

SB 916-5  
(LC 2910)  
3/3/25 (ASD/ps)

Requested by Senator BONHAM

**PROPOSED AMENDMENTS TO  
SENATE BILL 916**

1 On page 1 of the printed bill, delete lines 3 and 4 and insert “amending  
2 ORS 657.010, 657.153, 657.176, 657.200, 657.202, 657.310, 657.317 and 657.400.”.

3 Delete lines 6 through 28 and delete pages 2 through 6 and insert:

4 **“SECTION 1.** ORS 657.200 is amended to read:

5 “657.200. (1) [*An individual is disqualified for benefits*] **Notwithstanding**  
6 **the provisions of this chapter relating to availability for work, actively**  
7 **seeking work or refusal to accept suitable work, an individual who is**  
8 **otherwise eligible for benefits is not disqualified for benefits or waiting**  
9 **week credit** for any week with respect to which the Director of the Em-  
10 ployment Department finds that the unemployment of the individual is due  
11 to a [*labor dispute*] **lockout** that is in active progress at the factory, estab-  
12 lishment or other premises at which the individual is or was last employed  
13 or at which the individual claims employment rights by union agreement or  
14 otherwise.

15 **(2)(a) An individual is disqualified for benefits for the first three**  
16 **weeks with respect to which the Director of the Employment Depart-**  
17 **ment finds that the unemployment of the individual is due to a strike**  
18 **that is in active progress at the factory, establishment or other**  
19 **premises at which the individual is or was last employed or at which**  
20 **the individual claims employment rights by union agreement or oth-**  
21 **erwise.**

1       **(b) Notwithstanding the provisions of this chapter relating to**  
2 **availability for work, actively seeking work or refusal to accept suit-**  
3 **able work, after the first three weeks, an individual described in par-**  
4 **agraph (a) of this subsection who is otherwise eligible for benefits is**  
5 **not disqualified for benefits or waiting week credit for any subsequent**  
6 **week of unemployment due to the strike.**

7       *“(2) When an employer operates two or more premises in the conduct of*  
8 *business they shall be considered one premises for the purposes of this chapter*  
9 *if the labor dispute at one makes it impossible or impractical to conduct work*  
10 *at the others or in a normal manner.]*

11       *“(3) This section does not apply if it is shown to the satisfaction of the*  
12 *director that the individual:]*

13       *“(a) Is unemployed due to a lockout, as defined in ORS 662.205, at the*  
14 *factory, establishment or other premises at which the individual was last em-*  
15 *ployed; or]*

16       *“(b)(A) Is not participating in or financing or directly interested in the*  
17 *labor dispute that caused the unemployment of the individual; and]*

18       *“(B) Does not belong to a grade or class of workers of which, immediately*  
19 *before the commencement of the labor dispute, there were members employed*  
20 *at the premises at which the labor dispute occurs, any of whom are partic-*  
21 *ipating in or financing or directly interested in the dispute.]*

22       *“(4) An individual who meets all other applicable benefit eligibility re-*  
23 *quirements of this chapter is not disqualified from receipt of benefits by this*  
24 *section if:]*

25       *“(a) The individual was laid off from the employer prior to commencement*  
26 *of the labor dispute, did not work for the employer more than seven days*  
27 *during the 21 calendar days immediately prior to the commencement of the*  
28 *labor dispute and meets the requirements of subsection (3)(b)(A) of this section;*  
29 *or]*

30       *“(b) During the labor dispute, the individual’s job or position is filled by*

1 *the employer hiring a permanent replacement and the following conditions are*  
2 *met:]*

3 *“(A) The individual subsequently unilaterally abandons the labor dispute*  
4 *and affirmatively seeks reemployment with the employer; and]*

5 *“(B) The individual meets the requirements of subsection (3)(b)(A) of this*  
6 *section.]*

7 *“(5) An individual who maintains membership in a labor union or who*  
8 *continues to pay labor union dues does not violate the provisions of subsection*  
9 *(3)(b)(A) of this section, for the purpose of subsection (4) of this section.]*

10 **“SECTION 2.** ORS 657.010, as amended by section 28, chapter 75, Oregon  
11 Laws 2024, is amended to read:

12 “657.010. As used in this chapter, unless the context requires otherwise:

13 “(1) ‘Base year’ means the first four of the last five completed calendar  
14 quarters preceding the benefit year.

15 “(2) ‘Benefits’ means the money allowances payable to unemployed per-  
16 sons under this chapter.

17 “(3) ‘Benefit year’ means a period of 52 consecutive weeks commencing  
18 with the first week with respect to which an individual files an initial valid  
19 claim for benefits, and thereafter the 52 consecutive weeks period beginning  
20 with the first week with respect to which the individual next files an initial  
21 valid claim after the termination of the individual’s last preceding benefit  
22 year except that the benefit year shall be 53 weeks if the filing of an initial  
23 valid claim would result in overlapping any quarter of the base year of a  
24 previously filed initial valid claim.

25 “(4) ‘Calendar quarter’ means the period of three consecutive calendar  
26 months ending on March 31, June 30, September 30 or December 31, or the  
27 approximate equivalent thereof, as the Director of the Employment Depart-  
28 ment may, by rule, prescribe.

29 “(5) ‘Contribution’ or ‘contributions’ means [*the*] taxes [*that are the money*  
30 *payments required by this chapter, or voluntary payments permitted, to be*

1 *made to the Unemployment Compensation Trust Fund*].

2 “(6) ‘Educational institution,’ including an institution of higher educa-  
3 tion, means an institution:

4 “(a) In which participants, trainees or students are offered an organized  
5 course of study or training designed to transfer to them knowledge, skills,  
6 information, doctrines, attitudes or abilities from, by or under the guidance  
7 of an instructor or teacher;

8 “(b) That is accredited, registered, approved, licensed or issued a permit  
9 to operate as a school by the Department of Education or other government  
10 agency, or that offers courses for credit that are transferable to an approved,  
11 registered or accredited school;

12 “(c) In which the course or courses of study or training that it offers may  
13 be academic, technical, trade or preparation for gainful employment in a re-  
14 cognized occupation; and

15 “(d) In which the course or courses of study or training are offered on a  
16 regular and continuing basis.

17 “(7) ‘Employment office’ means a free public employment office or branch  
18 thereof, operated by this state or maintained as a part of a state-controlled  
19 system of public employment offices.

20 “(8) ‘Hospital’ has the meaning given that term in ORS 442.015.

21 “(9) ‘Institution of higher education’ means an educational institution  
22 that:

23 “(a) Admits as regular students only individuals having a certificate of  
24 graduation from a high school, or the recognized equivalent of such a cer-  
25 tificate;

26 “(b) Is legally authorized in this state to provide a program of education  
27 beyond high school;

28 “(c) Provides an educational program for which it awards a bachelor’s or  
29 higher degree, or provides a program that is acceptable for full credit toward  
30 such a degree, a program of post-graduate or post-doctoral studies, or a pro-

1 gram of training to prepare students for gainful employment in a recognized  
2 occupation; and

3 “(d) Is a public or other nonprofit institution.

4 “(10) ‘Instructional capacity’ does not include services performed as an  
5 instructional assistant as defined in ORS 342.120.

6 “(11) ‘Internal Revenue Code’ means the federal Internal Revenue Code,  
7 as amended and in effect on December 31, 2023.

8 **“(12) ‘Labor dispute’ means any concerted or deliberate action by  
9 two or more individuals or by an employing unit resulting in either a  
10 strike or lockout in which wages, hours, working conditions or terms  
11 of employment of the individuals are involved.**

12 **“(13) ‘Lockout’ means any refusal by an employer to permit em-  
13 ployees to work as a result of a dispute with the employees affecting  
14 wages, hours or other terms or conditions of their employment.**

15 “[~~(12)~~] (14) ‘Nonprofit employing unit’ means an organization, or group  
16 of organizations, described in section 501(c)(3) of the Internal Revenue Code  
17 that is exempt from income tax under section 501(a) of the Internal Revenue  
18 Code.

19 “[~~(13)~~] (15) ‘State’ includes, in addition to the states of the United States  
20 of America, the District of Columbia and Puerto Rico. However, for all pur-  
21 poses of this chapter the Virgin Islands shall be considered a state on and  
22 after the day on which the United States Secretary of Labor first approves  
23 the Virgin Islands’ law under section 3304(a) of the Federal Unemployment  
24 Tax Act as amended by Public Law 94-566.

25 **“(16) ‘Strike’ means any concerted act of employees in a lawful re-  
26 fusal under applicable state or federal law to perform work or services  
27 for an employer.**

28 “[~~(14)~~] (17) ‘Taxes’ means the money payments to the Unemployment  
29 Compensation Trust Fund required, or voluntary payments permitted, by this  
30 chapter.

1 “[(15)] (18) ‘Valid claim’ means any claim for benefits made in accordance  
2 with ORS 657.260 if the individual meets the wages-paid-for-employment re-  
3 quirements of ORS 657.150.

4 “[(16)] (19) ‘Week’ means any period of seven consecutive calendar days  
5 ending at midnight, as the director may prescribe by rule.

6 “**SECTION 3.** ORS 657.153 is amended to read:

7 “657.153. (1) **Except as provided in subsection (2) of this section,** the  
8 amount of back pay paid by an employer, or awarded by a judge or  
9 arbitrator, to an individual may not be reduced to reflect the amount of  
10 benefits that the individual received [*during*] **for** the period for which the  
11 back pay was paid or awarded.

12 “(2) **Subsection (1) of this section does not apply to back pay paid**  
13 **to resolve a strike by an employer to an employee who received bene-**  
14 **fits for the period during which the strike was in active progress.**

15 “**SECTION 4.** ORS 657.310 is amended to read:

16 “657.310. (1)[(a)] [*If*] **This section applies to an individual who, ac-**  
17 **cording to a decision of** the Director of the Employment Department, [*de-*  
18 *cides that an individual*] received any benefits [*under this chapter*] to which  
19 the individual is not entitled because the individual[,]:

20 “(a) Regardless of the individual’s knowledge or intent, made or caused  
21 to be made a false statement or misrepresentation of a material fact, or failed  
22 to disclose a material fact[,]; **or**

23 “(b) **Notwithstanding ORS 657.315, received back pay from an em-**  
24 **ployer to resolve a strike.**

25 “(2)(a) [*the*] **An individual described in subsection (1) of this section**  
26 **is liable:**

27 “(A) To repay the amount of the benefits to the director for the Unem-  
28 ployment Compensation Trust Fund; or

29 “(B) To have the amount of the benefits deducted from any future benefits  
30 otherwise payable to the individual under this chapter.

1 “(b) For purposes of paragraph (a)(B) of this subsection, the director may  
2 deduct all or any part of the individual’s future weekly benefits.

3 “(c) Except as provided in subsection [(2)(b)] **(3)(b)** of this section, **an**  
4 **overpayment of** benefits described in [*paragraph (a) of this*] subsection **(1)**  
5 **of this section** may be collected for any week or weeks within five years  
6 following the week in which the decision establishing the erroneous payment  
7 became final.

8 “(d) Notice provided to an individual of the individual’s liability for re-  
9 covery of benefits under this section must include a description of:

10 “(A) The basis for the director’s decision that benefits have been overpaid;  
11 and

12 “(B) The consequences of the overpayment, including the methods of re-  
13 covery of the overpaid amount, with interest and penalties, and the possi-  
14 bility of waiver under ORS 657.317.

15 “[2)(a)] **(3)(a)** In addition to the liability described in subsection [(1)] **(2)**  
16 of this section, an individual who has been disqualified for benefits under  
17 ORS 657.215 is liable for a penalty imposed at a rate prescribed by the di-  
18 rector of at least 15, but not greater than 30, percent of the amount of ben-  
19 efits the individual received to which the individual was not entitled.

20 “(b) Notwithstanding subsection [(1)(c)] **(2)(c)** of this section, overpaid  
21 benefits that are subject to the penalty imposed under this subsection may  
22 be collected at any time.

23 “[3)] **(4)** A decision of the director under this section does not authorize  
24 the recovery of the amount of any benefits paid to an individual until the  
25 decision is final and the decision specifies **the week or weeks for which**  
26 **the benefits were paid and:**

27 “(a)**(A)** That the individual, by reason of the false statement, misrepre-  
28 sentation or nondisclosure, is liable to repay the amount to the Unemploy-  
29 ment Compensation Trust Fund; **and**

30 “[b)] **(B)** The nature of the false statement, misrepresentation or

1 nondisclosure; *[and]* or

2 **“(b) That the individual, by reason of the receipt of back pay as**  
3 **described in subsection (1)(b) of this section, is liable to repay the**  
4 **amount to the Unemployment Compensation Trust Fund.**

5 *“[(c) The week or weeks for which the benefits were paid.]*

6 *“[(4)(a)]* **(5)(a)** The director may bring a civil action against an individual  
7 to collect any amount subject to recovery and any penalty due under this  
8 section.

9 **“(b) Judgment rendered shall bear interest at the rate provided in sub-**  
10 **section [(5)] (6) of this section.**

11 *“[(5)]* **(6)** Interest on any amount liable to be repaid under this section  
12 shall be paid and collected at the same time repayment of benefits is made  
13 by the individual, at the rate of one percent per month or fraction of a  
14 month, beginning on the first day of the month following 60 days after the  
15 finality of the administrative decision establishing the overpayment.

16 *“[(6)(a)]* **(7)(a)** Deductions from unemployment insurance benefits pursu-  
17 ant to subsection *[(1)(a)(B)]* **(2)(a)(B)** of this section shall be applied solely  
18 to the amount of the benefits liable to be repaid under this section.

19 **“(b) All other payments shall be applied first to court costs, then to pen-**  
20 **alties, then to interest, then to the amount liable to be repaid.**

21 *“[(7)(a)]* **(8)(a)** The following amounts collected under this section shall  
22 be paid into the Unemployment Compensation Trust Fund:

23 **“(A) Amounts in repayment of benefits; and**

24 **“(B) The portion of penalties imposed under subsection [(2)] (3) of this**  
25 **section that is 15 percent of the amount of benefits received.**

26 **“(b) The following amounts collected under this section shall be paid into**  
27 **the Employment Department Special Fraud Control Fund in accordance with**  
28 **the provisions of ORS 657.400:**

29 **“(A) Interest other than interest described in paragraph (c) of this sub-**  
30 **section; and**



1 “(B) The portion of penalties imposed under subsection [(2)] (3) of this  
2 section that remains after subtraction of the portion of penalties described  
3 in paragraph (a)(B) of this subsection.

4 “(c) Interest payable on any portion of benefits that were funded by the  
5 federal government shall be paid to the United States Department of Labor.

6 “[8] (9) The director shall adopt rules establishing standards and proce-  
7 dures for the repayment of benefits and payment of penalties and interest  
8 under this section.

9 **“SECTION 5.** ORS 657.317 is amended to read:

10 “657.317. (1) The Director of the Employment Department shall waive re-  
11 covery of overpaid benefits under ORS 657.315 if the director finds that the  
12 benefits are recoverable due to a change in federal or state law, the appli-  
13 cation of which has caused the disqualification of benefits previously paid.

14 “(2)(a) Except as provided in paragraph (b) of this subsection, the director  
15 may waive recovery of all or any part of overpaid benefits subject to repay-  
16 ment or deduction under ORS 657.310 [(1)] (2) or 657.315 (1) if the director  
17 finds that recovery of the benefits would be against equity and good con-  
18 science.

19 “(b) The director may not waive recovery under this subsection of over-  
20 paid benefits that are:

21 **“(A) Described in ORS 657.310 (1)(b); or**

22 **“(B) Subject to the penalty imposed under ORS 657.310 [(2)] (3).**

23 “(3) The director may waive establishment and recovery of overpaid ben-  
24 efits when no decision has been issued under ORS 657.310 or 657.315 and the  
25 amount of the overpayment is less than one-half of the maximum weekly  
26 benefit amount in effect at the time the overpayment is discovered.

27 “(4) Any waiver granted under this section extinguishes all liability of the  
28 debtor for the waived amounts.

29 **“SECTION 6.** ORS 657.176 is amended to read:

30 “657.176. (1) An authorized representative designated by the Director of

1 the Employment Department shall promptly examine each claim to determine  
2 whether an individual is subject to disqualification as a result of a sepa-  
3 ration, termination, leaving, resignation[,] or disciplinary suspension from  
4 work, or as a result of failure to apply for or accept work, and shall  
5 promptly enter a director's decision if required by ORS 657.267. The au-  
6 thorized representative may address issues raised by information before the  
7 authorized representative, including but not limited to the nature of the  
8 separation, notwithstanding the way the parties characterize those issues.

9 “(2) An individual shall be disqualified from the receipt of benefits until  
10 the individual has performed service in employment subject to this chapter  
11 or the equivalent law of another state or Canada or as defined in ORS  
12 657.030 (2) or as an employee of the federal government, for which  
13 remuneration is received that equals or exceeds four times the individual's  
14 weekly benefit amount subsequent to the week in which the act causing the  
15 disqualification occurred, if the authorized representative designated by the  
16 director finds that the individual:

17 “(a) Has been discharged for misconduct connected with work;

18 “(b) Has been suspended from work for misconduct connected with work;

19 “(c) Voluntarily left work without good cause;

20 “(d) Failed without good cause to apply for available suitable work when  
21 referred by the employment office or the director;

22 “(e) Failed without good cause to accept suitable work when offered;

23 “(f) Has been discharged or suspended for being absent or tardy in re-  
24 porting to work and the absence or tardiness occurred as a result of the  
25 unlawful use of any drug unless the person was participating in a recognized  
26 drug rehabilitation program at the time of the absence or tardiness, or is so  
27 participating within 10 days after the date of the discharge or suspension,  
28 and the person provides to the Employment Department documentation of  
29 program participation. As used in this paragraph, ‘unlawful use’ does not  
30 include the use of a drug taken under the supervision of a licensed health

1 care professional and in accordance with the prescribed directions for con-  
2 sumption, or other uses authorized by the laws of this state;

3 “(g) Has been discharged or suspended for being absent or tardy in re-  
4 porting to work and the absence or tardiness occurred as the result of the  
5 use of alcohol or cannabis on a second or any subsequent occasion within a  
6 period of 12 months unless the person was participating in a recognized al-  
7 cohool or cannabis rehabilitation program at the time of the absence or  
8 tardiness, or is so participating within 10 days after the date of the discharge  
9 or suspension, and the person provides to the department documentation of  
10 program participation; or

11 “(h) Has committed a disqualifying act described in subsection (9) or (10)  
12 of this section.

13 “(3) If the authorized representative designated by the director finds that  
14 an individual was discharged for misconduct because of the individual’s  
15 commission of a felony or theft in connection with the individual’s work, all  
16 benefit rights based on wages earned prior to the date of the discharge shall  
17 be canceled if the individual’s employer notifies the director of the discharge  
18 within 10 days following issuance of the notice provided for in ORS 657.265  
19 or 30 days following issuance of the notice provided for in ORS 657.266, and:

20 “(a) The individual has admitted commission of the felony or theft to an  
21 authorized representative of the director;

22 “(b) The individual has signed a written admission of the felony or theft  
23 and the written admission has been presented to an authorized representative  
24 of the director; or

25 “(c) The felony or theft has resulted in a conviction by a court of com-  
26 petent jurisdiction.

27 “(4) An individual disqualified under subsection (2) of this section shall  
28 have the individual’s maximum benefit amount reduced by eight times the  
29 individual’s weekly benefit amount. However, in no event shall the  
30 individual’s maximum benefit amount be reduced to less than the individual’s

1 weekly benefit amount unless the individual has previously received benefits  
2 during the individual's benefit year.

3 “(5) An individual may not be disqualified from receiving benefits under  
4 subsection (2)(c) or (e) of this section [*or under ORS 657.200*] if the individual  
5 ceases work or fails to accept work when a collective bargaining agreement  
6 between the individual's bargaining unit and the individual's employer is in  
7 effect and the employer unilaterally modifies the amount of wages payable  
8 under the agreement, in breach of the agreement.

9 “(6) For purposes of applying subsection (2) of this section, when an in-  
10 dividual has notified an employer that the individual will leave work on a  
11 specific date and it is determined that:

12 “(a) The separation would be for reasons that constitute good cause;

13 “(b) The individual voluntarily left work without good cause prior to the  
14 date of the impending good cause voluntary leaving date; and

15 “(c) The actual voluntary leaving of work occurred no more than 15 days  
16 prior to the planned date of voluntary leaving,

17

18 then the separation from work shall be adjudicated as if the actual voluntary  
19 leaving had not occurred and the planned voluntary leaving had occurred.  
20 However, the individual shall be ineligible for benefits for the period in-  
21 cluding the week in which the actual voluntary leaving occurred through the  
22 week prior to the week of the planned good cause voluntary leaving date.

23 “(7) For purposes of applying subsection (2) of this section, when an em-  
24 ployer has notified an individual that the individual will be discharged on  
25 a specific date and it is determined that:

26 “(a) The discharge would not be for reasons that constitute misconduct  
27 connected with the work;

28 “(b) The individual voluntarily left work without good cause prior to the  
29 date of the impending discharge; and

30 “(c) The voluntary leaving of work occurred no more than 15 days prior

1 to the date of the impending discharge,

2

3 then the separation from work shall be adjudicated as if the voluntary  
4 leaving had not occurred and the discharge had occurred. However, the in-  
5 dividual shall be ineligible for benefits for the period including the week in  
6 which the voluntary leaving occurred through the week prior to the week in  
7 which the individual would have been discharged.

8 “(8) For purposes of applying subsection (2) of this section, when an in-  
9 dividual has notified an employer that the individual will leave work on a  
10 specific date and it is determined that:

11 “(a) The voluntary leaving would be for reasons that do not constitute  
12 good cause;

13 “(b) The employer discharged the individual, but not for misconduct con-  
14 nected with work, prior to the date of the planned voluntary leaving; and

15 “(c) The actual discharge occurred no more than 15 days prior to the  
16 planned voluntary leaving,

17

18 then the separation from work shall be adjudicated as if the discharge had  
19 not occurred and the planned voluntary leaving had occurred. However, the  
20 individual shall be eligible for benefits for the period including the week in  
21 which the actual discharge occurred through the week prior to the week of  
22 the planned voluntary leaving date.

23 “(9)(a) For the purposes of subsection (2) of this section, an individual is  
24 considered to have committed a disqualifying act when the individual:

25 “(A) Fails to comply with the terms and conditions of a reasonable writ-  
26 ten policy established by the employer or through collective bargaining,  
27 which may include blanket, random, periodic and probable cause testing, that  
28 governs the use, sale, possession or effects of drugs, cannabis or alcohol in  
29 the workplace;

30 “(B) Fails or refuses to take a drug, cannabis or alcohol test as required

1 by the employer’s reasonable written policy;

2 “(C) Refuses to cooperate with or subverts or attempts to subvert a drug,  
3 cannabis or alcohol testing process in any employment-related test required  
4 by the employer’s reasonable written policy, including but not limited to:

5 “(i) Refusal or failure to complete proper documentation that authorizes  
6 the test;

7 “(ii) Refusal or failure to sign a chain of custody form;

8 “(iii) Presentation of false identification;

9 “(iv) Placement of an adulterant in the individual’s specimen for testing,  
10 when the adulterant is identified by a testing facility; or

11 “(v) Interference with the accuracy of the test results by conduct that  
12 includes dilution or adulteration of a test specimen;

13 “(D) Is under the influence of intoxicants while performing services for  
14 the employer;

15 “(E) Possesses cannabis or a drug unlawfully or in violation of the  
16 employer’s reasonable written policy during work;

17 “(F) Tests positive for alcohol, cannabis or an unlawful drug in con-  
18 nection with employment; or

19 “(G) Refuses to enter into or violates the terms of a last chance agree-  
20 ment with the employer.

21 “(b)(A) Except as provided in subparagraph (B) of this paragraph, an in-  
22 dividual is not considered to have committed a disqualifying act under this  
23 subsection if the individual, on the date of separation or within 10 days after  
24 the date of separation, is participating in a recognized drug, cannabis or al-  
25 cohol rehabilitation program and provides documentation of participation in  
26 the program to the department.

27 “(B) This paragraph does not apply to an individual who has refused to  
28 enter into or has violated the terms of a last chance agreement with the  
29 employer.

30 “(c) It is no defense or excuse under this section that the individual’s

1 separation resulted from alcohol use, cannabis use, unlawful drug use,  
2 alcoholism or addiction to cannabis or drugs.

3 “(d) The department shall adopt rules to carry out the provisions of this  
4 subsection.

5 “(10) For the purposes of subsection (2) of this section, an individual is  
6 considered to have committed a disqualifying act when the individual vol-  
7 untarily leaves work, fails to apply for available suitable work when referred  
8 by the employment office or the director or fails to accept suitable work  
9 when offered:

10 “(a) Because the employer has or introduces a reasonable written  
11 cannabis-free or drug-free workplace policy that is consistent with subsection  
12 (9)(a)(A) of this section;

13 “(b) Because the employer requires the employee to consent to present or  
14 future drug, cannabis or alcohol tests under a reasonable written policy that  
15 is consistent with subsection (9)(a)(A) of this section;

16 “(c) To avoid taking a drug, cannabis or alcohol test under a reasonable  
17 written policy that is consistent with subsection (9)(a)(A) of this section; or

18 “(d) To avoid meeting the requirements of a last chance agreement.

19 “(11) An individual may not be disqualified from receiving benefits under  
20 subsection (2)(c) of this section and shall be deemed laid off if the individual:

21 “(a) Works under a collective bargaining agreement;

22 “(b) Elects to be laid off when the employer has decided to lay off em-  
23 ployees; and

24 “(c) Is placed on the referral list under the collective bargaining agree-  
25 ment.

26 “(12) An individual may not be disqualified from receiving benefits under  
27 subsection (2)(c), (d) or (e) of this section or be considered unavailable for  
28 purposes of ORS 657.155 if:

29 “(a) The individual or a member of the individual’s immediate family is  
30 a victim of domestic violence, stalking, sexual assault or a bias crime, or the

1 individual believes that the individual or a member of the individual's im-  
2 mediate family could become a victim of domestic violence, stalking, sexual  
3 assault or a bias crime; and

4 “(b) The individual leaves work, fails to apply for available suitable work  
5 or fails to accept suitable work when offered in order to protect the indi-  
6 vidual or a member of the individual's immediate family from domestic vi-  
7 olence, stalking, sexual assault or a bias crime that the individual  
8 reasonably believes will occur as a result of the individual's continued em-  
9 ployment or acceptance of work.

10 “(13) For purposes of this section:

11 “(a) ‘Adulterant’ means a substance that does not occur naturally in  
12 urine, or that occurs naturally in urine but not at the concentrations de-  
13 tected. ‘Adulterant’ includes but is not limited to glutaraldehyde, nitrite  
14 concentrations above physiological levels, hypochlorite or soap.

15 “(b) ‘Bias crime’ means:

16 “(A) Conduct that, in the determination of the director, more likely than  
17 not constitutes a bias crime in the first degree described in ORS 166.165 or  
18 a bias crime in the second degree described in ORS 166.155; or

19 “(B) Similar conduct, as defined by the director by rule.

20 “(c) ‘Drug’ means a controlled substance as defined in ORS 475.005.

21 “(d) ‘Last chance agreement’ means a reasonable agreement:

22 “(A) Between an employer and an employee who has violated the  
23 employer's reasonable written policy, has engaged in drug, cannabis or al-  
24cohol use connected with work or has admitted to alcohol abuse, cannabis  
25 abuse or unlawful drug use; and

26 “(B) That permits the employee to return to work under conditions that  
27 may require the employee to:

28 “(i) Abstain from alcohol use, cannabis use and unlawful drug use; and

29 “(ii) Attend and comply with the requirements of a rehabilitation or ed-  
30 ucation program acceptable to the employer.



1 “(e) ‘Under the influence of intoxicants’ means the level of alcohol,  
2 cannabis or unlawful drugs present in an individual’s body exceeds the  
3 amount prescribed in a collective bargaining agreement or the amount pre-  
4 scribed in the employer’s reasonable written policy if there is no applicable  
5 collective bargaining agreement provision.

6 **“SECTION 7.** ORS 657.202 is amended to read:

7 “657.202. (1) As used in this section, ‘temporary lockout benefits’ means  
8 benefits payable as provided in this section to individuals who are unem-  
9 ployed due to a lockout [*as defined in ORS 662.205*].

10 “(2) An individual is eligible to receive temporary lockout benefits for a  
11 week in an amount equal to the weekly benefit amount of the individual’s  
12 most recent unemployment benefit claim if:

13 “(a) Prior to the week, the individual has received all of the regular  
14 benefits that were available to the individual under this chapter;

15 “(b) The individual is not eligible for any other benefits, including bene-  
16 fits provided under any federal law extending benefits beyond those provided  
17 for as regular benefits; and

18 “(c) At the time of filing an initial or additional claim, the individual is  
19 unemployed due to a lockout at the individual’s place of employment.

20 “(3) The maximum temporary lockout benefit amount an individual may  
21 receive under this section is 26 times the weekly benefit amount of the  
22 individual’s most recent unemployment benefit claim.

23 “(4) Notwithstanding subsections (2) and (3) of this section, temporary  
24 lockout benefits otherwise payable to an individual under this section may  
25 not be paid for weeks that begin after the week in which the lockout ends.

26 “(5) An employer shall be charged for temporary lockout benefits in the  
27 manner provided in this chapter for charging employers for regular benefits.

28 **“SECTION 8.** ORS 657.400 is amended to read:

29 “657.400. (1) There is established in the State Treasury, separate and dis-  
30 tinct from the General Fund, the Employment Department Special Fraud

1 Control Fund. The Employment Department Special Fraud Control Fund  
2 shall consist of moneys collected or received by the Employment Department  
3 as follows:

4 “(a) Interest and penalties described under ORS 657.310 [(7)(b)] **(8)(b)**.

5 “(b) All gifts to, interest on or profits earned by the Employment De-  
6 partment Special Fraud Control Fund.

7 “(2) The moneys in the Employment Department Special Fraud Control  
8 Fund are continuously appropriated to the Employment Department and may  
9 not be appropriated, transferred or otherwise made available to any other  
10 state agency.

11 “(3) All amounts in the Employment Department Special Fraud Control  
12 Fund shall be used for the following purposes, as included in the biennial  
13 budget of the Employment Department and approved by the Legislative As-  
14 ssembly:

15 “(a) Administrative costs associated with the prevention, discovery and  
16 collection of unemployment benefit overpayments;

17 “(b) Costs associated with the Lost Wages Assistance program adminis-  
18 tered by the department pursuant to a grant agreement with the Federal  
19 Emergency Management Agency under authority established by the presi-  
20 dential memorandum issued on August 8, 2020, on the subject of Authorizing  
21 the Other Needs Assistance Program for Major Disaster Declarations Re-  
22 lated to Coronavirus Disease 2019; and

23 “(c) Administrative costs associated with other benefit programs admin-  
24 istered by the department.

25 “(4) If, under subsection (3)(b) of this section, the Employment Depart-  
26 ment uses any amounts for the purpose of reimbursing the Federal Emer-  
27 gency Management Agency for overpayments of benefits under the Lost  
28 Wages Assistance program:

29 “(a) Any amounts of overpayments collected from the debtor by the de-  
30 partment shall be deposited in the Employment Department Special Fraud

1 Control Fund.

2 “(b)(A) The department may collect such overpayments under the pro-  
3 visions of this chapter as if the amounts were overpayments of regular ben-  
4 efits; or

5 “(B) The Director of the Employment Department may waive collection  
6 of such overpayments if the director determines that it is administratively  
7 impracticable to pursue collection.”.

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