



*Testimony in Support of SB 907- The Right to Refuse Dangerous Work  
May 10, 2023*

Chair Holvey, Vice-Chairs Elmer and Sosa and Members of the Committee,

My name is Kate Suisman. I am an attorney at the Northwest Workers' Justice Project (NWJP). Thank you for the opportunity to give testimony on these important bills. We represent workers in low-wage jobs when bad things happen to them at work: when they are not paid, or are discriminated against for being in a protected class or are retaliated against for speaking up. Finally, we engage in policy advocacy and try to bring the important perspectives of workers in low-wage jobs and immigrant workers to these policy discussions.

NWJP represents workers in some of the most dangerous professions in Oregon-forestry, construction, agriculture and others. Most of our clients are Spanish-speaking immigrants and all are in low-wage jobs. We believe SB 907 is absolutely necessary to make sure workers can protect themselves from dangerous work assignments, faulty machinery and other serious workplace risks.

SB 907 is the result of much discussion and collaboration between industry, worker advocates, state agencies and our Legislative leaders. The compromise bill is significantly shorter and simpler than the bill that was originally introduced.

The -6 Amendment does only two things: It adds the existing "right to refuse" into statute, and it directs Oregon OSHA to enter into rulemaking to clarify this right. (Oregon already has a [rule](#) that gives workers the right to refuse dangerous work, but it is confusing, wordy and almost impossible to exercise safely.) The new Oregon rule will be based on a rule in the [Federal OSH Act of 1970](#), the Act that authorized federal OSHA. This right has been on the books for more than 50 years. Under the federal rule, to be protected, a worker must: A) make a reasonable refusal, B) in good faith, C) that is related to a hazardous condition at the worksite D) that could cause serious injury or death.

The federal OSH Act will serve as the starting point for an Oregon-specific rule. The federal rule starts by establishing the basic principle that workers cannot generally walk off the job due to hazardous conditions. It goes on to lay out the exception to this general principle: CFR 1977.12(b)(2) states:

*However, occasions might arise when an employee is confronted with a choice between not performing assigned tasks or subjecting himself to serious injury or death arising from a hazardous condition at the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself to the dangerous condition, he would be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, where possible, must also have sought from his employer, and been unable to obtain, a correction of the dangerous condition. [38 FR 2681, Jan. 29, 1973, as amended at 38 FR 4577, Feb. 16, 1973]*

While the federal rule lays out helpful parameters, it does so in a wordy and confusing way. (Not quite as confusing as the current Oregon rule, but still very hard to get your mind around- let alone exercise this right safely.) The rulemaking that will take place if this bill is passed should result in a rule that is simple and easy for both workers and employers to understand.

Workers must be able to choose to say no in situations that could seriously injure or kill them- especially workers that are at the highest risk. We know that Black and Latinx workers have higher fatality rates than all others workers, per 2021 Bureau of Labor Statistic data: “Black or African American workers, as well as Hispanic or Latino workers had fatality rates (4.0 and 4.5 per 100,000 FTE workers, respectively) in 2021 that were higher than the all worker rate of 3.6.”

This data is borne out in Oregon fatalities as well. According to the last available Oregon Fatality Assessment and Control Evaluation report, OR-FACE 2020, published by OHSU each year, Latinx Oregonians accounted for 21% of fatalities, but only make up 11% of the workforce. This disproportionate impact on non-white workers is one of the reasons why we need to clean up the already-existing “right to refuse” rule in Oregon. We urge your yes vote on SB 907.

Thank you,

[Kate Suisman](#)