, 2022, to June 30, 2023, $12.50.

(2) After June 30, 2023, an employer who is authorized to employ individuals with disabilities at subminimum wage pursuant to a special certificate issued under 29 U.S.C. 214(c) or in accordance with rules under ORS 653.030 or of the Department of Human Services may not employ or agree to employ individuals with disabilities at a rate lower than the hourly rate required under ORS 653.025 or section 2 of this 2023 Act, as applicable.

SECTION 11. ORS 653.035 is amended to read:

653.035. (1) Employers may deduct from the minimum wage to be paid employees under ORS 653.025, 653.030 or 653.261, or under section 2 of this 2023 Act, as applicable, the fair market value of lodging, meals or other facilities or services furnished by the employer for the private benefit of the employee.

(2) Employers may include commission payments to employees as part of the applicable minimum wage for any pay period in which the combined wage and commission earnings of the employee will comply with ORS 653.010 to 653.261. In any pay period where the combined wage and commission payments to the employee do not add up to the applicable minimum wage under ORS 653.010 to 653.261, the employer shall pay the minimum rate as prescribed in ORS 653.010 to 653.261.

(3) Employers, including employers regulated under the federal Fair Labor Standards Act, may
not include any amount received by employees as tips in determining the amount of the minimum wage required to be paid by ORS 653.010 to 653.261.

SECTION 12. ORS 653.070 is amended to read:

653.070. (1) As used in this section:

(a) “Bona fide professional training program” includes any professional training program approved by the Superintendent of Public Instruction pursuant to rules of the State Board of Education which provides for part-time employment training which may be scheduled for a part of the workday or workweek, for alternating weeks or for other limited periods during the year, supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related information given as a regular part of the student-learner's course by an accredited school, college or university.

(b) “Student-learner” means a student who is receiving instruction in an accredited school, college or university and who is employed on a part-time basis, pursuant to a bona fide professional training program.

(2) Notwithstanding ORS 653.025, employers shall pay student-learners at least 75 percent of the minimum wage prescribed by ORS 653.025 or section 2 of this 2023 Act, as applicable.

(3) The number of hours of employment training for a student-learner at subminimum wages, when added to the hours of school instruction, shall not exceed eight hours on any day or 40 hours in any week.

(4) The Commissioner of the Bureau of Labor and Industries may adopt rules prescribing the procedures and requirements for application and issuance of special certificates authorizing the employment of student-learners at subminimum wages. The rules shall require that the following conditions be satisfied before the issuance of such special certificates:

(a) The employment of the student-learner at subminimum wages authorized by the special certificate must be necessary to prevent curtailment of opportunities for employment.

(b) The occupation for which the student-learner is receiving preparatory training must require a sufficient degree of skill to necessitate a substantial learning period.

(c) The training must not be for the purpose of acquiring manual dexterity and high production speed in repetitive operations.

(d) The employment of a student-learner must not have the effect of displacing a worker employed in the establishment.

(e) The employment of the student-learners at subminimum wages must not tend to impair or depress the wage rates or working standards established for experienced workers for work of a like or comparable character.

(f) The occupational needs of the community or industry warrant the training of student-learners.

(g) There are no serious outstanding violations of the provisions of a student-learner certificate previously issued to the employer, or serious violations of any other provisions of law by the employer which provide reasonable grounds to conclude that the terms of the certificate would not be complied with, if issued.

(h) The issuance of such a certificate would not tend to prevent the development of apprenticeship under ORS 660.002 to 660.210 or would not impair established apprenticeship standards in the occupation or industry involved.

(i) The number of student-learners to be employed in one establishment must not be more than a small proportion of its working force.
(5) Failure to comply with subsection (2) or (3) of this section shall subject the employer to a penalty of 75 percent of the minimum wage prescribed by ORS 653.025 or section 2 of this 2023 Act, as applicable, for each hour of work time that the student-learner is gainfully employed. The Commissioner of the Bureau of Labor and Industries shall have a cause of action against the employer for the recovery of the penalty.

SECTION 13. ORS 653.261 is amended to read:

653.261. (1)(a) The Commissioner of the Bureau of Labor and Industries may adopt rules prescribing such minimum conditions of employment, excluding minimum wages except as otherwise provided in section 2 of this 2023 Act, in any occupation as may be necessary for the preservation of the health of employees. The rules may include, but are not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less than eight hours per day or 40 hours per workweek; however, after 40 hours of work in one workweek overtime may be paid, but in no case at a rate higher than one and one-half times the regular rate of pay of the employees when computed without benefit of commissions, overrides, spiffs and similar benefits.

(b) As used in this subsection, “workweek” means a fixed period of time established by an employer that reflects a regularly recurring period of 168 hours or seven consecutive 24-hour periods. A workweek may begin on any day of the week and any hour of the day and need not coincide with a calendar week. The beginning of the workweek may be changed if the change is intended to be permanent and is not designed to evade overtime requirements.

(2) Rules adopted by the commissioner pursuant to subsection (1) of this section do not apply to individuals employed by this state or a political subdivision or quasi-municipal corporation thereof if other provisions of law or collective bargaining agreements prescribe rules pertaining to conditions of employment referred to in subsection (1) of this section, including meal periods, rest periods, maximum hours of work and overtime.

(3) Rules adopted by the commissioner pursuant to subsection (1) of this section regarding meal periods and rest periods do not apply to nurses who provide acute care in hospital settings if provisions of collective bargaining agreements entered into by the nurses prescribe rules concerning meal periods and rest periods.

(4)(a) The commissioner shall adopt rules regarding meal periods for employees who serve food or beverages, receive tips and report the tips to the employer.

(b) In rules adopted by the commissioner under paragraph (a) of this subsection, the commissioner shall permit an employee to waive a meal period. However, an employer may not coerce an employee into waiving a meal period.

(c) Notwithstanding ORS 653.256 (1), in addition to any other penalty provided by law, the commissioner may assess a civil penalty not to exceed $2,000 against an employer that the commissioner finds has coerced an employee into waiving a meal period in violation of this subsection. Each violation is a separate and distinct offense. In the case of a continuing violation, each day’s continuance is a separate and distinct violation.

(d) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS 183.745. All sums collected as penalties under this subsection shall be applied and paid over as provided in ORS 653.256 (4).

SECTION 14. ORS 653.606 is amended to read:

653.606. (1)(a) Employers that employ at least 10 employees working anywhere in this state shall implement a sick time policy that allows an employee to accrue at least one hour of paid sick time for every 30 hours the employee works or 1-1/3 hours for every 40 hours the employee works. Em-
ployers may limit the number of hours of paid sick time that employees may accrue to 40 hours per year.

(b) Employers that employ fewer than 10 employees working anywhere in this state shall implement a sick time policy that allows an employee to accrue at least one hour of unpaid sick time for every 30 hours the employee works or 1-1/3 hours for every 40 hours the employee works. Employers may limit the number of hours of unpaid sick time that employees may accrue to 40 hours per year.

(c) Employers that employ at least 10 employees working anywhere in this state and front-load for employees at least 40 hours of paid sick time or paid time off at the beginning of each year used to calculate the accrual and usage of sick time or time off need not comply with subsections (1)(a) and (3) of this section.

(d) Employers that employ fewer than 10 employees working anywhere in this state and front-load for employees at least 40 hours of unpaid sick time or unpaid time off at the beginning of each year used to calculate the accrual and usage of sick time or time off need not comply with subsections (1)(b) and (3) of this section.

(2)(a) The number of employees employed by an employer shall be ascertained by determining that the per-day average number of employees is 10 or greater for each of 20 workweeks in the calendar year or the fiscal year of the employer immediately preceding the year in which the leave is to be taken.

(b) If the business of the employer was not in existence for the entire year preceding the determination made under paragraph (a) of this subsection, the number of employees shall be based on any 20 workweeks preceding the request for sick time, which may include workweeks in the current year, the preceding year or a combination of workweeks in the current year and the preceding year.

(c) As used in this subsection, “employee” does not include an individual or the parent, spouse or child of an individual who is:

(A) A director of a corporation who has a substantial ownership interest in the corporation;

(B) A member of a limited liability company who has:

(i) A right to vote on or consent to any matter submitted to a vote or requiring the consent of the members of the limited liability company; and

(ii) A substantial ownership interest in the limited liability company;

(C) A partner of a limited liability partnership who has a substantial ownership interest in the limited liability partnership; or

(D) A sole proprietor of a business.

(d) As used in paragraph (c) of this subsection, “substantial ownership interest” means a percentage of ownership equal to or greater than the average percentage of ownership of all owners, but not less than 15 percent.

(3) An employee shall begin to earn and accrue sick time on the first day of employment with an employer. The employee may carry over up to 40 hours of unused sick time from one year to a subsequent year. However, an employer:

(a) May adopt a policy that limits an employee to accruing no more than 80 total hours of sick time; and

(b) May adopt a policy that limits an employee to using no more than 40 hours of sick time in a year.

(4)(a) An employer is not required to carry over unused sick time if, by mutual consent, the
employer and an employee agree that:

(A) If the employer has 10 or more employees working anywhere in this state, the employee will be paid for all unused paid sick time at the end of the year in which the sick time is accrued and the employer will credit the employee with an amount of paid sick time that meets the requirements of this section on the first day of the immediately subsequent year; or

(B) If the employer has fewer than 10 employees working anywhere in this state, the employer will credit the employee with an amount of sick time that meets the requirements of this section on the first day of the immediately subsequent year.

(b) The Commissioner of the Bureau of Labor and Industries shall adopt rules for the determination of the number of employees employed by an employer.

(5)(a) An employee is eligible to use sick time beginning on the 91st calendar day of employment with the employer and may use sick time as it is accrued.

(b) An employer may authorize an employee to use accrued sick time prior to the 91st calendar day of employment.

(c)(A) An employer that employs 10 or more employees working anywhere in this state shall pay an employee for accrued sick time used at the regular rate of pay of the employee.

(B) For an employee who is paid on a commission or piece-rate basis by an employer that employs 10 or more employees working anywhere in this state, the employer shall pay the employee for accrued sick time used at a rate equal to at least the minimum wage specified in ORS 653.025 or section 2 of this 2023 Act, as applicable.

(C) For an employee who is paid an hourly, weekly or monthly wage and is also paid on a piece-rate or commission basis by an employer that employs 10 or more employees working anywhere in this state, the employer shall pay the employee for accrued sick time used at a rate equivalent to the employee’s hourly, weekly or monthly wage or equal to the minimum wage specified in ORS 653.025, or, as applicable, the minimum wage specified in section 2 of this 2023 Act, whichever is greater.

(6) An employee who is exempt from overtime requirements under 29 U.S.C. 213(a)(1) of the federal Fair Labor Standards Act of 1938 is presumed to work 40 hours in each workweek for the purpose of accrual of sick time unless the actual workweek of the employee is less than 40 hours, in which case sick time accrues based on the actual workweek of the employee.

(7) Nothing in ORS 653.601 to 653.661 requires an employer to compensate an employee for accrued unused sick time upon the employee’s termination, resignation, retirement or other separation from employment.

(8) An employer may not require an employee to:

(a) Search for or find a replacement worker as a condition of the employee’s use of accrued sick time; or

(b) Work an alternate shift to make up for the use of sick time.

(9) Upon mutual consent by the employee and the employer, an employee may work additional hours or shifts to compensate for hours or shifts during which the employee was absent from work without using accrued sick time for the hours or shifts missed. However, the employer may not require the employee to work additional hours or shifts authorized by this subsection. If the employee works additional hours or shifts, the employer must comply with any applicable federal, state or local laws regarding overtime pay.

(10) An employee retains accrued sick time if the employer sells, transfers or otherwise assigns the business or an interest in the business to another employer.
(11)(a) An employer shall restore previously accrued unused sick time to an employee who is reemployed by that employer within 180 days of separation from employment with the employer.

(b) If an employee leaves employment with an employer before the 91st day of employment and subsequently is reemployed by that employer within 180 days of separation from employment, the employer shall restore the accrued sick time balance the employee had when the employee left the employment of the employer and the employee may use accrued sick time after the combined total of days of employment with the employer exceeds 90 calendar days.

(12) If an employee is transferred to a separate division, entity or location of the employer but remains employed by that same employer, the employee is entitled to use all sick time accrued while working at the former division, entity or location of the employer and is entitled to retain or use all sick time as provided by ORS 653.601 to 653.661.

(13) Employers located in a city with a population exceeding 500,000 shall comply with ORS 653.601 to 653.661, except that:

(a) If an employer located in a city with a population exceeding 500,000 employs at least six employees working anywhere in this state, the employer shall implement a policy consistent with this section as it applies to employers with at least 10 employees working anywhere in this state.

(b) If an employer located in a city with a population exceeding 500,000 employs fewer than six employees working anywhere in this state, the employer shall implement a policy consistent with this section as it applies to employers with fewer than 10 employees working anywhere in this state.

SECTION 15. Section 2 of this 2023 Act and the amendments to ORS 137.103, 315.262, 464.250, 653.010, 653.020, 653.025, 653.030, 653.033, 653.035, 653.070, 653.261 and 653.606 by sections 3 to 14 of this 2023 Act become operative on January 1, 2024.

SECTION 16. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.