

**Testimony in Opposition to Senate Bill 999
Senate Committee on Workforce
April 11th, 2017**

Chair Taylor, Vice-Chair Knopp, and members of the committee,

On behalf of the Oregon Law Center (OLC), I submit this testimony in opposition to Senate Bill 999, which would make several changes to Oregon's employment law statutes that would be harmful to the vast majority of low-wage workers.

As you know, OLC is a statewide non-profit entity whose mission it is to provide access to justice for low-income Oregonians. The majority of our clients are low-wage earners who work hard from paycheck to paycheck to provide the basic necessities for themselves and their families.

Work is the foundation of economic security. It is a priority for OLC to ensure that our low-income clients are treated fairly at the workplace. Some of the most important protections in Oregon's employment law statutes are the protections against wage violations. The fair payment of wages is a fundamental aspect of work.

When a low-income worker is not paid what he or she is fairly owed by law, the impact can be devastating. Not only is it demeaning and demoralizing not to be paid what one is fairly owed, it is a form of theft. If a person is living paycheck to paycheck, and counting on certain expected income, a wage violation could mean the inability to make rent or keep food on the table. It is critical that wage violations be treated seriously under the law. Equally important are the regulations regarding rest breaks, itemized deductions on paystubs, and overtime. These are fundamental protections in the workplace. Our current law is designed to disincentivize violations and hold offenders accountable. Senate Bill 999 proposes to reduce employer accountability for wage violations, and is contrary to the public interest.

Specific concerns include:

- In Sections 1 (overtime), 2 (regular payday), 4 (itemized statements of deductions), 5 (wage violations), and 6 (meal and rest periods), the bill proposes to force employees into an election of remedies. The impact of this could be that if an employee needed to sue to collect unpaid wages, s/he might be prohibited from bringing a separate claim for unlawful deductions, or other harms also suffered, if those harms were "substantially similar." This change would lead to uncertainty and litigation over what claims were precluded, and could end up limiting relief for multiple violations of the law. The protections in each of the statutes referenced are aimed at different types of behavior by employers. There are remedies available for each type of violation. The current system allows injured plaintiffs to bring their claims forward and to let the court decide the appropriate sanction based on the facts.



- Section 3 would raise the bar for wage violation cases, making it harder for victims to bring their cases forward. In recent years, this statute has been narrowed significantly, and now requires written documentation/notice by the employee before a claim can be brought for the appropriate penalty for violation. This bill proposes to further narrow eligibility for relief by narrowing the exemption from the requirement for written documentation.
 - The current law says that written documentation is not required from the employee when the employer has previous violations within the past year. The bill proposes that in order for that exception to apply, there would have to have been a judgment within the past year. This is too narrowing – often it takes much longer than a year for a case to get to judgment. More importantly, an employer at fault could simply offer to settle cases without incurring a judgment, thus more easily avoiding liability for repeat violations.
 - The bill proposes that an employer’s “reduction in force” would not qualify as a “termination” that would exempt the employee from having to provide a written notice before being eligible to bring a lawsuit for violations. “Reduction in force” is not defined anywhere in the law, and the resulting confusion and disputes over whether a reduction in force has formally occurred will effectively make this necessary protection unavailable to employees.

- Section 5 would substitute the remedy of double damages for the current minimum-wage remedy of up to 30 days’ wages. For low-wage workers, this would result in a significant reduction in penalty. The purpose of a penalty is to dis-incentivize bad behavior. The current language works to protect minimum-wage workers. The change proposed by the bill would disproportionately impact low-wage workers.

In summary, the proposal before you would lessen protection for hard-working Oregonians who are subject to wage and other violations. For the above reasons, we oppose the bill.

Thank you for the opportunity to testify.