

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2818

By COMMITTEE ON LABOR AND BUSINESS

June 7

1 On page 1 of the printed A-engrossed bill, line 2, after the semicolon delete the rest of the line  
2 and insert “creating new provisions; amending ORS 652.210 and 652.414; and declaring an emer-  
3 gency.”.

4 On page 2, after line 28, insert:

5 “**SECTION 2.** ORS 652.210 is amended to read:

6 “652.210. As used in ORS 652.210 to 652.235, unless the context requires otherwise:

7 “(1)(a) ‘Compensation’ includes wages, salary, bonuses, benefits, fringe benefits and equity-based  
8 compensation.

9 “(b) ‘**Compensation**’ does not include vaccine incentives.

10 “(2) ‘Employee’ means any individual who, otherwise than as a copartner of the employer, as an  
11 independent contractor or as a participant in a work training program administered under the state  
12 or federal assistance laws, renders personal services wholly or partly in this state to an employer  
13 who pays or agrees to pay such individual at a fixed rate. However, when services are rendered only  
14 partly in this state, an individual is not an employee unless the contract of employment of the em-  
15 ployee has been entered into, or payments thereunder are ordinarily made or to be made, within this  
16 state.

17 “(3)(a) ‘Employer’ means any person employing one or more employees, including the State of  
18 Oregon or any political subdivision thereof or any county, city, district, authority, public corpo-  
19 ration or entity and any of their instrumentalities organized and existing under law or charter.

20 “(b) ‘Employer’ does not include the federal government.

21 “(4) ‘Equal-pay analysis’ means an evaluation process to assess and correct wage disparities  
22 among employees who perform work of comparable character.

23 “(5) ‘Protected class’ means a group of persons distinguished by race, color, religion, sex, sexual  
24 orientation, national origin, marital status, veteran status, disability or age.

25 “(6) ‘**Public health emergency**’ means:

26 “(a) **A public health emergency declared under ORS 433.441.**

27 “(b) **An emergency declared under ORS 401.165 if related to a public health emergency**  
28 **as defined in ORS 433.442.**

29 “[~~(6)~~] (7) ‘Rate’ with reference to wages means:

30 “(a) The basis of compensation for services by an employee for an employer; and

31 “(b) Compensation based on the time spent in the performance of the services, on the number  
32 of operations accomplished or on the quantity produced or handled.

33 “[~~(7)~~] (8) ‘Sexual orientation’ has the meaning given that term in ORS 174.100.

34 “[~~(8)~~] (9) ‘System’ means a consistent and verifiable method in use at the time that a violation  
35 is alleged under ORS 652.220.

1        “[9] (10) ‘Unpaid wages’ means the difference between the wages actually paid to an employee  
2 and the wages required under ORS 652.220 to be paid to the employee.

3        “(11) **‘Vaccine incentives’ means monetary or nonmonetary incentives, including but not**  
4 **limited to additional paid time off or protected time off from work provided by employers to**  
5 **employees who have been immunized against infectious diseases for which a public health**  
6 **emergency has been declared.**

7        “[10] (12) ‘Veteran status’ means an individual is a veteran as defined in ORS 408.225.

8        “[11] (13) ‘Wages’ means all compensation for performance of service by an employee for an  
9 employer, whether paid by the employer or another person, or paid in cash or any medium other  
10 than cash.

11       “[12] (14) ‘Working conditions’ includes work environment, hours, time of day, physical sur-  
12 roundings and potential hazards encountered by an employee.

13       “[13] (15) ‘Work of comparable character’ means work that requires substantially similar  
14 knowledge, skill, effort, responsibility and working conditions in the performance of work, regardless  
15 of job description or job title.

16       “**SECTION 3.** ORS 652.210, as amended by section 2 of this 2021 Act, is amended to read:

17       “652.210. As used in ORS 652.210 to 652.235, unless the context requires otherwise:

18       “(1)(a) ‘Compensation’ includes wages, salary, bonuses, benefits, fringe benefits and equity-based  
19 compensation.

20       “(b) ‘Compensation’ does not include:

21       “(A) Vaccine incentives.

22       “(B) **A hiring bonus offered to a prospective employee.**

23       “(C) **A retention bonus offered to an employee.**

24       “(2) ‘Employee’ means any individual who, otherwise than as a copartner of the employer, as an  
25 independent contractor or as a participant in a work training program administered under the state  
26 or federal assistance laws, renders personal services wholly or partly in this state to an employer  
27 who pays or agrees to pay such individual at a fixed rate. However, when services are rendered only  
28 partly in this state, an individual is not an employee unless the contract of employment of the em-  
29 ployee has been entered into, or payments thereunder are ordinarily made or to be made, within this  
30 state.

31       “(3)(a) ‘Employer’ means any person employing one or more employees, including the State of  
32 Oregon or any political subdivision thereof or any county, city, district, authority, public corpo-  
33 ration or entity and any of their instrumentalities organized and existing under law or charter.

34       “(b) ‘Employer’ does not include the federal government.

35       “(4) ‘Equal-pay analysis’ means an evaluation process to assess and correct wage disparities  
36 among employees who perform work of comparable character.

37       “(5) ‘Protected class’ means a group of persons distinguished by race, color, religion, sex, sexual  
38 orientation, national origin, marital status, veteran status, disability or age.

39       “(6) ‘Public health emergency’ means:

40       “(a) A public health emergency declared under ORS 433.441.

41       “(b) An emergency declared under ORS 401.165 if related to a public health emergency as de-  
42 fined in ORS 433.442.

43       “(7) ‘Rate’ with reference to wages means:

44       “(a) The basis of compensation for services by an employee for an employer; and

45       “(b) Compensation based on the time spent in the performance of the services, on the number

1 of operations accomplished or on the quantity produced or handled.

2 “(8) ‘Sexual orientation’ has the meaning given that term in ORS 174.100.

3 “(9) ‘System’ means a consistent and verifiable method in use at the time that a violation is al-

4 leged under ORS 652.220.

5 “(10) ‘Unpaid wages’ means the difference between the wages actually paid to an employee and

6 the wages required under ORS 652.220 to be paid to the employee.

7 “(11) ‘Vaccine incentives’ means monetary or nonmonetary incentives, including but not limited

8 to additional paid time off or protected time off from work provided by employers to employees who

9 have been immunized against infectious diseases for which a public health emergency has been de-

10 clared.

11 “(12) ‘Veteran status’ means an individual is a veteran as defined in ORS 408.225.

12 “(13) ‘Wages’ means all compensation for performance of service by an employee for an em-

13 ployer, whether paid by the employer or another person, or paid in cash or any medium other than

14 cash.

15 “(14) ‘Working conditions’ includes work environment, hours, time of day, physical surroundings

16 and potential hazards encountered by an employee.

17 “(15) ‘Work of comparable character’ means work that requires substantially similar knowledge,

18 skill, effort, responsibility and working conditions in the performance of work, regardless of job de-

19 scription or job title.

20 “**SECTION 4.** ORS 652.210, as amended by sections 2 and 3 of this 2021 Act, is amended to read:

21 “652.210. As used in ORS 652.210 to 652.235, unless the context requires otherwise:

22 “(1)(a) ‘Compensation’ includes wages, salary, bonuses, benefits, fringe benefits and equity-based

23 compensation.

24 “(b) ‘Compensation’ does not include[:]

25 “[A] vaccine incentives.

26 “[B] *A hiring bonus offered to a prospective employee.*]

27 “[C] *A retention bonus offered to an employee.*]

28 “(2) ‘Employee’ means any individual who, otherwise than as a copartner of the employer, as an

29 independent contractor or as a participant in a work training program administered under the state

30 or federal assistance laws, renders personal services wholly or partly in this state to an employer

31 who pays or agrees to pay such individual at a fixed rate. However, when services are rendered only

32 partly in this state, an individual is not an employee unless the contract of employment of the em-

33 ployee has been entered into, or payments thereunder are ordinarily made or to be made, within this

34 state.

35 “(3)(a) ‘Employer’ means any person employing one or more employees, including the State of

36 Oregon or any political subdivision thereof or any county, city, district, authority, public corpo-

37 ration or entity and any of their instrumentalities organized and existing under law or charter.

38 “(b) ‘Employer’ does not include the federal government.

39 “(4) ‘Equal-pay analysis’ means an evaluation process to assess and correct wage disparities

40 among employees who perform work of comparable character.

41 “(5) ‘Protected class’ means a group of persons distinguished by race, color, religion, sex, sexual

42 orientation, national origin, marital status, veteran status, disability or age.

43 “(6) ‘Public health emergency’ means:

44 “(a) A public health emergency declared under ORS 433.441.

45 “(b) An emergency declared under ORS 401.165 if related to a public health emergency as de-

1 fined in ORS 433.442.

2 “(7) ‘Rate’ with reference to wages means:

3 “(a) The basis of compensation for services by an employee for an employer; and

4 “(b) Compensation based on the time spent in the performance of the services, on the number  
5 of operations accomplished or on the quantity produced or handled.

6 “(8) ‘Sexual orientation’ has the meaning given that term in ORS 174.100.

7 “(9) ‘System’ means a consistent and verifiable method in use at the time that a violation is al-  
8 leged under ORS 652.220.

9 “(10) ‘Unpaid wages’ means the difference between the wages actually paid to an employee and  
10 the wages required under ORS 652.220 to be paid to the employee.

11 “(11) ‘Vaccine incentives’ means monetary or nonmonetary incentives, including but not limited  
12 to additional paid time off or protected time off from work provided by employers to employees who  
13 have been immunized against infectious diseases for which a public health emergency has been de-  
14 clared.

15 “(12) ‘Veteran status’ means an individual is a veteran as defined in ORS 408.225.

16 “(13) ‘Wages’ means all compensation for performance of service by an employee for an em-  
17 ployer, whether paid by the employer or another person, or paid in cash or any medium other than  
18 cash.

19 “(14) ‘Working conditions’ includes work environment, hours, time of day, physical surroundings  
20 and potential hazards encountered by an employee.

21 “(15) ‘Work of comparable character’ means work that requires substantially similar knowledge,  
22 skill, effort, responsibility and working conditions in the performance of work, regardless of job de-  
23 scription or job title.

24 “**SECTION 5. (1) The amendments to ORS 652.210 by section 2 of this 2021 Act apply to**  
25 **complaints filed with the Commissioner of the Bureau of Labor and Industries and to claims**  
26 **filed in a circuit court on or after April 29, 2021.**

27 “**(2) The amendments to ORS 652.210 by section 3 of this 2021 Act apply to complaints**  
28 **filed with the Commissioner of the Bureau of Labor and Industries and to claims filed in a**  
29 **circuit court on or after May 25, 2021.**

30 “**SECTION 6. The amendments to ORS 652.210 by section 4 of this 2021 Act become op-**  
31 **erative on March 1, 2022.**

32 “**SECTION 7. This 2021 Act being necessary for the immediate preservation of the public**  
33 **peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect**  
34 **on its passage.”.**