

# House Bill 2699

Sponsored by Representative GAMBA (Presession filed.)

## 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**.

Provides minimum wage rate beginning July 1, 2024. Directs Bureau of Labor and Industries to establish formula by rule for setting minimum wage rate.

Makes conforming amendments.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to minimum wage rates; creating new provisions; amending ORS 137.103, 315.262, 464.250,  
3 653.010, 653.020, 653.025, 653.030, 653.033, 653.035, 653.070, 653.261 and 653.606; and prescribing  
4 an effective date.

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

6 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS 653.010 to**  
7 **653.261.**

8 **SECTION 2. (1) As used in this section, "fair market rent calculation methodology" is the**  
9 **methodology used by the federal Department of Housing and Urban Development to calculate**  
10 **fair market rent estimates of 40th percentile gross rents for standard quality one-bedroom**  
11 **rental units within each Oregon county and metropolitan area.**

12 **(2) Subject to subsection (3) of this section, beginning on July 1, 2024, the minimum wage**  
13 **rate shall be \$2 more than the minimum wage established under ORS 653.025 (1)(j), and shall**  
14 **be increased by \$2 every year thereafter, except that in no case may the minimum wage rate**  
15 **exceed the minimum wage rate calculated pursuant to the formula established by the Bureau**  
16 **of Labor and Industries under subsection (3) of this section.**

17 **(3) The Bureau of Labor and Industries shall establish by rule a formula for setting**  
18 **minimum wage rates in this state. At a minimum, the formula must be designed to:**

19 **(a) Use the fair market rent calculation methodology to determine the 50th percentile**  
20 **gross rents for standard quality one-bedroom units within each Oregon county or metropol-**  
21 **itan area.**

22 **(b) Ensure, as a minimum, that the minimum wage rate set by the bureau is sufficient**  
23 **to allow an individual who is paid at that rate to afford a one-bedroom apartment at a**  
24 **monthly rental rate that does not exceed 30 percent of the individual's monthly income.**

25 **(4)(a) Each year, the Commissioner of the Bureau of Labor and Industries shall calculate**  
26 **an adjustment of the wage rate as determined pursuant to the formula established under**  
27 **subsection (3) of this section, based on fair market rent estimates as prepared by the federal**  
28 **Department of Housing and Urban Development for the federal fiscal year immediately fol-**  
29 **lowing the year in which the wage rate determination is to be made.**

30 **(b) The commissioner shall adopt by rule a process for making the annual adjustments**

**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 **to the minimum wage rate required under this subsection.**

2 **SECTION 3.** ORS 653.025 is amended to read:

3 653.025. (1) Except as provided in subsections (2) and (3) of this section, ORS 652.020 and the  
4 rules of the Commissioner of the Bureau of Labor and Industries issued under ORS 653.030 and  
5 653.261, for each hour of work time that the employee is gainfully employed, no employer shall em-  
6 ploy or agree to employ any employee at wages computed at a rate lower than:

7 (a) For calendar year 2003, \$6.90.

8 (b) From January 1, 2004, to June 30, 2016, a rate adjusted for inflation as calculated by the  
9 commissioner.

10 (c) From July 1, 2016, to June 30, 2017, \$9.75.

11 (d) From July 1, 2017, to June 30, 2018, \$10.25.

12 (e) From July 1, 2018, to June 30, 2019, \$10.75.

13 (f) From July 1, 2019, to June 30, 2020, \$11.25.

14 (g) From July 1, 2020, to June 30, 2021, \$12.

15 (h) From July 1, 2021, to June 30, 2022, \$12.75.

16 (i) From July 1, 2022, to June 30, 2023, \$13.50.

17 (j) *[After June 30, 2023, Beginning on July 1 of each year,]* **From July 1, 2023, to June 30, 2024,**  
18 a rate adjusted *[annually]* for inflation as described in subsection (5) of this section.

19 **(k) Beginning on July 1, 2024, and every year thereafter, a rate determined in section 2**  
20 **of this 2023 Act.**

21 (2) If the employer is located within the urban growth boundary of a metropolitan service dis-  
22 trict organized under ORS chapter 268, except as provided by ORS 652.020 and the rules of the  
23 commissioner issued under ORS 653.030 and 653.261, for each hour of work time that the employee  
24 is gainfully employed, no employer shall employ or agree to employ any employee at wages computed  
25 at a rate lower than:

26 (a) From July 1, 2016, to June 30, 2017, \$9.75.

27 (b) From July 1, 2017, to June 30, 2018, \$11.25.

28 (c) From July 1, 2018, to June 30, 2019, \$12.

29 (d) From July 1, 2019, to June 30, 2020, \$12.50.

30 (e) From July 1, 2020, to June 30, 2021, \$13.25.

31 (f) From July 1, 2021, to June 30, 2022, \$14.

32 (g) From July 1, 2022, to June 30, 2023, \$14.75.

33 (h) *[After]* **From June 30, 2023, to June 30, 2024,** \$1.25 per hour more than the minimum wage  
34 determined under subsection (1)(j) of this section.

35 **(i) Beginning on July 1, 2024, and every year thereafter, a rate determined under section**  
36 **2 of this 2023 Act.**

37 (3) If the employer is located within a nonurban county as described in ORS 653.026, except as  
38 provided by ORS 652.020 and the rules of the commissioner issued under ORS 653.030 and 653.261,  
39 for each hour of work time that the employee is gainfully employed, no employer shall employ or  
40 agree to employ any employee at wages computed at a rate lower than:

41 (a) From July 1, 2016, to June 30, 2017, \$9.50.

42 (b) From July 1, 2017, to June 30, 2018, \$10.

43 (c) From July 1, 2018, to June 30, 2019, \$10.50.

44 (d) From July 1, 2019, to June 30, 2020, \$11.

45 (e) From July 1, 2020, to June 30, 2021, \$11.50.

1 (f) From July 1, 2021, to June 30, 2022, \$12.

2 (g) From July 1, 2022, to June 30, 2023, \$12.50.

3 (h) [After] **From** June 30, 2023, **to June 30, 2024**, \$1 per hour less than the minimum wage de-  
4 termined under subsection (1)(j) of this section.

5 **(i) Beginning on July 1, 2024, and every year thereafter, a rate determined under section**  
6 **2 of this 2023 Act.**

7 (4) The commissioner shall adopt rules for determining an employer’s location under subsection  
8 (2) of this section.

9 (5)(a) The Oregon minimum wage shall be adjusted for inflation as provided in paragraph (b) of  
10 this subsection.

11 (b) No later than April 30, [of each year, beginning in] 2023, the commissioner shall calculate  
12 an adjustment of the wage amount specified in subsection (1)(j) of this section based upon the in-  
13 crease, if any, from March of the preceding year to March of the year in which the calculation is  
14 made in the U.S. City Average Consumer Price Index for All Urban Consumers for All Items as  
15 prepared by the Bureau of Labor Statistics of the United States Department of Labor or its suc-  
16 cessor.

17 (c) The wage amount as adjusted under this subsection shall be rounded to the nearest five  
18 cents.

19 *[(d) The wage amount as adjusted under this subsection becomes effective as the new Oregon*  
20 *minimum wage amount, replacing the minimum wage amount specified in subsection (1)(j) of this sec-*  
21 *tion, on July 1 of the year in which the calculation is made.]*

22 **SECTION 4.** ORS 137.103 is amended to read:

23 137.103. As used in ORS 137.101 to 137.109:

24 (1) “Criminal activities” means any offense with respect to which the defendant is convicted or  
25 any other criminal conduct admitted by the defendant.

26 (2) “Economic damages”:

27 (a) Has the meaning given that term in ORS 31.705, except that “economic damages” does not  
28 include future impairment of earning capacity; and

29 (b) In cases involving criminal activities described in ORS 163.263, 163.264 or 163.266, includes  
30 the greater of:

31 (A) The value to the defendant of the victim’s services as defined in ORS 163.261; or

32 (B) The value of the victim’s services, as defined in ORS 163.261, computed using the minimum  
33 wage established under ORS 653.025 **and section 2 of this 2023 Act, as applicable**, and the over-  
34 time provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

35 (3) “Restitution” means full, partial or nominal payment of economic damages to a victim.  
36 Restitution is independent of and may be awarded in addition to a compensatory fine awarded under  
37 ORS 137.101.

38 (4) “Victim” means:

39 (a) The person or decedent against whom the defendant committed the criminal offense, if the  
40 court determines that the person or decedent has suffered or did suffer economic damages as a re-  
41 sult of the offense.

42 (b) Any person not described in paragraph (a) of this subsection whom the court determines has  
43 suffered economic damages as a result of the defendant’s criminal activities.

44 (c) The Criminal Injuries Compensation Account, if it has expended moneys on behalf of a victim  
45 described in paragraph (a) of this subsection.

1 (d) An insurance carrier, if it has expended moneys on behalf of a victim described in paragraph  
2 (a) of this subsection.

3 (e) Upon the death of a victim described in paragraph (a) or (b) of this subsection, the estate  
4 of the victim.

5 (f) The estate, successor in interest, trust, trustee, successor trustee or beneficiary of a trust  
6 against which the defendant committed the criminal offense, if the court determines that the estate,  
7 successor in interest, trust, trustee, successor trustee or beneficiary of a trust suffered economic  
8 damages as a result of the offense.

9 (5) "Victim" does not include any coparticipant in the defendant's criminal activities.

10 **SECTION 5.** ORS 315.262 is amended to read:

11 315.262. (1) As used in this section:

12 (a) "Child care" means care provided to a qualifying child of the taxpayer for the purpose of  
13 allowing the taxpayer to be gainfully employed, to seek employment or to attend school on a full-  
14 time or part-time basis, except that the term does not include care provided by:

15 (A) The child's parent or guardian, unless the care is provided in a certified or registered child  
16 care facility; or

17 (B) A person who has a relationship to the taxpayer that is described in section 152(a) of the  
18 Internal Revenue Code who has not yet attained 19 years of age at the close of the tax year.

19 (b) "Child care expenses" means the costs associated with providing child care to a qualifying  
20 child of a qualified taxpayer.

21 (c) "Disability" means a physical or cognitive condition that results in a person requiring as-  
22 sistance with activities of daily living.

23 (d) "Earned income" has the meaning given that term in section 32 of the Internal Revenue  
24 Code.

25 (e) "Qualified taxpayer" means a taxpayer:

26 (A) Who is an Oregon resident with at least \$6,000 of earned income for the tax year or who is  
27 a nonresident of Oregon with at least \$6,000 of earned income from Oregon sources for the tax year;

28 (B) With federal adjusted gross income for the tax year that does not exceed 250 percent of the  
29 federal poverty level;

30 (C) With Oregon adjusted gross income for the tax year that does not exceed 250 percent of the  
31 federal poverty level; and

32 (D) Who does not have more than the maximum amount of disqualified income under section  
33 32(i) of the Internal Revenue Code that is allowed to a taxpayer entitled to the earned income tax  
34 credit for federal tax purposes.

35 (f) "Qualifying child" has the meaning given that term in section 152(c) of the Internal Revenue  
36 Code, determined without regard to section 152(c)(1)(D) of the Internal Revenue Code or section  
37 152(e) of the Internal Revenue Code, except that it is limited to an individual who is under 13 years  
38 of age, or who is a child with a disability, as that term is defined in ORS 316.099.

39 (2) A taxpayer is not disqualified from claiming the credit under this section solely because the  
40 taxpayer's spouse has a disability, if the disability is such that it prevents the taxpayer's spouse  
41 from providing child care, being gainfully employed, seeking employment and attending school. The  
42 Department of Revenue may require that a physician verify the existence of the disability and its  
43 severity.

44 (3) A qualified taxpayer shall be allowed a credit against the taxes otherwise due under ORS  
45 chapter 316 equal to the applicable percentage of the qualified taxpayer's child care expenses

1 (rounded to the nearest \$50).

2 (4) The applicable percentage to be used in calculating the amount of the credit provided in this  
 3 section shall be determined in accordance with the following table:

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4	5	6	7	8	9	10
	Applicable	Greater of Oregon				
	Percentage	Adjusted Gross Income or				
		Federal Adjusted				
		Gross Income, as Percent				
		of Federal Poverty Level				
11						
12	40	200 or less				
13	36	Greater than 200 and less than				
14		or equal to 210				
15	32	Greater than 210 and less than				
16		or equal to 220				
17	24	Greater than 220 and less than				
18		or equal to 230				
19	16	Greater than 230 and less than				
20		or equal to 240				
21	8	Greater than 240 and less than				
22		or equal to 250				
23	0	Greater than 250 percent				
24		of federal poverty level				
25						

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26  
 27 (5) The department may:

28 (a) Adopt rules for carrying out the provisions of this section; and

29 (b) Prescribe the form used to claim a credit and the information required on the form. The form  
 30 may provide for verification of an individual's disability by a physician, if applicable, as described  
 31 in subsection (2) of this section.

32 (6) In the case of a credit allowed under this section:

33 (a) A nonresident shall be allowed the credit under this section in the proportion provided in  
 34 ORS 316.117.

35 (b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to  
 36 resident occurs, the credit allowed by this section shall be determined in a manner consistent with  
 37 ORS 316.117.

38 (c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the  
 39 Department of Revenue terminates the taxpayer's taxable year under ORS 314.440, the credit al-  
 40 lowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

41 (d) In the case of a qualified taxpayer who is married, a credit shall be allowed under this sec-  
 42 tion only if:

43 (A) The taxpayer files a joint return;

44 (B) The taxpayer files a separate return and is legally separated or subject to a separate main-  
 45 tenance agreement; or

1 (C) The taxpayer files a separate return and the taxpayer and the taxpayer’s spouse reside in  
 2 separate households on the last day of the tax year with the intent of remaining in separate  
 3 households in the future.

4 (7) If the amount allowable as a credit under this section, when added to the sum of the amounts  
 5 allowable as payment of tax under ORS 316.187 (withholding), ORS 316.583 (estimated tax), other tax  
 6 prepayment amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chap-  
 7 ters 314 and 316 for the tax year (reduced by any nonrefundable credits allowable for purposes of  
 8 ORS chapter 316 for the tax year), the amount of the excess shall be refunded to the taxpayer as  
 9 provided in ORS 316.502.

10 (8)(a) The minimum amount of earned income a taxpayer must earn in order to be a qualified  
 11 taxpayer shall be adjusted for tax years beginning in each calendar year by multiplying \$6,000 by  
 12 the ratio of the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive  
 13 months ending August 31 of the prior calendar year over the monthly averaged index for the second  
 14 quarter of the calendar year 1998.

15 (b) As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S. City  
 16 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of  
 17 Labor Statistics of the United States Department of Labor.

18 (c) If any adjustment determined under paragraph (a) of this subsection is not a multiple of \$50,  
 19 the adjustment shall be rounded to the nearest multiple of \$50.

20 (d) Notwithstanding paragraphs (a) to (c) of this subsection, the adjusted minimum amount of  
 21 earned income a taxpayer must earn may not exceed the amount an individual would earn if the  
 22 individual worked 1,040 hours at the minimum wage established under ORS 653.025 **and section 2**  
 23 **of this 2023 Act, as applicable**, and in effect on January 1 of the calendar year in which begins  
 24 the tax year of the taxpayer, rounded to the next lower multiple of \$50.

25 **SECTION 6.** ORS 464.250 is amended to read:

26 464.250. (1) The Department of Justice has the following powers and duties relating to the reg-  
 27 ulation of bingo, lotto or raffle games or Monte Carlo events:

28 (a) To authorize and regulate the operation of bingo, lotto and raffle games and Monte Carlo  
 29 events permitted under ORS 167.117 and to adopt rules in accordance with applicable provisions of  
 30 ORS chapter 183 for the performance of the department’s duties.

31 (b) To issue and renew licenses and permits for operation of bingo, lotto and raffle games and  
 32 Monte Carlo events, including the manufacturers and suppliers of equipment and supplies necessary  
 33 for the operation of the games and events and escrow agents holding money or property to be  
 34 awarded as a prize, and to adopt license and permit fees. Licenses and permits are valid for one year  
 35 unless renewed. The department shall set fees at an amount sufficient to cover all costs incurred  
 36 by the department in its activities. License fees consist of an initial payment, in an amount estab-  
 37 lished by rule, prior to issuance or renewal of the license, together with a monthly payment con-  
 38 stituting a percentage of the licensee’s monthly gross income from the operation each month  
 39 thereafter. An applicant for a license or a permit shall submit with the application a sum adequate  
 40 to pay the required initial fee payment. If the applicant later withdraws the application or the de-  
 41 partment denies the application, the department shall retain the portion of the amount submitted to  
 42 it that will pay the reasonable costs expended for processing and investigating the application. If  
 43 the fee adopted by the department is less than the actual expenses of the department to investigate  
 44 an application, the department may charge to the applicant an additional fee to repay the depart-  
 45 ment for those costs. The department may refuse to proceed with its investigation or to issue a li-

1 cense until the department has been fully paid for those costs. The department shall create at least  
2 two classes of licenses for each activity regulated under this section. The licensing and operational  
3 requirements for licensees and the extent to which background checks are conducted under para-  
4 graph (d)(B) of this subsection must be commensurate with the size of the licensee's bingo, lotto,  
5 raffle or Monte Carlo event operations. The department shall adopt rules exempting from licensing  
6 any organization that would otherwise qualify for a license and that is engaged in minimal bingo,  
7 lotto or Monte Carlo event activity.

8 (c) To prescribe the manner and method of payment of all moneys to be paid to or collected by  
9 the department.

10 (d) To adopt requirements as to what information an applicant must provide to the department.  
11 However, each license applicant must provide, and the department shall require, the names and ad-  
12 dresses of all persons having a management or ownership interest in the bingo, lotto, raffle or Monte  
13 Carlo event operation or in the premises on which the operation is conducted and the names and  
14 addresses of all officers and directors of the applicant organization. The department shall also re-  
15 quire the names and addresses of all persons employed in bingo, lotto, raffle or Monte Carlo event  
16 operations. The following apply to applications under this paragraph:

17 (A) An applicant shall certify, under oath, that the persons named on the application are all of  
18 the persons known by the applicant to have an interest in the bingo, lotto, raffle or Monte Carlo  
19 event operation or the premises on which the operation is conducted including all officers and di-  
20 rectors of the applicant organization.

21 (B) The department may require fingerprints, a photograph, a handwriting sample and back-  
22 ground checks, including state and nationwide criminal records checks under ORS 181A.195, on any  
23 person seeking a license from it or any person holding an interest in any bingo, lotto, raffle or  
24 Monte Carlo event operation or in the premises on which it is conducted. The department may also  
25 require fingerprints or background checks, including state and nationwide criminal records checks  
26 under ORS 181A.195, of any manager or other employee of such a bingo, lotto, raffle or Monte Carlo  
27 event operation.

28 (e) To adopt record keeping requirements for licensees of the department and the submission of  
29 reports to the department as the department determines necessary. The department may require  
30 licensees to record and report income from bingo, lotto, raffle, Monte Carlo events, concessions and  
31 other related operations, the amounts received from each player, the costs and expenses of oper-  
32 ations, the nature and value of prizes and the fact of distribution of such prizes to the winners  
33 thereof. The department may adopt internal financial and inventory control requirements under this  
34 paragraph that are based on and commensurate with the size of a licensee's bingo, lotto, raffle or  
35 Monte Carlo event operations.

36 (f) To regulate and establish maximum limits on income derived by licensees from bingo, lotto,  
37 raffles or Monte Carlo events. However, in establishing limits, the department shall take into ac-  
38 count:

39 (A) The nature, character and scope of the activities of the licensee;

40 (B) The sources of other income to the licensee; and

41 (C) The percentage or extent to which income derived from bingo, lotto, raffles or Monte Carlo  
42 events is used for charitable purposes, as distinguished from nonprofit purposes other than charity.

43 (g) To regulate the manner of operation of bingo, lotto and raffle games and Monte Carlo events  
44 conducted by licensees, including the approval of which games may be played and the equipment to  
45 be used. The department shall regulate the types of equipment, rules and methods of play to ensure

1 the integrity and fairness of the games.

2 (h) To cooperate with state and local law enforcement agencies in investigating matters within  
3 the scope of the department's duties and responsibilities.

4 (i) To establish maximum limits on compensation paid to persons employed by charitable,  
5 fraternal or religious licensees, for the purpose of conducting licensed games, not to exceed 200  
6 percent of the applicable Oregon minimum wage rate under ORS 653.025 **or, if applicable, under**  
7 **section 2 of this 2023 Act**, or, for a person who supervises a bingo, lotto, raffle or Monte Carlo  
8 event operation for a charitable, fraternal or religious organization and is subject to the limitations  
9 of ORS 464.340, 300 percent of the applicable Oregon minimum wage rate under ORS 653.025 **or**  
10 **under section 2 of this 2023 Act, if applicable**, and to establish maximum limits for other expenses  
11 connected with such operations. In establishing these limits, the department shall consider the  
12 amount of income received, or expected to be received, by the organization from the bingo, lotto,  
13 raffle, Monte Carlo events, concessions and other related operations and the amount of money the  
14 operation could generate for the organization's purposes absent such expenses. The department may  
15 also take into account other factors, including but not limited to whether charitable purposes are  
16 benefited by the activities.

17 (2) The department may not require a person working as a volunteer in a bingo, lotto, raffle or  
18 Monte Carlo event operation conducted by a bona fide charitable, fraternal or religious organization  
19 to obtain a permit for such work if the person does not receive compensation of any kind from the  
20 organization, other than reimbursement for actual or reasonable expenses, or have any managerial  
21 or supervisory responsibility in connection with it. The department may require that bingo, lotto,  
22 raffle and Monte Carlo event operators employing unlicensed volunteers submit to the department  
23 periodically the names, addresses and dates of birth of the volunteers. The department may adopt  
24 reasonable character standards for volunteers, and if a volunteer does not meet the standards, the  
25 department may require that the licensee not allow the volunteer to work for the licensee.

26 (3) Subject to ORS 167.118, the department may establish by rule value limits for prizes awarded  
27 at bingo, lotto or raffle games or Monte Carlo events and may regulate or prohibit the giving to  
28 patrons of any other thing of value to promote attendance at the games.

29 (4) The department may establish by rule a maximum amount that a person may wager at a  
30 Monte Carlo event.

31 **SECTION 7.** ORS 653.010 is amended to read:

32 653.010. As used in ORS 653.010 to 653.261, unless the context requires otherwise:

33 (1) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

34 (2) "Employ" includes to suffer or permit to work but does not include voluntary or donated  
35 services performed for no compensation or without expectation or contemplation of compensation  
36 as the adequate consideration for the services performed for a public employer referred to in sub-  
37 section (3) of this section, or a religious, charitable, educational, public service or similar nonprofit  
38 corporation, organization or institution for community service, religious or humanitarian reasons or  
39 for services performed by general or public assistance recipients as part of any work training pro-  
40 gram administered under the state or federal assistance laws.

41 (3) "Employer" means any person who employs another person including the State of Oregon  
42 or a political subdivision thereof or any county, city, district, authority, public corporation or entity  
43 and any of their instrumentalities organized and existing under law or charter.

44 (4) "Minor" means any person under 18 years of age.

45 (5) "Occupation" means any occupation, service, trade, business, industry, or branch or group



1 of industries or employment or class of employment in which employees are gainfully employed.

2 (6) "Organized camp" means a day or resident camp, whether or not operated for profit, estab-  
 3 lished to give campers recreational, creative, religious or educational experience in cooperative  
 4 group living wherein the activities are conducted on a closely supervised basis, whether or not the  
 5 camp is used primarily by an organized group or by members of the public and whether or not the  
 6 activities or facilities are furnished free of charge or for the payment of a fee.

7 (7) "Outside salesperson" means any employee who is employed for the purpose of and who is  
 8 customarily and regularly engaged away from the employer's place or places of business in making  
 9 sales, or obtaining orders, or obtaining contracts for services and whose hours of work of any other  
 10 nature for the employer do not exceed 30 percent of the hours worked in the workweek by the  
 11 nonexempt employees of the employer.

12 (8) "Piece-rate" means a rate of pay calculated on the basis of the quantity of the crop har-  
 13 vested.

14 (9) "Salary" means no less than the wage set pursuant to ORS 653.025 **or section 2 of this 2023**  
 15 **Act, if applicable**, multiplied by 2,080 hours per year, then divided by 12 months.

16 (10) "Wages" means compensation due to an employee by reason of employment, payable in legal  
 17 tender of the United States or check on banks convertible into cash on demand at full face value,  
 18 subject to such deductions, charges or allowances as are permitted in ORS 653.035.

19 (11) "Work time" includes both time worked and time of authorized attendance.

20 **SECTION 8.** ORS 653.020 is amended to read:

21 653.020. ORS 653.010 to 653.261 do not apply to any of the following employees:

22 (1) An individual employed in agriculture if:

23 (a) Such individual is employed as a hand harvest or pruning laborer and is paid on a piece-rate  
 24 basis in an operation which has been, and is customarily and generally recognized as having been,  
 25 paid on a piece-rate basis in the region of employment and is employed by an employer who did not,  
 26 during any calendar quarter during the preceding year, use more than 500 piece-rate-work-days of  
 27 agricultural labor;

28 (b) Such individual is the parent, spouse, child or other member of the employer's immediate  
 29 family;

30 (c) Such individual:

31 (A) Is employed as a hand harvest or pruning laborer and is paid on a piece-rate basis in an  
 32 operation which has been, and is customarily and generally recognized as having been, paid on a  
 33 piece-rate basis in the region of employment;

34 (B) Commutes daily from a permanent residence to the farm on which the individual is so em-  
 35 ployed; and

36 (C) Has been employed in agricultural labor less than 13 weeks during the preceding calendar  
 37 year;

38 (d) Such individual, other than an individual described in paragraph (c) of this subsection:

39 (A) Is 16 years of age or under and is employed as a hand harvest laborer, is paid on a piece-rate  
 40 basis in an operation which has been, and is customarily and generally recognized as having been,  
 41 paid on a piece-rate basis in the region of employment; and

42 (B) Is paid at the same piece-rate as employees over 16 years of age on the same farm; or

43 (e) Such employee is principally engaged in the range production of livestock and earns a salary  
 44 and is paid on a salary basis.

45 (2) An individual employed in domestic service on a casual basis in or about a family home.

- 1 (3) An individual engaged in administrative, executive or professional work who:
  - 2 (a) Performs predominantly intellectual, managerial or creative tasks;
  - 3 (b) Exercises discretion and independent judgment; and
  - 4 (c) Earns a salary and is paid on a salary basis.
- 5 (4) An individual employed by the United States.
- 6 (5) An individual who is employed by an institution whose function is primary or secondary ed-  
7 ucation, and in which the individual is an enrolled student.
- 8 (6) An individual engaged in the capacity of an outside salesperson or taxicab operator.
- 9 (7) An individual domiciled at a place of employment for the purpose of being available for  
10 emergency or occasional duties for time other than that spent performing these duties, provided that  
11 when the individual performs emergency or occasional duties, the individual must be paid no less  
12 than the wage specified in ORS 653.025 **or section 2 of this 2023 Act, if applicable.**
- 13 (8) An individual paid for specified hours of employment, the only purpose of which is to be  
14 available for recall to duty.
- 15 (9) An individual domiciled at multiunit accommodations designed to provide other people with  
16 temporary or permanent lodging, for the purpose of maintenance, management or assisting in the  
17 management of same.
- 18 (10) An individual employed on a seasonal basis at:
  - 19 (a) An organized camp operated for profit that generates gross annual income of less than  
20 \$500,000; or
  - 21 (b) A nonprofit organized camp.
- 22 (11) An individual employed at a nonprofit conference ground or center operated for educational,  
23 charitable or religious purposes.
- 24 (12) An individual who performs services as a volunteer firefighter, as defined in ORS 652.050.
- 25 (13) An individual who performs child care services in the home of the individual or in the home  
26 of the child.
- 27 (14) An individual employed in domestic service employment in or about a family home to pro-  
28 vide companionship services for individuals who, because of age or infirmity, are unable to care for  
29 themselves.
- 30 (15) An individual who performs service as a caddy at a golf course in an established program  
31 for the training and supervision of caddies under the direction of a person who is an employee of  
32 the golf course.
- 33 (16) An individual who volunteers as a golf course marshal if:
  - 34 (a) The services the individual provides are limited to monitoring starting times and speed of  
35 play and informing golfers of golf course etiquette;
  - 36 (b) The individual is not allowed to provide volunteer golf course marshal services for more than  
37 30 hours in a calendar week; and
  - 38 (c) The individual receives no wage other than golf passes for providing the volunteer golf  
39 course marshal services.
- 40 (17) An individual employed as a resident manager by an adult foster home that is licensed  
41 pursuant to ORS 443.705 to 443.825 and who is domiciled at the adult foster home.
- 42 (18) An individual residing in a mobile home park or manufactured dwelling park designed to  
43 provide other people with temporary or permanent lodging, for the purpose of maintenance, man-  
44 agement or in assisting in the management of same.
- 45 (19) An individual who volunteers as a campground host and who resides in a campground

1 owned by a public agency that provides temporary accommodations for travelers, whether under  
2 public or private management, and who provides information and emergency assistance.

3 (20) An individual who:

4 (a) Is registered with the National Ski Patrol or a similar nonprofit ski patrol organization as  
5 a nonprofessional ski patroller and who receives no wage other than passes authorizing access to  
6 and use of a ski area, as defined in ORS 30.970, for performing ski patrol services, including but not  
7 limited to services related to preserving the safety of and providing information to skiers or  
8 snowboarders; or

9 (b) Receives no wage other than passes authorizing access to and use of a ski area, as defined  
10 in ORS 30.970, for performing services directly related to the organizing or conducting of skiing or  
11 snowboarding races or other similar competitions that are:

12 (A) Sponsored and organized by a nonprofit corporation, as defined in ORS 65.001; and

13 (B) Held in a ski area, as defined in ORS 30.970.

14 **SECTION 9.** ORS 653.030 is amended to read:

15 653.030. The Commissioner of the Bureau of Labor and Industries shall issue rules prescribing  
16 the employment of other types of persons at fixed minimum hourly wage rates lower than the mini-  
17 mum wage rate required by ORS 653.025 **or section 2 of this 2023 Act, as applicable**, when the  
18 commissioner has determined that the application of ORS 653.025 **or section 2 of this 2023 Act**  
19 would substantially curtail opportunities for employment for specific types of persons. The types of  
20 persons for whom a minimum hourly wage rate may be set are limited to persons who are student-  
21 learners, as defined in ORS 653.070.

22 **SECTION 10.** ORS 653.033 is amended to read:

23 653.033. (1) An employer who is authorized to employ individuals with disabilities at subminimum  
24 wage pursuant to a special certificate issued under 29 U.S.C. 214(c) or in accordance with rules  
25 under ORS 653.030 or of the Department of Human Services may not employ or agree to employ  
26 individuals with disabilities at an hourly rate lower than:

27 (a) From July 1, 2020, to June 30, 2021, \$9.25.

28 (b) From July 1, 2021, to June 30, 2022, \$10.75.

29 (c) From July 1, 2022, to June 30, 2023, \$12.50.

30 (2) After June 30, 2023, an employer who is authorized to employ individuals with disabilities  
31 at subminimum wage pursuant to a special certificate issued under 29 U.S.C. 214(c) or in accordance  
32 with rules under ORS 653.030 or of the Department of Human Services may not employ or agree to  
33 employ individuals with disabilities at a rate lower than the hourly rate required under ORS 653.025  
34 **or section 2 of this 2023 Act, as applicable.**

35 **SECTION 11.** ORS 653.035 is amended to read:

36 653.035. (1) Employers may deduct from the minimum wage to be paid employees under ORS  
37 653.025, 653.030 or 653.261, **or under section 2 of this 2023 Act, as applicable**, the fair market  
38 value of lodging, meals or other facilities or services furnished by the employer for the private  
39 benefit of the employee.

40 (2) Employers may include commission payments to employees as part of the applicable minimum  
41 wage for any pay period in which the combined wage and commission earnings of the employee will  
42 comply with ORS 653.010 to 653.261. In any pay period where the combined wage and commission  
43 payments to the employee do not add up to the applicable minimum wage under ORS 653.010 to  
44 653.261, the employer shall pay the minimum rate as prescribed in ORS 653.010 to 653.261.

45 (3) Employers, including employers regulated under the federal Fair Labor Standards Act, may

1 not include any amount received by employees as tips in determining the amount of the minimum  
2 wage required to be paid by ORS 653.010 to 653.261.

3 **SECTION 12.** ORS 653.070 is amended to read:

4 653.070. (1) As used in this section:

5 (a) "Bona fide professional training program" includes any professional training program ap-  
6 proved by the Superintendent of Public Instruction pursuant to rules of the State Board of Education  
7 which provides for part-time employment training which may be scheduled for a part of the workday  
8 or workweek, for alternating weeks or for other limited periods during the year, supplemented by  
9 and integrated with a definitely organized plan of instruction designed to teach technical knowledge  
10 and related information given as a regular part of the student-learner's course by an accredited  
11 school, college or university.

12 (b) "Student-learner" means a student who is receiving instruction in an accredited school, col-  
13 lege or university and who is employed on a part-time basis, pursuant to a bona fide professional  
14 training program.

15 (2) Notwithstanding ORS 653.025, employers shall pay student-learners at least 75 percent of the  
16 minimum wage prescribed by ORS 653.025 **or section 2 of this 2023 Act, as applicable.**

17 (3) The number of hours of employment training for a student-learner at subminimum wages,  
18 when added to the hours of school instruction, shall not exceed eight hours on any day or 40 hours  
19 in any week.

20 (4) The Commissioner of the Bureau of Labor and Industries may adopt rules prescribing the  
21 procedures and requirements for application and issuance of special certificates authorizing the  
22 employment of student-learners at subminimum wages. The rules shall require that the following  
23 conditions be satisfied before the issuance of such special certificates:

24 (a) The employment of the student-learner at subminimum wages authorized by the special cer-  
25 tificate must be necessary to prevent curtailment of opportunities for employment.

26 (b) The occupation for which the student-learner is receiving preparatory training must require  
27 a sufficient degree of skill to necessitate a substantial learning period.

28 (c) The training must not be for the purpose of acquiring manual dexterity and high production  
29 speed in repetitive operations.

30 (d) The employment of a student-learner must not have the effect of displacing a worker em-  
31 ployed in the establishment.

32 (e) The employment of the student-learners at subminimum wages must not tend to impair or  
33 depress the wage rates or working standards established for experienced workers for work of a like  
34 or comparable character.

35 (f) The occupational needs of the community or industry warrant the training of student-  
36 learners.

37 (g) There are no serious outstanding violations of the provisions of a student-learner certificate  
38 previously issued to the employer, or serious violations of any other provisions of law by the em-  
39 ployer which provide reasonable grounds to conclude that the terms of the certificate would not be  
40 complied with, if issued.

41 (h) The issuance of such a certificate would not tend to prevent the development of apprentice-  
42 ship under ORS 660.002 to 660.210 or would not impair established apprenticeship standards in the  
43 occupation or industry involved.

44 (i) The number of student-learners to be employed in one establishment must not be more than  
45 a small proportion of its working force.

1 (5) Failure to comply with subsection (2) or (3) of this section shall subject the employer to a  
 2 penalty of 75 percent of the minimum wage prescribed by ORS 653.025 **or section 2 of this 2023**  
 3 **Act, as applicable**, for each hour of work time that the student-learner is gainfully employed. The  
 4 Commissioner of the Bureau of Labor and Industries shall have a cause of action against the em-  
 5 ployer for the recovery of the penalty.

6 **SECTION 13.** ORS 653.261 is amended to read:

7 653.261. (1)(a) The Commissioner of the Bureau of Labor and Industries may adopt rules pre-  
 8 scribing such minimum conditions of employment, excluding minimum wages **except as otherwise**  
 9 **provided in section 2 of this 2023 Act**, in any occupation as may be necessary for the preservation  
 10 of the health of employees. The rules may include, but are not limited to, minimum meal periods and  
 11 rest periods, and maximum hours of work, but not less than eight hours per day or 40 hours per  
 12 workweek; however, after 40 hours of work in one workweek overtime may be paid, but in no case  
 13 at a rate higher than one and one-half times the regular rate of pay of the employees when computed  
 14 without benefit of commissions, overrides, spiffs and similar benefits.

15 (b) As used in this subsection, “workweek” means a fixed period of time established by an em-  
 16 ployer that reflects a regularly recurring period of 168 hours or seven consecutive 24-hour periods.  
 17 A workweek may begin on any day of the week and any hour of the day and need not coincide with  
 18 a calendar week. The beginning of the workweek may be changed if the change is intended to be  
 19 permanent and is not designed to evade overtime requirements.

20 (2) Rules adopted by the commissioner pursuant to subsection (1) of this section do not apply  
 21 to individuals employed by this state or a political subdivision or quasi-municipal corporation  
 22 thereof if other provisions of law or collective bargaining agreements prescribe rules pertaining to  
 23 conditions of employment referred to in subsection (1) of this section, including meal periods, rest  
 24 periods, maximum hours of work and overtime.

25 (3) Rules adopted by the commissioner pursuant to subsection (1) of this section regarding meal  
 26 periods and rest periods do not apply to nurses who provide acute care in hospital settings if pro-  
 27 visions of collective bargaining agreements entered into by the nurses prescribe rules concerning  
 28 meal periods and rest periods.

29 (4)(a) The commissioner shall adopt rules regarding meal periods for employees who serve food  
 30 or beverages, receive tips and report the tips to the employer.

31 (b) In rules adopted by the commissioner under paragraph (a) of this subsection, the commis-  
 32 sioner shall permit an employee to waive a meal period. However, an employer may not coerce an  
 33 employee into waiving a meal period.

34 (c) Notwithstanding ORS 653.256 (1), in addition to any other penalty provided by law, the  
 35 commissioner may assess a civil penalty not to exceed \$2,000 against an employer that the commis-  
 36 sioner finds has coerced an employee into waiving a meal period in violation of this subsection. Each  
 37 violation is a separate and distinct offense. In the case of a continuing violation, each day’s con-  
 38 tinuance is a separate and distinct violation.

39 (d) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS  
 40 183.745. All sums collected as penalties under this subsection shall be applied and paid over as  
 41 provided in ORS 653.256 (4).

42 **SECTION 14.** ORS 653.606 is amended to read:

43 653.606. (1)(a) Employers that employ at least 10 employees working anywhere in this state shall  
 44 implement a sick time policy that allows an employee to accrue at least one hour of paid sick time  
 45 for every 30 hours the employee works or 1-1/3 hours for every 40 hours the employee works. Em-

1 employers may limit the number of hours of paid sick time that employees may accrue to 40 hours per  
 2 year.

3 (b) Employers that employ fewer than 10 employees working anywhere in this state shall im-  
 4 plement a sick time policy that allows an employee to accrue at least one hour of unpaid sick time  
 5 for every 30 hours the employee works or 1-1/3 hours for every 40 hours the employee works. Em-  
 6 ployers may limit the number of hours of unpaid sick time that employees may accrue to 40 hours  
 7 per year.

8 (c) Employers that employ at least 10 employees working anywhere in this state and front-load  
 9 for employees at least 40 hours of paid sick time or paid time off at the beginning of each year used  
 10 to calculate the accrual and usage of sick time or time off need not comply with subsections (1)(a)  
 11 and (3) of this section.

12 (d) Employers that employ fewer than 10 employees working anywhere in this state and front-  
 13 load for employees at least 40 hours of unpaid sick time or unpaid time off at the beginning of each  
 14 year used to calculate the accrual and usage of sick time or time off need not comply with sub-  
 15 sections (1)(b) and (3) of this section.

16 (2)(a) The number of employees employed by an employer shall be ascertained by determining  
 17 that the per-day average number of employees is 10 or greater for each of 20 workweeks in the  
 18 calendar year or the fiscal year of the employer immediately preceding the year in which the leave  
 19 is to be taken.

20 (b) If the business of the employer was not in existence for the entire year preceding the de-  
 21 termination made under paragraph (a) of this subsection, the number of employees shall be based  
 22 on any 20 workweeks preceding the request for sick time, which may include workweeks in the  
 23 current year, the preceding year or a combination of workweeks in the current year and the pre-  
 24 ceding year.

25 (c) As used in this subsection, “employee” does not include an individual or the parent, spouse  
 26 or child of an individual who is:

27 (A) A director of a corporation who has a substantial ownership interest in the corporation;

28 (B) A member of a limited liability company who has:

29 (i) A right to vote on or consent to any matter submitted to a vote or requiring the consent of  
 30 the members of the limited liability company; and

31 (ii) A substantial ownership interest in the limited liability company;

32 (C) A partner of a limited liability partnership who has a substantial ownership interest in the  
 33 limited liability partnership; or

34 (D) A sole proprietor of a business.

35 (d) As used in paragraph (c) of this subsection, “substantial ownership interest” means a per-  
 36 centage of ownership equal to or greater than the average percentage of ownership of all owners,  
 37 but not less than 15 percent.

38 (3) An employee shall begin to earn and accrue sick time on the first day of employment with  
 39 an employer. The employee may carry over up to 40 hours of unused sick time from one year to a  
 40 subsequent year. However, an employer:

41 (a) May adopt a policy that limits an employee to accruing no more than 80 total hours of sick  
 42 time; and

43 (b) May adopt a policy that limits an employee to using no more than 40 hours of sick time in  
 44 a year.

45 (4)(a) An employer is not required to carry over unused sick time if, by mutual consent, the

1 employer and an employee agree that:

2 (A) If the employer has 10 or more employees working anywhere in this state, the employee will  
 3 be paid for all unused paid sick time at the end of the year in which the sick time is accrued and  
 4 the employer will credit the employee with an amount of paid sick time that meets the requirements  
 5 of this section on the first day of the immediately subsequent year; or

6 (B) If the employer has fewer than 10 employees working anywhere in this state, the employer  
 7 will credit the employee with an amount of sick time that meets the requirements of this section  
 8 on the first day of the immediately subsequent year.

9 (b) The Commissioner of the Bureau of Labor and Industries shall adopt rules for the determi-  
 10 nation of the number of employees employed by an employer.

11 (5)(a) An employee is eligible to use sick time beginning on the 91st calendar day of employment  
 12 with the employer and may use sick time as it is accrued.

13 (b) An employer may authorize an employee to use accrued sick time prior to the 91st calendar  
 14 day of employment.

15 (c)(A) An employer that employs 10 or more employees working anywhere in this state shall pay  
 16 an employee for accrued sick time used at the regular rate of pay of the employee.

17 (B) For an employee who is paid on a commission or piece-rate basis by an employer that em-  
 18 ploys 10 or more employees working anywhere in this state, the employer shall pay the employee  
 19 for accrued sick time used at a rate equal to at least the minimum wage specified in ORS 653.025  
 20 **or section 2 of this 2023 Act, as applicable.**

21 (C) For an employee who is paid an hourly, weekly or monthly wage and is also paid on a  
 22 piece-rate or commission basis by an employer that employs 10 or more employees working any-  
 23 where in this state, the employer shall pay the employee for accrued sick time used at a rate  
 24 equivalent to the employee's hourly, weekly or monthly wage or equal to the minimum wage speci-  
 25 fied in ORS 653.025, **or, as applicable, the minimum wage specified in section 2 of this 2023**  
 26 **Act**, whichever is greater.

27 (6) An employee who is exempt from overtime requirements under 29 U.S.C. 213(a)(1) of the  
 28 federal Fair Labor Standards Act of 1938 is presumed to work 40 hours in each workweek for the  
 29 purpose of accrual of sick time unless the actual workweek of the employee is less than 40 hours,  
 30 in which case sick time accrues based on the actual workweek of the employee.

31 (7) Nothing in ORS 653.601 to 653.661 requires an employer to compensate an employee for ac-  
 32 crued unused sick time upon the employee's termination, resignation, retirement or other separation  
 33 from employment.

34 (8) An employer may not require an employee to:

35 (a) Search for or find a replacement worker as a condition of the employee's use of accrued sick  
 36 time; or

37 (b) Work an alternate shift to make up for the use of sick time.

38 (9) Upon mutual consent by the employee and the employer, an employee may work additional  
 39 hours or shifts to compensate for hours or shifts during which the employee was absent from work  
 40 without using accrued sick time for the hours or shifts missed. However, the employer may not  
 41 require the employee to work additional hours or shifts authorized by this subsection. If the em-  
 42 ployee works additional hours or shifts, the employer must comply with any applicable federal, state  
 43 or local laws regarding overtime pay.

44 (10) An employee retains accrued sick time if the employer sells, transfers or otherwise assigns  
 45 the business or an interest in the business to another employer.

1 (11)(a) An employer shall restore previously accrued unused sick time to an employee who is  
2 reemployed by that employer within 180 days of separation from employment with the employer.

3 (b) If an employee leaves employment with an employer before the 91st day of employment and  
4 subsequently is reemployed by that employer within 180 days of separation from employment, the  
5 employer shall restore the accrued sick time balance the employee had when the employee left the  
6 employment of the employer and the employee may use accrued sick time after the combined total  
7 of days of employment with the employer exceeds 90 calendar days.

8 (12) If an employee is transferred to a separate division, entity or location of the employer but  
9 remains employed by that same employer, the employee is entitled to use all sick time accrued while  
10 working at the former division, entity or location of the employer and is entitled to retain or use  
11 all sick time as provided by ORS 653.601 to 653.661.

12 (13) Employers located in a city with a population exceeding 500,000 shall comply with ORS  
13 653.601 to 653.661, except that:

14 (a) If an employer located in a city with a population exceeding 500,000 employs at least six  
15 employees working anywhere in this state, the employer shall implement a policy consistent with  
16 this section as it applies to employers with at least 10 employees working anywhere in this state.

17 (b) If an employer located in a city with a population exceeding 500,000 employs fewer than six  
18 employees working anywhere in this state, the employer shall implement a policy consistent with  
19 this section as it applies to employers with fewer than 10 employees working anywhere in this state.

20 **SECTION 15. Section 2 of this 2023 Act and the amendments to ORS 137.103, 315.262,**  
21 **464.250, 653.010, 653.020, 653.025, 653.030, 653.033, 653.035, 653.070, 653.261 and 653.606 by**  
22 **sections 3 to 14 of this 2023 Act become operative on January 1, 2024.**

23 **SECTION 16. This 2023 Act takes effect on the 91st day after the date on which the 2023**  
24 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**

25