

Senate Bill 1044

Sponsored by Senator BONHAM

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes new laws regarding meal periods. The Act takes effect when the Governor signs it. (Flesch Readability Score: 78.7).

Clarifies for purposes of state wage and hour laws that "work time" does not include meal periods.

Provides that an employer who violates rules adopted by the Commissioner of the Bureau of Labor and Industries regarding meal periods is liable to the employee in an amount determined by the commissioner in rule. Specifies that the amount owed is a penalty and is not considered wages or compensation. Clarifies the circumstances under which a shortened meal period would not constitute a violation of the meal period requirements.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to employment; amending ORS 653.010 and 653.261; and declaring an emergency.

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

4 **SECTION 1.** ORS 653.010 is amended to read:

5 653.010. As used in ORS 653.010 to 653.261, unless the context requires otherwise:

6 (1) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

7 (2) "Employ" includes to suffer or permit to work but does not include voluntary or donated
8 services performed for no compensation or without expectation or contemplation of compensation
9 as the adequate consideration for the services performed for a public employer referred to in sub-
10 section (3) of this section, or a religious, charitable, educational, public service or similar nonprofit
11 corporation, organization or institution for community service, religious or humanitarian reasons or
12 for services performed by general or public assistance recipients as part of any work training pro-
13 gram administered under the state or federal assistance laws.

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

17 (4) "Minor" means any person under 18 years of age.

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

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

25 (7) "Outside salesperson" means any employee who is employed for the purpose of and who is
26 customarily and regularly engaged away from the employer's place or places of business in making

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 sales, or obtaining orders, or obtaining contracts for services and whose hours of work of any other
 2 nature for the employer do not exceed 30 percent of the hours worked in the workweek by the
 3 nonexempt employees of the employer.

4 (8) "Piece-rate" means a rate of pay calculated on the basis of the quantity of the crop har-
 5 vested.

6 (9) "Salary" means no less than the wage set pursuant to ORS 653.025, multiplied by 2,080 hours
 7 per year, then divided by 12 months.

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

11 (11)(a) "Work time" includes both time worked and time of authorized attendance.

12 **(b) "Work time" does not include meal periods under ORS 653.261.**

13 **SECTION 2.** ORS 653.261 is amended to read:

14 653.261. (1)(a) The Commissioner of the Bureau of Labor and Industries may adopt rules pre-
 15 scribing such minimum conditions of employment, excluding minimum wages, in any occupation as
 16 may be necessary for the preservation of the health of employees. The rules may include, but are
 17 not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less
 18 than eight hours per day or 40 hours per workweek; however, after 40 hours of work in one
 19 workweek overtime may be paid, but in no case at a rate higher than one and one-half times the
 20 regular rate of pay of the employees when computed without benefit of commissions, overrides, spiffs
 21 and similar benefits.

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

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

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

36 **(4)(a) An employer that violates the meal period requirements established under rules**
 37 **adopted by the commissioner pursuant to subsection (1) of this section is liable to an em-**
 38 **ployee in an amount determined by the commissioner by rule. The amount owed to an em-**
 39 **ployee under this subsection constitutes a penalty and is not considered wages or**
 40 **compensation for purposes of ORS 652.150.**

41 **(b) A record showing that a meal period was shortened by an insubstantial period of time**
 42 **of five minutes or less in duration, before the entire minimum meal period has passed, does**
 43 **not constitute a violation of the minimum meal period requirements established under rules**
 44 **adopted by the commissioner pursuant to subsection (1) of this section, provided that:**

45 **(A) The employer provided and encouraged an uninterrupted minimum meal period; and**

(B) The meal period was not shortened at the direction of the employer.

1 [(4)(a)] **(5)(a)** The commissioner shall adopt rules regarding meal periods for employees who
 2 serve food or beverages, receive tips and report the tips to the employer.
 3

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

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

12 (d) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS
 13 183.745. All sums collected as penalties under this subsection shall be applied and paid over as
 14 provided in ORS 653.256 (4).

15 **SECTION 3.** ORS 653.261, as amended by section 27, chapter 507, Oregon Laws 2023, is
 16 amended to read:

17 653.261. (1)(a) The Commissioner of the Bureau of Labor and Industries may adopt rules pre-
 18 scribing such minimum conditions of employment, excluding minimum wages, in any occupation as
 19 may be necessary for the preservation of the health of employees. The rules may include, but are
 20 not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less
 21 than eight hours per day or 40 hours per workweek; however, after 40 hours of work in one
 22 workweek overtime may be paid, but in no case at a rate higher than one and one-half times the
 23 regular rate of pay of the employees when computed without benefit of commissions, overrides, spiffs
 24 and similar benefits.

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

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

35 (3) Except as provided in ORS 653.258 (2)(a), rules adopted by the commissioner pursuant to
 36 subsection (1) of this section regarding meal periods and rest periods do not apply to nurses who
 37 provide acute care in hospital settings if provisions of collective bargaining agreements entered into
 38 by the nurses prescribe rules concerning meal periods and rest periods.

39 **(4)(a) An employer that violates the meal period requirements established under rules**
 40 **adopted by the commissioner pursuant to subsection (1) of this section is liable to an em-**
 41 **ployee in an amount determined by the commissioner by rule. The amount owed to an em-**
 42 **ployee under this subsection constitutes a penalty and is not considered wages or**
 43 **compensation for purposes of ORS 652.150.**

44 **(b) A record showing that a meal period was shortened by an insubstantial period of time**
 45 **of five minutes or less in duration, before the entire minimum meal period has passed, does**

1 **not constitute a violation of the minimum meal period requirements established under rules**
2 **adopted by the commissioner pursuant to subsection (1) of this section, provided that:**

3 **(A) The employer provided and encouraged an uninterrupted minimum meal period; and**

4 **(B) The meal period was not shortened at the direction of the employer.**

5 [(4)(a)] **(5)(a)** The commissioner shall adopt rules regarding meal periods for employees who
6 serve food or beverages, receive tips and report the tips to the employer.

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

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

15 (d) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS
16 183.745. All sums collected as penalties under this subsection shall be applied and paid over as
17 provided in ORS 653.256 (4).

18 **SECTION 4. This 2025 Act being necessary for the immediate preservation of the public**
19 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**
20 **on its passage.**

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