

Enrolled
House Bill 1340

Sponsored by Representatives SKELTON, PACKWOOD, TURNER

CHAPTER

AN ACT

Relating to wages and hours of work; creating new provisions; amending ORS 653.305 and 653.505; repealing ORS 653.005, 653.105, 653.110, 653.115, 653.120, 653.125, 653.205, 653.210, 653.215, 653.220, 653.225, 653.230, 653.235, 653.240, 653.245, 653.250, 653.255, 653.260, 653.270 and 653.275; providing penalties; and prescribing an effective date.

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

Section 1. It is declared to be the policy of the State of Oregon to establish minimum wage standards for workers at levels consistent with their health, efficiency, and general well-being.

Section 2. As used in this Act unless the context requires otherwise:

- (1) "Commission" means the Wage and Hour Commission.
- (2) "Employ" includes to suffer or permit to work; however, "employ" does not include permitting voluntary service without compensation to a religious or charitable nonprofit institution.
- (3) "Employer" means any person who employs another person.
- (4) "Labor Commissioner" means the Commissioner of the Bureau of Labor.
- (5) "Minor" means any person under 18 years of age.
- (6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employes are gainfully employed.
- (7) "Outside salesman" means any employe who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business in making sales, or obtaining orders, or obtaining contracts for services and whose hours of work of any other nature for the employer do not exceed 30 percent of the hours worked in the workweek by the nonexempt employes of the employer.
- (8) "Wages" means compensation due to an employe by reason of his employment, payable in legal tender of the United States or check on banks convertible into cash on demand at full face value, subject to such deductions, charges or allowances as are permitted in section 7 of this Act.
- (9) "Work time" includes both time worked and time of authorized attendance.

Section 3. This Act does not apply to any of the following employes:

- (1) An individual employed in agricultural labor as defined in ORS 657.045 and paid by the amount of work produced or services rendered.
- (2) An individual employed in domestic service in or about a family home.

(3) An individual engaged in administrative, executive, or professional work who:

- (a) Performs predominantly intellectual, managerial, or creative tasks;
 - (b) Exercises discretion and independent judgment; and
 - (c) Earns more than \$350 a month from this work.
- (4) An individual employed by the United States, or this state, or a political subdivision or quasi-municipal corporation thereof.
- (5) An individual who is employed by an institution whose function is primarily education, and in which he is an enrolled student.
- (6) An individual engaged in the capacity of an outside salesman or taxicab operator.
- (7) An individual employed by any carrier subject to regulation by the Interstate Commerce Commission Act.
- (8) Any person subject to regulation under the Federal Fair Labor Standards Act.
- (9) An individual employed to work in his own home.
- (10) An individual domiciled at a place of employment for purpose of being available for emergency or occasional duties.
- (11) An individual paid for specified hours of employment, the only purpose of which is to be available for recall to duty.

Section 4. (1) Except as provided by the rules of the commission issued under section 5 of this Act, no employer shall employ or agree to employ any employe 18 years of age or older at wages computed at a rate lower than \$1.25 an hour for each hour of work time that the employe is gainfully employed.

Section 5. (1) The commission shall issue rules prescribing the employment of other types of persons at fixed minimum wage rates lower than the minimum wage rate required by section 4 of this Act, when the commission has determined that the application of section 4 of this Act would substantially curtail opportunities for employment for specific types of persons. The types of persons for whom a minimum wage rate may be set include, but are not limited to, persons who are mentally or physically handicapped, or persons who have exceeded 65 years of age.

(2) The commission may issue rules prescribing such minimum conditions of employment for women, excluding minimum wages, in any occupation as may be necessary for the preservation of the health of women employes. Such rules may include, but are not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less than eight hours per day or 40 hours per week, after which overtime may be paid but in no case at a rate higher than one and one-half times the rate specified in section 4 of this Act. Minimum conditions of employment for women, excluding minimum wages prescribed under orders of the commission, except that overtime pay shall, in any such order, not be at a rate higher than one and one-half times the rate specified in section 4 of this Act, issued prior to the effective date of this Act shall remain in effect until amended by the commission under this section.

(3) Nothing contained in this Act shall be construed to confer authority upon the commission to regulate the hours of employment of women engaged in harvesting, packing, curing, canning, freezing or drying any variety of perishable fruit, vegetables or fish.

Section 6. Employers may deduct from the minimum wage to be paid employes under section 4 or 5 of this Act the fair market value of lodging, meals, or other facilities or services furnished by the employer for the private benefit of the employe.

Section 7. Employers may include commission payments to employes as part of the applicable minimum wage for any pay period in which the combined wage and commission earnings of the employe will comply with

this Act. In any pay period where the combined wage and commission payments to the employe do not add up to the applicable minimum wage under this Act, the employer shall pay the minimum rate as prescribed in this Act.

Section 8. The commission, in addition to its other powers, may:

(1) Investigate and ascertain the wages of persons employed in any occupation or place of employment in the state.

(2) Require from an employer statements, including sworn statements, with respect to wages, hours, names, and addresses and such other information pertaining to his employes or their employment as the commission considers necessary to carry out this Act.

(3) Make such rules as it considers appropriate to carry out the purposes of this Act, or necessary to prevent the circumvention or evasion of this Act and to safeguard the minimum wage rates set under this Act.

Section 9. (1) Every employer required by section 4 of this Act or by any rule, order or permit issued under section 5 of this Act to pay a minimum wage to any of his employes shall make and keep available to the commission for not less than two years, a record or records containing:

(a) The name, address and occupation of each of his employes.

(b) The actual hours worked each week and each pay period by each employe.

(c) Such other information as the commission prescribes by its rules if necessary or appropriate for the enforcement of this Act or of the rules, orders, and licenses issued thereunder.

(2) Each employer shall keep the records required by subsection (1) of this section open for inspection or transcription by the commission at any reasonable time.

(3) Every employer of one or more employes covered by this Act shall supply each of his employes with itemized statements of amounts and purposes of deductions in the manner provided in ORS 652.610.

Section 10. Every employer required by section 4 of this Act or by any rules, orders or permit issued under section 5 of this Act to pay a minimum wage to any of his employes shall keep a summary of this Act, approved by the commission, and copies of the applicable rules, posted in a conspicuous and accessible place in or about the premises where such employes are employed. Employers shall be furnished copies of these summaries and rules by the commission without charge.

Section 11. (1) Any employer who pays an employe less than the wages to which the employe is entitled under this Act is liable to the employe affected:

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

(b) For costs and such reasonable attorney fees as are allowed by the court.

(c) For civil penalties provided in ORS 652.150.

(2) Any agreement between an employe and an employer to work at less than the wage rate required by this Act is no defense to an action under subsection (1) of this section.

(3) The Labor Commissioner has the same powers and duties in connection with a wage claim based on this Act as he has under ORS 652.310 to 652.445.

Section 12. No employer shall discharge or in any other manner discriminate against any employe:

(1) Because the employe has made complaint that he has not been paid wages in accordance with this Act.

(2) Because the employe has caused to be instituted or is about to cause to be instituted any proceedings under or related to this Act.

(3) Because the employe has testified or is about to testify in any such proceedings.

Section 13. (1) All proceedings under this Act shall be conducted in compliance with ORS 183.310 to 183.510.

(2) All rules of the commission under this Act shall be issued in compliance with ORS 183.310 to 183.510.

Section 14. (1) Violation of section 4 of this Act is punishable, upon conviction, by imprisonment in the county jail for not less than 10 days nor more than 30 days, or by a fine of not less than \$25 nor more than \$100, or both.

(2) Violation by an employer of any other provision of this Act or any rule, order or license issued under this Act is punishable, upon conviction, by a fine of not less than \$25 nor more than \$100.

Section 15. ORS 653.005, 653.105, 653.110, 653.115, 653.120, 653.125, 653.205, 653.210, 653.215, 653.220, 653.225, 653.230, 653.235, 653.240, 653.245, 653.250, 653.255, 653.260, 653.270 and 653.275 are repealed.

Section 16. ORS 653.305 is amended to read:

653.305. (1) The commission may at any time inquire into wages or hours or conditions of labor of minors employed in any occupation in this state and determine suitable wages, *but not to exceed the rate provided in section 4 of this 1967 Act*, and hours and conditions of labor for such minors.

(2) When the commission has made such determination, it may issue an obligatory order ~~in the manner provided for in ORS 653.220~~ *in compliance with ORS 183.310 to 183.510.*

(3) After such order is effective, no employer in the occupation affected shall employ a minor at less wages or for more hours or under different conditions of labor than are specified or required by the order; but no such order nor the commission shall authorize or permit the employment of any minor for more hours per day or per week than the maximum fixed by law or at times or under conditions prohibited by law.

Section 17. ORS 653.505 is amended to read:

653.505. (1) The Wage and Hour Commission is established and shall be composed of three commissioners who shall be appointed by the Governor for the term of four years and until their successors are appointed and qualified. *In selection of the members of the commission, the Governor shall give due consideration to the interests of labor, industry and the public. Not more than two of the members of said commission shall belong to the same political party.*

(2) Upon the expiration of the term of any commissioner, the Governor shall appoint a successor.

(3) The Governor shall fill any vacancy on the commission by appointment for the unexpired portion of the term in which the vacancy occurs.

Section 18. This Act takes effect on February 1, 1968.

Chapter _____, Oregon Laws 1967

ENROLLED

House Bill 1340

Passed by House April 5, 1967

Repassed by House May 29, 1967

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate May 11, 1967

~~Repassed by Senate~~

.....
President of Senate

Received by Executive Department:

..... M.,, 1967.

Approved: _____, 1967.

.....
Governor

Filed in Office of Secretary of State:

..... M.,, 1967.

.....
Secretary of State

82
HB

ENGROSSED ENROLLED
ENROLLED **House Bill 1340**

SPONSORED BY Representatives Skelton, Packwood, Turner

CHAPTER.....

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.

Establishes a state minimum wage of \$1.25 per hour, applying to workmen employed in the State of Oregon; exempts certain classes of employes; gives Wage and Hour Commission rule-making power regarding certain classes of employes. Provides penalties.

NOTE: Matter underscored in an amended section is new; matter [bracketed] is existing law to be omitted; complete new sections begin with **SECTION**.

16100765

~~A BILL FOR~~
AN ACT

1 Relating to wages and hours of work; creating new provisions;
2 amending ORS 653.305 and 653.505; repealing ORS 653.005,
3 653.105, 653.110, 653.115, 653.120, 653.125, 653.205,
4 653.210, 653.215, 653.220, 653.225, 653.230, 653.235,
5 653.240, 653.245, 653.250, 653.255, 653.260, ~~653.265,~~
6 653.270 and 653.275; providing penalties; and pre-
7 scribing an effective date.

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

9 SECTION 1. It is declared to be the policy of the State
10 of Oregon to establish minimum wage standards for workers at
11 levels consistent with their health, efficiency, and general
12 well-being.

13 SECTION 2. As used in this Act unless the context
14 requires otherwise:

15 (1) "Commission" means the Wage and Hour Commission.

16 (2) "Employ" includes to suffer or permit to work;

17 however, "employ" does not include permitting voluntary
18 service without compensation to a religious or charitable
19 nonprofit institution.

20 (3) "Employer" means any person who ~~contracts for and~~
21 ~~secures the right to direct and control the services of any~~
22 ~~employee, and includes any person acting in the interest~~ *employee another person.*

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~~1 directly or indirectly, of an employer in relation to an
2 employe.~~

3 (4) "Labor Commissioner" means the Commissioner of the
4 Bureau of Labor.

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

6 (6) "Occupation" means any occupation, service, trade,
7 business, industry, or branch or group of industries or
8 employment or class of employment in which employes are
9 gainfully employed.

10 (7) "Outside Salesman" means ~~an independent contractor
11 operating in interstate commerce or an independent contractor
12 not in interstate commerce but who is paid entirely on a~~

Insert
(1)

~~13 commission basis.~~ ⁽¹⁾ any employe who is employed

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

20 authorized attendance.

X 21 SECTION 3. This Act does not apply to any of the follow-
22 ing employes:

23 (1) An individual employed in agricultural labor as
24 *and paid by the amount of work produced or services rendered*
defined in ORS 657.045.

25 (2) An individual employed in domestic service in or
26 about a family home.

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4 Bureau of Labor.

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7 business, industry, or branch or group of industries or
8 employment or class of employment in which employes are
9 gainfully employed.

10 (7) "Outside Salesman" means ~~an independent contractor
11 operating in interstate commerce or an independent contractor
12 not in interstate commerce but who is paid entirely on a
13 commission basis.~~ ^①

14 (8) "Wages" means compensation due to an employe by
15 reason of his employment, payable in legal tender of the
16 United States or check on banks convertible into cash on de-
17 mand at full face value, subject to such deductions, charges
18 or allowances as are permitted in section 7 of this Act.

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

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2 or professional work who:

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4 creative tasks;

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8 this state, or a political subdivision or quasi-municipal
9 corporation thereof.

10 (5) An individual who is employed by an institution
11 whose function is primarily education, and in which he is
12 an enrolled student.

13 (6) An individual engaged in the capacity of an outside
14 salesman or taxicab operator.

15 (7) An individual employed by any carrier subject to
16 regulation by the Interstate Commerce Commission Act.

17 (8) Any person subject to regulation under the Federal
18 Fair Labor Standards Act.

19 (9) An individual employed to work in his own home.

20 (10) An individual domiciled at a place of employment
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22 duties.

23 (11) An individual paid for specified hours of employ-
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25 to duty.

John
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27 commission issued under section 6 of this Act, no employer

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4 employed.

5 **SECTION 5.** (1) The commission may issue rules prescrib-
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7 wage rates lower than the minimum wage rate required by
8 section 4 of this Act, when the commission has determined
9 that the application of section 4 of this Act would substan-
10 tially curtail opportunities for employment for specific
11 types of persons. The types of persons for whom a minimum
12 wage rate may be set include, but are not limited to, per-
13 sons who are mentally or physically handicapped, or persons
14 who have exceeded 65 years of age.

15 (2) The commission may issue rules prescribing such
16 minimum conditions of employment for women, excluding mini-
17 mum wages, in any occupation as may be necessary for the
18 preservation of the health of women employes. Such rules
19 may include, but are not limited to, minimum meal periods
20 and rest periods, and maximum hours of work, but not less
21 than eight hours per day or 40 hours per week, after which
22 overtime may be paid but in no case at a rate higher than
23 one and one-half times the rate specified in section 4 of
24 of this Act. Minimum conditions of employment for women,
25 excluding minimum wages prescribed under orders of the
26 commission, except that overtime pay shall, in any such

1 order, not be at a rate higher than one and one-half times
 2 the rate specified in section 4 of this Act, issued prior
 3 to the effective date of this Act shall remain in effect
 4 until ⁽²⁾ provided by the commission under this section.

*(2) Insert
 wh*

5
 6 to b ⁽²⁾ (3) Nothing contained in this Act shall be construed
 7 the to confer authority upon the commission to regulate the hours of
 8 or f. employment of women engaged in harvesting, packing, curing,
 9 of canning, freezing or drying any variety of perishable fruit,
 10 vegetables or fish. *ne*

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 12 pay period in which the combined wage and commission earnings
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 17 Act.

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 24 and such other information pertaining to his employes or their
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25 employment as the commission considers necessary to carry out
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1 (3) Make such rules as it considers appropriate to
 2 carry out the purposes of this Act, or necessary to prevent
 3 the circumvention or evasion of this Act and to safeguard
 4 the minimum wage rates set under this Act.

5 SECTION 9. (1) Every employer required by section 4
 6 of this Act or by any rule, order or permit issued under
 7 section 6 of this Act to pay a minimum wage to any of his
 8 employes shall make and keep available to the commission
 9 for not less than two years, a record or records containing:

10 (a) The name, address and occupation of each of his
 11 employes.

12 (b) The actual hours worked each week and each pay
 13 period by each employe.

14 (c) Such other information as the commission pre-
 15 scribes by its rules if necessary or appropriate for the
 16 enforcement of this Act or of the rules, orders, and
 17 licenses issued thereunder.

18 (2) Each employer shall keep the records required by
 19 subsection (1) of this section open for inspection or tran-
 20 scription by the commission at any reasonable time.

③
 insert
 11

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 2 ments of amounts and purposes of deductions in the manner provided is
 3 in ORS 652.610. the
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 26 a conspicuous and accessible place in or about the premises

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5 than the wages to which the employe is entitled under this
6 Act is liable to the employe affected:

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8 actually paid to the employe by the employer; and

9 (b) For costs and such reasonable attorney fees as
10 are allowed by the court.

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11 (2) Any agreement between an employe and an employer
12 to work at less than the wage rate required by this Act is
13 no defense to an action under subsection (1) of this section.

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15 duties in connection with a wage claim based on this Act
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19 (1) Because the employe has made complaint that he
20 has not been paid wages in accordance with this Act.

21 (2) Because the employe has caused to be instituted
22 or is about to cause to be instituted any proceedings under
23 or related to this Act.

24 (3) Because the employe has testified or is about to
25 testify in any such proceeding.

26 SECTION 13. (1) All proceedings under this Act shall
27 be conducted in compliance with ORS 183.310 to 183.510.

1 (2) All rules of the commission under this Act shall be
2 issued in compliance with ORS 183.310 to 183.510.

3 SECTION 14. (1) Violation of section 4 of this Act is
4 punishable, upon conviction, by imprisonment in the county
5 jail for not less than 10 days nor more than 30 days, or by a
6 fine of not less than \$25 nor more than \$100, or both.

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8 this Act or any rule, order or license issued under this Act
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11 SECTION 15. ORS 653.005, 653.105, 653.110, 653.115,
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14 ~~653.265~~, 653.270 and 653.275 are repealed.

15 Section 16. ORS 653.305 is amended to read:

16 653.305. (1) The commission may at any time inquire
17 into wages or hours or conditions of labor of minors employed
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19 but not to exceed the rate provided in section 4 of this 1967
20 Act, and hours and conditions of labor for such minors.

21 (2) When the commission has made such determination, it
22 may issue an obligatory order [in the manner provided for in
23 ORS 653.220] in compliance with ORS 183.310 to 183.510.

24 (3) After such order is effective, no employer in the
25 occupation affected shall employ a minor at less wages or for
26 more hours or under different conditions of labor than are

1 specified or required by the order; but no such order nor
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13 labor, industry and the public. Not more than two of the
14 members of said commission shall belong to the same polit-
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16 (2) Upon the expiration of the term of any commis-
17 sioner, the Governor shall appoint a successor.

18 (3) The Governor shall fill any vacancy on the com-
19 mission by appointment for the unexpired portion of the
20 term in which the vacancy occurs.

21 SECTION 18. This Act takes effect on February 1, 1968.

HOUSE COMMITTEE REPORT

Salem, Oregon, ^{Apr. 6. 8.} ~~March 30~~, 19 67

Mr. Speaker:

Your Committee on Labor and Management to whom was referred HB 1340, having had the same under consideration, respectfully report it back with the recommendation that it:

- Do pass. Do pass with the following amendments:
- (Referred to Ways and Means by prior reference)
-

On page 2 of the printed bill, line ⁵4, delete "653,265,".

On page 2, line 20, after "who" delete the rest of the line and lines 21 and 22 and insert "employs another person,".

On page 3, delete lines 1 and 2.

On page 3, line 10, after "means" delete the rest of the line and lines 11 through 13 and insert "any employe who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business in making sales, or obtaining orders, or obtaining contracts for services and whose hours of work of any other nature for the employer do not exceed 30 percent of the hours worked in the workweek by the nonexempt employes of the employer.".

On page 3, line 24, after "657.045" insert "and paid by the amount of work produced or services rendered".

On page 6, after line 4, insert:

"(3) Nothing contained in this 1967 Act shall be construed to confer authority upon the commission to regulate the hours of employment of women engaged in harvesting, packing, curing, canning, freezing or drying any variety of perishable fruit,

2 copies if no amendments
Submit: 4 copies if amendments
5 copies if to be printed engrossed

Retain: 1 copy for committee files


Joe Rogers

Chairman

Rep. Crethers will lead floor discussion on this measure.

vegetables or fish."

On page 7, after line 20, insert:

"(3) Every employer of one or more employees covered by this 1967 Act shall supply each of his employees ^{with 9/81} itemized statements of amounts and purposes of deductions in the manner provided in ORS 652.610."

On page 8, after line 10, insert:

"(c) ^{for} Civil penalties provided in ORS 652.150."

On page 9, line 14, delete "653.265,".

~~4-1-67~~

SENATE COMMITTEE REPORT

Salem, Oregon, May 8, 1967

Mr. President:

Your Committee on Labor and Industries to whom was referred HB 1340,

having had the same under consideration, respectfully report it back with the recommendation that it:

Do pass.

Do pass with the following amendments:

On page 4 of the printed bill, line 27, delete "6" and insert "5".

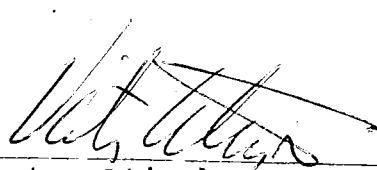
On page 5, line 5, delete "may" and insert "shall".

On page 6, line 6, delete "section 6" and insert "5".

On page 7, line 7, delete "6" and insert "5".

In line 23, delete "6" and insert "5".

Submit 2 copies if no amendments
4 copies if amendments
5 copies if to be printed engrossed
Retain 1 copy for committee files


Victor Atiyeh Chairman

Sen. Atiyeh will lead floor discussion on this measure.

PREVIOUS AMENDMENTS
By House, April 3, 1967
By Senate, May 9, 1967

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1340

May 25, 1967

1 Mr. Speaker:

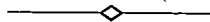
2 Your Conference Committee to whom was referred House
3 Bill 1340, having had the same under consideration, respect-
4 fully report it back with the recommendation that the House
5 concur in the Senate amendments dated May 9, and repass the
6 bill.

7 /s/ Keith D. Skelton
Representative

8 /s/ M. K. Crothers
Representative

9 /s/ Berkeley Lent
Senator

10 /s/ Victor Atiyeh
Senator



Enrolled

PREVIOUS AMENDMENTS
By House, April 3, 1967

SENATE AMENDMENTS TO HOUSE BILL 1340
By Committee on Labor and Industries

May 9, 1967

*Conf. Amend.
House amendments
5-25*

1 On page 4 of the printed bill, line 27, delete "6"
2 and insert "5".

3 On page 5, line 5, delete "may" and insert "shall".

4 On page 6, line 6, delete "section 6" and insert "5".

5 On page 7, line 7, delete "6" and insert "5".

6 In line 23, delete "6" and insert "5".



HOUSE AMENDMENTS TO HOUSE BILL 1340
By Committee on Labor and Management

April 3, 1967

1 On page 2 of the printed bill, line 5, delete "653.265,".

2 On page 2, line 20, after "who" delete the rest of the line
3 and lines 21 and 22 and insert "employs another person".

4 On page 3, delete lines 1 and 2.

5 On page 3, line 10, after "means" delete the rest of the line
6 and lines 11 through 13 and insert "any employe who is employed
7 for the purpose of and who is customarily and regularly engaged
8 away from his employer's place or places of business in making
9 sales, or obtaining orders, or obtaining contracts for services
10 and whose hours of work of any other nature for the employer do
11 not exceed 30 percent of the hours worked in the workweek by
12 the nonexempt employes of the employer."

13 On page 3, line 24, after "657.045" insert "and paid by the
14 amount of work produced or services rendered".

15 On page 6, after line 4, insert:

16 "(3) Nothing contained in this Act shall be construed
17 to confer authority upon the commission to regulate the hours of
18 employment of women engaged in harvesting, packing, curing,
19 canning, freezing or drying any variety of perishable fruit,
20 vegetables or fish."

21 On page 7, after line 20, insert:

22 "(3) Every employer of one or more employes covered by

30694-165

1 this Act shall supply each of his employes with itemized state-
2 ments of amounts and purposes of deductions in the manner provided
3 in ORS 652.610."

4 On page 8, after line 10, insert:

5 "(c) For civil penalties provided in ORS 652.150."

6 On page 9, line 14, delete "653.265,".

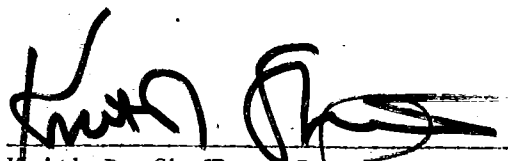


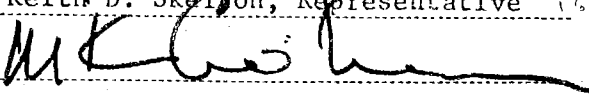
CONFERENCE COMMITTEE REPORT

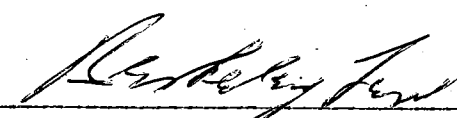
Salem, Oregon, May 23....., 1967..


Mr. ~~President~~ or Speaker:

Your Conference Committee to whom was referred ~~HOUSE BILL~~ 1340....., having had the same under consideration, respectfully report it back with the recommendation that the House ^{concur in (USA)} ~~adopt~~ the Senate amendments dated May 9, ~~1967~~ ^(USA) and repass the Bill.


 Keith D. Skelton, Representative


 Morris Crothers, Representative


 Berkeley Lent, Senator


 Victor Atiyeh, Senator

House Bill 1340

SPONSORED BY Representatives Skelton, Packwood, Turner

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**.

Establishes a state minimum wage of \$1.25 per hour, applying to workmen employed in the State of Oregon; exempts certain classes of employes; gives Wage and Hour Commission rule-making power regarding certain classes of employes. Provides penalties.

NOTE: Matter underscored in an amended section is new; matter [bracketed] is existing law to be omitted; complete new sections begin with **SECTION**.

A BILL FOR
AN ACT

1 Relating to wages and hours of work; creating new provisions;
2 amending ORS 653.305 and 653.505; repealing ORS 653.005,
3 653.105, 653.110, 653.115, 653.120, 653.125, 653.205,
4 653.210, 653.215, 653.220, 653.225, 653.230, 653.235,
5 653.240, 653.245, 653.250, 653.255, 653.260, 653.265,
6 653.270 and 653.275; providing penalties; and pre-
7 scribing an effective date.

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

9 **SECTION 1.** It is declared to be the policy of the State
10 of Oregon to establish minimum wage standards for workers at
11 levels consistent with their health, efficiency, and general
12 well-being.

13 **SECTION 2.** As used in this Act unless the context
14 requires otherwise:

15 (1) "Commission" means the Wage and Hour Commission.

16 (2) "Employ" includes to suffer or permit to work;
17 however, "employ" does not include permitting voluntary
18 service without compensation to a religious or charitable
19 nonprofit institution.

20 (3) "Employer" means any person who contracts for and
21 secures the right to direct and control the services of an
22 employe, and includes any person acting in the interest,

1 directly or indirectly, of an employer in relation to an
2 employe.

3 (4) "Labor Commissioner" means the Commissioner of the
4 Bureau of Labor.

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

6 (6) "Occupation" means any occupation, service, trade,
7 business, industry, or branch or group of industries or
8 employment or class of employment in which employes are
9 gainfully employed.

10 (7) "Outside Salesman" means an independent contractor
11 operating in interstate commerce or an independent contractor
12 not in interstate commerce but who is paid entirely on a
13 commission basis.

14 (8) "Wages" means compensation due to an employe by
15 reason of his employment, payable in legal tender of the
16 United States or check on banks convertible into cash on de-
17 mand at full face value, subject to such deductions, charges
18 or allowances as are permitted in section 7 of this Act.

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

21 SECTION 3. This Act does not apply to any of the follow-
22 ing employes:

23 (1) An individual employed in agricultural labor as
24 defined in ORS 657.045.

25 (2) An individual employed in domestic service in or
26 about a family home.

1 (3) An individual engaged in administrative, executive,
2 or professional work who:

3 (a) Performs predominantly intellectual, managerial, or
4 creative tasks;

5 (b) Exercises discretion and independent judgment; and

6 (c) Earns more than \$350 a month from this work.

7 (4) An individual employed by the United States, or
8 this state, or a political subdivision or quasi-municipal
9 corporation thereof.

10 (5) An individual who is employed by an institution
11 whose function is primarily education, and in which he is
12 an enrolled student.

13 (6) An individual engaged in the capacity of an outside
14 salesman or taxicab operator.

15 (7) An individual employed by any carrier subject to
16 regulation by the Interstate Commerce Commission Act.

17 (8) Any person subject to regulation under the Federal
18 Fair Labor Standards Act.

19 (9) An individual employed to work in his own home.

20 (10) An individual domiciled at a place of employment
21 for purpose of being available for emergency or occasional
22 duties.

23 (11) An individual paid for specified hours of employ-
24 ment, the only purpose of which is to be available for recall
25 to duty.

26 SECTION 4. (1) Except as provided by the rules of the
27 commission issued under section 6 of this Act, no employer

1 shall employ or agree to employ any employe 18 years of age
2 or older at wages computed at a rate lower than \$1.25 an hour
3 for each hour of work time that the employe is gainfully
4 employed.

5 SECTION 5. (1) The commission may issue rules prescrib-
6 ing the employment of other types of persons at fixed minimum
7 wage rates lower than the minimum wage rate required by
8 section 4 of this Act, when the commission has determined
9 that the application of section 4 of this Act would substan-
10 tially curtail opportunities for employment for specific
11 types of persons. The types of persons for whom a minimum
12 wage rate may be set include, but are not limited to, per-
13 sons who are mentally or physically handicapped, or persons
14 who have exceeded 65 years of age.

15 (2) The commission may issue rules prescribing such
16 minimum conditions of employment for women, excluding mini-
17 mum wages, in any occupation as may be necessary for the
18 preservation of the health of women employes. Such rules
19 may include, but are not limited to, minimum meal periods
20 and rest periods, and maximum hours of work, but not less
21 than eight hours per day or 40 hours per week, after which
22 overtime may be paid but in no case at a rate higher than
23 one and one-half times the rate specified in section 4 of
24 of this Act. Minimum conditions of employment for women,
25 excluding minimum wages prescribed under orders of the
26 commission, except that overtime pay shall, in any such

1 order, not be at a rate higher than one and one-half times
2 the rate specified in section 4 of this Act, issued prior
3 to the effective date of this Act shall remain in effect
4 until amended by the commission under this section.

5 **SECTION 6.** Employers may deduct from the minimum wage
6 to be paid employes under section 4 or section 6 of this Act
7 the fair market value of lodging, meals, or other facilities
8 or services furnished by the employer for the private benefit
9 of the employe.

10 **SECTION 7.** Employers may include commission payments
11 to employes as part of the applicable minimum wage for any
12 pay period in which the combined wage and commission earnings
13 of the employe will comply with this Act. In any pay period
14 where the combined wage and commission payments to the employe
15 do not add up to the applicable minimum wage under this Act,
16 the employer shall pay the minimum rate as prescribed in this
17 Act.

18 **SECTION 8.** The commission, in addition to its other
19 powers, may:

20 (1) Investigate and ascertain the wages of persons em-
21 ployed in any occupation or place of employment in the state.

22 (2) Require from an employer statements, including sworn
23 statements, with respect to wages, hours, names, and addresses
24 and such other information pertaining to his employes or their
25 employment as the commission considers necessary to carry out
26 this Act.

1 (3) Make such rules as it considers appropriate to
2 carry out the purposes of this Act, or necessary to prevent
3 the circumvention or evasion of this Act and to safeguard
4 the minimum wage rates set under this Act.

5 **SECTION 9.** (1) Every employer required by section 4
6 of this Act or by any rule, order or permit issued under
7 section 6 of this Act to pay a minimum wage to any of his
8 employes shall make and keep available to the commission
9 for not less than two years, a record or records containing:

10 (a) The name, address and occupation of each of his
11 employes.

12 (b) The actual hours worked each week and each pay
13 period by each employe.

14 (c) Such other information as the commission pre-
15 scribes by its rules if necessary or appropriate for the
16 enforcement of this Act or of the rules, orders, and
17 licenses issued thereunder.

18 (2) Each employer shall keep the records required by
19 subsection (1) of this section open for inspection or tran-
20 scription by the commission at any reasonable time.

21 **SECTION 10.** Every employer required by section 4 of
22 this Act or by any rules, orders or permit issued under
23 section 6 of this Act to pay a minimum wage to any of his
24 employes shall keep a summary of this Act, approved by the
25 commission, and copies of the applicable rules, posted in
26 a conspicuous and accessible place in or about the premises

1 where such employes are employed. Employers shall be fur-
2 nished copies of these summaries and rules by the commission
3 without charge.

4 **SECTION 11.** (1) Any employer who pays an employe less
5 than the wages to which the employe is entitled under this
6 Act is liable to the employe affected:

7 (a) For the full amount of the wages, less any amount
8 actually paid to the employe by the employer; and

9 (b) For costs and such reasonable attorney fees as
10 are allowed by the court.

11 (2) Any agreement between an employe and an employer
12 to work at less than the wage rate required by this Act is
13 no defense to an action under subsection (1) of this section.

14 (3) The Labor Commissioner has the same powers and
15 duties in connection with a wage claim based on this Act
16 as he has under ORS 652.310 to 652.445.

17 **SECTION 12.** No employer shall discharge or in any
18 other manner discriminate against any employe:

19 (1) Because the employe has made complaint that he
20 has not been paid wages in accordance with this Act.

21 (2) Because the employe has caused to be instituted
22 or is about to cause to be instituted any proceedings under
23 or related to this Act.

24 (3) Because the employe has testified or is about to
25 testify in any such proceeding.

26 **SECTION 13.** (1) All proceedings under this Act shall
27 be conducted in compliance with ORS 183.310 to 183.510.

1 (2) All rules of the commission under this Act shall be
2 issued in compliance with ORS 183.310 to 183.510.

3 SECTION 14. (1) Violation of section 4 of this Act is
4 punishable, upon conviction, by imprisonment in the county
5 jail for not less than 10 days nor more than 30 days, or by a
6 fine of not less than \$25 nor more than \$100, or both.

7 (2) Violation by an employer of any other provision of
8 this Act or any rule, order or license issued under this Act
9 is punishable, upon conviction, by a fine of not less than
10 \$25 nor more than \$100.

11 SECTION 15. ORS 653.005, 653.105, 653.110, 653.115,
12 653.120, 653.125, 653.205, 653.210, 653.215, 653.220, 653.225,
13 653.230, 653.235, 653.240, 653.245, 653.250, 653.255, 653.260,
14 653.265, 653.270 and 653.275 are repealed.

15 Section 16. ORS 653.305 is amended to read:

16 653.305. (1) The commission may at any time inquire
17 into wages or hours or conditions of labor of minors employed
18 in any occupation in this state and determine suitable wages,
19 but not to exceed the rate provided in section 4 of this 1967
20 Act, and hours and conditions of labor for such minors.

21 (2) When the commission has made such determination, it
22 may issue an obligatory order [in the manner provided for in
23 ORS 653.220] in compliance with ORS 183.310 to 183.510.

24 (3) After such order is effective, no employer in the
25 occupation affected shall employ a minor at less wages or for
26 more hours or under different conditions of labor than are

1 specified or required by the order; but no such order nor
2 the commission shall authorize or permit the employment of
3 any minor for more hours per day or per week than the max-
4 imum fixed by law or at times or under conditions prohibited
5 by law.

6 Section 17. ORS 653.505 is amended to read:

7 653.505. (1) The Wage and Hour Commission is estab-
8 lished and shall be composed of three commissioners who
9 shall be appointed by the Governor for the term of four
10 years and until their successors are appointed and quali-
11 fied. In selection of the members of the commission, the
12 Governor shall give due consideration to the interests of
13 labor, industry and the public. Not more than two of the
14 members of said commission shall belong to the same polit-
15 ical party.

16 (2) Upon the expiration of the term of any commis-
17 sioner, the Governor shall appoint a successor.

18 (3) The Governor shall fill any vacancy on the com-
19 mission by appointment for the unexpired portion of the
20 term in which the vacancy occurs.

21 SECTION 18. This Act takes effect on February 1, 1968.



A BILL FOR

AN ACT

Relating to wages and hours of work; creating new provisions; amending ORS 653.305^{✓"} and 653.505^{✓"}; repealing 653.005^{✓"}, 653.105^{✓"}, 653.110^{✓"}, 653.115^{✓"}, 653.120^{✓"}, 653.125^{✓"}, 653.205^{✓"}, 653.210^{✓"}, 653.215^{✓"}, 653.220^{✓"}, 653.225^{✓"}, 653.230^{✓"}, 653.235^{✓"}, 653.240^{✓"}, 653.245^{✓"}, 653.250^{✓"}, 653.255^{✓"}, 653.260^{✓"}, 653.265^{✓"}, 653.270^{✓"} and 653.275^{✓"}; providing penalties; and prescribing an effective date.

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

Section 1. It is declared to be the policy of the State of Oregon to establish minimum wage standards for workers at levels consistent with their health, efficiency, and general well-being.

Section 2. As used in this Act unless the context requires otherwise:

- (1) "Commission" means the Wage and Hour Commission.
- (2) "Employ" includes to suffer or permit to work; however, "employ" does not include permitting voluntary service without compensation to a religious or charitable nonprofit institution.
- (3) "Employer" means any person who contracts for and secures the right to direct and control the services of an employe, and includes any person acting in the interest,

directly or indirectly, of an employer in relation to an employe.

(4) "Labor Commissioner" means the Commissioner of the Bureau of Labor.

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

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employes are ~~gainfully employed.~~

(7) "Outside Salesman" means an independent contractor operating in interstate commerce or an independent contractor not in interstate commerce but who is paid entirely on a commission basis.

(8) "Wages" means compensation due to an employe by reason of his employment, payable in legal tender of the United States or check on banks convertible into cash on demand at full face value, subject to such deductions, charges or allowances as are permitted in section 7 of this Act.

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

Section 3. This Act does not apply to any of the following employes:

(1) An individual employed in agricultural labor as defined in ORS 657.045.

(2) An individual employed in domestic service in or about a family home.

directly or indirectly, of an employer in relation to an employe.

(4) "Labor Commissioner" means the Commissioner of the Bureau of Labor.

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

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employes are gainfully employed.

(7) "Outside Salesman"

(8) "Wages" means compensation due to an employe by reason of his employment, payable in legal tender of the United States or check on banks convertible into cash on demand at full face value, subject to such deductions, charges or allowances as are permitted in section 7 of this Act.

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

Section 3. This Act does not apply to any of the following employes:

(1) An individual employed in agricultural labor as defined in ORS 657.045.

(2) An individual employed in domestic service in or about a family home.

(3) An individual engaged in administrative, executive, or professional work who:

(a) Performs predominantly intellectual, managerial, or creative tasks;

(b) Exercises discretion and independent judgment; and

(c) Earns more than \$350 a month from this work.

(4) An individual employed by the United States, or this state, or a political subdivision or quasi-municipal corporation thereof.

(5) An individual who is employed by an institution whose function is primarily education, and in which he is an enrolled student.

(6) An individual engaged in the capacity of an outside salesman or taxicab operator.

(7) An individual employed by any carrier subject to regulation by the ICC Act.

(8) Any person ^{OK. 1 < P S} subject to regulation under the Federal Fair Labor Standards Act.

(9) An individual employed to work in his own home.

(10) An individual domiciled at a place of employment for purpose of being available for emergency or occasional duties.

(11) An individual paid for specified hours of employment, the only purpose of which is to be available for recall to duty.

Section 4. (1) Except as provided by the rules of the commission issued under section 6 of this Act, no employer

shall employ or agree to employ any employe 18 years of age or older at wages computed at a rate lower than \$1.25 an hour for each hour of work time that the employe is gainfully employed.

f Section 5. (1) The commission may issue rules prescribing the employment of other types of persons at fixed minimum wage rates lower than the minimum wage rate required by section 4 of this Act, when the commission has determined that the application of Section 4 of this Act would substantially curtail opportunities for employment for specific types of persons. The types of persons for whom a minimum wage rate may be set include, but are not limited to, persons who are mentally or physically handicapped, or persons who have exceeded 65 years of age.

(2) The Commission may issue rules prescribing such minimum conditions of employment for women, excluding minimum wages, in any occupation as may be necessary for the preservation of the health of women employes. Such rules may include, but are not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less than eight hours per day or 40 hours per week, after which overtime may be paid but in no case at a rate higher than one and one-half times the rate specified in ^{Section "} ~~December~~ 4 of this 1967 Act. Minimum conditions of employment for women, excluding minimum wages prescribed under orders of the commission, except that overtime pay shall, in any such order, not be at a rate higher

section

than one and one-half times the rate specified in section 4ⁿ of the 1967^{this} Act, issued prior to the effective date of this Act shall remain in effect until amended by the commission under this section.

Section 6. Employers may deduct from the minimum wage to be paid employes under section 4ⁿ or section 6ⁿ of this Act the fair market value of lodging, meals, or other facilities or services furnished by the employer for the private benefit of the employe.

Section 7. Employers may include commission payments to employes as part of the applicable minimum wage for any pay period in which the combined wage and commission earnings of the employe will comply with this Act. In any pay period where the combined wage and commission payments to the employe do not add up to the applicable minimum wage under this Act, the employer shall pay the minimum rate as prescribed in this Act.

Section 8. The commission, in addition to its other powers, may:

(1) Investigate and ascertain the wages of persons employed in any occupation or place of employment in the state.

(2) Require from an employer statements, including sworn statements, with respect to wages, hours, names, and addresses and such other information pertaining to his employes or their employment as the commission considers necessary to carry out this Act.

(3) Make such rules as it considers appropriate to carry out the purposes of this Act, or necessary to prevent the circumvention or evasion of this Act and to safeguard the minimum wage rates set under this Act.

Section 9. (1) Every employer required by section 4 of this Act or by any rule, order or permit issued under section 6 of this Act to pay a minimum wage to any of his employees shall make and keep available to the commission for not less than two years, a record or records containing:

(a) The name, address and occupation of each of his employees.

(b) The actual hours worked each week and each pay period by each employe.

(c) Such other information as the commission prescribes by its rules if necessary or appropriate for the enforcement of this Act or of the rules, orders, and licenses issued thereunder.

(2) Each employer shall keep the records required by subsection (1) of this section open for inspection or transcription by the commission at any reasonable time.

hf Section 10. Every employer required by section 4 of this Act or by any rules, orders or permit issued under section 6 of this Act to pay a minimum wage to any of his employees shall keep a summary of this Act, approved by the commission, and copies of the applicable rules, posted in a conspicuous and accessible place in or about the premises where such employes

are employed. Employers shall be furnished copies of these summaries and rules by the commission without charge.

4/ Section 11. (1) Any employer who pays an employe less than the wages to which the employe is entitled under this Act is liable to the employe affected:

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

(b) For costs and such reasonable attorney's fees as are allowed by the court. *KDS*

(2) Any agreement between an employe and an employer to work at less than the wage rate required by ^{this} the Act is no defense to an action under subsection (1) of this section. *KDS* *this*

(3)? (3) The Labor Commissioner has the same powers and duties in connection with a wage claim based on this Act as he has under ORS 652.310 to 652.445. *KDS*

4/ Section 12. No employer shall discharge or in any other manner discriminate against any employe:

(1) Because the employe has made complaint that he has not been paid wages in accordance with this Act.

(2) Because the employe has caused to be instituted or is about to cause to be instituted any proceedings under or related to this Act.

(3) Because the employe has testified or is about to testify in any such proceeding.

4/ Section 13. (1) All proceedings under this Act shall be conducted in compliance with ORS 183.310 to 183.510. *KDS*

(2) All rules of the commission under this Act shall be issued in compliance with ORS 183.310 to 183.510.

Section 14. (1) Violation of section 4 of this Act is punishable, upon conviction, by imprisonment in the county jail for not less than 10 days nor more than 30 days, or by a fine of not less than \$25 nor more than \$100, or both.

(2) Violation by an employer of any other provision of this Act or any rule, order or license issued under this Act is punishable, upon conviction, by a fine of not less than \$25 nor more than \$100.

Section 15. ORS 653.005, 653.105, 653.110, 653.115, 653.120, 653.125, 653.205, 653.210, 653.215, 653.220, 653.225, 653.230, 653.235, 653.240, 653.245, 653.250, 653.255, 653.260, 653.265, 653.270 and 653.275 are repealed.

Section 16. ORS 653.305 is amended to read:

653.305. (1) The commission may at any time inquire into wages or hours or conditions of labor of minors employed in any occupation in this state and determine suitable wages, but not to exceed the rate provided in Section 4 of this 1967 Act, and hours and conditions of labor for such minors.

(2) When the commission has made such determination, it may issue an obligatory order [in the manner provided for in ORS 653.220] in compliance with ORS 183.310 to 183.510.

(3) After such order is effective, no employer in the occupation affected shall employ a minor at less wages or for more hours or under different conditions of labor than are

specified or required by the order; but no such order nor the commission shall authorize or permit the employment of any minor for more hours per day or per week than the maximum fixed by law or at times or under conditions prohibited by law.

Section 17. ORS 653.505^v is amended to read:

653.505ⁿ (1) The Wage and Hour Commission is established and shall be composed of three commissioners who shall be appointed by the Governor for ^{the} a term of four years and until their successors are appointed and qualified. In selection of the members of the Commission, the Governor shall give due consideration to the interests of labor, industry and the public. Not more than two of the members of said commission shall belong to the same political party.

(2) Upon ^{the} expiration of the term of any commissioner, the Governor shall appoint a successor.

(3) The Governor shall fill any vacancy on the commission by appointment for the unexpired portion of the term in which the vacancy occurs.

Section 18. This Act takes effect on February 1, 1968.

HOUSE BILL BACK

RECEIVED
HOUSE DESK

(2)

▼ CROSS OUT INAPPLICABLE WORDS ▼

BILL)
~~RESOLUTION~~) NUMBER 1340 1967 FEB 8 AM 11 28
~~MEMORANDUM~~)

Title: Staple
 Relating to wages and hours of work; creating new provisions; amending ORS 653.305 and 653.505; repealing 653.005, 653.105, 653.110, 653.115, 653.120, 653.125, 653.205, 653.210, 653.215, 653.220, 653.225, 653.230, 653.235, 653.240, 653.245, 653.250, 653.255, 653.260, 653.265, 653.270 and 653.275; providing penalties; and prescribing an effective date.

Principal Sponsors: Representatives

Representatives Skelton, Packwood *T. ...*

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Staple

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