



A STRONG VOICE FOR OREGON'S WORKERS

To: Chair Holvey
Vice-Chair Elmer and Sosa
Members of the House Business and Labor committee

FR: Catie Theisen, Oregon AFL-CIO

RE: SB 592 Support, Keep Oregon Workers Safe Act

April 19, 2023

The Oregon AFL-CIO represents 300,000 workers across industries and is a voice for all workers in the legislative process. Thank you for the opportunity to provide testimony in support of SB 592 to help improve the effectiveness of Oregon OSHA.

I want to first express thanks to Senator Taylor for all the work done on the Senate side of this bill which comes with bipartisan support off the Senate floor. Thanks also to the advocates and the agency for their work on this bill in the Senate.

The Occupational Safety and Health Act passed in 1970 in Congress to better regulate and enforce protections around preventable workplace injuries, illnesses and deaths. Still, nationwide workplace hazards kill and disable approximately 125,000 workers a year.¹

Oregon is one of 22 states that has a state OSHA plan so Oregon OSHA sets standards, rules, processes and penalties for places of employment in Oregon. However, Federal OSHA is clear that state plans must have standards and enforcement that is at least as effective as Federal OSHA's.² This lesser efficacy is at the core of much of the problems we are trying to address with SB 726.

The first is penalties. Year after year, Oregon OSHA is 50th out of 50 states in terms of the penalties assessed when a workplace injury or fatality occurs as the result of a safety or health violation.³ In 2021 the average Oregon penalty for an injury that resulted from a serious violation was just over \$600, the national average was over \$3,000. And from an inspection due to a workplace death, Oregon's average penalty was just over \$1,000 while the national average was over \$11,000.⁴

Current Oregon statute only outlines that fines for a serious violation need to at least be \$50. This is in comparison to federal OSHA penalties at a minimum of \$1,116 for a serious violation. State OSHA plans are required to raise their statutory maximum penalties in order to be as effective as the federal OSHA program, so here we see Oregon OSHA as not as effective as federal OSHA.

¹ https://aflcio.org/sites/default/files/2022-04/2214_DOTJ_Final_42622_nobug.pdf

² <https://www.osha.gov/stateplans/faqs#:~:text=OSHA%20approves%20and%20monitors%20all,as%20the%20federal%20OSHA%20program.>

³ https://aflcio.org/sites/default/files/2022-04/2214_DOTJ_Final_42622_nobug.pdf

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This discrepancy has serious consequences. In 2021, the last available aggregate reporting, Oregon had an injury rate per 100 workers significantly higher than the national average.⁵

Penalties, fines and fees are in place across state agencies because they change behavior. Researchers estimate that a 10 percent increase in average penalties reduces worker injuries by almost 1 percent.⁶ With those estimates applied to Oregon's 43,400 workplace injuries and illnesses in 2020, SB 592 would have resulted in 400 workers' lives saved or injuries and illnesses avoided.⁷ Significant penalties is one – largely currently unused - tool to help hold bad actor employers accountable.

The second tool that we know is critical are inspections. Currently, inspections are largely triggered from complaints or injuries or fatalities but OSHA can only inspect the specific hazard that led to the work-related injury or fatality. For example, a construction fall fatality would trigger an investigation of potential fall hazards. But OSHA is precluded from looking at the entire worksite for other potential safety hazards.

According to the National Death at Work report, it would take Oregon OSHA 112 years to inspect every worksite in Oregon once.⁸ Similar to the penalty statistic, researchers estimate that a 10 percent increase in inspection frequency reduces injuries by 1.63 percent.⁹

The final problem we're currently finding is inaccessibility of information, particularly on citations in response to injuries. Unfortunately, there is not a wealth of easily findable and understandable data. We know that sunlight is a disinfectant and when legislators are able to readily see and evaluate data, you can craft laws that make sure state agencies are using tax dollars as efficiently and effectively as possible.

SB 592 as amended is in direct response to these three problems. The bill does not change what OSHA cites as violations, just the penalty amounts and what can trigger a comprehensive inspection.

Section 2 of the bill aligns Oregon OSHA penalties with Federal OSHA penalties. It puts in place floors and ceilings for serious violations, death as a result of a serious violation, and willful violations. It retains OSHA's ability to adjust fines based on employer size if hazard abatements occur. That same section also requires that these penalties adjust yearly with CPI for the Western Region.

Next, comprehensive inspections. Section 1 requires a comprehensive inspection when there has been a work-related fatality in connection to a violation *or* when there are 3 or more willful violations within a year. So this section simply says that when there was already a death or

⁵ https://aflcio.org/sites/default/files/2022-04/2214_DOTJ_Final_42622_nobug.pdf

⁶ Scholz JT, Gray WB (1990) "OSHA Enforcement and Workplace Injuries: A Behavioral Approach to Risk Assessment." *Journal of Risk and Uncertainty* 3(3), 283–305.

⁷ https://aflcio.org/sites/default/files/2022-04/2214_DOTJ_Final_42622_nobug.pdf

⁸ https://aflcio.org/sites/default/files/2022-04/2214_DOTJ_Final_42622_nobug.pdf

⁹ Scholz JT, Gray WB (1990) "OSHA Enforcement and Workplace Injuries: A Behavioral Approach to Risk Assessment." *Journal of Risk and Uncertainty* 3(3), 283–305.



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many repeated violation at a workplace, let's do everything we can to make sure nothing else happens by going back to that workplace and doing a comprehensive, whole-workplace inspection. This was one of the key places where we made changes in the Senate to be responsive to concerns.

Finally Section 4 increases transparency on inspections, violations and fatalities by requiring Oregon OSHA report to the House and Senate Labor and Business Committees at least yearly.

It's critical that Oregon use every tool in our toolbox to prevent injuries and deaths at work. Data bears out that significant penalties and comprehensive inspections are critical tools to doing so. Oregon has fallen far below every other state when it comes to this part of workplace safety and health for far too long but we have an opportunity to meaningfully address that this session – we encourage you to support SB 726.

