

# Senate Bill 110

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## 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**.

Removes restriction on maximum number of hours that certain employers may require or permit employees to work in single workweek.

Removes provisions relating to undue hardship period exemption from restrictions on maximum workweek hours.

Removes substantive language from definition of "workweek."

Removes provisions related to imposition of civil penalties against employers for violation of restrictions on maximum workweek hours.

## A BILL FOR AN ACT

Relating to work time limits; amending ORS 652.020, 652.355, 652.990, 653.261, 653.263 and 653.265.

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

**SECTION 1.** ORS 652.020 is amended to read:

652.020. (1) As used in this section:

(a) "Machinery" means material-handling equipment and power-driven machines powered by electricity, nuclear or fossil fuels, hydroelectric power, geothermal power or another power source other than by human hand, foot or breath.

(b) "Manufacturing" means the process of using machinery to transform materials, substances or components into new products.

(c) "Manufacturing establishment" means an establishment engaged in manufacturing.

*[(d) "Perishable product" means any product that may spoil, deteriorate or undergo other material changes that render it unsuitable for the use for which it was produced. "Perishable product" includes agricultural crops, meat and fish.]*

*[(e) "Undue hardship period" means the period of time during which perishable product must be processed after harvesting, slaughter or catch.]*

*[(f)] (d) "Workweek" means a fixed period of time established by an employer that reflects a regularly recurring period of 168 hours or seven consecutive 24-hour periods. [A workweek may begin on any day of the week and any hour of the day and need not coincide with a calendar week. The beginning of the workweek may be changed if the change is intended to be permanent and is not designed to evade overtime requirements.]*

(2)(a) Except as provided in *[paragraphs (b) and (c) of this subsection and]* subsection (3) of this section, an employer may not require or permit an employee employed in any mill, factory or other manufacturing establishment in this state to work more than[:]

*[(A)] 10 hours in any one day.[: or]*

*[(B)] 55 hours in any one workweek.]*

*[(b) An employer may permit an employee described in paragraph (a) of this subsection to work*

**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 up to 60 hours in one workweek if the employee requests or consents in writing to work more than 55  
2 hours in the workweek.]

3 [(c) Notwithstanding paragraph (b) of this subsection, during the period of time that an employer  
4 is eligible for an undue hardship period exemption under subsection (4) of this section, an employer  
5 may permit an employee described in paragraph (a) of this subsection to work:]

6 [(A) Up to 84 hours per workweek for four workweeks; and]

7 [(B) Up to 80 hours per workweek for the remainder of the undue hardship period.]

8 [(d)] (b) Except as provided in subsection (3) of this section, an employer may not require or  
9 permit an employee employed in a sawmill, planing mill, shingle mill or logging camp to work more  
10 than:

11 (A) Eight hours, exclusive of one hour, more or less, in one day; or

12 (B) 48 hours in one workweek.

13 (3)(a) An **employer may permit an** employee [may] **to** work overtime up to three hours more  
14 than the applicable limit for the maximum allowable hours of employment in one day as described  
15 in subsection (2) of this section.

16 (b) An employer shall compensate an employee who works overtime hours described in para-  
17 graph (a) of this subsection at one and one-half times the employee's regular rate of pay for each  
18 overtime hour or portion of an hour the employee works.

19 (c) An employer shall calculate an employee's overtime compensation on a daily basis under  
20 paragraph (b) of this subsection and on a weekly basis under ORS 653.261 (1) and pay the greater  
21 of the two amounts if, during the same workweek, the employee works more than:

22 (A) The applicable limit for the maximum allowable hours of employment in one day as described  
23 in subsection (2) of this section; and

24 (B) Forty hours in one workweek as described in ORS 653.261 (1).

25 (d) An employer that makes an overtime payment to an employee pursuant to paragraph (c) of  
26 this subsection satisfies the overtime compensation requirements under this subsection and ORS  
27 653.261 (1).

28 [(4)(a) An employer is eligible for an undue hardship period exemption from the restrictions on  
29 maximum workweek hours under subsection (2)(a) of this section if the employer, in the ordinary course  
30 of the employer's business, processes perishable products. The undue hardship period exemption shall  
31 be effective only during an undue hardship period. An employer may be eligible for more than one  
32 undue hardship period exemption in a calendar year. However, the combined total duration of the  
33 employer's undue hardship period exemptions may not exceed 21 workweeks in a calendar year.]

34 [(b) To claim an undue hardship period exemption, an employer must provide notice of the undue  
35 hardship period to the Commissioner of the Bureau of Labor and Industries and obtain written consent  
36 from each employee whom the employer will request to work more than 55 hours in any workweek  
37 during the undue hardship period.]

38 [(c)(A) The notice the employer sends to the commissioner under paragraph (b) of this subsection  
39 must be in a form prescribed by the commissioner by rule and include a description of the reasons for  
40 the undue hardship period, the start and expected end dates of the undue hardship period and any  
41 other information required by the commissioner.]

42 [(B) The employee's written consent shall be in a form prescribed by the commissioner by rule and  
43 include:]

44 [(i) A description of the employer's reasons for the undue hardship period;]

45 [(ii) The start and expected end dates of the undue hardship period;]

1        *[(iii) A statement that the employer may require the employee to work up to 84 hours per workweek*  
 2 *for up to four workweeks during the undue hardship period;]*

3        *[(iv) A statement that the employer may require the employee to work up to 80 hours per workweek*  
 4 *for the remainder of the undue hardship period;]*

5        *[(v) A statement that the employee consents to working up to 84 hours per workweek for up to four*  
 6 *workweeks during the undue hardship period and up to 80 hours per workweek for the remainder of*  
 7 *the undue hardship period;]*

8        *[(vi) Contact information for the Bureau of Labor and Industries; and]*

9        *[(vii) Any other information required by the commissioner.]*

10        **[(5)] (4)** An employer may not:

11        (a) Require any employee employed in a mill, factory or other manufacturing establishment in  
 12 this state to begin a work shift less than 10 hours after the end of the employee's previous work  
 13 shift if the employee's previous work shift totaled eight or more hours, unless the employer requires  
 14 the employee to work additional hours due to disruptions in business operations caused by a power  
 15 outage, major equipment breakdown, severe weather or similar emergency outside the employer's  
 16 control;

17        (b) Require or permit any employee to work in any place described in this section for more  
 18 hours than the hours provided for in this section during any day of 24 hours; **or**

19        (c) Permit an overseer, superintendent or other agent of the employer to violate this section[;  
 20 *or]*

21        *[(d) Coerce an employee into consenting to work more than 55 hours in a given workweek].*

22        **[(6)] (5)** This section does not apply to:

23        (a) An employee performing work as a member of a logging train crew, as a guard or as a boiler  
 24 operator;

25        (b) An employee engaged in the transportation of workers to and from work;

26        (c) An employee engaged in the care of quarters or livestock, the conducting of mess halls, the  
 27 superintendence and direction of work or the loading and removal of finished forest product;

28        (d) An employee when engaged in making necessary repairs or in the case of emergency where  
 29 life or property is in imminent danger; or

30        (e) An employee employed in a mill, factory or other manufacturing establishment whose prin-  
 31 cipal duties are administrative in nature or who is not otherwise engaged in the direct processing  
 32 of goods in the usual course of the employee's duties.

33        **[(7)] (6)** Subsections (2) to **[(5)] (4)** of this section do not apply to employees who are represented  
 34 by a labor organization for purposes of collective bargaining with their employer, provided limits  
 35 on the required hours of work and overtime payment have been agreed to between the employer and  
 36 labor organization, or if no agreement is reached, then, for the purposes of this subsection, such  
 37 limits and payments shall not be deemed to be changed from the previous collective bargaining  
 38 agreement between the employer and labor organization unless the employees have been locked out  
 39 or are engaged in a strike or the employer has unilaterally implemented new terms and conditions  
 40 of employment.

41        **(7)(a) For the purpose of calculating a workweek under this section, a workweek may**  
 42 **begin on any day of the week and at any hour of the day and need not coincide with a cal-**  
 43 **endar week.**

44        **(b) The beginning of the workweek may be changed if the change is intended to be per-**  
 45 **manent and is not designed to evade overtime requirements.**

1 (8)(a) In addition to any other remedy provided by law, an employee has a private cause of  
 2 action against an employer if the employer violates subsection (2) or (3) of this section by requiring  
 3 the employee to work more than:

4 (A) Three hours more than the applicable limit for the maximum allowable hours of employment  
 5 in one day; or

6 (B) The applicable limit for the maximum allowable hours of employment in one workweek.

7 (b) If the employee prevails in an action under this section, the court may enter judgment  
 8 against the employer for:

9 (A) Actual damages or \$3,000 per claim, whichever is greater;

10 (B) Equitable relief; and

11 (C) Liquidated damages in an amount equal to twice the employee's overtime wages earned  
 12 during the period not allowed under subsection (2) or (3) of this section.

13 (c) In an action brought under this section, the court may award to the prevailing plaintiff costs,  
 14 disbursements and reasonable attorney fees. Any attorney fee agreement is subject to approval by  
 15 the court.

16 *[(9)(a) Notwithstanding ORS 652.900, in addition to any other penalty provided by law, the com-  
 17 missioner may assess the following civil penalties against an employer that the commissioner deter-  
 18 mines has coerced an employee into consenting to work more than 55 hours in one workweek:]*

19 *[(A) \$2,000 per violation if the employer coerced an employee into consenting under subsection  
 20 (2)(b) of this section to work more than 55 hours in any given workweek; or]*

21 *[(B) \$3,000 per violation if the employer coerced an employee into consenting under subsection (4)  
 22 of this section to work more than 55 hours per workweek in any given workweek during an undue  
 23 hardship period.]*

24 *[(b) Each violation described in paragraph (a) of this subsection is a separate and distinct offense.  
 25 In the case of a continuing violation, each workweek's continuance is a separate and distinct  
 26 violation.]*

27 *[(c) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS  
 28 183.745. All sums collected as penalties under this subsection shall be applied and paid over as pro-  
 29 vided in ORS 652.900.]*

30 **SECTION 2.** ORS 653.261 is amended to read:

31 653.261. (1)(a) The Commissioner of the Bureau of Labor and Industries may adopt rules pre-  
 32 scribing such minimum conditions of employment, excluding minimum wages, in any occupation as  
 33 may be necessary for the preservation of the health of employees. The rules may include, but are  
 34 not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less  
 35 than eight hours per day or 40 hours per workweek; however, after 40 hours of work in one  
 36 workweek overtime may be paid, but in no case at a rate higher than one and one-half times the  
 37 regular rate of pay of the employees when computed without benefit of commissions, overrides, spiffs  
 38 and similar benefits.

39 (b) As used in this subsection, "workweek" means a fixed period of time established by an em-  
 40 ployer that reflects a regularly recurring period of 168 hours or seven consecutive 24-hour periods.  
 41 *[A workweek may begin on any day of the week and any hour of the day and need not coincide with  
 42 a calendar week. The beginning of the workweek may be changed if the change is intended to be  
 43 permanent and is not designed to evade overtime requirements.]*

44 (c) **For the purpose of calculating a workweek under this subsection, a workweek may**  
 45 **begin on any day of the week and at any hour of the day and need not coincide with a cal-**

1 **endar week.**

2 **(d) The beginning of the workweek may be changed if the change is intended to be per-**  
 3 **manent and is not designed to evade overtime requirements.**

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

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

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

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

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

23 (d) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS  
 24 183.745. All sums collected as penalties under this subsection shall be applied and paid over as  
 25 provided in ORS 653.256 (4).

26 **SECTION 3.** ORS 652.355 is amended to read:

27 652.355. (1) An employer may not discharge or in any other manner discriminate against an  
 28 employee because:

29 (a) The employee has made a wage claim or discussed, inquired about or consulted an attorney  
 30 or agency about a wage claim;

31 (b) The employee has caused to be instituted any proceedings under or related to ORS 652.310  
 32 to 652.414;

33 (c) The employee has testified or is about to testify in any such proceedings; **or**

34 (d) The employee has inquired about the provisions of ORS 652.020 or has reported a violation  
 35 of or filed a complaint related to ORS 652.020[;]

36 [*(e) The employee has declined to consent to work more than 55 hours in any given workweek un-*  
 37 *der ORS 652.020 or 653.265; or]*

38 [*(f) The employee has declined to consent to work more than 55 hours per workweek in any given*  
 39 *workweek during an undue hardship period under ORS 652.020 or 653.265].*

40 (2) A violation of this section is an unlawful employment practice under ORS chapter 659A. A  
 41 person unlawfully discriminated against under this section may file a complaint under ORS 659A.820  
 42 with the Commissioner of the Bureau of Labor and Industries.

43 **SECTION 4.** ORS 652.990 is amended to read:

44 652.990. (1) Violation of ORS 652.020 [(5)(b)] **(4)(b)** or (c) is a Class A violation. Every day's vi-  
 45 olation is deemed a separate offense.

1 (2) Any person, body corporate, general manager or employer who violates ORS 652.040 or  
 2 causes ORS 652.040 to be violated commits a Class C misdemeanor.

3 (3) Violation of ORS 652.110 or 652.120 is a Class A violation.

4 (4) Violation of ORS 652.130 by any employer is a Class C misdemeanor.

5 (5) In addition to the civil damages recoverable under ORS 652.230, violation of ORS 652.210 to  
 6 652.235 is a Class A misdemeanor.

7 (6) The violation of ORS 652.240 is a Class A misdemeanor.

8 (7) Violation of ORS 652.355 is a Class C misdemeanor.

9 (8) Violation of ORS 652.610 or 652.620 is a Class D violation.

10 (9) Willful violation of ORS 652.635 or 652.640 by a producer or agent of the producer is a Class  
 11 A misdemeanor.

12 (10) Violation of any of the provisions of ORS 652.710 or 652.720 by any employer is a Class A  
 13 violation.

14 **SECTION 5.** ORS 653.263 is amended to read:

15 653.263. (1) As used in this section:

16 (a) "Seafood processor" means a cannery, drier or packing plant that processes seafood.

17 (b) "Workweek" means a fixed period of time established by an employer that reflects a regu-  
 18 larly recurring period of 168 hours or seven consecutive 24-hour periods. [*A workweek may begin*  
 19 *on any day of the week and any hour of the day and need not coincide with a calendar week. The*  
 20 *beginning of the workweek may be changed if the change is intended to be permanent and is not de-*  
 21 *signed to evade overtime requirements.*]

22 (2) An employer may not require or permit an employee employed by a seafood processor to  
 23 work more than 10 hours in any one day unless the employer compensates the employee as follows:

24 (a) One and one-half times the employee's regular rate of pay for each hour the employee works  
 25 over 10 hours in any one day if the employee is an hourly employee; or

26 (b) One and one-half times the regular price for all work done during the time the employee is  
 27 employed over 10 hours per day if the employee is a piece worker.

28 (3) This section does not apply to:

29 (a) An employee who is engaged in manufacturing, as defined in ORS 652.020; or

30 (b) An employee whose principal duties are administrative in nature or who does not otherwise,  
 31 in the usual course of the employee's duties, come into contact with the direct processing of goods.

32 **(4)(a) For the purpose of calculating a workweek under this section, a workweek may**  
 33 **begin on any day of the week and at any hour of the day and need not coincide with a cal-**  
 34 **endar week.**

35 **(b) The beginning of the workweek may be changed if the change is intended to be per-**  
 36 **manent and is not designed to evade overtime requirements.**

37 **(5) A seafood processor shall calculate an employee's overtime compensation on a daily**  
 38 **basis under subsection (2) of this section and on a weekly basis under ORS 653.261 (1) and**  
 39 **pay the greater of the two amounts if, during the same workweek, the employee works more**  
 40 **than:**

41 **(a) Ten hours in any one day; and**

42 **(b) Forty hours in one workweek as described in ORS 653.261 (1).**

43 **(6) A seafood processor that makes an overtime payment to an employee pursuant to**  
 44 **subsection (5) of this section satisfies the overtime compensation requirements under this**  
 45 **section and ORS 653.261 (1).**

1       **SECTION 6.** ORS 653.265 is amended to read:

2       653.265. (1) As used in this section[.],

3       [(a) “Perishable product” means any product that may spoil, deteriorate or undergo other material  
4 changes that render it unsuitable for the use for which it was produced. “Perishable product” includes  
5 agricultural crops, meat and fish.]

6       [(b) “Undue hardship period” means the period of time during which perishable product must be  
7 processed after harvesting, slaughter or catch.]

8       [(c) “workweek” means a fixed period of time established by an employer that reflects a regu-  
9 larly recurring period of 168 hours or seven consecutive 24-hour periods. [A workweek may begin  
10 on any day of the week and any hour of the day and need not coincide with a calendar week. The  
11 beginning of the workweek may be changed if the change is intended to be permanent and is not de-  
12 signed to evade overtime requirements.]

13       (2)(a) Except as provided in [paragraphs (b) to (d)] **paragraph (b)** of this subsection, an employer  
14 may not require or permit an employee employed in any cannery, drier or packing plant in this state  
15 to work more than[:]

16       [(A)] 10 hours in any one day.[: or]

17       [(B)] 55 hours in one workweek.]

18       [(b) An employer may permit an employee described in paragraph (a) of this subsection to work  
19 up to 60 hours in one workweek if the employee requests or consents in writing to work more than 55  
20 hours in the workweek.]

21       [(c) Notwithstanding paragraph (b) of this subsection, during the period of time that an employer  
22 is eligible for an undue hardship period exemption under subsection (5) of this section, an employer  
23 may permit an employee described in paragraph (a) of this subsection to work:]

24       [(A) Up to 84 hours per workweek for four workweeks; and]

25       [(B) Up to 80 hours per workweek for the remainder of the undue hardship period.]

26       [(d)] **(b)** An employer may permit an employee described in paragraph (a) of this subsection to  
27 work more than 10 hours in any one day if the employer compensates the employee as follows:

28       (A) One and one-half times the employee’s regular rate of pay for each hour the employee works  
29 over 10 hours in any one day if the employee is an hourly employee; or

30       (B) One and one-half times the regular price for all work done during the time the employee is  
31 employed over 10 hours per day if the employee is a piece worker.

32       (3) An employer shall calculate an employee’s overtime on a daily basis under subsection  
33 [(2)(d)] **(2)(b)** of this section and on a weekly basis under ORS 653.261 (1) and pay the greater of the  
34 two amounts if, during the same workweek, the employee works more than:

35       (a) 10 hours in one day as described in subsection [(1)] **(2)(b)** of this section; and

36       (b) 40 hours in one workweek as described in ORS 653.261 (1).

37       (4) An employer that makes an overtime payment to an employee pursuant to subsection (3) of  
38 this section satisfies the overtime compensation requirements under this section and ORS 653.261  
39 (1).

40       [(5)(a) An employer is eligible for an undue hardship period exemption from the restrictions on  
41 work hours under subsection (2)(a) of this section if the employer, in the ordinary course of the  
42 employer’s business, processes perishable products. The undue hardship period exemption shall be ef-  
43 fective only during an undue hardship period. An employer may be eligible for more than one undue  
44 hardship period exemption in a calendar year. However, the combined total duration of the employer’s  
45 undue hardship period exemptions may not exceed 21 workweeks in a calendar year.]

1       ***[(b) To claim an undue hardship period exemption, an employer must provide notice of the undue***  
 2 ***hardship period to the Commissioner of the Bureau of Labor and Industries and obtain written consent***  
 3 ***from each employee whom the employer will request to work more than 55 hours in any workweek***  
 4 ***during the undue hardship period.]***

5       ***[(c)(A) The notice the employer sends to the commissioner under paragraph (b) of this subsection***  
 6 ***must be in a form prescribed by the commissioner by rule and include a description of the reasons for***  
 7 ***the undue hardship period, the start and expected end dates of the undue hardship period and any***  
 8 ***other information required by the commissioner.]***

9       ***[(B) The employee’s written consent shall be in a form prescribed by the commissioner by rule and***  
 10 ***include:]***

11       ***[(i) A description of the employer’s reasons for the undue hardship period;]***

12       ***[(ii) The start and expected end dates of the undue hardship period;]***

13       ***[(iii) A statement that the employer may require the employee to work up to 84 hours per workweek***  
 14 ***for up to four workweeks during the undue hardship period;]***

15       ***[(iv) A statement that the employer may require the employee to work up to 80 hours per workweek***  
 16 ***for the remainder of the undue hardship period;]***

17       ***[(v) A statement that the employee consents to working up to 84 hours per workweek for up to four***  
 18 ***workweeks during the undue hardship period and up to 80 hours per workweek for the remainder of***  
 19 ***the undue hardship period;]***

20       ***[(vi) Contact information for the Bureau of Labor and Industries; and]***

21       ***[(vii) Any other information required by the commissioner.]***

22       ***[(6) An employer may not coerce an employee into consenting to work more than 55 hours in a***  
 23 ***given workweek.]***

24       ***[(7)] (5) This section does not apply to:***

25       ***(a) An employee employed in a cannery, drier or packing plant that is located on a farm and***  
 26 ***primarily processes products produced on the farm;***

27       ***(b) An employee employed in a cannery, drier or packing plant who is engaged in manufacturing,***  
 28 ***as that term is defined in ORS 652.020;***

29       ***(c) An employee employed by a seafood processor, as that term is defined in ORS 653.263; or***

30       ***(d) An employee employed in a cannery, drier or packing plant whose principal duties are ad-***  
 31 ***ministrative in nature or who is not otherwise, in the usual course of the employee’s duties, engaged***  
 32 ***in the direct processing of goods.***

33       ***[(8)] (6) Subsections (2) to [(6)] (4) of this section do not apply to employees who are represented***  
 34 ***by a labor organization for purposes of collective bargaining with their employer, provided limits***  
 35 ***on the required hours of work and overtime payment have been agreed to between the employer and***  
 36 ***labor organization, or if no agreement is reached, then, for the purposes of this subsection, such***  
 37 ***limits and payments shall not be deemed to be changed from the previous collective bargaining***  
 38 ***agreement between the employer and labor organization unless the employees have been locked out***  
 39 ***or are engaged in a strike or the employer has unilaterally implemented new terms and conditions***  
 40 ***of employment.***

41       ***(7)(a) For the purpose of calculating a workweek, a workweek may begin on any day of***  
 42 ***the week and at any hour of the day and need not coincide with a calendar week.***

43       ***(b) The beginning of the workweek may be changed if the change is intended to be per-***  
 44 ***manent and is not designed to evade overtime requirements.***

45       ***[(9)(a) Notwithstanding ORS 653.256, in addition to any other penalty provided by law, the com-***



1 *missioner may assess the following civil penalties against an employer:]*

2 *[(A) \$2,000 per violation if the commissioner determines the employer coerced an employee into*  
3 *consenting under subsection (2)(b) of this section to work more than 55 hours in any given workweek;*  
4 *and]*

5 *[(B) \$3,000 per violation if the commissioner determines the employer coerced an employee into*  
6 *consenting under subsection (5) of this section to work more than 55 hours per workweek in any given*  
7 *workweek during an undue hardship period.]*

8 *[(b) Each violation described in paragraph (a) of this subsection is a separate and distinct offense.*  
9 *In the case of a continuing violation, each workweek's continuance is a separate and distinct*  
10 *violation.]*

11 *[(c) Civil penalties authorized by this subsection shall be imposed in the manner provided in ORS*  
12 *183.745. All sums collected as penalties under this subsection shall be applied and paid over as pro-*  
13 *vided in ORS 653.256.]*

14 *[(10)(a)]* **(8)(a)** In addition to any other remedy provided by law, an employee has a private cause  
15 of action against an employer if the employer violates subsection (2) of this section by requiring the  
16 employee to work more than the applicable limit for the maximum allowable hours of employment  
17 in one *[workweek]* **day**.

18 (b) If the employee prevails in an action brought under this section, the court may enter judg-  
19 ment against the employer for:

20 (A) Actual damages or \$3,000 per claim, whichever is greater;

21 (B) Equitable relief; and

22 (C) Liquidated damages in an amount equal to twice the employee's overtime wages earned  
23 during the period not allowed under subsection (2) of this section.

24 (c) In an action brought under this section, the court may award to the prevailing plaintiff costs,  
25 disbursements and reasonable attorney fees. Any attorney fee agreement is subject to approval by  
26 the court.

27