

HB 4089 -1 STAFF MEASURE SUMMARY

House Committee On Labor and Workforce Development

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Meeting Dates: 2/4, 2/11

WHAT THE MEASURE DOES:

The measure specifically includes in the definition of theft of services failure to pay compensation of an employee or independent contractor. It establishes that that any person, who knows or should have known, that they are using the services of an unlicensed labor contractor, contractor, or who uses a contractor's license number to deceive the public, commits a Class C Felony punishable by a maximum of five years in prison, \$125,00 or both. The measure requires the Bureau of Labor and Industries (BOLI), Oregon Employment Department (OED), Department of Consumer and Business Services (DCBS), and Oregon Department of Revenue (DOR) to refer to the Attorney General or appropriate district attorney any patterns of conduct that constitute theft of services.

Fiscal impact: May have fiscal impact, but statement not yet issued

Revenue impact: May have revenue impact, but statement not yet issued

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 The amendment clarifies when a person commits the crime of theft of services and criminal penalties for hiring or using an unlicensed labor contractor.

Section 1

Clarifies that a person commits the crime of theft of services by specifying that an intent to avoid payment includes the avoidance of full or partial payments.

Section 3

Requires the Interagency Compliance Network to develop investigate methods to gather and share information related to individuals and entities committing theft of services offenses and who do not comply with laws relating to taxation or employment.

Section 4

Establishes a tiered criminal penalty structure for hiring or using an unlicensed labor contractor:

- o Class A misdemeanor for first offense for knowingly hiring or using an unlicensed labor contractor.
- o Class C Felony for subsequent offenses for knowingly hiring or using an unlicensed labor contractor.

Removes references to "should have known."

Section 5

Increases the penalty for using a contractor's license number without authorization from a Class A misdemeanor to a Class C felony.

Increases the penalty for using a contractor's license, regardless of authorization of licensed contractor, from a Class A misdemeanor to a Class C felony.

Fiscal impact: Minimal fiscal impact

Revenue impact: Minimal revenue impact

BACKGROUND:

Wage theft is term used to describe a range of situations in which an employer fails to pay an employee, and it can take many forms – from employers paying employees less than the minimum wage or failing to pay overtime to withholding tips, not providing employees with their final paycheck, or requiring employees to work off the clock. Any worker who has experienced wage theft may take civil action or file a wage claim with BOLI.

A labor contractor is any person or entity that recruits, solicits, supplies, or employs workers for another entity and is required to hold a labor contractor license. The Bureau of Labor and Industries (BOLI) is responsible for administering and enforcing licensure requirements for the following types of labor contractors:

- Farm and forest labor contractors
- Construction labor contractors
- Property services/janitorial labor contractors

Before allowing work to begin under any contract or agreement with a labor contractor, the person receiving the workers must examine the contractor's license or temporary permit to verify that the individual providing the workers matches the photo on the license or permit. A copy of the license or temporary permit must be retained. Any person who knowingly uses the services of an unlicensed construction labor contractor is personally, jointly, and severally liable with the unlicensed contractor for unpaid wages and other damages as provided by law. In addition, individuals or entities that use the services of an unlicensed labor contractor may be subject to civil penalties of up to \$2,000 per violation.