

Senate Bill 1560

Sponsored by Senators JAMA, PROZANSKI, DEMBROW, LAWRENCE SPENCE, MANNING JR, PATTERSON, TAYLOR, Representatives ALONSO LEON, CAMPOS, GRAYBER, REARDON, RUIZ, SCHOUTEN; Senators ANDERSON, FREDERICK, GELSER BLOUIN, GOLDEN, GORSEK, HANSELL, KENNEMER, LIEBER, STEINER HAYWARD, WAGNER, Representatives BYNUM, DEXTER, EVANS, FAHEY, HELM, HOY, HUDSON, KROFF, 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 **as introduced**.

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."

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, 238.015,
3 316.027, 316.567, 316.695, 408.010, 411.139, 497.006, 656.005, 656.232, 657.045, 657.184 and 658.440.

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

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

5
6 (a) **"Noncitizen" means an individual who is not a citizen or national of the United States.**

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

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

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

12
13 (a) **"Noncitizen" means an individual who is not a citizen or national of the United States.**

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

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

SECTION 3. ORS 12.200 is amended to read:

20
21 12.200. When a person is [*an alien*] **a noncitizen and a** subject or citizen of a country at war
22 with the United States, the time of the continuance of the war shall not be a part of the period
23 limited for the commencement of the action.

SECTION 4. ORS 165.800 is amended to read:

24
25 165.800. (1) A person commits the crime of identity theft if the person, with the intent to deceive
26 or to defraud, obtains, possesses, transfers, creates, utters or converts to the person's own use 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 personal identification of another person.

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

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

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

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

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

11 (B) Benefit based on age.

12 (4) As used in this section:

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

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

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

19 (B) A person's driving privileges;

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

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

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

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

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

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

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

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

30 (K) A person's photograph;

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

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

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

34 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
35 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
36 out in this section, shall issue the person a concealed handgun license if the person:

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

38 (B) Is a legal resident [*alien*] **noncitizen** who can document continuous residency in the county
39 for at least six months and has declared in writing to the United States Citizenship and Immigration
40 Services the intent to acquire citizenship status and can present proof of the written declaration to
41 the sheriff at the time of application for the license;

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

43 (c) Is a resident of the county;

44 (d) Has no outstanding warrants for arrest;

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

- 1 (f) Demonstrates competence with a handgun by any one of the following:
- 2 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
3 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
4 of the course;
- 5 (B) Completion of any National Rifle Association firearms safety or training course if handgun
6 safety was a component of the course;
- 7 (C) Completion of any firearms safety or training course or class available to the general public
8 offered by law enforcement, community college, or private or public institution or organization or
9 firearms training school utilizing instructors certified by the National Rifle Association or a law
10 enforcement agency if handgun safety was a component of the course;
- 11 (D) Completion of any law enforcement firearms safety or training course or class offered for
12 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
13 cers if handgun safety was a component of the course;
- 14 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
15 ized shooting competition or military service;
- 16 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
17 revoked; or
- 18 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
19 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
20 was a component of the course;
- 21 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
22 of a felony;
- 23 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
24 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor
25 conviction for the possession of marijuana as described in paragraph (L) of this subsection;
- 26 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;
- 27 (j) Has not been found to be a person with mental illness and is not subject to an order under
28 ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of
29 that mental illness;
- 30 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
31 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
32 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
33 volving violence, as defined in ORS 166.470;
- 34 (L) Has not been convicted of an offense involving controlled substances or participated in a
35 court-supervised drug diversion program, except this disability does not operate to exclude a person
36 if:
- 37 (A) The person can demonstrate that the person has been convicted only once of a marijuana
38 possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of
39 the offense, and has not completed a drug diversion program for a marijuana possession offense that
40 constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or
- 41 (B) The person can demonstrate that the person has only once completed a drug diversion pro-
42 gram for a marijuana possession offense that constituted a misdemeanor or violation under the law
43 of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that
44 constituted a misdemeanor or violation under the law of the jurisdiction of the offense;
- 45 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,

1 107.700 to 107.735 or 163.738;

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

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

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

6 (2) A person who has been granted relief under ORS 166.273, 166.274 or 166.293 or 18 U.S.C.
7 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of
8 other jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

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

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

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

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

29 _____
30
31 APPLICATION FOR LICENSE TO CARRY
32 CONCEALED HANDGUN

33 Date_____

34 I hereby declare as follows:

35 I am a citizen of the United States or a legal resident [*alien*] **noncitizen** who can document
36 continuous residency in the county for at least six months and have declared in writing to the
37 United States Citizenship and Immigration Services my intention to become a citizen and can pres-
38 ent proof of the written declaration to the sheriff at the time of this application. I am at least 21
39 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four
40 years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having
41 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
42 volving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty,
43 except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not,
44 within the last four years, been convicted of a misdemeanor or found guilty, except for insanity
45 under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been

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

13

14 Legal name _____
15 Age _____ Date of birth _____
16 Place of birth _____
17 Social Security number _____

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

20

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

24 1. _____
25 2. _____

26

27 Height _____ Weight _____
28 Hair color _____ Eye color _____

29

30 Current address _____

31

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

32

33

34 City _____ County _____ Zip _____

35 Phone _____

36

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

39

(Signature of Applicant)

40

41

42 Character references.

43

44 Name: Address
45 _____

1 Name: Address

2

3 Approved _____ Disapproved _____ by _____

4

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

6 Date _____ Fee Paid _____

7 License No. _____

8

9

(5)(a) Fees for concealed handgun licenses are:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. ORS 238.015 is amended to read:

238.015. (1) No person may become a member of the system unless that person is in the service of a public employer and has completed six months' service uninterrupted by more than 30 consecutive working days during the six months' period. Every employee of a participating employer shall become a member of the system at the beginning of the first full pay period of the employee fol-

1 lowing the six months' period. Contributions for new members shall first be made for those wages
 2 that are attributable to services performed by the employee during the first full pay period following
 3 the six months' period, without regard to when those wages are considered earned for other pur-
 4 poses under this chapter. All public employers participating in the Public Employees Retirement
 5 System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of that
 6 chapter, and all school districts of the state, shall participate in, and their employees shall be
 7 members of, the system, except as otherwise specifically provided by law.

8 (2) Any active member of the Public Employees Retirement System who, through the annexation
 9 of a political subdivision employing the member or by change of employment, becomes the employee
 10 of another political subdivision which is participating in the Public Employees Retirement System
 11 and has also a separate retirement system for its employees, shall remain an active member of the
 12 Public Employees Retirement System unless, within 60 days after the effective date of the
 13 annexation or change of employment or April 8, 1953, the member shall by written notice to the
 14 Public Employees Retirement Board and to the administrative body of the new public employer elect
 15 to relinquish membership in the Public Employees Retirement System and become a member of the
 16 separate retirement system of the employer, if eligible for membership in that retirement system, and
 17 the member shall be so carried by the new employer. Immediately upon such annexation of any
 18 political subdivision or such change of employment, the new public employer shall inform such em-
 19 ployee in writing of the right of the employee to exercise an election as in this section provided.

20 (3) A political subdivision (other than a school district) not participating in the retirement sys-
 21 tem established by chapter 401, Oregon Laws 1945, as amended, which employs one or more em-
 22 ployees, each of whose position requires 600 hours of service per year, or an agency created by two
 23 or more political subdivisions to provide themselves governmental services, which employs one or
 24 more employees, each of whose position requires 600 hours of service per year, may, through its
 25 governing body, notify the board in writing, that it elects to include its employees in the system
 26 hereby established. Such public employer may request the board to make a study and estimate of the
 27 cost of including it and its eligible employees, other than volunteer firefighters, in the system, which
 28 the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon
 29 completion of the study and estimate the employer may apply for admission to the system, where-
 30 upon it shall begin to participate therein and its eligible employees other than volunteer firefighters
 31 shall become members of the system. If the employer is an agency created by two or more political
 32 subdivisions to provide themselves governmental services and ceases thereafter to transmit to the
 33 board contributions for any of its eligible employees, the benefits based upon employer contributions
 34 to which such employees would otherwise be entitled shall be reduced accordingly.

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

41 (5) A person holding an elective office or an appointive office with a fixed term or an office as
 42 head of a department to which the person is appointed by the Governor may become a member of
 43 the system by giving the board written notice of desire to do so within 30 days after taking the of-
 44 fice or, in the event that the officer is not eligible to become a member of the system at the time
 45 of taking the office, within 30 days after becoming so eligible. Membership so established shall not

1 be discontinued during the appointive or elective term of the officer except upon separation of the
2 officer from service.

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

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

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

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

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

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

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

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

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

16 **SECTION 7.** ORS 316.027 is amended to read:

17 316.027. (1) For purposes of this chapter, unless the context requires otherwise:

18 (a) “Resident” or “resident of this state” means:

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

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

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

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

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

26 (b) “Resident” or “resident of this state” does not include:

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

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

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

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

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

39 **SECTION 8.** ORS 316.567 is amended to read:

40 316.567. (1) Except as provided in subsection (2) of this section, spouses in a marriage may make
 41 a single declaration jointly under ORS 316.557 to 316.589. The liability of the spouses making such
 42 a declaration shall be joint and several.

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

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

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

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

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

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

6 (b) Divide the estimated tax between them.

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

13 **SECTION 9.** ORS 316.695 is amended to read:

14 316.695. (1) In addition to the modifications to federal taxable income contained in this chapter,
15 there shall be added to or subtracted from federal taxable income:

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

20 (b) If, in computing federal income tax for a tax year, the taxpayer deducted the standard de-
21 duction, as defined in section 63(c) of the Internal Revenue Code, the taxpayer shall add the amount
22 of the standard deduction deducted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (iv) An estate or trust;

13 (v) A common trust fund; or

14 (vi) A partnership.

15 (d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer’s itemized deductions
16 are the amount of the taxpayer’s itemized deductions as defined in section 63(d) of the Internal Re-
17 venue Code (reduced, if applicable, as described under section 68 of the Internal Revenue Code)
18 minus the deduction for Oregon income tax (reduced, if applicable, by the proportion that the re-
19 duction in federal itemized deductions resulting from section 68 of the Internal Revenue Code bears
20 to the amount of federal itemized deductions as defined for purposes of section 68 of the Internal
21 Revenue Code).

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

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

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

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

38 (A) \$5,500, if the federal adjusted gross income of the taxpayer for the tax year is less than
39 \$125,000, or, if reported on a joint return, less than \$250,000.

40 (B) \$4,400, if the federal adjusted gross income of the taxpayer for the tax year is \$125,000 or
41 more and less than \$130,000, or, if reported on a joint return, \$250,000 or more and less than
42 \$260,000.

43 (C) \$3,300, if the federal adjusted gross income of the taxpayer for the tax year is \$130,000 or
44 more and less than \$135,000, or, if reported on a joint return, \$260,000 or more and less than
45 \$270,000.

1 (D) \$2,200, if the federal adjusted gross income of the taxpayer for the tax year is \$135,000 or
2 more and less than \$140,000, or, if reported on a joint return, \$270,000 or more and less than
3 \$280,000.

4 (E) \$1,100, if the federal adjusted gross income of the taxpayer for the tax year is \$140,000 or
5 more and less than \$145,000, or, if reported on a joint return, \$280,000 or more and less than
6 \$290,000.

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

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

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

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

19 (B) The cost-of-living adjustment for a calendar year is the percentage by which the monthly
20 averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31
21 of the prior calendar year exceeds the monthly averaged index for the period beginning September
22 1, 2005, and ending August 31, 2006.

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

26 (D) If any adjustment determined under subparagraph (B) of this paragraph is not a multiple of
27 \$50, the adjustment shall be rounded to the next lower multiple of \$50.

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

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

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

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

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

45 (b) For tax years beginning on or after January 1, 1983, items of income, loss or deduction taken

1 into account in determining federal taxable income by a shareholder of an S corporation pursuant
 2 to sections 1366 to 1368 of the Internal Revenue Code shall be adjusted for purposes of determining
 3 Oregon taxable income, to the extent that as items of income, loss or deduction of the shareholder
 4 the items are required to be adjusted under the provisions of this chapter.

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

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

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

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

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

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

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

19 (B) For the spouse of the taxpayer if the spouse is blind as of the close of the tax year and an
 20 additional exemption is allowable to the taxpayer for such spouse for federal income tax purposes
 21 under section 151(b) of the Internal Revenue Code. For purposes of this subparagraph, if the spouse
 22 dies during the tax year, the determination of whether such spouse is blind shall be made imme-
 23 diately prior to death.

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

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

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

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

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

38 **SECTION 10.** ORS 408.010 is amended to read:

39 408.010. As used in ORS 408.010 to 408.090, unless otherwise required by the context, "benefici-
 40 ary" means any person who served in the active Armed Forces of the United States on or after June
 41 25, 1950, who was relieved or discharged from that service under honorable conditions and who was
 42 also a resident of Oregon at the time the person applied for benefits under ORS 408.010 to 408.090.
 43 "Beneficiary" does not include [*an alien, an alien*] **a noncitizen, a noncitizen** enemy, a person who
 44 avoided combat service by claiming to be a conscientious objector, a person who served less than
 45 90 days in the Armed Forces of the United States or a person inducted or enlisted in the military

1 or naval service who received civilian pay for civilian work.

2 **SECTION 11.** ORS 411.139 is amended to read:

3 411.139. (1) As used in this section:

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

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

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

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

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

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

13 (E) An Amerasian immigrant lawfully admitted to the United States who is described in 8 U.S.C.
14 1612(a)(2)(A)(v).

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

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

19 (i) Section 1059(a) of the National Defense Authorization Act for Fiscal Year 2006, P.L. 109-163,
20 119 Stat. 3444;

21 (ii) Section 1244(b) of the Refugee Crisis in Iraq Act of 2007, P.L. 110-181, 122 Stat. 397; or

22 (iii) Section 602(b) of the Afghan Allies Protection Act of 2009, P.L. 111-8, 123 Stat. 807.

23 (2) The Department of Human Services shall award grants to eligible agencies to provide the
24 following services to refugees residing in this state, for up to 24 months:

25 (a) Assisting refugees with department programs by:

26 (A) Referring refugees to the department within three days of the refugee's arrival in this state;

27 (B) Completing applications for assistance;

28 (C) Transporting the refugee to the initial appointments with the department;

29 (D) Providing to the department all necessary eligibility information known to the eligible
30 agency; and

31 (E) Coordinating services of the department with other social service agencies.

32 (b) Assisting refugees with:

33 (A) Navigating the health care and mental health systems, including providing assistance in
34 applying for medical assistance;

35 (B) Accessing housing assistance and finding stable housing;

36 (C) Setting up utilities and paying utility bills;

37 (D) Issues with landlords;

38 (E) Navigating legal or criminal issues including services for victims of crime;

39 (F) Accessing in-home services including parenting assistance, English as a second language in-
40 struction, medical and psychosocial support; and

41 (G) Navigating the culture of the United States.

42 (c) Providing transportation to appointments.

43 (d) Training refugees on using public transportation.

44 (e) Providing immigration assistance and referrals.

45 (f) Advocating on behalf of refugees regarding domestic violence, federal laws and hate crimes.

1 (g) Providing refugees with interpretation services and assistance with access to language ser-
 2 vices.

3 (h) Providing referrals for refugees to culturally specific support groups and services, including
 4 religious organizations.

5 (i) Pairing refugees with volunteers for English as a second language training and ongoing lan-
 6 guage support.

7 (j) Providing support to refugees in budgeting and achieving financial literacy.

8 (k) Identifying refugees' employment skills and providing referrals to employment skills training
 9 and other job support services.

10 (L) Problem solving with refugees and assisting refugees with life skills development.

11 (m) Ensuring that refugees have access to psychosocial support and emotional wellness educa-
 12 tion.

13 (n) Coordinating medical services for refugees including referring to and coordinating with
 14 agencies that determine eligibility for disability benefits.

15 (o) Providing family preservation services, legal services and social service support for domestic
 16 violence and child welfare issues.

17 (p) Assisting newly arrived refugee children in accessing services to strengthen the children's
 18 academic performance and successful integration into the community.

19 (q) Other services necessary to assist refugees in accessing programs administered by the de-
 20 partment.

21 **SECTION 12.** ORS 497.006 is amended to read:

22 497.006. (1) As used in this section:

23 (a) "Dependent children" includes any children of an active member of the Armed Forces of the
 24 United States who:

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

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

29 (b) "Resident member of the uniformed services" means a member of the uniformed services who:

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

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

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

36 (c) "Uniformed services" means:

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

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

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

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

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

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

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

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

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

8 **SECTION 13.** ORS 656.005 is amended to read:

9 656.005. (1) “Average weekly wage” means the Oregon average weekly wage in covered em-
10 ployment, as determined by the Employment Department, for the last quarter of the calendar year
11 preceding the fiscal year in which the injury occurred.

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

14 (b) “Beneficiary” does not include:

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

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

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

21 (4) “Carrier-insured employer” means an employer who provides workers’ compensation cover-
22 age with the State Accident Insurance Fund Corporation or an insurer authorized under ORS
23 chapter 731 to transact workers’ compensation insurance in this state.

24 (5) “Child” means a child of an injured worker, including:

25 (a) A posthumous child;

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

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

28 (d) A child born out of wedlock;

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

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

33 (6) “Claim” means a written request for compensation from a subject worker or someone on the
34 worker’s behalf, or any compensable injury of which a subject employer has notice or knowledge.

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

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

42 (B) If an otherwise compensable injury combines at any time with a preexisting condition to
43 cause or prolong disability or a need for treatment, the combined condition is compensable only if,
44 so long as and to the extent that the otherwise compensable injury is the major contributing cause
45 of the disability of the combined condition or the major contributing cause of the need for treatment

1 of the combined condition.

2 (b) “Compensable injury” does not include:

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

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

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

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

14 (d) A “nondisabling compensable injury” is any injury that requires medical services only.

15 (8) “Compensation” includes all benefits, including medical services, provided for a compensable
16 injury to a subject worker or the worker’s beneficiaries by an insurer or self-insured employer pur-
17 suant to this chapter.

18 (9) “Department” means the Department of Consumer and Business Services.

19 (10)(a) “Dependent” means any of the following relatives of the worker who, at the time of an
20 accident, depended in whole or in part for the relative’s support on the earnings of a worker who
21 dies as a result of an injury:

22 (A) A parent, grandparent or stepparent;

23 (B) A grandson or granddaughter;

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

25 (D) A niece or nephew.

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

29 (11) “Director” means the Director of the Department of Consumer and Business Services.

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

33 (b) Except as otherwise provided for workers subject to a managed care contract, “attending
34 physician” means a doctor, physician or physician assistant who is primarily responsible for the
35 treatment of a worker’s compensable injury and who is:

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

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

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

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

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

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

10 (d) “Consulting physician” means a doctor or physician who examines a worker or the worker’s
11 medical record to advise the attending physician or nurse practitioner authorized to provide
12 compensable medical services under ORS 656.245 regarding treatment of a worker’s compensable
13 injury.

14 (13)(a) “Employer” means any person, including receiver, administrator, executor or trustee, and
15 the state, state agencies, counties, municipal corporations, school districts and other public corpo-
16 rations or political subdivisions, that contracts to pay a remuneration for the services of any
17 worker.

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

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

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

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

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

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

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

32 (18) “Noncomplying employer” means a subject employer that has failed to comply with ORS
33 656.017.

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

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

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

43 (22) “Payroll” means a record of wages payable to workers for their services and includes
44 commissions, value of exchange labor and the reasonable value of board, rent, housing, lodging or
45 similar advantage received from the employer. However, “payroll” does not include overtime pay,

1 vacation pay, bonus pay, tips, amounts payable under profit-sharing agreements or bonus payments
2 to reward workers for safe working practices. Bonus pay is limited to payments that are not antic-
3 ipated under the contract of employment and that are paid at the sole discretion of the employer.
4 The exclusion from payroll of bonus payments to reward workers for safe working practices is only
5 for the purpose of calculations based on payroll to determine premium for workers' compensation
6 insurance, and does not affect any other calculation or determination based on payroll for the pur-
7 poses of this chapter.

8 (23) "Person" includes a partnership, joint venture, association, limited liability company and
9 corporation.

10 (24)(a) "Preexisting condition" means, for all industrial injury claims, any injury, disease, con-
11 genital abnormality, personality disorder or similar condition that contributes to disability or need
12 for treatment, provided that:

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

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

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

20 (iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the diagnosis or treatment
21 precedes the onset of the worsened condition.

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

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

28 (25) "Self-insured employer" means an employer or group of employers certified under ORS
29 656.430 as meeting the qualifications set out by ORS 656.407.

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

32 (27) "Wages" means the money rate at which the service rendered is recompensed under the
33 contract of hiring in force at the time of the accident, including reasonable value of board, rent,
34 housing, lodging or similar advantage received from the employer, and includes the amount of tips
35 required to be reported by the employer pursuant to section 6053 of the Internal Revenue Code of
36 1954, as amended, and the regulations promulgated pursuant thereto, or the amount of actual tips
37 reported, whichever amount is greater. The State Accident Insurance Fund Corporation may estab-
38 lish assumed minimum and maximum wages, in conformity with recognized insurance principles, at
39 which any worker shall be carried upon the payroll of the employer for the purpose of determining
40 the premium of the employer.

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

1 or public assistance grant.

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

5 (c) For the purposes of this chapter, “subject worker” means a worker who is subject to this
6 chapter as provided in ORS 656.027.

7 (29) “Independent contractor” has the meaning for that term provided in ORS 670.600.

8 **SECTION 14.** ORS 656.232 is amended to read:

9 656.232. (1) If a beneficiary is [*an alien*] **a noncitizen** residing outside of the United States or
10 its dependencies, payment of the sums due such beneficiary may, in the discretion of the Director
11 of the Department of Consumer and Business Services, be made to the consul general of the country
12 in which such beneficiary resides on behalf of the beneficiary. The receipt of the consul general to
13 the director for the amounts thus paid shall be a full and sufficient receipt for the payment of the
14 funds thus due the beneficiary.

15 (2) If a beneficiary is [*an alien*] **a noncitizen** residing outside of the United States or its de-
16 pendencies, the director may, in lieu of awarding such beneficiary compensation in the amount
17 provided by this chapter, award such beneficiary such lesser sum by way of compensation which,
18 according to the conditions and costs of living in the place of residence of such beneficiary will, in
19 the opinion of the director, maintain the beneficiary in a like degree of comfort as a beneficiary of
20 the same class residing in this state and receiving the full compensation authorized by this chapter.
21 The director shall determine the amount of compensation benefits upon the basis of the rate of ex-
22 change between the United States and any foreign country as determined by the Federal Reserve
23 Bank as of January 1 and July 1 of the year when paid.

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

26 **SECTION 15.** ORS 657.045 is amended to read:

27 657.045. (1) “Employment” does not include agricultural labor unless such labor is performed
28 after December 31, 1977, for an employing unit who:

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

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

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

38 (3) “Agricultural labor” does not include services performed for the state or a political subdivi-
39 sion but does include all services performed:

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

44 (b) In the employ of the owner or tenant or other operator of a farm, in connection with the
45 operation, management, conservation, improvement or maintenance of such farm and its tools and

1 equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if
2 the major part of such services is performed on a farm.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (C) Has not entered into a written agreement with such other person under which such indi-

vidual is designated as an employee of such other person.

SECTION 16. ORS 657.184 is amended to read:

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

SECTION 17. ORS 658.440 is amended to read:

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

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

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

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

(d) Comply with the terms and provisions of all legal and valid agreements or contracts entered into in the labor contractor’s capacity as a labor contractor.

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

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

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

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

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

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

(E) The terms and conditions of employment, including the approximate length of season or period of employment and the approximate starting and ending dates thereof.

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

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

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

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

(g) At the time of hiring and prior to the worker performing any work for the labor contractor, execute a written agreement between the worker and the labor contractor containing the terms and

1 conditions described in paragraph (f)(A) to (I) of this subsection. The written agreement shall be in
2 the English language and any other language used by the labor contractor to communicate with the
3 workers.

4 (h) Furnish to the worker, each time the worker receives a compensation payment from the la-
5 bor contractor, a written statement itemizing the total payment and amount and purpose of each
6 deduction therefrom, hours worked and rate of pay or rate of pay and pieces done if the work is
7 done on a piece rate basis, and if the work is done under the Service Contract Act (41 U.S.C.
8 351-401) or related federal or state law, a written statement of any applicable prevailing wage.

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

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

19 (B) If the person is a farm labor contractor but is not engaged in the forestation or reforestation
20 of lands, provide workers' compensation insurance to the extent required under ORS chapter 656,
21 unless workers' compensation insurance is otherwise provided.

22 (k) If the person is a property services contractor, provide time and pay records, as defined in
23 ORS 652.750, to the commissioner or an employee of the property services contractor who requests
24 the records, no later than 45 days after receipt of the request. A property services contractor that
25 fails to comply with the requirements of this paragraph is subject to civil penalty under ORS
26 652.900.

27 (2) If the labor contractor:

28 (a) Employs workers, the labor contractor shall substantially comply with the provisions of ORS
29 654.174 relating to field sanitation, and its implementing rules as adopted by the Department of
30 Consumer and Business Services.

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

34 (c) Recruits or solicits any worker to travel from one place to another for the purpose of
35 working at a time prior to the availability of the employment, the labor contractor shall furnish to
36 the worker, at no charge, lodging and an adequate supply of food until employment begins, in com-
37 pliance with rules adopted by the Bureau of Labor and Industries. If employment does not begin
38 within 30 days from the date the labor contractor represented employment would become available,
39 the labor contractor shall refund to the worker all sums paid by the worker to the labor contractor
40 and provide the worker, in cash or other form of payment authorized by ORS 652.110, the costs of
41 transportation, including meals and lodging in transit, to return the worker to the place from which
42 the worker was induced to travel or the costs of transportation, including meals and lodging in
43 transit, to another worksite selected by the worker, whichever is less. For the purposes of this
44 paragraph, "recruits or solicits" does not include the mere provision of housing or employment to
45 persons who have not otherwise been recruited or solicited by the labor contractor or an agent of

1 the labor contractor prior to their arrival at the place of housing or employment. Workers who ar-
2 rive at the place of employment prior to the date they were instructed by the labor contractor to
3 arrive are not entitled to the benefits of this subsection until the date they were instructed to ar-
4 rive.

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

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

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

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

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

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

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

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

25 _____