

House Bill 3142

Sponsored by Representatives BREESE-IVERSON, LEVY B (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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act would make it so that employers do not have to pay unemployment taxes on the wages of noncitizens who work here on H-2A visas. (Flesch Readability Score: 60.0).

Exempts employers of noncitizens in agricultural labor who are not eligible for unemployment insurance benefits from liability for contributions related to that labor.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to employment subject to unemployment insurance taxes; creating new provisions; amend-
3 ing ORS 657.045 and section 4, chapter 180, Oregon Laws 2023; repealing section 5, chapter 43,
4 Oregon Laws 2021; and prescribing an effective date.

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

6 **SECTION 1.** ORS 657.045 is amended to read:

7 657.045. (1) **As used in this chapter**, "employment" does not include agricultural labor unless
8 [*such*] **the** labor is performed [*after December 31, 1977,*] for an employing unit [*who*] **that**:

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)(a) 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 a noncitizen admitted to the
16 United States to perform agricultural labor pursuant to sections [*214(c) and 101(a) (15) (H)*]
17 **101(a)(15)(H), 214(c) and 218** of the **federal** Immigration and Nationality Act, **8 U.S.C.**
18 **1101(a)(15)(H), 1184(c) and 1188.**

19 (b) **Notwithstanding the exclusion from "employment" under paragraph (a) of this sub-**
20 **section, the employing unit for which an individual described in paragraph (a) of this sub-**
21 **section performs the labor shall include the information related to the labor when complying**
22 **with ORS 657.571.**

23 (3) **As used in this section**, "agricultural labor" does not include services performed for the
24 state or a political subdivision but does include all services performed:

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

29 (b) In the employ of the owner, [*or*] tenant or other operator of a farm, in connection with the

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 operation, management, conservation, improvement or maintenance of *[such]* **the** farm and its tools
 2 and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane,
 3 if the major part of *[such]* **the** services is performed on a farm.

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

9 (d) In the employ of the operator or group of operators of a farm or farms, [(or a cooperative
 10 organization of which *[such]* **the** operator or operators are members,)] in handling, planting, drying,
 11 packing, packaging, processing, freezing, grading, storing or delivering to storage, [*or to*] market or
 12 [*to*] a carrier for transportation to market, in its unmanufactured state, any agricultural or
 13 horticultural commodity, but only if *[such]* **the** operator or group of operators produced more than
 14 one-half of the commodity, as measured by volume, weight or other customary means, with respect
 15 to which *[such]* **the** service is performed.

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

17 (a) Commercial canning, [*commercial*] freezing or brining of cherries;

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

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

22 (5) [*"Farms,"*] As used in this section, "**farms**" includes stock, dairy, poultry, fruit, fur-bearing
 23 animal, Christmas tree and truck farms, plantations, orchards, ranches, nurseries, ranges,
 24 greenhouses or other similar structures used primarily for the raising of agricultural or horticultural
 25 commodities.

26 (6) For [*the purpose*] **purposes** of this section, service in connection with the raising of
 27 forestry-type seedlings is agricultural labor when performed in a nursery.

28 (7)(a) For purposes of this chapter, [*and for services performed after December 31, 1977, any*] **an**
 29 individual who is a member of a crew furnished by a crew leader to perform agricultural labor for
 30 [*any other*] **another** person shall be treated as an employee of *[such]* **the** crew leader if:

31 (A) [*Such*] **The** crew leader holds a valid certificate of registration under the federal Migrant
 32 and Seasonal Agricultural Worker Protection Act; or

33 (B)(i) Substantially all the members of *[such]* **the** crew operate or maintain mechanized equip-
 34 ment which is provided by *[such]* **the** crew leader; and

35 [(C)] (ii) [*Such*] **The** individual is not an employee of [*such other persons*] **the other person**
 36 under the usual common law rules applicable in determining the employer-employee relationship.

37 (b) Any individual who is furnished by a crew leader to perform agricultural labor for [*any*
 38 *other*] **another** person and who is not treated as an employee of *[such]* **the** crew leader under par-
 39 agraph (a) of this subsection shall be an employee of *[such]* **the** other person [*and such other*
 40 *person*] **which** shall be treated as having paid cash remuneration to *[such]* **the** individual in an
 41 amount equal to the amount of cash remuneration paid to *[such]* **the** individual by the crew leader,
 42 either on behalf of the crew leader or on behalf of *[such]* **the** other person, for agricultural labor
 43 performed for *[such]* **the** other person.

44 (c) [*For purposes of*] **As used in** this subsection, [*the term*] "crew leader" means an individual
 45 who:

1 (A) Furnishes individuals to perform agricultural labor for [*any other*] **another** person;

2 (B) Pays, either on behalf of the crew leader or on behalf of [*such*] **the** other person, the indi-
3 viduals [*so*] furnished by the crew leader for the agricultural labor performed by them; and

4 (C) Has not entered into a written agreement with [*such*] **the** other person under which [*such*
5 *individual is designated as an employee of such other person*] **the individuals are designated as**
6 **employees of the other person.**

7 **SECTION 2. The amendments to ORS 657.045 by section 1 of this 2025 Act apply to labor**
8 **performed for calendar quarters as defined in ORS 657.010 that begin on or after January 1,**
9 **2026.**

10 **SECTION 3.** Section 4, chapter 180, Oregon Laws 2023, is amended to read:

11 **Sec. 4.** (1) If the United States Secretary of Labor serves notice that any provisions of [*ORS*
12 *657.221, as amended by section 1 of this 2023 Act, or rules adopted under ORS 657.221, as amended*
13 *by section 1 of this 2023 Act,*] **the statutes listed in subsection (2) of this section, or rules**
14 **adopted under the statutes,** fail to meet the requirements of the Social Security Act or the Federal
15 Unemployment Tax Act, the nonconforming provisions or rules shall no longer be of any force or
16 effect.

17 **(2) The statutes referred to in subsection (1) of this section are:**

18 **(a) ORS 657.010, as amended by section 1, chapter 43, Oregon Laws 2021.**

19 **(b) ORS 657.221, as amended by section 1, chapter 180, Oregon Laws 2023.**

20 **(c) ORS 657.045, as amended by section 1 of this 2025 Act.**

21 [(2)] **(3)** The Director of the Employment Department shall notify the Legislative Counsel as
22 soon as practicable after receipt of the notice described in subsection (1) of this section.

23 **SECTION 4. Section 5, chapter 43, Oregon Laws 2021, is repealed.**

24 **SECTION 5. This 2025 Act takes effect on the 91st day after the date on which the 2025**
25 **regular session of the Eighty-third Legislative Assembly adjourns sine die.**

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