

# Senate Bill 488

Sponsored by Senator SMITH DB (Pre-session 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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act repeals laws requiring overtime pay for farm workers. (Flesch Readability Score: 61.3).

Repeals provisions requiring employers to pay overtime to agricultural workers who work in excess of the maximum allowable hours.

Repeals provisions related to the refundable income or corporate excise tax credit allowed to employers for the excess amount of wages paid as overtime pay for agricultural workers.

## A BILL FOR AN ACT

1  
2 Relating to the repeal of provisions related to requirements for agricultural overtime; amending ORS  
3 314.772, 316.502, 317.850, 318.031, 653.055 and 653.256 and section 16, chapter 82, Oregon Laws  
4 2022, and section 12, chapter 115, Oregon Laws 2022; and repealing ORS 315.133, 315.135,  
5 315.136, 315.137, 316.031, 317.346, 653.271, 653.272, 653.273, 653.274, 653.276, 653.277 and 653.278  
6 and sections 12 and 14, chapter 82, Oregon Laws 2022, sections 4 and 7, chapter 115, Oregon  
7 Laws 2022, and sections 1, 2 and 3, chapter 12, Oregon Laws 2023.

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

9 **SECTION 1.** ORS 653.055 is amended to read:

10 653.055. (1) Any employer who pays an employee less than the wages to which the employee is  
11 entitled under ORS 653.010 to 653.261 [*or 653.272*] is liable to the employee affected:

12 (a) For the full amount of the wages, less any amount actually paid to the employee by the  
13 employer; and

14 (b) For civil penalties provided in ORS 652.150.

15 (2) Any agreement between an employee and an employer to work at less than the wage rate  
16 required by ORS 653.010 to 653.261 [*or 653.272*] is no defense to an action under subsection (1) of  
17 this section.

18 (3) The Commissioner of the Bureau of Labor and Industries has the same powers and duties in  
19 connection with a wage claim based on ORS 653.010 to 653.261 [*and 653.272*] as the commissioner  
20 has under ORS 652.310 to 652.445 and in addition the commissioner may, without the necessity of  
21 assignments of wage claims from employees, initiate suits against employers to enjoin future failures  
22 to pay required minimum wages or overtime pay and to require the payment of minimum wages and  
23 overtime pay due employees but not paid as of the time of the filing of suit. The commissioner may  
24 join in a single proceeding and in one cause of suit any number of wage claims against the same  
25 employer. If the commissioner does not prevail in such action, the commissioner shall pay all costs  
26 and disbursements from the Bureau of Labor and Industries Account.

27 (4) The court may award reasonable attorney fees to the prevailing party in any action brought  
28 by an employee under this section.

**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        **SECTION 2.** ORS 653.256, as amended by section 7, chapter 36, Oregon Laws 2024, is amended  
2 to read:

3        653.256. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau  
4 of Labor and Industries may assess a civil penalty not to exceed \$1,000 against any person that  
5 willfully violates ORS 653.025, 653.030, 653.045, 653.050, 653.060, 653.261, 653.265, [653.272,] 653.606,  
6 653.611, 653.616, 653.621, 653.626, 653.631 or 653.636 or section 5, chapter 537, Oregon Laws 2015,  
7 or section 4, chapter 36, Oregon Laws 2024, or any rule adopted thereunder.

8        (2) In addition to any other penalty provided by law, the commissioner may assess a civil penalty  
9 not to exceed \$1,000 against any person that intentionally violates ORS 653.077 or any rule adopted  
10 thereunder.

11        (3) Civil penalties authorized by this section shall be imposed in the manner provided in ORS  
12 183.745.

13        (4)(a) All sums collected as penalties under this section shall be first applied toward reimburse-  
14 ment of costs incurred in determining the violations, conducting hearings under this section and  
15 addressing and collecting the penalties.

16        (b) The remainder, if any, of the sums collected as penalties under subsection (1) of this section  
17 shall be paid over by the commissioner to the Department of State Lands for the benefit of the  
18 Common School Fund of this state. The department shall issue a receipt for the money to the com-  
19 missioner.

20        (c) The remainder, if any, of the sums collected as penalties under subsection (2) of this section  
21 shall be paid over by the commissioner to the Department of Human Services for the benefit of the  
22 Breastfeeding Mother Friendly Employer Project. The department shall issue a receipt for the  
23 moneys to the commissioner.

24        **SECTION 3.** ORS 316.502, as amended by section 65a, chapter 70, Oregon Laws 2024, is  
25 amended to read:

26        316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and  
27 amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held  
28 in the General Fund as miscellaneous receipts available generally to meet any expense or obligation  
29 of the State of Oregon lawfully incurred.

30        (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-  
31 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year  
32 exceed the sum of \$1 million.

33        (3) Moneys are continuously appropriated to the Department of Revenue to make:

34        (a) The refunds authorized under subsection (2) of this section; and

35        (b) The refund payments in excess of tax liability authorized under ORS [315.133,] 315.174,  
36 315.262, 315.264, 315.266, 315.273, 315.519 and 316.090 and section 3, chapter 589, Oregon Laws 2021.

37        **SECTION 4.** ORS 317.850 is amended to read:

38        317.850. (1) The net revenue from the tax imposed by this chapter, after deduction of refunds,  
39 shall be paid over to the State Treasurer and held in the General Fund as miscellaneous receipts  
40 available generally to meet any expense or obligation of the State of Oregon lawfully incurred.

41        (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-  
42 tained for the payment of refunds, but such working balance may not at the close of any fiscal year  
43 exceed the sum of \$500,000.

44        (3) Moneys are continuously appropriated to the Department of Revenue to make:

45        (a) the refunds authorized under subsection (2) of this section; **and**

1        *[(b) The refund payments in excess of tax liability authorized under ORS 315.133; and]*

2        *[(c)] (b) The refund payments in excess of tax liability authorized under ORS 315.519.*

3        **SECTION 5.** ORS 314.772 is amended to read:

4        314.772. (1) Except as provided in ORS 314.766 (5)(b), the tax credits allowed or allowable to a  
5        C corporation for purposes of ORS chapter 317 or 318 shall not be allowed to an S corporation. The  
6        business tax credits allowed or allowable for purposes of ORS chapter 316 shall be allowed or are  
7        allowable to the shareholders of the S corporation.

8        (2) In determining the tax imposed under ORS chapter 316, as provided under ORS 314.763, on  
9        income of the shareholder of an S corporation, there shall be taken into account the shareholder's  
10       pro rata share of business tax credit (or item thereof) that would be allowed to the corporation (but  
11       for subsection (1) of this section) or recapture or recovery thereof. The credit (or item thereof), re-  
12       capture or recovery shall be passed through to shareholders in pro rata shares as determined in the  
13       manner prescribed under section 1377(a) of the Internal Revenue Code.

14       (3) The character of any item included in a shareholder's pro rata share under subsection (2)  
15       of this section shall be determined as if such item were realized directly from the source from which  
16       realized by the corporation, or incurred in the same manner as incurred by the corporation.

17       (4) If the shareholder is a nonresident and there is a requirement applicable for the business tax  
18       credit that in the case of a nonresident the credit be allowed in the proportion provided in ORS  
19       316.117, then that provision shall apply to the nonresident shareholder.

20       (5) As used in this section, "business tax credit" means the following credits: ORS 315.104  
21       (forestation and reforestation), ORS 315.124 (small forest option), *[ORS 315.133 (agricultural overtime*  
22       *pay),]* ORS 315.138 (fish screening, by-pass devices, fishways), ORS 315.141 (biomass production for  
23       biofuel), ORS 315.156 (crop gleaning), ORS 315.164 and 315.169 (agriculture workforce housing), ORS  
24       315.176 (bovine manure), ORS 315.204 (dependent care assistance), ORS 315.208 (dependent care fa-  
25       cilities), ORS 315.213 (contributions for child care), ORS 315.237 (employee and dependent scholar-  
26       ships), ORS 315.271 (individual development accounts), ORS 315.283 (affordable housing sales), ORS  
27       315.304 (pollution control facility), ORS 315.326 (renewable energy development contributions), ORS  
28       315.331 (energy conservation projects), ORS 315.336 (transportation projects), ORS 315.341  
29       (renewable energy resource equipment manufacturing facilities), ORS 315.354 and 469B.151 (energy  
30       conservation facilities), ORS 315.506 (tribal taxes on reservation enterprise zones and reservation  
31       partnership zones), ORS 315.507 (electronic commerce), ORS 315.514 (film production development  
32       contributions), ORS 315.518 (semiconductors), ORS 315.523 (employee training programs), ORS  
33       315.533 (low income community jobs initiative), ORS 315.593 (short line railroads), ORS 315.640  
34       (university venture development funds), ORS 315.643 (Opportunity Grant Fund contributions), ORS  
35       315.675 (Trust for Cultural Development Account contributions), ORS 317.097 (loans for affordable  
36       housing), ORS 317.124 (long term enterprise zone facilities), ORS 317.147 (loans for agriculture  
37       workforce housing), ORS 317.152 (qualified research expenses) and ORS 317.154 (alternative qualified  
38       research expenses) and section 9, chapter 774, Oregon Laws 2013 (alternative fuel vehicle contribu-  
39       tions).

40       **SECTION 6.** ORS 318.031 is amended to read:

41       318.031. It being the intention of the Legislative Assembly that this chapter and ORS chapter  
42       317 shall be administered as uniformly as possible (allowance being made for the difference in im-  
43       position of the taxes), ORS 305.140 and 305.150, ORS chapter 314 and the following sections are in-  
44       corporated into and made a part of this chapter: ORS 315.104, 315.124, *[315.133,]* 315.141, 315.156,  
45       315.176, 315.204, 315.208, 315.213, 315.283, 315.304, 315.326, 315.331, 315.336, 315.506, 315.507, 315.523,

1 315.533, 315.593 and 315.643 (all only to the extent applicable to a corporation) and ORS chapter 317.

2 **SECTION 7.** Section 12, chapter 115, Oregon Laws 2022, is amended to read:

3 **Sec. 12.** [*Section 8 of this 2022 Act*] **The repeal of ORS 315.133, 315.135, 315.136 and 315.137**  
4 applies to **all** tax years [*beginning on or after January 1, 2023*].

5 **SECTION 8.** Section 16, chapter 82, Oregon Laws 2022, as amended by section 5, chapter 52,  
6 Oregon Laws 2024, is amended to read:

7 **Sec. 16.** (1) The amendments to ORS 284.368 by section 1, chapter 82, Oregon Laws 2022, apply  
8 to fiscal years beginning on or after July 1, 2022.

9 (2) The amendments to sections 3 and 5, chapter 589, Oregon Laws 2021, by sections 3 and 4,  
10 chapter 82, Oregon Laws 2022, apply to tax years beginning on or after January 1, 2022, and before  
11 January 1, 2026, and to estimated payments due on and after June 15, 2022.

12 (3) The amendments to section 2, chapter 527, Oregon Laws 2021, by section 8, chapter 82,  
13 Oregon Laws 2022, apply to applications for precertification under section 4, chapter 527, Oregon  
14 Laws 2021, and applications for exemption under section 5, chapter 527, Oregon Laws 2021, without  
15 precertification, filed on or after June 3, 2022.

16 (4) Section 10, chapter 82, Oregon Laws 2022, applies to tax years beginning on or after January  
17 1, 2022, and before January 1, 2026.

18 [*(5) Sections 13 and 15, chapter 82, Oregon Laws 2022, apply to tax years beginning on or after*  
19 *January 1, 2023, and before January 1, 2029, and to any tax year to which a net operating loss arising*  
20 *in those tax years is carried back.*]

21 **SECTION 9.** **ORS 315.133, 315.135, 315.136, 315.137, 316.031, 317.346, 653.271, 653.272, 653.273,**  
22 **653.274, 653.276, 653.277 and 653.278 and sections 12 and 14, chapter 82, Oregon Laws 2022,**  
23 **sections 4 and 7, chapter 115, Oregon Laws 2022, and sections 1, 2 and 3, chapter 12, Oregon**  
24 **Laws 2023, are repealed.**

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