

Requested by SENATE COMMITTEE ON LABOR AND BUSINESS

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2818**

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

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  
7 otherwise:

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

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

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

19 “(3)(a) ‘Employer’ means any person employing one or more employees,  
20 including the State of Oregon or any political subdivision thereof or any  
21 county, city, district, authority, public corporation or entity and any of their

1 instrumentalities organized and existing under law or charter.

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

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

6 “(5) ‘Protected class’ means a group of persons distinguished by race,  
7 color, religion, sex, sexual orientation, national origin, marital status, vet-  
8 eran status, disability or age.

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

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

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

13 “[6] (7) ‘Rate’ with reference to wages means:

14 “(a) The basis of compensation for services by an employee for an em-  
15 ployer; and

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

19 “[7] (8) ‘Sexual orientation’ has the meaning given that term in ORS  
20 174.100.

21 “[8] (9) ‘System’ means a consistent and verifiable method in use at the  
22 time that a violation is alleged under ORS 652.220.

23 “[9] (10) ‘Unpaid wages’ means the difference between the wages actu-  
24 ally paid to an employee and the wages required under ORS 652.220 to be  
25 paid to the employee.

26 “(11) ‘Vaccine incentives’ means monetary or nonmonetary incen-  
27 tives, including but not limited to additional paid time off or protected  
28 time off from work provided by employers to employees who have been  
29 immunized against infectious diseases for which a public health  
30 emergency has been declared.

1        “[~~10~~] (12) ‘Veteran status’ means an individual is a veteran as defined  
2 in ORS 408.225.

3        “[~~11~~] (13) ‘Wages’ means all compensation for performance of service by  
4 an employee for an employer, whether paid by the employer or another per-  
5 son, or paid in cash or any medium other than cash.

6        “[~~12~~] (14) ‘Working conditions’ includes work environment, hours, time  
7 of day, physical surroundings and potential hazards encountered by an em-  
8 ployee.

9        “[~~13~~] (15) ‘Work of comparable character’ means work that requires  
10 substantially similar knowledge, skill, effort, responsibility and working  
11 conditions in the performance of work, regardless of job description or job  
12 title.

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

15        “652.210. As used in ORS 652.210 to 652.235, unless the context requires  
16 otherwise:

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

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

20        “(A) Vaccine incentives.

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

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

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

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

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

6 “(4) ‘Equal-pay analysis’ means an evaluation process to assess and cor-  
7 rect wage disparities among employees who perform work of comparable  
8 character.

9 “(5) ‘Protected class’ means a group of persons distinguished by race,  
10 color, religion, sex, sexual orientation, national origin, marital status, vet-  
11 eran status, disability or age.

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

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

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

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

17 “(a) The basis of compensation for services by an employee for an em-  
18 ployer; and

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

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

23 “(9) ‘System’ means a consistent and verifiable method in use at the time  
24 that a violation is alleged under ORS 652.220.

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

28 “(11) ‘Vaccine incentives’ means monetary or nonmonetary incentives,  
29 including but not limited to additional paid time off or protected time off  
30 from work provided by employers to employees who have been immunized

1 against infectious diseases for which a public health emergency has been  
2 declared.

3 “(12) ‘Veteran status’ means an individual is a veteran as defined in ORS  
4 408.225.

5 “(13) ‘Wages’ means all compensation for performance of service by an  
6 employee for an employer, whether paid by the employer or another person,  
7 or paid in cash or any medium other than cash.

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

10 “(15) ‘Work of comparable character’ means work that requires substan-  
11 tially similar knowledge, skill, effort, responsibility and working conditions  
12 in the performance of work, regardless of job description or job title.

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

15 “652.210. As used in ORS 652.210 to 652.235, unless the context requires  
16 otherwise:

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

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

20 “[A)] vaccine incentives.

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

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

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

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

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

6 “(4) ‘Equal-pay analysis’ means an evaluation process to assess and cor-  
7 rect wage disparities among employees who perform work of comparable  
8 character.

9 “(5) ‘Protected class’ means a group of persons distinguished by race,  
10 color, religion, sex, sexual orientation, national origin, marital status, vet-  
11 eran status, disability or age.

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

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

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

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

17 “(a) The basis of compensation for services by an employee for an em-  
18 ployer; and

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

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

23 “(9) ‘System’ means a consistent and verifiable method in use at the time  
24 that a violation is alleged under ORS 652.220.

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

28 “(11) ‘Vaccine incentives’ means monetary or nonmonetary incentives,  
29 including but not limited to additional paid time off or protected time off  
30 from work provided by employers to employees who have been immunized

1 against infectious diseases for which a public health emergency has been  
2 declared.

3 “(12) ‘Veteran status’ means an individual is a veteran as defined in ORS  
4 408.225.

5 “(13) ‘Wages’ means all compensation for performance of service by an  
6 employee for an employer, whether paid by the employer or another person,  
7 or paid in cash or any medium other than cash.

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

10 “(15) ‘Work of comparable character’ means work that requires substan-  
11 tially similar knowledge, skill, effort, responsibility and working conditions  
12 in the performance of work, regardless of job description or job title.

13 **“SECTION 5. (1) The amendments to ORS 652.210 by section 2 of this**  
14 **2021 Act apply to complaints filed with the Commissioner of the Bu-**  
15 **reau of Labor and Industries and to claims filed in a circuit court on**  
16 **or after April 29, 2021.**

17 **“(2) The amendments to ORS 652.210 by section 3 of this 2021 Act**  
18 **apply to complaints filed with the Commissioner of the Bureau of La-**  
19 **bor and Industries and to claims filed in a circuit court on or after**  
20 **May 25, 2021.**

21 **“SECTION 6. The amendments to ORS 652.210 by section 4 of this**  
22 **2021 Act become operative on March 1, 2022.**

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

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