CHAPTER 53

AN ACT HB 4089

Relating to criminal offenses related to work; creating new provisions; and amending ORS 164.125, 658.991, 670.700 and 701.990.

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

SECTION 1. ORS 164.125 is amended to read:

164.125. (1) A person commits the crime of theft of services if:

(a) With intent to avoid **full or partial** payment therefor, the person obtains services that are available only for compensation, by force, threat, deception or other means to avoid **full or partial** payment for the services; or

(b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, the person uses or diverts to the use of the person or a third person such labor, equipment or facilities with intent to derive for the person or the third person a commercial benefit to which the person or the third person is not entitled.

(2) As used in this section, "services" includes, but is not limited to, labor, professional services, toll facilities, transportation, communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. "Communication service" includes, but is not limited to, use of telephone, computer and cable television systems.

(3) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is prima facie evidence that the services were obtained with intent to avoid payment therefor. Obtaining the use of any communication system the use of which is available only for compensation, including but not limited to telephone, computer and cable television systems, or obtaining the use of any services of a public utility nature, without payment or offer to pay for such use is prima facie evidence that the obtaining of the use of such system or the use of such services was gained with intent to avoid payment therefor.

(4) The value of single theft transactions may be added together if the thefts were committed:

(a) Against multiple victims by a similar means within a 30-day period; or

(b) Against the same victim, or two or more persons who are joint owners, within a 180-day period.

(5) Theft of services is:

(a) A Class C misdemeanor if the aggregate total value of services that are the subject of the theft is less than $100;

(b) A Class A misdemeanor if the aggregate total value of services that are the subject of the theft is $100 or more and less than $1,000;

(c) A Class C felony if the aggregate total value of services that are the subject of the theft is $1,000 or more; and

(d) A Class B felony if the aggregate total value of services that are the subject of the theft is $10,000 or more.

SECTION 2. A criminal prosecution under ORS 164.125 does not preclude any employee, independent contractor, authorized third party representative or the Commissioner of the Bureau of Labor and Industries from commencing a civil action or administrative proceeding to seek wages, compensation, penalties, damages or other remedies as provided by law.

SECTION 3. ORS 670.700 is amended to read:

670.700. (1) There is established an Interagency Compliance Network consisting of:

(a) The Department of Justice;

(b) The Department of Revenue;

(c) The Employment Department;

(d) The Department of Consumer and Business Services;

(e) The Bureau of Labor and Industries;

(f) The Construction Contractors Board;

(g) The State Landscape Contractors Board; and

(h) Other state agencies that enter into the intergovernmental agreement as described in subsection (3) of this section.

(2) The Interagency Compliance Network established under this section shall:

(a) Work to establish consistency in agency determinations relating to the classification of workers, including but not limited to classification of workers as independent contractors;

(b) Gather and share information relating to persons who pay workers in cash and who do not comply with laws relating to taxation or employment;

(c) Gather and share information relating to the misclassification of workers, including but not limited to misclassification as independent contractors;

(d) Develop investigative methods for auditing persons who pay workers in cash, or who misclassify workers, and who do not comply with laws relating to taxation or employment;

(e) Conduct joint audits of persons who pay workers in cash, or who misclassify workers, and who do not comply with laws relating to taxation or employment;

(f) Identify opportunities for and obstacles to improving compliance with the laws relating to the classification of workers, taxation or employment;

(g) Create a coordinated enforcement process for the laws relating to classification of workers that is efficient, fair and effective for the public and the regulatory agencies charged with enforcing laws relating to taxation or employment;

(h) Engage in public outreach efforts to educate the public generally on the distinctions between independent contractors and employees and on the

laws and regulations governing the duties relating to classification of workers; [*and*]

(i) Develop investigative methods to gather and share information relating to persons whose actions may constitute theft of services under ORS 164.125 and who do not comply with laws relating to taxation or employment; and

[*(i)*] **(j)** Take such other action as the member agencies deem appropriate to improve compliance with laws relating to taxation or employment that are administered by the member agencies.

(3) The agencies identified in subsection (1)(a) to (g) of this section shall enter into an intergovernmental agreement for the purpose of coordinating the efforts of the agencies under this section. Any other agency of state government, as defined in ORS 174.111, that has an interest in compliance with laws relating to taxation or employment may become a member of the Interagency Compliance Network by entering into the agreement on such terms as may be prescribed by the agencies identified in subsection (1)(a) to (g) of this section.

(4) Notwithstanding ORS 314.835 or any other law relating to confidentiality of information, any agency that is a member of the Interagency Compliance Network may enter into an agreement with another member agency to provide information to the other agency. Information provided to an agency under this subsection may be used by the agency only for the purpose of enforcing compliance of laws that are administered by the agency.

(5) ORS 192.610 to 192.705 do not apply to meetings of the Interagency Compliance Network or to meetings of representatives from member agencies of the Interagency Compliance Network for the purposes set forth in subsection (2) of this section.

SECTION 4. ORS 658.991 is amended to read:

658.991. (1) Violation of ORS 658.005 to 658.245 or 658.250 is a Class C misdemeanor.

(2) Violation of ORS 658.452 is a Class A misdemeanor.

(3) Any person who intentionally defaces, alters or changes a license or permit to act as a labor contractor, or who uses the license or permit of another or knowingly permits that person's license or permit to be used by another, or who acts as a labor contractor without a valid license or permit under ORS 658.405 to 658.511, commits a Class A misdemeanor.

(4) Any person who willfully swears or affirms falsely under ORS 658.415 (1), (2) or (3) in regard to any matter concerning which an oath or affirmation is required, or who solicits or induces another person to do so, whether or not the matter sworn to or affirmed is material, commits a Class A misdemeanor.

(5) Violation of ORS 658.440 (1)(f), (g) or (h), (2)(c) or (3)(a), (b), (c), (e), (f) or (g) is a Class C misdemeanor.

(6) Any person who violates the provisions of ORS 658.410 (1) or 658.417 (1) commits a Class C felony if:

(a) The person has previously been convicted of violating the provisions of ORS 658.410 (1) or 658.417 (1);

(b) The person's license to act as a labor contractor has been suspended, revoked or denied; or

(c) The person is acting in violation of an outstanding order of any court of competent jurisdiction arising out of the enforcement of ORS 658.405 to 658.511.

(7)(a) A direct contractor or subcontractor commits a Class A misdemeanor if the direct contractor or subcontractor knowingly enters into a contract with a construction labor contractor who is required to be licensed under ORS 658.405 to 658.511 and who is not properly licensed under ORS 658.405 to 658.511.

(b) A direct contractor or subcontractor commits a Class C felony if the direct contractor or subcontractor knowingly enters into a contract with a construction labor contractor who is required to be licensed under ORS 658.405 to 658.511 and who is not properly licensed under ORS 658.405 to 658.511, and the direct contractor or subcontractor has a prior conviction under this subsection at the time of the offense.

(c) As used in this subsection:

(A) "Construction labor contractor" has the meaning given that term in ORS 658.405, but does not include a person who is licensed under ORS chapter 701.

(B) "Direct contractor" has the meaning given that term in ORS 652.197.

(C) "Subcontractor" has the meaning given that term in ORS 652.197.

SECTION 5. ORS 701.990 is amended to read:

701.990. (1) Violation of ORS 701.021 is a Class A misdemeanor.

(2) The intentional use of a contractor's license number without the authorization of the licensed contractor is a [*Class A misdemeanor*] **Class C felony**.

(3) Use of a contractor's license number, with or without the authorization of the licensed contractor, with the intent to deceive the public is a [*Class A misdemeanor*] **Class C felony**.

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