



A STRONG VOICE FOR OREGON'S WORKERS

TO: Chair Taylor
Vice-chair Bonham
Members of the Labor and Business committee
FR: Catie Theisen, Oregon AFL-CIO
RE: 1044 concerns

March 18, 2025

The Oregon AFL-CIO represents 300,000 workers across Oregon and is a voice for all workers in the legislative process. Thank you for the opportunity to testify with concerns on SB 1044 which would change the definition of "work time" to not include meal periods for purposes of minimum employment condition laws.

Currently, the BOLI rule currently requires employers to provide employees with a meal period of a minimum of 30 continuous minutes for workers who work between 6 and 8 hours. If an employer violates that rule, they must pay a penalty and that penalty is not considered wages.

SB 1044 says that if a meal period is shortened by 5 minutes or less, then this would not be a violation if the employer did not direct the worker to shorten their meal break and encouraged them to take the full meal break.

The issue of missed or shortened meal periods often comes up in fast-paced workplaces like care facilities and manufacturing plants. While we appreciate the sponsor's more measured approach here and the ability for BOLI to issue a new penalty, we do want to flag a number of concerns.

First, is how if an employer did not "direct the worker to shorten their meal break" and "encouraged them to take the full meal break" would be enforced in reality. Sadly, we know there are some bad actor employers who could potentially take advantage of the grey area in this law, particularly for already marginalized workers who may be scared of speaking up or contradicting their employer. We fear that under some circumstances – even if limited – a worker would be unpaid for their full meal break, simply because the employer alleges they did not force the worker to cut it short. Even if an employer has a *policy* that you need to take your whole 30 minute meal period, it is often impossible for workers to do that, and there is subtle or not so subtle pressure to go back to work before the 30 minutes is up.

Second, 5 minutes may seem trivial, however this time adds up for a worker. And not being paid for an entire meal period would have a significant impact on take-home pay. And finally, SB 1044 runs directly contrary to a Oregon Court of Appeals opinion that held an employer has a *duty* to make sure work is not performed during the 30 minute meal period and can be found strictly liable when an hourly employee takes less than their entire lunch break regardless of the circumstances.

SB 1044 will make it very hard for workers to claim their missed lunch periods, and even if they do, they will not be able to seek penalty wages as they are currently able to. We encourage you to examine these significant concerns on SB 1144.