

# House Bill 2784

Sponsored by COMMITTEE ON BUSINESS AND LABOR (at the request of Julie Parrish)

## 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**.

Establishes certain requirements for employer who hires homeless day laborer to perform work for employer. Allows employer to qualify for subtraction from federal taxable income.

Permits employer to apply for federal waiver for exemption from federal payroll tax requirements.

Excludes wages paid to homeless day laborers from definition of "wages" for purposes of state income tax withholding. Exempts wages from employee income tax withholding.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to homeless day laborers; creating new provisions; amending ORS 316.162; and prescribing  
3 an effective date.

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

5 **SECTION 1. As used in this section and section 2 of this 2019 Act:**

6 (a) **"Employer" means an entity or individual who hires a day laborer who is a homeless**  
7 **individual to perform work for the entity or individual.**

8 (b) **"Family member" means any individual related by blood, marriage or adoption to an**  
9 **employer who hires homeless day laborers under section 2 of this 2019 Act.**

10 (c) **"Homeless day laborer" means a homeless individual who is employed and paid wages**  
11 **by an employer on a day-to-day basis.**

12 (d) **"Homeless individual" has the meaning given that term in 42 U.S.C. 11302, as in effect**  
13 **on the effective date of this 2019 Act.**

14 (e) **"Wages" means remuneration that is paid on a cash basis for services performed by**  
15 **a homeless day laborer.**

16 **SECTION 2. (1) An employer who hires a homeless day laborer:**

17 (a) **Shall pay wages to the homeless day laborer at a rate that is not less than the mini-**  
18 **imum hourly wage rate required in ORS 653.025.**

19 (b) **Shall document and keep records of the following information:**

20 (A) **The name of the homeless day laborer who is hired by the employer.**

21 (B) **A copy of the homeless day laborer's driver license or an identification card issued**  
22 **by any state or the federal government, if available.**

23 (C) **The last known address of the homeless day laborer, if available.**

24 (D) **The actual hours worked by the homeless day laborer each day.**

25 (E) **A signed, written agreement between the employer and the homeless day laborer**  
26 **documenting the hours worked by the day laborer and the amount of wages paid by the em-**  
27 **ployer to the day laborer.**

28 (c) **May hire only homeless day laborers who are not family members of the employer.**

**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       (d) May not refuse to hire a homeless day laborer on the basis of a day laborer’s race,  
2 color, religion, sex, sexual orientation, national origin, marital status or age if the homeless  
3 day laborer is 18 years old or older.

4       (2) Homeless day laborers who are hired by employers under this section may not be  
5 counted toward the number of employees employed by the employer for purposes of ORS  
6 653.601 to 653.661 or 659A.150 to 659A.186.

7       (3) The Bureau of Labor and Industries may adopt rules to enforce the prohibition  
8 against discrimination under subsection (1) of this section.

9       (4)(a) An employer who complies with the requirements under subsection (1) of this sec-  
10 tion may qualify for a deduction from federal taxable income under sections 5 or 7 of this  
11 2019 Act.

12       (b) The Department of Revenue shall adopt employer reporting requirements including  
13 rules substantiating an employer’s eligibility for a subtraction under section 5 or 7 of this  
14 2019 Act.

15       (5) An employer may seek from the Internal Revenue Service a waiver from federal  
16 payroll tax requirements.

17       (6) The wages paid to a homeless day laborer under this section are not wages for the  
18 purposes of ORS 316.162.

19       **SECTION 3.** ORS 316.162 is amended to read:

20       316.162. As used in ORS 316.162 to 316.221:

21       (1) “Number of withholding exemptions claimed” means the number of withholding exemptions  
22 claimed in a withholding exemption certificate in effect under ORS 316.182, except that if no such  
23 certificate is in effect, the number of withholding exemptions claimed is considered to be zero.

24       (2) “Wages” means remuneration for services performed by an employee for an employer, in-  
25 cluding the cash value of all remuneration paid in any medium other than cash, except that  
26 “wages” does not include remuneration paid:

27       (a) For active service in the Armed Forces of the United States as to which no withholding is  
28 required by the Internal Revenue Code.

29       (b) To an employee of a common carrier to the extent that 49 U.S.C. 14503 and 40116 prohibit  
30 the remuneration from withholding for state income taxes.

31       (c) For domestic service in a private home, a local college club or a local chapter of a college  
32 fraternity or sorority.

33       (d) For casual labor not in the course of the employer’s trade or business.

34       (e) To an employee whose services to the employer consist solely of labor in connection with  
35 the planting, cultivating or harvesting of seasonal agricultural crops if the total amount paid to such  
36 employee is less than \$300 annually.

37       (f) To seamen who are exempt from garnishment, attachment or execution under title 46 of the  
38 United States Code.

39       (g) To persons temporarily employed as emergency forest fire fighters.

40       (h) To employees’ trusts exempt from tax under provisions of the federal Internal Revenue Code.

41       (i) For services performed by a duly ordained, commissioned or licensed minister of a church in  
42 the exercise of the minister’s ministry or by a member of a religious order in the exercise of reli-  
43 gious duties required by such order, which duties are not commercial in nature.

44       (j) For services provided by an independent contractor, as defined in ORS 670.600.

45       (k) To or on behalf of an employee, a beneficiary of an employee or an alternate payee under

1 or to an eligible deferred compensation plan that, at the time of the payment, is a plan described in  
2 section 457(b) of the Internal Revenue Code and that is maintained by an eligible employer described  
3 in section 457(e)(1)(A) of the Internal Revenue Code.

4 (L) When the remuneration is exempt from taxation under this chapter.

5 **(m) For services performed under section 2 of this 2019 Act.**

6 (3) "Employer" means:

7 (a) A person who is in such relation to another person that the person may control the work  
8 of that other person and direct the manner in which it is to be done; or

9 (b) An officer or employee of a corporation, or a member or employee of a partnership, who as  
10 such officer, employee or member is under a duty to perform the acts required of employers by ORS  
11 316.167, 316.182, 316.197, 316.202 and 316.207.

12 **SECTION 4. Section 5 of this 2019 Act is added to and made a part of ORS chapter 316.**

13 **SECTION 5. There shall be subtracted from federal taxable income the total aggregate  
14 wages paid by a taxpayer under section 2 of this 2019 Act, less any amount deducted on the  
15 taxpayer's federal return under section 162 of the Internal Revenue Code. The total sub-  
16 traction under this section may not exceed \$5,000.**

17 **SECTION 6. Section 7 of this 2019 Act is added to and made a part of ORS chapter 317.**

18 **SECTION 7. There shall be subtracted from federal taxable income the total aggregate  
19 wages paid by a taxpayer under section 2 of this 2019 Act, less any amount deducted on the  
20 taxpayer's federal return under section 162 of the Internal Revenue Code. The total sub-  
21 traction under this section may not exceed \$5,000.**

22 **SECTION 8. Section 9 of this 2019 Act is added to and made a part of ORS chapter 316.**

23 **SECTION 9. Wages paid to a taxpayer under section 2 of this 2019 Act are exempt from  
24 taxes imposed under this chapter.**

25 **SECTION 10. Sections 5, 7 and 9 of this 2019 Act apply to tax years beginning on or after  
26 January 1, 2020.**

27 **SECTION 11. This 2019 Act takes effect on the 91st day after the date on which the 2019  
28 regular session of the Eightieth Legislative Assembly adjourns sine die.**

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