

A-Engrossed
Senate Bill 1560

Ordered by the Senate February 15
Including Senate Amendments dated February 15

Sponsored by Senators JAMA, PROZANSKI, DEMBROW, LAWRENCE SPENCE, MANNING JR, PATTERSON, TAYLOR, Representatives ALONSO LEON, CAMPOS, GRAYBER, REARDON, RUIZ, SCHOUTEN; Senators ANDERSON, ARMITAGE, FREDERICK, GELSER BLOUIN, GOLDEN, GORSEK, HANSELL, KENNEMER, LIEBER, SOLLMAN, STEINER HAYWARD, WAGNER, Representatives BYNUM, DEXTER, EVANS, FAHEY, HELM, HOY, HUDSON, KROPF, MARSH, MCLAIN, MEEK, NERON, NOSSE, PHAM, POWER, PRUSAK, REYNOLDS, SANCHEZ, VALDERRAMA, WILDE, WILLIAMS (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Updates statutory references to individual who is not citizen or national of United States to replace "alien" with "noncitizen."

Directs state agencies to use "noncitizen" in rules and regulations to reference individual who is not citizen or national of United States and to update rules and regulations that use "alien" to use "noncitizen." **Authorizes agencies to amend rule without prior notice or hearing for purpose of changing term or phrase in order to conform with change made by law.**

Makes nonsubstantive changes.

A BILL FOR AN ACT

1
2 Relating to noncitizens; creating new provisions; and amending ORS 12.200, 165.800, 166.291, 183.335,
3 238.015, 316.027, 316.567, 316.695, 408.010, 411.139, 497.006, 656.005, 656.232, 657.045, 657.184 and
4 658.440.

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

6 **SECTION 1. (1) As used in this section:**

7 (a) "Noncitizen" means an individual who is not a citizen or national of the United States.

8 (b) "State agency" means any state officer, board, commission, department, division, in-
9 stitution, branch or agency of the state government.

10 (2) A state agency shall use the term "noncitizen" to reference an individual who is not
11 a citizen or national of the United States when promulgating a rule or regulation that ref-
12 erences an individual who is not a citizen or national of the United States.

13 **SECTION 2. (1) As used in this section:**

14 (a) "Noncitizen" means an individual who is not a citizen or national of the United States.

15 (b) "State agency" means any state officer, board, commission, department, division, in-
16 stitution, branch or agency of the state government.

17 (2) A state agency shall amend any existing rule or regulation promulgated by the state
18 agency that uses the term "alien" to reference an individual who is not a citizen or national
19 of the United States to replace the term "alien" with "noncitizen" no later than six months
20 after the effective date of this 2022 Act.

21 **SECTION 3. ORS 12.200 is amended to read:**

22 12.200. When a person is [*an alien*] a **noncitizen and a** subject or citizen of a country at war

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 with the United States, the time of the continuance of the war shall not be a part of the period
2 limited for the commencement of the action.

3 **SECTION 4.** ORS 165.800 is amended to read:

4 165.800. (1) A person commits the crime of identity theft if the person, with the intent to deceive
5 or to defraud, obtains, possesses, transfers, creates, utters or converts to the person's own use the
6 personal identification of another person.

7 (2) Identity theft is a Class C felony.

8 (3) It is an affirmative defense to violating subsection (1) of this section that the person charged
9 with the offense:

10 (a) Was under 21 years of age at the time of committing the offense and the person used the
11 personal identification of another person solely for the purpose of purchasing alcohol, tobacco pro-
12 ducts as defined in ORS 431A.175 or inhalant delivery systems as defined in ORS 431A.175; or

13 (b) Used the personal identification of another person solely for the purpose of misrepresenting
14 the person's age to gain access to a:

15 (A) Place the access to which is restricted based on age; or

16 (B) Benefit based on age.

17 (4) As used in this section:

18 (a) "Another person" means an individual, whether living or deceased, an imaginary person or
19 a firm, association, organization, partnership, business trust, company, corporation, limited liability
20 company, professional corporation or other private or public entity.

21 (b) "Personal identification" includes, but is not limited to, any written document or electronic
22 data that does, or purports to, provide information concerning:

23 (A) A person's name, address or telephone number;

24 (B) A person's driving privileges;

25 (C) A person's Social Security number or tax identification number;

26 (D) A person's citizenship status or *alien* **an** identification number **assigned to a noncitizen**;

27 (E) A person's employment status, employer or place of employment;

28 (F) The identification number assigned to a person by a person's employer;

29 (G) The maiden name of a person or a person's mother;

30 (H) The identifying number of a person's depository account at a "financial institution" or "trust
31 company," as those terms are defined in ORS 706.008, or a credit card account;

32 (I) A person's signature or a copy of a person's signature;

33 (J) A person's electronic mail name, electronic mail signature, electronic mail address or elec-
34 tronic mail account;

35 (K) A person's photograph;

36 (L) A person's date of birth; and

37 (M) A person's personal identification number.

38 **SECTION 5.** ORS 166.291 is amended to read:

39 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
40 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
41 out in this section, shall issue the person a concealed handgun license if the person:

42 (a)(A) Is a citizen of the United States; or

43 (B) Is a legal resident *alien* **noncitizen** who can document continuous residency in the county
44 for at least six months and has declared in writing to the United States Citizenship and Immigration
45 Services the intent to acquire citizenship status and can present proof of the written declaration to

1 the sheriff at the time of application for the license;

2 (b) Is at least 21 years of age;

3 (c) Is a resident of the county;

4 (d) Has no outstanding warrants for arrest;

5 (e) Is not free on any form of pretrial release;

6 (f) Demonstrates competence with a handgun by any one of the following:

7 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
8 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
9 of the course;

10 (B) Completion of any National Rifle Association firearms safety or training course if handgun
11 safety was a component of the course;

12 (C) Completion of any firearms safety or training course or class available to the general public
13 offered by law enforcement, community college, or private or public institution or organization or
14 firearms training school utilizing instructors certified by the National Rifle Association or a law
15 enforcement agency if handgun safety was a component of the course;

16 (D) Completion of any law enforcement firearms safety or training course or class offered for
17 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
18 cers if handgun safety was a component of the course;

19 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
20 ized shooting competition or military service;

21 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
22 revoked; or

23 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
24 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
25 was a component of the course;

26 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
27 of a felony;

28 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
29 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor
30 conviction for the possession of marijuana as described in paragraph (L) of this subsection;

31 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

32 (j) Has not been found to be a person with mental illness and is not subject to an order under
33 ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of
34 that mental illness;

35 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
36 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
37 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
38 volving violence, as defined in ORS 166.470;

39 (L) Has not been convicted of an offense involving controlled substances or participated in a
40 court-supervised drug diversion program, except this disability does not operate to exclude a person
41 if:

42 (A) The person can demonstrate that the person has been convicted only once of a marijuana
43 possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of
44 the offense, and has not completed a drug diversion program for a marijuana possession offense that
45 constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or

1 (B) The person can demonstrate that the person has only once completed a drug diversion pro-
2 gram for a marijuana possession offense that constituted a misdemeanor or violation under the law
3 of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that
4 constituted a misdemeanor or violation under the law of the jurisdiction of the offense;

5 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
6 107.700 to 107.735 or 163.738;

7 (n) Has not received a dishonorable discharge from the Armed Forces of the United States;

8 (o) Is not required to register as a sex offender in any state; and

9 (p) Is not presently subject to an order under ORS 426.133 prohibiting the person from pur-
10 chasing or possessing a firearm.

11 (2) A person who has been granted relief under ORS 166.273, 166.274 or 166.293 or 18 U.S.C.
12 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of
13 other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

14 (3) Before the sheriff may issue a license:

15 (a) The application must state the applicant's legal name, current address and telephone number,
16 date and place of birth, hair and eye color and height and weight. The application must also list the
17 applicant's residence address or addresses for the previous three years. The application must contain
18 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
19 section. The application may include the Social Security number of the applicant if the applicant
20 voluntarily provides this number. The application must be signed by the applicant.

21 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
22 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
23 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
24 records check is necessary, the sheriff shall request the Department of State Police to conduct the
25 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
26 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
27 check and may not keep any record of the fingerprints. The Department of State Police shall report
28 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
29 Police shall also furnish the sheriff with any information about the applicant that the Department
30 of State Police may have in its possession including, but not limited to, manual or computerized
31 criminal offender information.

32 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
33 quest. The forms shall be uniform throughout this state in substantially the following form:

34 _____
35
36 APPLICATION FOR LICENSE TO CARRY
37 CONCEALED HANDGUN

38 Date _____

39 I hereby declare as follows:

40 I am a citizen of the United States or a legal resident [*alien*] **noncitizen** who can document
41 continuous residency in the county for at least six months and have declared in writing to the
42 United States Citizenship and Immigration Services my intention to become a citizen and can pres-
43 ent proof of the written declaration to the sheriff at the time of this application. I am at least 21
44 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four
45 years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having

1 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
2 volving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty,
3 except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not,
4 within the last four years, been convicted of a misdemeanor or found guilty, except for insanity
5 under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been
6 convicted of an offense involving controlled substances or completed a court-supervised drug diver-
7 sion program. There are no outstanding warrants for my arrest and I am not free on any form of
8 pretrial release. I have not been committed to the Oregon Health Authority under ORS 426.130, nor
9 have I been found to be a person with mental illness and presently subject to an order prohibiting
10 me from purchasing or possessing a firearm because of mental illness. I am not under a court order
11 to participate in assisted outpatient treatment that includes an order prohibiting me from purchasing
12 or possessing a firearm. If any of the previous conditions do apply to me, I have been granted relief
13 or wish to petition for relief from the disability under ORS 166.273, 166.274 or 166.293 or 18 U.S.C.
14 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735
15 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dis-
16 honorable discharge from the Armed Forces of the United States. I am not required to register as
17 a sex offender in any state. I understand I will be fingerprinted and photographed.

18

19 Legal name _____

20 Age _____ Date of birth _____

21 Place of birth _____

22 Social Security number _____

23 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
24 thorized under ORS 166.291. It will be used only as a means of identification.)

25

26 Proof of identification (Two pieces of current identification are required, one of which must bear a
27 photograph of the applicant. The type of identification and the number on the identification are to
28 be filled in by the sheriff.):

29 1. _____

30 2. _____

31

32 Height _____ Weight _____

33 Hair color _____ Eye color _____

34

35 Current address _____

36

(List residence addresses for the
past three years on the back.)

37

38

39 City _____ County _____ Zip _____

40 Phone _____

41

42 I have read the entire text of this application, and the statements therein are correct and true.
43 (Making false statements on this application is a misdemeanor.)

44

45

(Signature of Applicant)

1 Character references.

2 _____
3 Name: Address

4 _____
5 Name: Address

6
7 Approved _____ Disapproved _____ by _____

8
9 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

10 Date _____ Fee Paid _____

11 License No. _____

12 _____
13
14 (5)(a) Fees for concealed handgun licenses are:

15 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

16 (B) \$100 to the sheriff for the initial issuance of a concealed handgun license.

17 (C) \$75 to the sheriff for the renewal of a concealed handgun license.

18 (D) \$15 to the sheriff for the duplication of a license because of loss or change of address.

19 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
20 the concealed handgun license.

21 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
22 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
23 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
24 performance of duties under those sections.

25 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
26 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
27 is an applicant for a concealed handgun license or is a license holder.

28 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
29 for a resident of a contiguous state who has a compelling business interest or other legitimate
30 demonstrated need.

31 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
32 person:

33 (a) Has a current Oregon driver license issued to the person showing a residence address in the
34 county;

35 (b) Is registered to vote in the county and has a voter notification card issued to the person
36 under ORS 247.181 showing a residence address in the county;

37 (c) Has documentation showing that the person currently leases or owns real property in the
38 county; or

39 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
40 tax year showing a residence address in the county.

41 (10) As used in this section, "drug diversion program" means a program in which a defendant
42 charged with a marijuana possession offense completes a program under court supervision and in
43 which the marijuana possession offense is dismissed upon successful completion of the diversion
44 program.

45 **SECTION 6.** ORS 183.335 is amended to read:

1 183.335. (1) Prior to the adoption, amendment or repeal of any rule, the agency shall give notice
2 of its intended action:

3 (a) In the manner established by rule adopted by the agency under ORS 183.341 (4), which pro-
4 vides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

5 (b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;

6 (c) At least 28 days before the effective date, to persons who have requested notice pursuant to
7 subsection (8) of this section; and

8 (d) Delivered only by electronic mail, at least 49 days before the effective date, to the persons
9 specified in subsection (15) of this section.

10 (2)(a) The notice required by subsection (1) of this section must include:

11 (A) A caption of not more than 15 words that reasonably identifies the subject matter of the
12 agency's intended action. The agency shall include the caption on each separate notice, statement,
13 certificate or other similar document related to the intended action.

14 (B) An objective, simple and understandable statement summarizing the subject matter and
15 purpose of the intended action in sufficient detail to inform a person that the person's interests may
16 be affected, and the time, place and manner in which interested persons may present their views on
17 the intended action.

18 (b) The agency shall include with the notice of intended action given under subsection (1) of this
19 section:

20 (A) A citation of the statutory or other legal authority relied upon and bearing upon the
21 promulgation of the rule;

22 (B) A citation of the statute or other law the rule is intended to implement;

23 (C) A statement of the need for the rule and a statement of how the rule is intended to meet the
24 need;

25 (D) A list of the principal documents, reports or studies, if any, prepared by or relied upon by
26 the agency in considering the need for and in preparing the rule, and a statement of the location
27 at which those documents are available for public inspection. The list may be abbreviated if neces-
28 sary, and if so abbreviated there shall be identified the location of a complete list;

29 (E) A statement of fiscal impact identifying state agencies, units of local government and the
30 public that may be economically affected by the adoption, amendment or repeal of the rule and an
31 estimate of that economic impact on state agencies, units of local government and the public. In
32 considering the economic effect of the proposed action on the public, the agency shall utilize avail-
33 able information to project any significant economic effect of that action on businesses which shall
34 include a cost of compliance effect on small businesses affected. For an agency specified in ORS
35 183.530, the statement of fiscal impact shall also include a housing cost impact statement as de-
36 scribed in ORS 183.534;

37 (F) A statement identifying how adoption of the rule will affect racial equity in this state;

38 (G) If an advisory committee is not appointed under the provisions of ORS 183.333, an explana-
39 tion as to why no advisory committee was used to assist the agency in drafting the rule; and

40 (H) A request for public comment on whether other options should be considered for achieving
41 the rule's substantive goals while reducing the negative economic impact of the rule on business.

42 (c) The Secretary of State may omit the information submitted under paragraph (b) of this sub-
43 section from publication in the bulletin referred to in ORS 183.360.

44 (d) When providing notice of an intended action under subsection (1)(c) of this section, the
45 agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or an

1 explanation of how the person may acquire a copy of the rule. The copy of an amended rule shall
2 show all changes to the rule by striking through material to be deleted and underlining all new
3 material, or by any other method that clearly shows all new and deleted material.

4 (3)(a) When an agency proposes to adopt, amend or repeal a rule, it shall give interested persons
5 reasonable opportunity to submit data or views. Opportunity for oral hearing shall be granted upon
6 request received from 10 persons or from an association having not less than 10 members before the
7 earliest date that the rule could become effective after the giving of notice pursuant to subsection
8 (1) of this section. An agency holding a hearing upon a request made under this subsection shall give
9 notice of the hearing at least 21 days before the hearing to the person who has requested the
10 hearing, to persons who have requested notice pursuant to subsection (8) of this section and to the
11 persons specified in subsection (15) of this section. The agency shall publish notice of the hearing
12 in the bulletin referred to in ORS 183.360 at least 14 days before the hearing. The agency shall
13 consider fully any written or oral submission.

14 (b) If an agency is required to conduct an oral hearing under paragraph (a) of this subsection,
15 and the rule for which the hearing is to be conducted applies only to a limited geographical area
16 within this state, or affects only a limited geographical area within this state, the hearing shall be
17 conducted within the geographical area at the place most convenient for the majority of the resi-
18 dents within the geographical area. At least 14 days before a hearing conducted under this para-
19 graph, the agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 and
20 in a newspaper of general circulation published within the geographical area that is affected by the
21 rule or to which the rule applies. If a newspaper of general circulation is not published within the
22 geographical area that is affected by the rule or to which the rule applies, the publication shall be
23 made in the newspaper of general circulation published closest to the geographical area.

24 (c) Notwithstanding paragraph (a) of this subsection, the Department of Corrections and the
25 State Board of Parole and Post-Prison Supervision may adopt rules limiting participation by adults
26 in custody in the proposed adoption, amendment or repeal of any rule to written submissions.

27 (d) If requested by at least five persons before the earliest date that the rule could become ef-
28 fective after the agency gives notice pursuant to subsection (1) of this section, the agency shall
29 provide a statement that identifies the objective of the rule and a statement of how the agency will
30 subsequently determine whether the rule is in fact accomplishing that objective.

31 (e) An agency that receives data or views concerning proposed rules from interested persons
32 shall maintain a record of the data or views submitted. The record shall contain:

33 (A) All written materials submitted to an agency in response to a notice of intent to adopt,
34 amend or repeal a rule.

35 (B) A recording or summary of oral submissions received at hearings held for the purpose of
36 receiving those submissions.

37 (C) Any public comment received in response to the request made under subsection (2)(b)(H) of
38 this section and the agency's response to that comment.

39 (D) Any statements provided by the agency under paragraph (d) of this subsection.

40 (4) Upon request of an interested person received before the earliest date that the rule could
41 become effective after the giving of notice pursuant to subsection (1) of this section, the agency shall
42 postpone the date of its intended action no less than 21 nor more than 90 days in order to allow the
43 requesting person an opportunity to submit data, views or arguments concerning the proposed
44 action. Nothing in this subsection shall preclude an agency from adopting a temporary rule pursuant
45 to subsection (5) of this section.

1 (5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or sus-
2 pend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds
3 practicable, if the agency prepares:

4 (a) A statement of its findings that its failure to act promptly will result in serious prejudice to
5 the public interest or the interest of the parties concerned and the specific reasons for its findings
6 of prejudice;

7 (b) A citation of the statutory or other legal authority relied upon and bearing upon the
8 promulgation of the rule;

9 (c) A statement of the need for the rule and a statement of how the rule is intended to meet the
10 need;

11 (d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by
12 the agency in considering the need for and in preparing the rule, and a statement of the location
13 at which those documents are available for public inspection; and

14 (e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS
15 183.534.

16 (6)(a) A rule adopted, amended or suspended under subsection (5) of this section is temporary
17 and may be effective for a period of not longer than 180 days. The adoption of a rule under this
18 subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to
19 (4) of this section.

20 (b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary
21 period of suspension unless the rule is repealed under subsections (1) to (4) of this section.

22 (7) Notwithstanding subsections (1) to (4) of this section, an agency may amend a rule without
23 prior notice or hearing if the amendment is solely for the purpose of:

24 (a) Changing the name of an agency by reason of a name change prescribed by law;

25 (b) Changing the name of a program, office or division within an agency as long as the change
26 in name does not have a substantive effect on the functions of the program, office or division;

27 (c) Correcting spelling;

28 (d) Correcting grammatical mistakes in a manner that does not alter the scope, application or
29 meaning of the rule;

30 (e) Correcting statutory or rule references; [*or*]

31 (f) Correcting addresses or telephone numbers referred to in the rules; **or**

32 **(g) Changing a term or phrase in order to conform with a change prescribed by law.**

33 (8)(a) Any person may request in writing that an agency send to the person copies of the
34 agency's notices of intended action issued under subsection (1) of this section. The person must
35 provide an address where the person elects to receive notices. The address provided may be a postal
36 mailing address or, if the agency provides notice by electronic mail, may be an electronic mailing
37 address.

38 (b) A request under this subsection must indicate that the person requests one of the following:

39 (A) The person may request that the agency mail paper copies of the proposed rule and other
40 information required by subsection (2) of this section to the postal mailing address.

41 (B) If the agency posts notices of intended action on a website, the person may request that the
42 agency mail the information required by subsection (2)(a) of this section to the postal mailing ad-
43 dress with a reference to the website where electronic copies of the proposed rule and other infor-
44 mation required by subsection (2) of this section are posted.

45 (C) The person may request that the agency electronically mail the information required by

1 subsection (2)(a) of this section to the electronic mailing address, and either provide electronic
2 copies of the proposed rule and other information required by subsection (2) of this section or pro-
3 vide a reference to a website where electronic copies of the proposed rule and other information
4 required by subsection (2) of this section are posted.

5 (c) Upon receipt of any request under this subsection, the agency shall acknowledge the request,
6 establish a mailing list and maintain a record of all mailings made pursuant to the request. Agen-
7 cies may establish procedures for establishing the mailing lists and keeping the mailing lists current.
8 Agencies by rule may establish fees necessary to defray the costs of mailings and maintenance of
9 the lists.

10 (d) Members of the Legislative Assembly who receive notices under subsection (15) of this sec-
11 tion may request that an agency furnish paper copies of the notices.

12 (9) This section does not apply to rules establishing an effective date for a previously effective
13 rule or establishing a period during which a provision of a previously effective rule will apply.

14 (10) This section does not apply to ORS 279.835 to 279.855, 279A.140 to 279A.161, 279A.250 to
15 279A.290, 279A.990, 279B.050 to 279B.085, 279B.200 to 279B.240, 279B.270, 279B.275, 279B.280,
16 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.500 to 279C.530, 279C.540, 279C.545,
17 279C.550 to 279C.570, 279C.580, 279C.585, 279C.590, 279C.600 to 279C.625, 279C.650 to 279C.670 and
18 279C.800 to 279C.870 relating to public contracts and purchasing.

19 (11)(a) Except as provided in paragraph (c) of this subsection, a rule is not valid unless adopted
20 in substantial compliance with the provisions of this section in effect on the date that the notice
21 required under subsection (1) of this section is delivered to the Secretary of State for the purpose
22 of publication in the bulletin referred to in ORS 183.360.

23 (b) In addition to all other requirements with which rule adoptions must comply, a rule other
24 than a rule amended for a purpose described in subsection (7) of this section is not valid if the rule
25 has not been submitted to the Legislative Counsel in the manner required by ORS 183.355 and
26 183.715.

27 (c) A rule is not subject to judicial review or other challenge by reason of failing to comply with
28 subsection (2)(a)(A) of this section.

29 (12)(a) Notwithstanding the provisions of subsection (11) of this section, but subject to paragraph
30 (b) of this subsection, an agency may correct its failure to substantially comply with the require-
31 ments of subsections (2) and (5) of this section in adoption of a rule by an amended filing, as long
32 as the noncompliance did not substantially prejudice the interests of persons to be affected by the
33 rule.

34 (b) An agency may use an amended filing to correct a failure to include a fiscal impact state-
35 ment in a notice of intended action, as required by subsection (2)(b)(E) of this section, or to correct
36 an inaccurate fiscal impact statement, only if the agency developed the fiscal impact statement with
37 the assistance of an advisory committee or fiscal impact advisory committee appointed under ORS
38 183.333.

39 (13) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by an
40 agency need not be based upon or supported by an evidentiary record.

41 (14) When an agency has established a deadline for comment on a proposed rule under the pro-
42 visions of subsection (3)(a) of this section, the agency may not extend that deadline for another
43 agency or person unless the extension applies equally to all interested agencies and persons. An
44 agency shall not consider any submission made by another agency after the final deadline has
45 passed.

1 (15) The notices required under subsections (1) and (3) of this section must be given by the
2 agency to the following persons:

3 (a) If the proposed adoption, amendment or repeal results from legislation that was passed
4 within two years before notice is given under subsection (1) of this section, notice shall be given to
5 the legislator who introduced the bill that subsequently was enacted into law, and to the chair or
6 cochairs of all committees that reported the bill out, except for those committees whose sole action
7 on the bill was referral to another committee.

8 (b) If the proposed adoption, amendment or repeal does not result from legislation that was
9 passed within two years before notice is given under subsection (1) of this section, notice shall be
10 given to the chair or cochairs of any interim or session committee with authority over the subject
11 matter of the rule.

12 (c) If notice cannot be given under paragraph (a) or (b) of this subsection, notice shall be given
13 to the Speaker of the House of Representatives and to the President of the Senate who are in office
14 on the date the notice is given.

15 (16)(a) Upon the request of a member of the Legislative Assembly or of a person who would be
16 affected by a proposed adoption, amendment or repeal, the committees receiving notice under sub-
17 section (15) of this section shall review the proposed adoption, amendment or repeal for compliance
18 with the legislation from which the proposed adoption, amendment or repeal results.

19 (b) The committees shall submit their comments on the proposed adoption, amendment or repeal
20 to the agency proposing the adoption, amendment or repeal.

21 **SECTION 7.** ORS 238.015 is amended to read:

22 238.015. (1) No person may become a member of the system unless that person is in the service
23 of a public employer and has completed six months' service uninterrupted by more than 30 consec-
24 utive working days during the six months' period. Every employee of a participating employer shall
25 become a member of the system at the beginning of the first full pay period of the employee fol-
26 lowing the six months' period. Contributions for new members shall first be made for those wages
27 that are attributable to services performed by the employee during the first full pay period following
28 the six months' period, without regard to when those wages are considered earned for other pur-
29 poses under this chapter. All public employers participating in the Public Employees Retirement
30 System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of that
31 chapter, and all school districts of the state, shall participate in, and their employees shall be
32 members of, the system, except as otherwise specifically provided by law.

33 (2) Any active member of the Public Employees Retirement System who, through the annexation
34 of a political subdivision employing the member or by change of employment, becomes the employee
35 of another political subdivision which is participating in the Public Employees Retirement System
36 and has also a separate retirement system for its employees, shall remain an active member of the
37 Public Employees Retirement System unless, within 60 days after the effective date of the
38 annexation or change of employment or April 8, 1953, the member shall by written notice to the
39 Public Employees Retirement Board and to the administrative body of the new public employer elect
40 to relinquish membership in the Public Employees Retirement System and become a member of the
41 separate retirement system of the employer, if eligible for membership in that retirement system, and
42 the member shall be so carried by the new employer. Immediately upon such annexation of any
43 political subdivision or such change of employment, the new public employer shall inform such em-
44 ployee in writing of the right of the employee to exercise an election as in this section provided.

45 (3) A political subdivision (other than a school district) not participating in the retirement sys-

1 tem established by chapter 401, Oregon Laws 1945, as amended, which employs one or more em-
2 ployees, each of whose position requires 600 hours of service per year, or an agency created by two
3 or more political subdivisions to provide themselves governmental services, which employs one or
4 more employees, each of whose position requires 600 hours of service per year, may, through its
5 governing body, notify the board in writing, that it elects to include its employees in the system
6 hereby established. Such public employer may request the board to make a study and estimate of the
7 cost of including it and its eligible employees, other than volunteer firefighters, in the system, which
8 the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon
9 completion of the study and estimate the employer may apply for admission to the system, where-
10 upon it shall begin to participate therein and its eligible employees other than volunteer firefighters
11 shall become members of the system. If the employer is an agency created by two or more political
12 subdivisions to provide themselves governmental services and ceases thereafter to transmit to the
13 board contributions for any of its eligible employees, the benefits based upon employer contributions
14 to which such employees would otherwise be entitled shall be reduced accordingly.

15 (4) No adult in custody in a state institution or [*an alien*] **a noncitizen** on a training or educa-
16 tional visa working for any participating employer, even though the adult in custody or [*alien*]
17 **noncitizen** received compensation from a participating employer, shall be eligible to become a
18 member of the system. No person employed by a participating employer and defined by such em-
19 ployer as a student employee is eligible to become a member of the system for such student em-
20 ployment.

21 (5) A person holding an elective office or an appointive office with a fixed term or an office as
22 head of a department to which the person is appointed by the Governor may become a member of
23 the system by giving the board written notice of desire to do so within 30 days after taking the of-
24 fice or, in the event that the officer is not eligible to become a member of the system at the time
25 of taking the office, within 30 days after becoming so eligible. Membership so established shall not
26 be discontinued during the appointive or elective term of the officer except upon separation of the
27 officer from service.

28 (6) A public employer employing volunteer firefighters may apply to the board at any time for
29 them to become members of the system. Upon receiving the application the board shall fix a wage
30 at which, for purposes of this chapter only, they shall be considered to be employed and which shall
31 be the basis for computing the amounts of the contributions, if any, which they pay into, and of the
32 benefits which they and their beneficiaries receive from, the fund; and if the wage so fixed is satis-
33 factory to the employer, shall include the firefighters in the system.

34 (7)(a) In the event that an employee enters the service of a public employer which is partic-
35 ipating in or later begins to participate in the system and in the event that at the time of entering
36 that service or at the time that the employer begins to participate in the system the employee has
37 commenced to purchase and is continuing to purchase a retirement annuity, if the employer deems
38 the annuity adequate for the purposes of this chapter, it may enter into an agreement with the em-
39 ployee and the board pursuant to which the employee may be exempted from contributing to the
40 Public Employees Retirement Fund, and, if no public funds are being used to purchase the annuity
41 or a corresponding pension, the employer, in lieu of the contributions which it otherwise would
42 make to the fund on account of the employee, may make contributions toward the cost of purchasing
43 the annuity. Such employee otherwise shall be subject to the provisions of this chapter, except that
44 neither the employee nor any person claiming under the employee shall receive any payments from
45 the retirement fund as service or disability allowance.

1 (b) An employee who enters into an agreement under paragraph (a) of this subsection may elect
2 at any time thereafter to start to participate in the system by giving written notice of desire to
3 participate to the board and to the employer. The employee shall receive no retirement credit for
4 the period during which the employee was exempted from contributing to the fund under the
5 agreement, but the employee shall be considered to have completed the six months' service required
6 for membership in the system. When the employee starts to participate in the system the employer
7 shall start to contribute to the fund on account of the employee in the same manner as the employer
8 contributes on account of other employees who are active members of the system and the employer
9 shall stop making contributions toward the cost of purchasing the retirement annuity.

10 (8)(a) All new appointees in the Federal Cooperative Extension Service or in any other service
11 in which participation in the Federal Civil Service retirement program is mandatory, who receive
12 a federal appointment on or after July 1, 1955, may participate in the Public Employees Retirement
13 System only by giving written notice of their election to so participate to the Public Employees
14 Retirement Board within six months after the effective date of their appointment.

15 (b) All persons employed by the Federal Cooperative Extension Service or by any other service
16 in which participation in the Federal Civil Service retirement program is mandatory, who are under
17 federal appointment as of July 1, 1955, and who are members of the state retirement system, shall
18 continue such membership unless, prior to February 1, 1956, they give written notice to the Public
19 Employees Retirement Board of their desire to cancel their membership.

20 (c) Any person who is an active member of the Public Employees Retirement System, who, on
21 or after July 1, 1955, is employed by the Federal Cooperative Extension Service or by any other
22 service in which participation in the Federal Civil Service retirement program is mandatory, and
23 who is given a federal appointment, shall continue such membership in the Public Employees Re-
24 tirement System unless, within six months after the effective date of the appointment, the person
25 gives written notice to the Public Employees Retirement Board of the desire to cancel membership.

26 (d) A cancellation of membership under paragraph (b) or (c) of this subsection terminates mem-
27 bership in the Public Employees Retirement System and cancels the right to any benefits from, or
28 claims against, that system. Such cancellation prevents the withdrawing member from claiming
29 thereafter any retirement credit for any period of employment before the cancellation. Upon receipt
30 of a notice of cancellation, the Public Employees Retirement Board shall refund the member account
31 of the withdrawing member, regardless of the age of the withdrawing member.

32 (9) Employees, including managers, of foreign trade offices of the Oregon Business Development
33 Department who live and perform services in foreign countries under the provisions of ORS 285A.075
34 (1)(g) shall not be members of the system. However, any person who is an active member of the
35 system immediately before becoming an employee of a foreign trade office shall continue to be a
36 member of the system during the period of time the person serves as an employee of the foreign
37 trade office.

38 (10) An employee who is participating in an alternative retirement program established pursuant
39 to ORS 353.250 or an optional retirement plan established pursuant to ORS 341.551 may not be an
40 active member of the Public Employees Retirement System.

41 **SECTION 8.** ORS 316.027 is amended to read:

42 316.027. (1) For purposes of this chapter, unless the context requires otherwise:

43 (a) "Resident" or "resident of this state" means:

44 (A) An individual who is domiciled in this state unless the individual:

45 (i) Maintains no permanent place of abode in this state;

1 (ii) Does maintain a permanent place of abode elsewhere; and

2 (iii) Spends in the aggregate not more than 30 days in the taxable year in this state; or

3 (B) An individual who is not domiciled in this state but maintains a permanent place of abode
4 in this state and spends in the aggregate more than 200 days of the taxable year in this state unless
5 the individual proves that the individual is in the state only for a temporary or transitory purpose.

6 (b) "Resident" or "resident of this state" does not include:

7 (A) An individual who is a qualified individual under section 911(d)(1) of the Internal Revenue
8 Code for the tax year;

9 (B) A spouse of a qualified individual under section 911(d)(1) of the Internal Revenue Code, if
10 the spouse has a principal place of abode for the tax year that is not located in this state;

11 (C) A resident [*alien*] **noncitizen** under section 7701(b) of the Internal Revenue Code who would
12 be considered a qualified individual under section 911(d)(1) of the Internal Revenue Code if the res-
13 ident [*alien*] **noncitizen** were a citizen of the United States; or

14 (D) A member of the Armed Forces who performs active service as defined in 10 U.S.C. 101(d)(3),
15 other than annual training duty or inactive-duty training, if the member's residency as reflected in
16 the payroll records of the Defense Finance and Accounting Service is outside this state.

17 (2) For purposes of subsection (1)(a)(B) of this section, a fraction of a calendar day shall be
18 counted as a whole day.

19 **SECTION 9.** ORS 316.567 is amended to read:

20 316.567. (1) Except as provided in subsection (2) of this section, spouses in a marriage may make
21 a single declaration jointly under ORS 316.557 to 316.589. The liability of the spouses making such
22 a declaration shall be joint and several.

23 (2) Spouses may not make a joint declaration:

24 (a) If either spouse is a nonresident [*alien*] **noncitizen**;

25 (b) If the spouses are separated under a judgment of divorce or of separate maintenance; or

26 (c) If the spouses have different taxable years.

27 (3) If spouses make a joint declaration but not a joint return for the taxable year, the spouses
28 may, in such manner as they may agree, and after giving notice of the agreement to the Department
29 of Revenue:

30 (a) Treat the estimated tax for the year as the estimated tax of either spouse; or

31 (b) Divide the estimated tax between them.

32 (4) If the spouses fail to agree, or fail to notify the department of the manner in which they
33 agree, to the treatment of estimated tax for a taxable year for which they make a joint declaration
34 but not a joint return, the payments shall be allocated between them according to rules adopted by
35 the department. Notwithstanding ORS 314.835, 314.840 or 314.991, the department may disclose to
36 either spouse the information upon which an allocation of estimated tax was made under this sec-
37 tion.

38 **SECTION 10.** ORS 316.695 is amended to read:

39 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,
40 there shall be added to or subtracted from federal taxable income:

41 (a) If, in computing federal income tax for a tax year, the taxpayer deducted itemized deductions,
42 as defined in section 63(d) of the Internal Revenue Code, the taxpayer shall add the amount of
43 itemized deductions deducted (the itemized deductions less an amount, if any, by which the itemized
44 deductions are reduced under section 68 of the Internal Revenue Code).

45 (b) If, in computing federal income tax for a tax year, the taxpayer deducted the standard de-

1 duction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount
2 of the standard deduction deducted.

3 (c)(A) From federal taxable income there shall be subtracted the larger of (i) the taxpayer's
4 itemized deductions or (ii) a standard deduction. Except as provided in subsection (8) of this section,
5 for purposes of this subparagraph, "standard deduction" means the sum of the basic standard de-
6 duction and the additional standard deduction.

7 (B) For purposes of subparagraph (A) of this paragraph, the basic standard deduction is:

8 (i) \$3,280, in the case of joint return filers or a surviving spouse;

9 (ii) \$1,640, in the case of an individual who is not a married individual and is not a surviving
10 spouse;

11 (iii) \$1,640, in the case of a married individual who files a separate return; or

12 (iv) \$2,640, in the case of a head of household.

13 (C)(i) For purposes of subparagraph (A) of this paragraph for tax years beginning on or after
14 January 1, 2003, the Department of Revenue shall annually recompute the basic standard deduction
15 for each category of return filer listed under subparagraph (B) of this paragraph. The basic standard
16 deduction shall be computed by dividing the monthly averaged U.S. City Average Consumer Price
17 Index for the 12 consecutive months ending August 31 of the prior calendar year by the average
18 U.S. City Average Consumer Price Index for the second quarter of 2002, then multiplying that quo-
19 tient by the amount listed under subparagraph (B) of this paragraph for each category of return
20 filer.

21 (ii) If any change in the maximum household income determined under this subparagraph is not
22 a multiple of \$5, the increase shall be rounded to the next lower multiple of \$5.

23 (iii) As used in this subparagraph, "U.S. City Average Consumer Price Index" means the U.S.
24 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau
25 of Labor Statistics of the United States Department of Labor.

26 (D) For purposes of subparagraph (A) of this paragraph, the additional standard deduction is the
27 sum of each additional amount to which the taxpayer is entitled under subsection (7) of this section.

28 (E) As used in subparagraph (B) of this paragraph, "surviving spouse" and "head of household"
29 have the meanings given those terms in section 2 of the Internal Revenue Code.

30 (F) In the case of the following, the standard deduction referred to in subparagraph (A) of this
31 paragraph shall be zero:

32 (i) One of the spouses in a marriage filing a separate return where the other spouse has claimed
33 itemized deductions under subparagraph (A) of this paragraph;

34 (ii) A nonresident [*alien individual*] **noncitizen**;

35 (iii) An individual making a return for a period of less than 12 months on account of a change
36 in the individual's annual accounting period;

37 (iv) An estate or trust;

38 (v) A common trust fund; or

39 (vi) A partnership.

40 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer's itemized deductions
41 are the amount of the taxpayer's itemized deductions as defined in section 63(d) of the Internal Re-
42 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)
43 minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the re-
44 duction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears
45 to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal

1 Revenue Code).

2 (2)(a) There shall be subtracted from federal taxable income any portion of the distribution of
3 a pension, profit-sharing, stock bonus or other retirement plan, representing that portion of contri-
4 butions which were taxed by the State of Oregon but not taxed by the federal government under
5 laws in effect for tax years beginning prior to January 1, 1969, or for any subsequent year in which
6 the amount that was contributed to the plan under the Internal Revenue Code was greater than the
7 amount allowed under this chapter.

8 (b) Interest or other earnings on any excess contributions of a pension, profit-sharing, stock
9 bonus or other retirement plan not permitted to be deducted under paragraph (a) of this subsection
10 may not be added to federal taxable income in the year earned by the plan and may not be sub-
11 tracted from federal taxable income in the year received by the taxpayer.

12 (3)(a) Except as provided in subsection (4) of this section, there shall be added to federal taxable
13 income the amount of any federal income taxes in excess of the amount provided in paragraphs (b)
14 to (d) of this subsection, accrued by the taxpayer during the tax year as described in ORS 316.685,
15 less the amount of any refund of federal taxes previously accrued for which a tax benefit was re-
16 ceived.

17 (b) The limits applicable to this subsection are:

18 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than
19 \$125,000, or, if reported on a joint return, less than \$250,000.

20 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or
21 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than
22 \$260,000.

23 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or
24 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than
25 \$270,000.

26 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or
27 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than
28 \$280,000.

29 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or
30 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than
31 \$290,000.

32 (c) If the federal adjusted gross income of the taxpayer is \$145,000 or more for the tax year, or,
33 if reported on a joint return, \$290,000 or more, the limit is zero and the taxpayer is not allowed a
34 subtraction for federal income taxes under ORS 316.680 (1) for the tax year.

35 (d) In the case of spouses in a marriage filing separate tax returns, the amount added shall be
36 in the amount of any federal income taxes in excess of 50 percent of the amount provided for indi-
37 vidual taxpayers under paragraphs (a) to (c) of this subsection, less the amount of any refund of
38 federal taxes previously accrued for which a tax benefit was received.

39 (e) For purposes of this subsection, the limits applicable to a joint return shall apply to a head
40 of household or a surviving spouse, as defined in section 2(a) and (b) of the Internal Revenue Code.

41 (f)(A) For a calendar year beginning on or after January 1, 2008, the Department of Revenue
42 shall make a cost-of-living adjustment to the federal income tax threshold amounts described in
43 paragraphs (b) and (d) of this subsection.

44 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly
45 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31

1 of the prior calendar year exceeds the monthly averaged index for the period beginning September
2 1, 2005, and ending August 31, 2006.

3 (C) As used in this paragraph, "U.S. City Average Consumer Price Index" means the U.S. City
4 Average Consumer Price Index for All Urban Consumers (All Items) as published by the Bureau of
5 Labor Statistics of the United States Department of Labor.

6 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
7 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

8 (E) The adjustment shall apply to all tax years beginning in the calendar year for which the
9 adjustment is made.

10 (4)(a) In addition to the adjustments required by ORS 316.130, a full-year nonresident individual
11 shall add to taxable income a proportion of any accrued federal income taxes as computed under
12 ORS 316.685 in excess of the amount provided in subsection (3) of this section in the proportion
13 provided in ORS 316.117.

14 (b) In the case of spouses in a marriage filing separate tax returns, the amount added under this
15 subsection shall be computed in a manner consistent with the computation of the amount to be
16 added in the case of spouses in a marriage filing separate returns under subsection (3) of this sec-
17 tion. The method of computation shall be determined by the Department of Revenue by rule.

18 (5) Subsections (3)(d) and (4)(b) of this section shall not apply to married individuals living apart
19 as defined in section 7703(b) of the Internal Revenue Code.

20 (6)(a) For tax years beginning on or after January 1, 1981, and prior to January 1, 1983, income
21 or loss taken into account in determining federal taxable income by a shareholder of an S corpo-
22 ration pursuant to sections 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes
23 of determining Oregon taxable income, to the extent that as income or loss of the S corporation,
24 they were required to be adjusted under the provisions of ORS chapter 317.

25 (b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken
26 into account in determining federal taxable income by a shareholder of an S corporation pursuant
27 to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining
28 Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder
29 the items are required to be adjusted under the provisions of this chapter.

30 (c) The tax years referred to in paragraphs (a) and (b) of this subsection are those of the S
31 corporation.

32 (d) As used in paragraph (a) of this subsection, an S corporation refers to an electing small
33 business corporation.

34 (7)(a) The taxpayer shall be entitled to an additional amount, as referred to in subsection
35 (1)(c)(A) and (D) of this section, of \$1,000:

36 (A) For the taxpayer if the taxpayer has attained age 65 before the close of the taxpayer's tax
37 year; and

38 (B) For the spouse of the taxpayer if the spouse has attained age 65 before the close of the tax
39 year and an additional exemption is allowable to the taxpayer for such spouse for federal income
40 tax purposes under section 151(b) of the Internal Revenue Code.

41 (b) The taxpayer shall be entitled to an additional amount, as referred to in subsection (1)(c)(A)
42 and (D) of this section, of \$1,000:

43 (A) For the taxpayer if the taxpayer is blind at the close of the tax year; and

44 (B) For the spouse of the taxpayer if the spouse is blind as of the close of the tax year and an
45 additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes

1 under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse
2 dies during the tax year, the determination of whether such spouse is blind shall be made imme-
3 diately prior to death.

4 (c) In the case of an individual who is not married and is not a surviving spouse, paragraphs (a)
5 and (b) of this subsection shall be applied by substituting “\$1,200” for “\$1,000.”

6 (d) For purposes of this subsection, an individual is blind only if the individual’s central visual
7 acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual’s visual
8 acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the
9 widest diameter of the visual field subtends an angle no greater than 20 degrees.

10 (8) In the case of an individual with respect to whom a deduction under section 151 of the
11 Internal Revenue Code is allowable for federal income tax purposes to another taxpayer for a tax
12 year beginning in the calendar year in which the individual’s tax year begins, the basic standard
13 deduction (referred to in subsection (1)(c)(B) of this section) applicable to such individual for such
14 individual’s tax year shall equal the lesser of:

15 (a) The amount allowed to the individual under section 63(c)(5) of the Internal Revenue Code for
16 federal income tax purposes for the tax year for which the deduction is being claimed; or

17 (b) The amount determined under subsection (1)(c)(B) of this section.

18 **SECTION 11.** ORS 408.010 is amended to read:

19 408.010. As used in ORS 408.010 to 408.090, unless otherwise required by the context, “benefici-
20 ary” means any person who served in the active Armed Forces of the United States on or after June
21 25, 1950, who was relieved or discharged from that service under honorable conditions and who was
22 also a resident of Oregon at the time the person applied for benefits under ORS 408.010 to 408.090.
23 “Beneficiary” does not include [*an alien, an alien*] **a noncitizen, a noncitizen** enemy, a person who
24 avoided combat service by claiming to be a conscientious objector, a person who served less than
25 90 days in the Armed Forces of the United States or a person inducted or enlisted in the military
26 or naval service who received civilian pay for civilian work.

27 **SECTION 12.** ORS 411.139 is amended to read:

28 411.139. (1) As used in this section:

29 (a) “Eligible agency” means an agency that has contracted with the United States Department
30 of State under 8 U.S.C. 1522(c) to provide initial resettlement and case management services to ref-
31 ugees.

32 (b) “Refugee” means an individual who is not a United States citizen, who has been in the
33 United States for 60 months or less and who is any of the following:

34 (A) A refugee admitted under 8 U.S.C. 1157.

35 (B) An asylee admitted under 8 U.S.C. 1158.

36 (C) A Cuban or Haitian entrant as defined in 45 C.F.R. 401.2.

37 (D) A parolee admitted under 8 U.S.C. 1182(d)(5).

38 (E) An Amerasian immigrant lawfully admitted to the United States who is described in 8 U.S.C.
39 1612(a)(2)(A)(v).

40 (F) A victim of a severe form of trafficking in persons and the victim’s family members who are
41 eligible for benefits and services from federal and state programs under 22 U.S.C. 7105(b)(1)(A).

42 (G) An Iraqi or an Afghan citizen who is a principal [*alien*] **noncitizen** provided with the status
43 of special immigrant by the United States Department of Homeland Security under:

44 (i) Section 1059(a) of the National Defense Authorization Act for Fiscal Year 2006, P.L. 109-163,
45 119 Stat. 3444;

- 1 (ii) Section 1244(b) of the Refugee Crisis in Iraq Act of 2007, P.L. 110-181, 122 Stat. 397; or
2 (iii) Section 602(b) of the Afghan Allies Protection Act of 2009, P.L. 111-8, 123 Stat. 807.
- 3 (2) The Department of Human Services shall award grants to eligible agencies to provide the
4 following services to refugees residing in this state, for up to 24 months:
- 5 (a) Assisting refugees with department programs by:
- 6 (A) Referring refugees to the department within three days of the refugee's arrival in this state;
7 (B) Completing applications for assistance;
8 (C) Transporting the refugee to the initial appointments with the department;
9 (D) Providing to the department all necessary eligibility information known to the eligible
10 agency; and
11 (E) Coordinating services of the department with other social service agencies.
- 12 (b) Assisting refugees with:
- 13 (A) Navigating the health care and mental health systems, including providing assistance in
14 applying for medical assistance;
15 (B) Accessing housing assistance and finding stable housing;
16 (C) Setting up utilities and paying utility bills;
17 (D) Issues with landlords;
18 (E) Navigating legal or criminal issues including services for victims of crime;
19 (F) Accessing in-home services including parenting assistance, English as a second language in-
20 struction, medical and psychosocial support; and
21 (G) Navigating the culture of the United States.
- 22 (c) Providing transportation to appointments.
23 (d) Training refugees on using public transportation.
24 (e) Providing immigration assistance and referrals.
25 (f) Advocating on behalf of refugees regarding domestic violence, federal laws and hate crimes.
26 (g) Providing refugees with interpretation services and assistance with access to language ser-
27 vices.
28 (h) Providing referrals for refugees to culturally specific support groups and services, including
29 religious organizations.
30 (i) Pairing refugees with volunteers for English as a second language training and ongoing lan-
31 guage support.
32 (j) Providing support to refugees in budgeting and achieving financial literacy.
33 (k) Identifying refugees' employment skills and providing referrals to employment skills training
34 and other job support services.
35 (L) Problem solving with refugees and assisting refugees with life skills development.
36 (m) Ensuring that refugees have access to psychosocial support and emotional wellness educa-
37 tion.
38 (n) Coordinating medical services for refugees including referring to and coordinating with
39 agencies that determine eligibility for disability benefits.
40 (o) Providing family preservation services, legal services and social service support for domestic
41 violence and child welfare issues.
42 (p) Assisting newly arrived refugee children in accessing services to strengthen the children's
43 academic performance and successful integration into the community.
44 (q) Other services necessary to assist refugees in accessing programs administered by the de-
45 partment.

1 **SECTION 13.** ORS 497.006 is amended to read:

2 497.006. (1) As used in this section:

3 (a) “Dependent children” includes any children of an active member of the Armed Forces of the
4 United States who:

5 (A) Are under 18 years of age and not married, otherwise emancipated or self-supporting; or

6 (B) Are under 23 years of age, unmarried, enrolled in a full-time course of study in an institution
7 of higher learning and dependent on the resident member of the uniformed services for over one-half
8 of their support.

9 (b) “Resident member of the uniformed services” means a member of the uniformed services who:

10 (A) Resides in this state while assigned to duty at any base, station, shore establishment or
11 other facility in this state;

12 (B) Resides in this state while serving as a member of the crew of a ship that has an Oregon
13 port or shore establishment as its home port or permanent station; or

14 (C) Resides in another state or a foreign country and establishes Oregon residency by filing
15 Oregon state income taxes no later than 12 months before leaving active duty.

16 (c) “Uniformed services” means:

17 (A) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

18 (B) The reserves of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United
19 States;

20 (C) The Oregon National Guard and the National Guard of any other state or territory;

21 (D) The commissioned corps of the National Oceanic and Atmospheric Administration; and

22 (E) The Public Health Service of the United States Department of Health and Human Services
23 while detailed by proper authority for duty with the Army or Navy of the United States.

24 (2) The following persons are resident persons for the purpose of purchasing licenses, tags and
25 permits issued by the State Fish and Wildlife Commission:

26 (a) A resident member of the uniformed services and the member’s spouse and dependent chil-
27 dren.

28 (b) A member of the uniformed services who is not a resident member of the uniformed services,
29 except for the purpose of purchasing controlled hunt tags issued by the commission.

30 (c) [*An alien*] **A noncitizen** who furnishes to the commission evidence satisfactory to the com-
31 mission that the [*alien*] **noncitizen** is attending a school in this state pursuant to a foreign student
32 exchange program.

33 **SECTION 14.** ORS 656.005 is amended to read:

34 656.005. (1) “Average weekly wage” means the Oregon average weekly wage in covered em-
35 ployment, as determined by the Employment Department, for the last quarter of the calendar year
36 preceding the fiscal year in which the injury occurred.

37 (2)(a) “Beneficiary” means an injured worker, and the spouse in a marriage, child or dependent
38 of a worker, who is entitled to receive payments under this chapter.

39 (b) “Beneficiary” does not include:

40 (A) A spouse of an injured worker living in a state of abandonment for more than one year at
41 the time of the injury or subsequently. A spouse who has lived separate and apart from the worker
42 for a period of two years and who has not during that time received or attempted by process of law
43 to collect funds for support or maintenance is considered living in a state of abandonment.

44 (B) A person who intentionally causes the compensable injury to or death of an injured worker.

45 (3) “Board” means the Workers’ Compensation Board.

1 (4) "Carrier-insured employer" means an employer who provides workers' compensation cover-
2 age with the State Accident Insurance Fund Corporation or an insurer authorized under ORS
3 chapter 731 to transact workers' compensation insurance in this state.

4 (5) "Child" means a child of an injured worker, including:

5 (a) A posthumous child;

6 (b) A child legally adopted before the injury;

7 (c) A child toward whom the worker stands in loco parentis;

8 (d) A child born out of wedlock;

9 (e) A stepchild, if the stepchild was, at the time of the injury, a member of the worker's family
10 and substantially dependent upon the worker for support; and

11 (f) A child of any age who was an invalid at the time of the accident and thereafter remains an
12 invalid substantially dependent on the worker for support.

13 (6) "Claim" means a written request for compensation from a subject worker or someone on the
14 worker's behalf, or any compensable injury of which a subject employer has notice or knowledge.

15 (7)(a) A "compensable injury" is an accidental injury, or accidental injury to prosthetic appli-
16 ances, arising out of and in the course of employment requiring medical services or resulting in
17 disability or death. An injury is accidental if the result is an accident, whether or not due to acci-
18 dental means, if it is established by medical evidence supported by objective findings, subject to the
19 following limitations:

20 (A) An injury or disease is not compensable as a consequence of a compensable injury unless
21 the compensable injury is the major contributing cause of the consequential condition.

22 (B) If an otherwise compensable injury combines at any time with a preexisting condition to
23 cause or prolong disability or a need for treatment, the combined condition is compensable only if,
24 so long as and to the extent that the otherwise compensable injury is the major contributing cause
25 of the disability of the combined condition or the major contributing cause of the need for treatment
26 of the combined condition.

27 (b) "Compensable injury" does not include:

28 (A) Injury to any active participant in assaults or combats that are not connected to the job
29 assignment and that amount to a deviation from customary duties;

30 (B) Injury incurred while engaging in or performing, or as the result of engaging in or per-
31 forming, any recreational or social activities primarily for the worker's personal pleasure; or

32 (C) Injury the major contributing cause of which is demonstrated to be by a preponderance of
33 the evidence the injured worker's consumption of alcoholic beverages or cannabis or the unlawful
34 consumption of any controlled substance, unless the employer permitted, encouraged or had actual
35 knowledge of such consumption.

36 (c) A "disabling compensable injury" is an injury that entitles the worker to compensation for
37 disability or death. An injury is not disabling if no temporary benefits are due and payable, unless
38 there is a reasonable expectation that permanent disability will result from the injury.

39 (d) A "nondisabling compensable injury" is any injury that requires medical services only.

40 (8) "Compensation" includes all benefits, including medical services, provided for a compensable
41 injury to a subject worker or the worker's beneficiaries by an insurer or self-insured employer pur-
42 suant to this chapter.

43 (9) "Department" means the Department of Consumer and Business Services.

44 (10)(a) "Dependent" means any of the following relatives of the worker who, at the time of an
45 accident, depended in whole or in part for the relative's support on the earnings of a worker who

1 dies as a result of an injury:

2 (A) A parent, grandparent or stepparent;

3 (B) A grandson or granddaughter;

4 (C) A brother or sister or half-brother or half-sister; and

5 (D) A niece or nephew.

6 (b) "Dependent" does not include [*an alien*] a **noncitizen** who does not reside within the United
7 States at the time of the accident, other than a parent, a spouse or children, unless a treaty provides
8 otherwise.

9 (11) "Director" means the Director of the Department of Consumer and Business Services.

10 (12)(a) "Doctor" or "physician" means a person duly licensed to practice one or more of the
11 healing arts in any country or in any state, territory or possession of the United States within the
12 limits of the license of the licensee.

13 (b) Except as otherwise provided for workers subject to a managed care contract, "attending
14 physician" means a doctor, physician or physician assistant who is primarily responsible for the
15 treatment of a worker's compensable injury and who is:

16 (A) A physician licensed under ORS 677.100 to 677.228 by the Oregon Medical Board, or a
17 podiatric physician and surgeon licensed under ORS 677.805 to 677.840 by the Oregon Medical
18 Board, an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry or a similarly
19 licensed doctor in any country or in any state, territory or possession of the United States; or

20 (B) For a cumulative total of 60 days from the first visit on the initial claim or for a cumulative
21 total of 18 visits, whichever occurs first, to any of the medical service providers listed in this sub-
22 paragraph, a:

23 (i) Doctor or physician licensed by the State Board of Chiropractic Examiners for the State of
24 Oregon under ORS chapter 684 or a similarly licensed doctor or physician in any country or in any
25 state, territory or possession of the United States;

26 (ii) Physician assistant licensed by the Oregon Medical Board in accordance with ORS 677.505
27 to 677.525 or a similarly licensed physician assistant in any country or in any state, territory or
28 possession of the United States; or

29 (iii) Doctor of naturopathy or naturopathic physician licensed by the Oregon Board of
30 Naturopathic Medicine under ORS chapter 685 or a similarly licensed doctor or physician in any
31 country or in any state, territory or possession of the United States.

32 (c) Except as otherwise provided for workers subject to a managed care contract, "attending
33 physician" does not include a physician who provides care in a hospital emergency room and refers
34 the injured worker to a primary care physician for follow-up care and treatment.

35 (d) "Consulting physician" means a doctor or physician who examines a worker or the worker's
36 medical record to advise the attending physician or nurse practitioner authorized to provide
37 compensable medical services under ORS 656.245 regarding treatment of a worker's compensable
38 injury.

39 (13)(a) "Employer" means any person, including receiver, administrator, executor or trustee, and
40 the state, state agencies, counties, municipal corporations, school districts and other public corpo-
41 rations or political subdivisions, that contracts to pay a remuneration for the services of any
42 worker.

43 (b) Notwithstanding paragraph (a) of this subsection, for purposes of this chapter, the client of
44 a temporary service provider is not the employer of temporary workers provided by the temporary
45 service provider.

1 (c) As used in paragraph (b) of this subsection, “temporary service provider” has the meaning
2 for that term provided in ORS 656.850.

3 (d) For the purposes of this chapter, “subject employer” means an employer that is subject to
4 this chapter as provided in ORS 656.023.

5 (14) “Insurer” means the State Accident Insurance Fund Corporation or an insurer authorized
6 under ORS chapter 731 to transact workers’ compensation insurance in this state or an assigned
7 claims agent selected by the director under ORS 656.054.

8 (15) “Consumer and Business Services Fund” means the fund created by ORS 705.145.

9 (16) “Invalid” means one who is physically or mentally incapacitated from earning a livelihood.

10 (17) “Medically stationary” means that no further material improvement would reasonably be
11 expected from medical treatment or the passage of time.

12 (18) “Noncomplying employer” means a subject employer that has failed to comply with ORS
13 656.017.

14 (19) “Objective findings” in support of medical evidence are verifiable indications of injury or
15 disease that may include, but are not limited to, range of motion, atrophy, muscle strength and
16 palpable muscle spasm. “Objective findings” does not include physical findings or subjective re-
17 sponses to physical examinations that are not reproducible, measurable or observable.

18 (20) “Palliative care” means medical service rendered to reduce or moderate temporarily the
19 intensity of an otherwise stable medical condition, but does not include those medical services ren-
20 dered to diagnose, heal or permanently alleviate or eliminate a medical condition.

21 (21) “Party” means a claimant for compensation, the employer of the injured worker at the time
22 of injury and the insurer, if any, of the employer.

23 (22) “Payroll” means a record of wages payable to workers for their services and includes
24 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or
25 similar advantage received from the employer. However, “payroll” does not include overtime pay,
26 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments
27 to reward workers for safe working practices. Bonus pay is limited to payments that are not antic-
28 ipated under the contract of employment and that are paid at the sole discretion of the employer.
29 The exclusion from payroll of bonus payments to reward workers for safe working practices is only
30 for the purpose of calculations based on payroll to determine premium for workers’ compensation
31 insurance, and does not affect any other calculation or determination based on payroll for the pur-
32 poses of this chapter.

33 (23) “Person” includes a partnership, joint venture, association, limited liability company and
34 corporation.

35 (24)(a) “Preexisting condition” means, for all industrial injury claims, any injury, disease, con-
36 genital abnormality, personality disorder or similar condition that contributes to disability or need
37 for treatment, provided that:

38 (A) Except for claims in which a preexisting condition is arthritis or an arthritic condition, the
39 worker has been diagnosed with the condition, or has obtained medical services for the symptoms
40 of the condition regardless of diagnosis; and

41 (B)(i) In claims for an initial injury or omitted condition, the diagnosis or treatment precedes
42 the initial injury;

43 (ii) In claims for a new medical condition, the diagnosis or treatment precedes the onset of the
44 new medical condition; or

45 (iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment

1 precedes the onset of the worsened condition.

2 (b) "Preexisting condition" means, for all occupational disease claims, any injury, disease, con-
3 genital abnormality, personality disorder or similar condition that contributes to disability or need
4 for treatment and that precedes the onset of the claimed occupational disease, or precedes a claim
5 for worsening in such claims pursuant to ORS 656.273 or 656.278.

6 (c) For the purposes of industrial injury claims, a condition does not contribute to disability or
7 need for treatment if the condition merely renders the worker more susceptible to the injury.

8 (25) "Self-insured employer" means an employer or group of employers certified under ORS
9 656.430 as meeting the qualifications set out by ORS 656.407.

10 (26) "State Accident Insurance Fund Corporation" and "corporation" mean the State Accident
11 Insurance Fund Corporation created under ORS 656.752.

12 (27) "Wages" means the money rate at which the service rendered is recompensed under the
13 contract of hiring in force at the time of the accident, including reasonable value of board, rent,
14 housing, lodging or similar advantage received from the employer, and includes the amount of tips
15 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of
16 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips
17 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-
18 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at
19 which any worker shall be carried upon the payroll of the employer for the purpose of determining
20 the premium of the employer.

21 (28)(a) "Worker" means any person, other than an independent contractor, who engages to fur-
22 nish services for a remuneration, including a minor whether lawfully or unlawfully employed and
23 salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts
24 and other public corporations, but does not include any person whose services are performed as an
25 adult in custody or ward of a state institution or as part of the eligibility requirements for a general
26 or public assistance grant.

27 (b) For the purpose of determining entitlement to temporary disability benefits or permanent
28 total disability benefits under this chapter, "worker" does not include a person who has withdrawn
29 from the workforce during the period for which such benefits are sought.

30 (c) For the purposes of this chapter, "subject worker" means a worker who is subject to this
31 chapter as provided in ORS 656.027.

32 (29) "Independent contractor" has the meaning for that term provided in ORS 670.600.

33 **SECTION 15.** ORS 656.232 is amended to read:

34 656.232. (1) If a beneficiary is [*an alien*] **a noncitizen** residing outside of the United States or
35 its dependencies, payment of the sums due such beneficiary may, in the discretion of the Director
36 of the Department of Consumer and Business Services, be made to the consul general of the country
37 in which such beneficiary resides on behalf of the beneficiary. The receipt of the consul general to
38 the director for the amounts thus paid shall be a full and sufficient receipt for the payment of the
39 funds thus due the beneficiary.

40 (2) If a beneficiary is [*an alien*] **a noncitizen** residing outside of the United States or its de-
41 pendencies, the director may, in lieu of awarding such beneficiary compensation in the amount
42 provided by this chapter, award such beneficiary such lesser sum by way of compensation which,
43 according to the conditions and costs of living in the place of residence of such beneficiary will, in
44 the opinion of the director, maintain the beneficiary in a like degree of comfort as a beneficiary of
45 the same class residing in this state and receiving the full compensation authorized by this chapter.

1 The director shall determine the amount of compensation benefits upon the basis of the rate of ex-
2 change between the United States and any foreign country as determined by the Federal Reserve
3 Bank as of January 1 and July 1 of the year when paid.

4 (3) All benefit rights shall be canceled upon the commencement of a state of war between the
5 United States and the country of a beneficiary's domicile.

6 **SECTION 16.** ORS 657.045 is amended to read:

7 657.045. (1) "Employment" does not include agricultural labor unless such labor is performed
8 after December 31, 1977, for an employing unit who:

9 (a) During any calendar quarter in the current calendar year or the preceding calendar year
10 paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor; or

11 (b) On each of 20 days during the current calendar year or the preceding calendar year, each
12 day being in a different calendar week, employed in agricultural labor for some portion of the day
13 (whether or not at the same moment of time) 10 or more individuals.

14 (2) Notwithstanding subsection (1)(a) and (b) of this section, "employment" does not include
15 services performed before January 1, 1993, by an individual who is [*an alien*] **a noncitizen** admitted
16 to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a) (15) (H) of
17 the Immigration and Nationality Act.

18 (3) "Agricultural labor" does not include services performed for the state or a political subdivi-
19 sion but does include all services performed:

20 (a) On a farm, in the employ of any person, in connection with cultivating the soil, or in con-
21 nection with raising or harvesting any agricultural or horticultural commodity, including the rais-
22 ing, shearing, feeding, caring for, training and management of livestock, bees, poultry and
23 fur-bearing animals and wildlife.

24 (b) In the employ of the owner or tenant or other operator of a farm, in connection with the
25 operation, management, conservation, improvement or maintenance of such farm and its tools and
26 equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if
27 the major part of such services is performed on a farm.

28 (c) In connection with the production or harvesting of any commodity defined as an agricultural
29 commodity in section 15(g) of the Federal Agricultural Marketing Act, as amended, or in connection
30 with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals,
31 reservoirs or waterways not owned or operated for profit used exclusively for supplying and storing
32 water for farming purposes.

33 (d) In the employ of the operator or group of operators of a farm or farms (or a cooperative
34 organization of which such operator or operators are members) in handling, planting, drying, pack-
35 ing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a
36 carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural
37 commodity, but only if such operator or group of operators produced more than one-half of the
38 commodity, as measured by volume, weight or other customary means, with respect to which such
39 service is performed.

40 (4) Subsection (3)(d) of this section does not apply to service performed in connection with:

41 (a) Commercial canning, commercial freezing or brining of cherries;

42 (b) Any agricultural or horticultural commodity after its delivery to a terminal market for dis-
43 tribution for consumption; or

44 (c) Any activity enumerated in subsection (3)(d) of this section when performed for an employer
45 also engaged in any activity enumerated in paragraph (a) or (b) of this subsection.

1 (5) "Farms," as used in this section, includes stock, dairy, poultry, fruit, fur-bearing animal,
2 Christmas tree and truck farms, plantations, orchards, ranches, nurseries, ranges, greenhouses or
3 other similar structures used primarily for the raising of agricultural or horticultural commodities.

4 (6) For the purpose of this section, service in connection with the raising of forestry-type
5 seedlings is agricultural labor when performed in a nursery.

6 (7)(a) For purposes of this chapter, and for services performed after December 31, 1977, any in-
7 dividual who is a member of a crew furnished by a crew leader to perform agricultural labor for any
8 other person shall be treated as an employee of such crew leader if:

9 (A) Such crew leader holds a valid certificate of registration under the federal Migrant and
10 Seasonal Agricultural Worker Protection Act; or

11 (B) Substantially all the members of such crew operate or maintain mechanized equipment which
12 is provided by such crew leader; and

13 (C) Such individual is not an employee of such other persons under the usual common law rules
14 applicable in determining the employer-employee relationship.

15 (b) Any individual who is furnished by a crew leader to perform agricultural labor for any other
16 person and who is not treated as an employee of such crew leader under paragraph (a) of this sub-
17 section shall be an employee of such other person and such other person shall be treated as having
18 paid cash remuneration to such individual in an amount equal to the amount of cash remuneration
19 paid to such individual by the crew leader, either on behalf of the crew leader or on behalf of such
20 other person, for agricultural labor performed for such other person.

21 (c) For purposes of this subsection, the term "crew leader" means an individual who:

22 (A) Furnishes individuals to perform agricultural labor for any other person;

23 (B) Pays, either on behalf of the crew leader or on behalf of such other person, the individuals
24 so furnished by the crew leader for the agricultural labor performed by them; and

25 (C) Has not entered into a written agreement with such other person under which such indi-
26 vidual is designated as an employee of such other person.

27 **SECTION 17.** ORS 657.184 is amended to read:

28 657.184. Benefits shall not be paid on the basis of services performed by [*an alien*] **a noncitizen**
29 unless [*such alien*] **the noncitizen** is an individual who was lawfully admitted to the United States
30 for permanent residence at the time such services were performed, was lawfully present for purposes
31 of performing such services, or was permanently residing in the United States under color of law
32 at the time such services were performed, including [*an alien*] **a noncitizen** who was lawfully pres-
33 ent in the United States as a result of the application of the provisions of section 212(d)(5) of the
34 Immigration and Nationality Act.

35 **SECTION 18.** ORS 658.440 is amended to read:

36 658.440. (1) Each person acting as a labor contractor shall:

37 (a) Carry a labor contractor's license at all times and exhibit it upon request to any person with
38 whom the labor contractor intends to deal in the capacity of a labor contractor.

39 (b) File immediately at the United States post office serving the labor contractor's address, as
40 noted on the face of the license, a correct change of address if the labor contractor permanently
41 changes address, and notify the Commissioner of the Bureau of Labor and Industries each time an
42 address change is made.

43 (c) Pay or distribute promptly, when due, to the individuals entitled thereto all money or other
44 things of value entrusted to the labor contractor by any person for that purpose.

45 (d) Comply with the terms and provisions of all legal and valid agreements or contracts entered

1 into in the labor contractor's capacity as a labor contractor.

2 (e) File with the Bureau of Labor and Industries, as required by rule, information relating to
3 work agreements between the labor contractor and construction property owners or farmers and
4 between the labor contractor and workers or information concerning changes in the circumstances
5 under which the license was issued.

6 (f) Furnish to each worker, at the time of hiring, recruiting, soliciting or supplying, whichever
7 occurs first, a written statement in the English language and any other language used by the labor
8 contractor to communicate with the workers that contains a description of:

9 (A) The method of computing the rate of compensation.

10 (B) The terms and conditions of any bonus offered, including the manner of determining when
11 the bonus is earned.

12 (C) The terms and conditions of any loan made to the worker.

13 (D) The conditions of any housing, health and child care services to be provided.

14 (E) The terms and conditions of employment, including the approximate length of season or pe-
15 riod of employment and the approximate starting and ending dates thereof.

16 (F) The terms and conditions under which the worker is furnished clothing or equipment.

17 (G) The name and address of the owner of all operations where the worker will be working as
18 a result of being recruited, solicited, supplied or employed by the labor contractor.

19 (H) The existence of a labor dispute at the worksite.

20 (I) The worker's rights and remedies under ORS chapters 654 and 656, ORS 658.405 to 658.511,
21 the Service Contract Act (41 U.S.C. 351-401) and any other such law specified by the Commissioner
22 of the Bureau of Labor and Industries, in plain and simple language in a form specified by the
23 commissioner.

24 (g) At the time of hiring and prior to the worker performing any work for the labor contractor,
25 execute a written agreement between the worker and the labor contractor containing the terms and
26 conditions described in paragraph (f)(A) to (I) of this subsection. The written agreement shall be in
27 the English language and any other language used by the labor contractor to communicate with the
28 workers.

29 (h) Furnish to the worker, each time the worker receives a compensation payment from the la-
30 bor contractor, a written statement itemizing the total payment and amount and purpose of each
31 deduction therefrom, hours worked and rate of pay or rate of pay and pieces done if the work is
32 done on a piece rate basis, and if the work is done under the Service Contract Act (41 U.S.C.
33 351-401) or related federal or state law, a written statement of any applicable prevailing wage.

34 (i) Except for a person acting as a property services contractor, provide to the commissioner a
35 certified true copy of all payroll records for work done as a labor contractor when the contractor
36 pays employees directly. The records shall be submitted in such form and at such times and shall
37 contain such information as the commissioner, by rule, may prescribe.

38 (j)(A) If the person is a farm labor contractor engaged in the forestation or reforestation of
39 lands, provide workers' compensation insurance for each individual who performs manual labor in
40 forestation or reforestation activities regardless of the business form of the contractor and regard-
41 less of any contractual relationship that may be alleged to exist between the contractor and the
42 workers notwithstanding ORS 656.027, unless workers' compensation insurance is otherwise pro-
43 vided; or

44 (B) If the person is a farm labor contractor but is not engaged in the forestation or reforestation
45 of lands, provide workers' compensation insurance to the extent required under ORS chapter 656,

1 unless workers' compensation insurance is otherwise provided.

2 (k) If the person is a property services contractor, provide time and pay records, as defined in
3 ORS 652.750, to the commissioner or an employee of the property services contractor who requests
4 the records, no later than 45 days after receipt of the request. A property services contractor that
5 fails to comply with the requirements of this paragraph is subject to civil penalty under ORS
6 652.900.

7 (2) If the labor contractor:

8 (a) Employs workers, the labor contractor shall substantially comply with the provisions of ORS
9 654.174 relating to field sanitation, and its implementing rules as adopted by the Department of
10 Consumer and Business Services.

11 (b) Owns or controls housing furnished to workers in connection with the recruitment or em-
12 ployment of workers, the labor contractor shall ensure that the housing substantially complies with
13 any applicable law relating to the health, safety or habitability of the housing.

14 (c) Recruits or solicits any worker to travel from one place to another for the purpose of
15 working at a time prior to the availability of the employment, the labor contractor shall furnish to
16 the worker, at no charge, lodging and an adequate supply of food until employment begins, in com-
17 pliance with rules adopted by the Bureau of Labor and Industries. If employment does not begin
18 within 30 days from the date the labor contractor represented employment would become available,
19 the labor contractor shall refund to the worker all sums paid by the worker to the labor contractor
20 and provide the worker, in cash or other form of payment authorized by ORS 652.110, the costs of
21 transportation, including meals and lodging in transit, to return the worker to the place from which
22 the worker was induced to travel or the costs of transportation, including meals and lodging in
23 transit, to another worksite selected by the worker, whichever is less. For the purposes of this
24 paragraph, "recruits or solicits" does not include the mere provision of housing or employment to
25 persons who have not otherwise been recruited or solicited by the labor contractor or an agent of
26 the labor contractor prior to their arrival at the place of housing or employment. Workers who ar-
27 rive at the place of employment prior to the date they were instructed by the labor contractor to
28 arrive are not entitled to the benefits of this subsection until the date they were instructed to ar-
29 rive.

30 (3) A person acting as a labor contractor, or applying for a license to act as a labor contractor,
31 may not:

32 (a) Make any misrepresentation, false statement or willful concealment in the application for a
33 license.

34 (b) Willfully make or cause to be made to any person any false, fraudulent or misleading repre-
35 sentation, or publish or circulate any false, fraudulent or misleading information concerning the
36 terms, condition or existence of employment at any place or by any person.

37 (c) Solicit or induce, or cause to be solicited or induced, the violation of an existing contract
38 of employment.

39 (d) Knowingly employ [*an alien*] **a noncitizen** not legally present or legally employable in the
40 United States.

41 (e) Assist an unlicensed person to act in violation of ORS 658.405 to 658.511.

42 (f) By force, intimidation or threat of procuring dismissal or deportation or by any other manner
43 whatsoever, induce any worker employed or in a subcontracting relationship to the labor contractor
44 to give up any part of the compensation to which the worker is entitled under the contract of em-
45 ployment or under federal or state wage laws.

1 (g) Solicit or induce, or cause to be solicited or induced, the travel of a worker from one place
2 to another by representing to a worker that employment for the worker is available at the destina-
3 tion when employment for the worker is not available within 30 days after the date the work was
4 represented as being available.

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