

SB 1044 STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

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Meeting Dates: 3/20, 3/25

WHAT THE MEASURE DOES:

The measure specifies in the definition of "work time," that "work time" does not include meal periods for purposes of minimum employment condition laws. The measure specifies that an employer who violates rules adopted by the Commissioner of the Bureau of Labor and Industries for meal periods is liable to an employee in an amount determined by the Commissioner in rule. The measure specifies that this amount owed to an employee is a penalty and is not considered wages or compensation for purposes of Oregon law providing a penalty for failure to pay wages. The measure specifies that a meal period shortened for a period of five minutes or less does not constitute a violation of the minimum meal period requirements provided that the employer provided and encouraged an uninterrupted minimum meal period, and the meal period was not shortened at the direction of the employer. Declares emergency, effective on passage.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: No revenue impact

ISSUES DISCUSSED:

- Court cases interpreting current law
- Possible imposition of penalty wages under current law
- Employer responsibility for ensuring full meal period
- Other state laws regarding meal periods
- Wage payment for full meal period

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The duties of the Commissioner of the Bureau of Labor and Industries (BOLI) are set forth in law and include enforcement of: all laws regulating the employment of adults and minors; all laws established for the protection of the health, lives, and limbs of persons employed in workshops, factories, mills, and other places; all laws enacted for the protection of employees; laws which declare it to be a misdemeanor on the part of employers to require as a condition of employment the surrender of any rights of citizenship; and laws regulating and prescribing the qualifications of persons in apprenticeable trades and crafts, and similar laws.

The Commissioner of BOLI is also permitted to adopt rules prescribing minimum employment conditions that may be necessary for the preservation of the health of employees. This authority includes the ability to set rules for minimum meal and rest periods, and maximum hours of work for not less than eight hours a day or 40 hours per week. The Commissioner of BOLI is required to adopt rules for meal periods for employees who serve food or beverages, and these rules must permit the employee to waive a meal period. OAR 839-020-0050(2)(a) currently requires employers to provide employees with a meal period of a minimum of 30 continuous minutes when the employee's work period is not less than six hours or more than eight hours. This rule also provides exceptions to the 30-minute meal period requirement.

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Senate Bill 1044 specifies that an employer who violates rules adopted by the Commissioner of the Bureau of Labor and Industries for meal periods is liable to an employee in an amount determined by the Commissioner by rule. SB 1044 also specifies that this amount is a penalty and is not considered wages or compensation for purposes of Oregon law providing a penalty for failure to pay wages.

PRELIMINARY