Chapter 653

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Conditions of Employment

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GENERAL EMPLOYMENT CONDITIONS

(Minimum Wages)

653.010 Definitions for ORS 653.010 to 653.261. As used in ORS 653.010 to 653.261, unless the context requires otherwise:

(1) "Average weekly wage" means the average weekly wage of workers in covered employment in Oregon, as determined by the Employment Department for the preceding fiscal year.

(2) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

(3) "Employ" includes to suffer or permit to work; however, "employ" does not include voluntary or donated services performed for no compensation or without expectation or contemplation of compensation as the adequate consideration for the services performed for a public employer referred to in subsection (4) of this section, or a religious, charitable, educational, public service or similar nonprofit corporation, organization or institution for community service, religious or humanitarian reasons or for services performed by general or public assistance recipients as part of any work training program administered under the state or federal assistance laws.

(4) "Employer" means any person who employs another person including the State of Oregon or a political subdivision thereof or any county, city, district, authority, public corporation or entity and any of their instrumentalities organized and existing under law or charter.

(5) "Minor" means any person under 18 years of age.

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed.

(7) "Organized camp" means a day or resident camp, whether or not operated for profit, established to give campers recreational, creative, religious or educational experience in cooperative group living wherein the activities are conducted on a closely supervised basis, whether or not the camp is used primarily by an organized group or by members of the public and whether or not the activities or facilities are furnished free of charge or for the payment of a fee.

(8) "Outside salesperson" means any employee who is employed for the purpose of and who is customarily and regularly engaged away from the employer's place or places of business in making sales, or obtaining orders, or obtaining contracts for services and whose hours of work of any other nature for the employer do not exceed 30 percent of the hours worked in the workweek by the nonexempt employees of the employer.

(9) "Piece-rate" means a rate of pay calculated on the basis of the quantity of the crop harvested.

(10) "Salary" means no less than the wage set pursuant to ORS 653.025, multiplied by 2,080 hours per year, then divided by 12 months.

(11) "Wages" means compensation due to an employee by reason of employment, payable in legal tender of the United States or check on banks convertible into cash on demand at full face value, subject to such deductions, charges or allowances as are permitted in ORS 653.035.

(12) "Work time" includes both time worked and time of authorized attendance. [1967 c.596 §2; 1979 c.153 §2; 1983 c.274 §1; 1985 c.99 §1; 1985 c.170 §1; 1989 c.446 §1; 1991 c.829 §2; 1993 c.739 §24]

653.015 Statement of policy. It is declared to be the policy of the State of Oregon to establish minimum wage standards for workers at levels consistent with their health, efficiency and general well-being. [1967 c.596 §1]

653.020 Excluded employees. ORS 653.010 to 653.261 does not apply to any of the following employees:

(1) An individual employed in agriculture if:

(a) Such individual is employed as a hand harvest or pruning laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been paid, on a piece-rate basis in the region of employment and is employed by an employer who did not, during any calendar quarter during the preceding year use more than 500 piece-rate-work-days of agricultural labor;

(b) Such individual is the parent, spouse, child or other member of the employer's immediate family;

(c) Such individual:

(A) Is employed as a hand harvest or pruning laborer and is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment;

(B) Commutes daily from a permanent residence to the farm on which the individual is so employed; and

(C) Has been employed in agricultural labor less than 13 weeks during the preceding calendar year;

(d) Such individual, other than an individual described in paragraph (c) of this subsection:

(A) Is 16 years of age or under and is employed as a hand harvest laborer, is paid on a piece-rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment; and

(B) Is paid at the same piece-rate as employees over 16 years of age on the same farm; or

(e) Such employee is principally engaged in the range production of livestock and earns a salary and is paid on a salary basis.

(2) An individual employed in domestic service on a casual basis in or about a family home.

(3) An individual engaged in administrative, executive or professional work who:

(a) Performs predominantly intellectual, managerial or creative tasks;

(b) Exercises discretion and independent judgment; and

(c) Earns a salary and is paid on a salary basis.

(4) An individual employed by the United States.

(5) An individual who is employed by an institution whose function is primary or secondary education, and in which the individual is an enrolled student.

(6) An individual engaged in the capacity of an outside salesperson or taxicab operator.

(7) An individual domiciled at a place of employment for the purpose of being available for emergency or occasional duties for time other than that spent performing these duties, provided that when the individual performs emergency or occasional duties, the individual must be paid no less than the wage specified in ORS 653.025.

(8) An individual paid for specified hours of employment, the only purpose of which is to be available for recall to duty.

(9) An individual domiciled at multiunit accommodations designed to provide other people with temporary or permanent lodging, for the purpose of maintenance, management or assisting in the management of same.

(10) An individual employed on a seasonal basis at:

(a) An organized camp operated for profit that generates gross annual income of less than $500,000; or

(b) A nonprofit organized camp.

(11) An individual employed at a nonprofit conference ground or center operated for educational, charitable or religious purposes.

(12) An individual who performs services as a volunteer firefighter, as defined in ORS 652.050.

(13) An individual who performs child care services in the home of the individual or in the home of the child.

(14) An individual employed in domestic service employment in or about a family home to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves.

(15) An individual who performs service as a caddy at a golf course in an established program for the training and supervision of caddies under the direction of a person who is an employee of the golf course. [1967 c.596 §3; 1971 c.758 §3; 1973 c.383 §1; 1977 c.238 §1; 1979 c.153 §1; 1981 c.361 §1; 1983 c.319 §3; 1989 c.446 §2; 1991 c.829 §1; 1991 c.870 §1; 1993 c.494 §1]

653.022 "Piece-rate-work-day" defined for ORS 653.020. As used in ORS 653.020 (1), "piece-rate-work-day" means any day during which an employee performs any agricultural labor on a piece-rate basis for not less than one hour. For the purposes of this section, "employee" does not include any individual employed by an employer in agriculture if such individual is the parent, spouse, child or other member of the employer's immediate family. [1971 c.758 §2; 1989 c.446 §3]

653.025 Minimum wage rate. Except as provided by ORS 652.020 and the rules of the commissioner issued under ORS 653.030 and 653.261, for each hour of work time that the employee is gainfully employed, no employer shall employ or agree to employ any employee at wages computed at a rate lower than:

(1) For the period September 1, 1989, to December 31, 1989, $3.85.

(2) For calendar year 1990, $4.25.

(3) For calendar years after December 31, 1990, $4.75. [1967 c.596 §4; 1973 c.403 §3; 1975 c.504 §1; 1979 c.832 §1; 1979 c.886 §1; 1985 c.99 §2; 1985 c.161 §1; 1989 c.446 §4]

653.027 Wage rate for persons under 18 years of age in agriculture. An employer who employs individuals under 18 years of age in agricultural labor and who pays such individuals by the amount of work produced or services rendered shall pay such individuals the same rate of payment for the work produced or services required as paid to individuals 18 years of age or older. [1973 c.403 §2; 1993 c.18 §130]

653.029 [1975 c.504 §2; 1977 c.238 §2; 1979 c.832 §2; 1985 c.161 §2; repealed by 1989 c.446 §5]

653.030 Commissioner may prescribe lower rates in certain cases. The commissioner shall issue rules prescribing the employment of other types of persons at fixed minimum hourly wage rates lower than the minimum wage rate required by ORS 653.025, when the commissioner has determined that the application of ORS 653.025 would substantially curtail opportunities for employment for specific types of persons. The types of persons for whom a minimum hourly wage rate may be set are limited to persons who are mentally or physically handicapped or who are student-learners, as defined in ORS 653.070. [1967 c.596 §5 (1); 1973 c.403 §4; 1979 c.886 §2; 1981 c.850 §1; 1985 c.99 §3]

653.035 Deducting value of lodging, meals and other benefits furnished by employer; treatment of commissions and tips. (1) Employers may deduct from the minimum wage to be paid employees under ORS 653.025, 653.030 or 653.261, the fair market value of lodging, meals or other facilities or services furnished by the employer for the private benefit of the employee.

(2) Employers may include commission payments to employees as part of the applicable minimum wage for any pay period in which the combined wage and commission earnings of the employee will comply with ORS 653.010 to 653.261. In any pay period where the combined wage and commission payments to the employee do not add up to the applicable minimum wage under ORS 653.010 to 653.261, the employer shall pay the minimum rate as prescribed in ORS 653.010 to 653.261.

(3) Employers, including employers regulated under the Federal Fair Labor Standards Act, may not include any amount received by employees as tips in determining the amount of the minimum wage required to be paid by ORS 653.010 to 653.261. [1967 c.596 §§6, 7; 1977 c.238 §3]

653.040 Powers of commissioner. The commissioner, in addition to the commissioner's other powers, may:

(1) Investigate and ascertain the wages of persons employed in any occupation or place of employment in the state.

(2) Require from an employer statements, including sworn statements, with respect to wages, hours, names and addresses and such other information pertaining to the employer's employees or their employment as the commissioner considers necessary to carry out ORS 653.010 to 653.261.

(3) Make such rules as the commissioner considers appropriate to carry out the purposes of ORS 653.010 to 653.261, or necessary to prevent the circumvention or evasion of ORS 653.010 to 653.261 and to safeguard the minimum wage rates set under ORS 653.010 to 653.261. [1967 c.596 §8; 1985 c.99 §4]

653.045 Records to be kept by employers; itemization of deductions from wages. (1) Every employer required by ORS 653.025 or by any rule, order or permit issued under ORS 653.030 to pay a minimum wage to any of the employer's employees shall make and keep available to the commissioner for not less than two years, a record or records containing:

(a) The name, address and occupation of each of the employer's employees.

(b) The actual hours worked each week and each pay period by each employee.

(c) Such other information as the commissioner prescribes by the commissioner's rules if necessary or appropriate for the enforcement of ORS 653.010 to 653.261 or of the rules and orders issued thereunder.

(2) Each employer shall keep the records required by subsection (1) of this section open for inspection or transcription by the commissioner or the commissioner's designee at any reasonable time.

(3) Every employer of one or more employees covered by ORS 653.010 to 653.261 shall supply each of the employer's employees with itemized statements of amounts and purposes of deductions in the manner provided in ORS 652.610. [1967 c.596 §9; 1985 c.99 §5]

653.050 Employers to post summary of law and rules; commissioner to furnish summaries and copies. Every employer required by ORS 653.025 or by any rules, orders or permit issued under ORS 653.030 or 653.261 to pay a minimum wage to any of the employer's employees shall keep summaries of ORS 653.010 to 653.261, summaries of all rules promulgated by the commissioner pursuant to ORS 653.010 to 653.261 and summaries of all rules promulgated by the Wage and Hour Commission posted in a conspicuous and accessible place in or about the premises where such employees are employed. Employers shall be furnished copies of these summaries by the commissioner without charge. In addition, upon request, the commissioner shall furnish the complete text of all rules promulgated pursuant to ORS 653.010 to 653.261 and by the Wage and Hour Commission to any employer without charge. [1967 c.596 §10; 1977 c.238 §4; 1985 c.99 §6]

653.055 Liability of noncomplying employer; contrary agreements no defense; wage claims; suits to enjoin future violations. (1) Any employer who pays an employee less than the wages to which the employee is entitled under ORS 653.010 to 653.261 is liable to the employee affected:

(a) For the full amount of the wages, less any amount actually paid to the employee by the employer;

(b) For costs and such reasonable attorney fees at trial and on appeal as are allowed by the court; and

(c) For civil penalties provided in ORS 652.150.

(2) Any agreement between an employee and an employer to work at less than the wage rate required by ORS 653.010 to 653.261 is no defense to an action under subsection (1) of this section.

(3) The commissioner has the same powers and duties in connection with a wage claim based on ORS 653.010 to 653.261 as the commissioner has under ORS 652.310 to 652.445 and in addition the commissioner may, without the necessity of assignments of wage claims from employees, initiate suits against employers to enjoin future failures to pay required minimum wages or overtime pay and to require the payment of minimum wages and overtime pay due employees but not paid as of the time of the filing of suit. The commissioner is entitled to recover, in addition to costs, such sum as the court or judge may adjudge reasonable as attorney fees at trial and on appeal. The commissioner may join in a single proceeding and in one cause of suit any number of wage claims against the same employer. If the commissioner does not prevail in such action, the commissioner shall pay all costs and disbursements from the Bureau of Labor and Industries Account. [1967 c.596 §11; 1977 c.513 §1; 1981 c.850 §2; 1981 c.897 §90; 1985 c.99 §7]

653.060 Discharging or discriminating against employee prohibited in certain cases. No employer shall discharge or in any other manner discriminate against any employee:

(1) Because the employee has made complaint that the employee has not been paid wages in accordance with ORS 653.010 to 653.261.

(2) Because the employee has caused to be instituted or is about to cause to be instituted any proceedings under or related to ORS 653.010 to 653.261.

(3) Because the employee has testified or is about to testify in any such proceedings. [1967 c.596 §12]

653.065 Application of Administrative Procedures Act. (1) All proceedings under ORS 653.010 to 653.261 shall be conducted in compliance with ORS 183.310 to 183.550.

(2) All rules of the commissioner under ORS 653.010 to 653.261 shall be issued in compliance with ORS 183.310 to 183.550. [1967 c.596 §13; 1985 c.99 §8]

653.070 Student-learners special wage; conditions; rulemaking; effect upon employer of failure to comply. (1) As used in this section:

(a) "Bona fide vocational training program" includes any vocational training program approved by the Superintendent of Public Instruction pursuant to rules of the State Board of Education which provides for part-time employment training which may be scheduled for a part of the workday or workweek, for alternating weeks or for other limited periods during the year, supplemented by and integrated with a definitely organized plan of instruction designed to teach technical knowledge and related information given as a regular part of the student-learner's course by an accredited school, college or university.

(b) "Student-learner" means a student who is receiving instruction in an accredited school, college or university and who is employed on a part-time basis, pursuant to a bona fide vocational training program.

(2) Notwithstanding ORS 653.025, employers shall pay student-learners at least 75 percent of the minimum wage prescribed by ORS 653.025.

(3) The number of hours of employment training for a student-learner at subminimum wages, when added to the hours of school instruction, shall not exceed eight hours on any day or 40 hours in any week.

(4) The Commissioner of the Bureau of Labor and Industries may adopt rules prescribing the procedures and requirements for application and issuance of special certificates authorizing the employment of student-learners at subminimum wages. The rules shall require that the following conditions be satisfied before the issuance of such special certificates:

(a) The employment of the student-learner at subminimum wages authorized by the special certificate must be necessary to prevent curtailment of opportunities for employment.

(b) The occupation for which the student-learner is receiving preparatory training must require a sufficient degree of skill to necessitate a substantial learning period.

(c) The training must not be for the purpose of acquiring manual dexterity and high production speed in repetitive operations.

(d) The employment of a student-learner must not have the effect of displacing a worker employed in the establishment.

(e) The employment of the student-learners at subminimum wages must not tend to impair or depress the wage rates or work-

ing standards established for experienced workers for work of a like or comparable character.

(f) The occupational needs of the community or industry warrant the training of student-learners.

(g) There are no serious outstanding violations of the provisions of a student-learner certificate previously issued to the employer, or serious violations of any other provisions of law by the employer which provide reasonable grounds to conclude that the terms of the certificate would not be complied with, if issued.

(h) The issuance of such a certificate would not tend to prevent the development of apprenticeship under ORS chapter 660 or would not impair established apprenticeship standards in the occupation or industry involved.

(i) The number of student-learners to be employed in one establishment must not be more than a small proportion of its working force.

(5) Failure to comply with subsection (2) or (3) of this section shall subject the employer to a penalty of 75 percent of the minimum wage prescribed by ORS 653.025 for each hour of work time that the student-learner is gainfully employed. The Commissioner of the Bureau of Labor and Industries shall have a cause of action against the employer for the recovery of the penalty. [1979 c.886 §5; 1981 c.850 §3; 1989 c.491 §62]

Note: 653.070 was enacted into law by the Legislative Assembly and added to ORS chapter 653 by legislative action but not made a part of any series therein. See Preface to Oregon Revised Statutes for further explanation.

653.105 [Amended by 1953 c.123 §2; repealed by 1967 c.596 §15]

653.110 [Repealed by 1967 c.596 §15]

653.115 [Repealed by 1967 c.596 §15]

653.120 [Repealed by 1967 c.596 §15]

653.125 [Repealed by 1967 c.596 §15]

653.205 [Amended by 1961 c.337 §1; repealed by 1967 c.596 §15]

653.210 [Repealed by 1967 c.596 §15]

653.215 [Repealed by 1967 c.596 §15]

653.220 [Repealed by 1967 c.596 §15]

653.225 [Repealed by 1967 c.596 §15]

653.230 [Repealed by 1967 c.596 §15]

653.235 [Repealed by 1967 c.596 §15]

653.240 [Repealed by 1967 c.596 §15]

653.245 [Repealed by 1967 c.596 §15]

653.250 [Repealed by 1967 c.596 §15]

653.255 [Repealed by 1967 c.596 §15]

653.260 [Repealed by 1967 c.596 §15]

(Generally)

653.261 Minimum employment conditions; exempt employments. (1) The commissioner may issue rules prescribing such minimum conditions of employment, excluding minimum wages, in any occupation as may be necessary for the preservation of the health of employees. Such rules may include, but are not limited to, minimum meal periods and rest periods, and maximum hours of work, but not less than eight hours per day or 40 hours per week; however, after 40 hours of work in one week overtime may be paid, but in no case at a rate higher than one and one-half times the regular rate of pay of such employees when computed without benefit of commissions, overrides, spiffs and similar benefits.

(2) Nothing contained in ORS 653.010 to 653.261 shall be construed to confer authority upon the commissioner to regulate the hours of employment of employees engaged in production, harvesting, packing, curing, canning, freezing or drying any variety of agricultural crops, livestock, poultry or fish.

(3) Rules promulgated by the commissioner pursuant to subsection (1) of this section do not apply to individuals employed by this state or a political subdivision or quasi-municipal corporation thereof if other provisions of law or collective bargaining agreements prescribe rules pertaining to conditions of employment referred to in subsection (1) of this section, including meal periods, rest periods, maximum hours of work and overtime. [1967 c.596 §5 (2), (3); 1971 c.492 §1; 1981 c.361 §2; 1985 c.99 §9]

653.265 Overtime for persons employed in canneries, driers and packing plants. When employed in canneries or driers or packing plants, excluding canneries or driers or packing plants located on farms and primarily processing products produced on such farms, employees shall be paid time and a half for time over 10 hours per day and piece workers shall be paid one and a half the regular prices for all work done during the time they are employed over 10 hours per day. [Amended by 1971 c.492 §2]

653.270 [Repealed by 1967 c.596 §15]

653.275 [Repealed by 1967 c.596 §15]

653.280 Employer to safeguard employee's trade equipment. (1) An employer shall take all reasonable precautions to safeguard all trade equipment which is owned by an employee and is located on premises under the employer's control.

(2) As used in ORS 653.285 and this section, unless the context requires otherwise:

(a) "Employer" and "employee" have the meaning provided for those terms in ORS 652.310.

(b) "Trade equipment" is limited to musical instruments and sound equipment.

(c) "Premises" means the place where the employer and the employee of the employer are engaged in the furtherance of a common enterprise or the accomplishment of the same or related purposes in operation. [1975 c.488 §7]

653.285 Liability of employer. If an employee's trade equipment is damaged upon or stolen from premises under the employer's control as a proximate cause of the employer's failure to comply with ORS 653.280 the employee has a right to file an action against the employer, and the employer is liable, for financial settlement as is needed to repair or replace the equipment. If an employee seeking to recover for damage to or theft of trade equipment prevails on such action, the employee shall be awarded reasonable attorney fees at trial and on appeal. [1975 c.488 §8; 1981 c.897 §91; 1991 c.67 §158]

653.295 When noncompetition and bonus restriction agreements enforceable; applicability of restrictions. (1) A noncompetition agreement entered into between an employer and employee is void and shall not be enforced by any court in this state unless the agreement is entered into upon the:

(a) Initial employment of the employee with the employer; or

(b) Subsequent bona fide advancement of the employee with the employer.

(2) Subsection (1) of this section applies only to noncompetition agreements made in the context of an employment relationship or contract and not otherwise.

(3)(a) Subsection (1)(a) of this section applies only to noncompetition agreements entered into after July 22, 1977.

(b) Subsection (1)(b), subsections (4) and (5) and subsection (6)(a) of this section apply to employment relationships and bonus restriction agreements in effect or entered into after October 15, 1983.

(4) Subsection (1) of this section does not apply to bonus restriction agreements, which are lawful agreements that may be enforced by the courts in this state.

(5) Nothing in this section restricts the right of any person to protect trade secrets or other proprietary information by injunction or any other lawful means under other applicable laws.

(6) As used in this section:

(a) "Bonus restriction agreement" means an agreement, written or oral, express or implied, between an employer and employee under which:

(A) Competition by the employee with the employer is limited or restrained after termination of employment, but the restraint is limited to a period of time, a geographic area and specified activities, all of which are reasonable in relation to the services described in subparagraph (B) of this paragraph;

(B) The services performed by the employee pursuant to the agreement include substantial involvement in management of the employer's business, personal contact with customers, knowledge of customer requirements related to the employer's business or knowledge of trade secrets or other proprietary information of the employer; and

(C) The penalty imposed on the employee for competition against the employer is limited to forfeiture of profit sharing or other bonus compensation that has not yet been paid to the employee.

(b) "Employee" and "employer" have the meaning provided for those terms in ORS 652.310; and

(c) "Noncompetition agreement" means an agreement, written or oral, express or implied, between an employer and employee under which the employee agrees that the employee, either alone or as an employee of another person, shall not compete with the employer in providing products, processes or services, that are similar to the employer's products, processes or services for a period of time or within a specified geographic area after termination of employment. [1977 c.646 §2; 1983 c.828 §1; 1985 c.565 §85]

653.300 Health benefit plan options for certain employees; limitation on cost to employer or health benefit plan for exercise of option. (1) Each public or private employer in this state which offers its employees a health benefit plan and employs not fewer than 25 employees, and each employee benefit fund in this state with not fewer than 25 members which offers its members any form of health benefit, shall make available to and inform its employees or members of the option to enroll in at least one health maintenance organization which provides health care services in the geographic areas in which a substantial number of such employees or members reside. Where there is a prevailing collective bargaining agreement, the selection of the health maintenance organizations to be made available to the employees shall be made under the agreement.

(2) No employer or benefits fund in this state shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agree-

ment or other contract for the provision of health benefits to its employees.

(3) Notwithstanding subsection (1) of this section, no employer or benefits fund need provide such an option unless at least 25 employees or members agree to participate in a health maintenance organization. [1985 c.747 §70]

Note: 653.300 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 653 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

EMPLOYMENT OF MINORS

653.305 Inquiry and order on employment of minors. (1) The Wage and Hour Commission may at any time inquire into wages or hours or conditions of labor of minors employed in any occupation in this state and determine suitable hours and conditions of labor for such minors.

(2) When the commission has made such determination, it may issue an obligatory order in compliance with ORS 183.310 to 183.550.

(3) After such order is effective, no employer in the occupation affected shall employ a minor for more hours or under different conditions of labor than are specified or required by the order; but no such order nor the commission shall authorize or permit the employment of any minor for more hours per day or per week than the maximum fixed by law or at times or under conditions prohibited by law. [Amended by 1967 c.596 §16; 1979 c.886 §3; 1993 c.18 §131]

653.307 Issuance of employment certificates by commission; effect of failure by employer to comply; school districts required to cooperate in certificate issuance. (1) The Wage and Hour Commission shall provide a method for issuing employment certificates to minors and employment certificates to employers for the employment of minors in accordance with rules and regulations which it may hereafter adopt pursuant to the provisions of ORS 183.310 to 183.550, and shall by such rules and regulations require reports from employers employing minors.

(2) Failure by an employer to comply with ORS 653.305 to 653.340 or with the regulations adopted by the Wage and Hour Commission pursuant to this section shall subject the employer to revocation of the right to hire minors in the future at the discretion of the Wage and Hour Commission, provided that an employer shall be granted a hearing before the Wage and Hour Commission prior to such action being taken.

(3) All school districts shall cooperate with the Wage and Hour Commission and make available upon request of the commission, information concerning the age and schooling of minors who have applied for or been issued an employment certificate. [1971 c.626 §2]

653.310 Person under age 18 to work only if employer has employment certificate on file; list of minor employees. No child under 18 years of age shall be employed or permitted to work in any employment listed in ORS 653.320 (2), unless the person employing the child procures and keeps on file and accessible to the school authorities of the district where such child resides, and to the police and the commission an employment certificate as prescribed by the rules and regulations adopted by the Wage and Hour Commission pursuant to ORS 653.307, and keeps a complete list of all such children employed therein. [Amended by 1971 c.626 §3]

653.315 Working hours for children under 16 years of age; exceptions; meal times; posting notice of hours. (1) No child under 16 years of age shall be employed for longer than 10 hours for any one day, nor more than six days in any one week.

(2) No child under 16 years of age shall be employed at any work before 7 a.m. or after 6 p.m., except for those:

(a) Employed in agriculture.

(b) Employed in youth camps. The term "youth camps" means those camps operated and maintained primarily for the supervised recreation and education of youth of either sex during the public school vacation periods.

(c) Employed as newspaper carrier or vendor.

(d) Employed under a special permit which may be issued by the Wage and Hour Commission, after investigation and good cause shown therefor, in suitable work which is not detrimental to the child's physical and moral well-being. The Wage and Hour Commission or its representatives shall investigate periodically the conditions of labor for which the special permit has been issued, to determine whether or not the permit should be continued.

(e) Employed in or about private residences at domestic work, chores and child care. This exception does not extend to employment in places where child care or training is carried on as an occupation.

(3) Every child under 16 years of age is entitled to not less than 30 minutes for meal time at noon, but such meal time shall not be included as part of the work hours of the day.

(4) Every employer of children under 16 years of age shall post in a conspicuous place

where such children are employed, a printed notice stating the maximum work hours required in one week, and in every day of the week from such children. [Amended by 1957 c.419 §1; 1961 c.205 §1; 1981 c.228 §1]

653.320 Employment of children under 14 years; exceptions; notice of access to Wage and Hour Commission. (1) No child under the age of 14 years shall be employed in any work, or labor of any form for wages or other compensation to whomsoever payable, during the term when the public schools of the town, district or city in which the child resides are in session.

(2) No child under 14 years of age shall be employed or permitted to work in, or in connection with, any factory, workshop, mercantile establishment, store, business office, restaurant, bakery, hotel or apartment house.

(3) The Wage and Hour Commission may allow children between the ages of 12 and 14 to be employed in any suitable work during any school vacation extending over a term of two weeks and may issue permits therefor. The commission shall exercise careful discretion as to the character of such employment and its effect on the physical and moral well-being of the child.

(4) Exceptions may be made by the Wage and Hour Commission exempting a minor or class of minors from the above provisions. The child so employed under this provision shall be given notice of confidential access to the Wage and Hour Commission. [Amended by 1971 c.625 §1]

653.325 [Repealed by 1967 c.527 §3]

653.326 Employing vocationally trained minors in employment otherwise prohibited. (1) The Wage and Hour Commission may by special permit authorize a child under 18 years of age to engage in employment otherwise prohibited by law if the child has successfully completed vocational training for such employment conducted by any school district, or training that the commission considers equivalent thereto, and the child:

(a) Has graduated from high school; or

(b) Is employed during such time as public schools are not in session for a period exceeding 30 days.

(2) The commission or its representatives shall investigate periodically the conditions of the employment for which a special permit has been issued, to determine whether or not the permit should be continued. [1967 c.347 §2]

653.330 Employment of minors in certain logging operations prohibited. No person shall employ or allow:

(1) Any person under the age of 18 years to act as engineer of or have charge of or operate any logging engines used in logging operations.

(2) Any person under the age of 16 years to act in the capacity of giving signals to the engineer in logging operations or receiving and forwarding such signals.

653.335 Elevator operators to be over 18. No person shall employ or allow any person under the age of 18 years to run, operate or have charge of, any elevator used for the purpose of carrying either persons or property.

653.340 Employment of minors for message and delivery service. (1) No person under the age of 18 years shall be employed or permitted to work as a messenger for a telegraph or messenger company or anyone engaged in such a business in the distribution, transmission or delivery of goods or messages before 5 a.m. or after 10 p.m.

(2) No person under the age of 16 years shall be employed or permitted to work in the telegraph, telephone or public messenger service.

653.345 Declaration of policy. The Legislative Assembly finds that the crops of berry and bean growers in Oregon are imperiled by the federal law prohibiting the employment of youthful agricultural workers. Since suitable replacements for such workers are not available, the long established use of youthful berry and bean pickers must be permitted to the extent that it does not interfere with interstate commerce and federal law. The Legislative Assembly further finds that such agricultural employment is healthful, a good introduction to the work ethic and develops an understanding of the role of agriculture in society. [1975 c.422 §1]

653.350 Employment of children under 12 years for certain agricultural labor; conditions. (1) An individual who is less than 12 years of age but not less than nine years of age may be employed to pick berries and beans in this state outside of school hours if:

(a) The individual is employed with the consent of the child's parent or guardian;

(b) The berries and beans picked are sold within the state only and not transported out of this state in any form;

(c) The Director of the Employment Department or the designee of the director certifies that there are not sufficient workers available in the immediate area to harvest the berry or bean crop without the employment of youthful pickers; and

(d) The individual is paid at the same rate as other employees of the employer who are 12 years of age or older and are engaged in picking berries or beans.

(2) Each basket or container holding berries, berry products, beans or bean products picked by individuals who are less than 12 years of age must be distinctively marked so as to prevent the berries, berry products, beans or bean products from entering interstate commerce. [1975 c.422 §2]

653.355 Exemption of certain employers. Nothing in ORS 653.345 to 653.355 shall apply to employers which are exempt from the child labor provisions of the Federal Fair Labor Standards Act. [1975 c.422 §3]

653.360 Employment of minors in certain boating and commercial fishing situations. Notwithstanding any other provision of ORS 653.305 to 653.370:

(1) Minors 16 years of age and 17 years of age may be employed as assistants on chartered fishing or pleasure boats.

(2) Minors 14 years of age and 15 years of age may be employed at dock areas used by chartered fishing or pleasure boats.

(3) Minors less than 18 years of age may be employed on commercial fishing vessels without an employment permit when employed and supervised by the minor's grandfather, grandmother, father, mother, brother, sister, uncle or aunt. [1979 c.626 §2]

653.365 Employment of minors by parents. Notwithstanding the provisions of ORS 653.370, a parent or person standing in place of a parent may employ the child of the parent or a child in the custody of the parent under the age of 18 years in any occupation. [1981 c.820 §3]

653.370 Civil penalty for unlawful employment of minors. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau of Labor and Industries may impose upon any person not regulated under the Federal Fair Labor Standards Act who violates ORS 653.305 to 653.370 or any rule adopted by the Wage and Hour Commission thereunder, a civil penalty not to exceed $1,000 for each violation.

(2) Notwithstanding ORS 183.482, any petition for review of an order imposing a civil penalty under this section must be filed within 30 days following the date the order upon which the petition is based is served.

(3) Except as otherwise provided in this section, civil penalties under this section shall be imposed as provided in ORS 183.090.

(4) All sums collected as penalties pursuant to this section shall be first applied toward reimbursement of the costs incurred in determining the violations, conducting hearings under this section and assessing and collecting such penalties. The remainder, if any, of the sums collected as penalties pursuant to this section shall be paid over by the commissioner to the Division of State Lands for the benefit of the common school fund of this state. The division shall issue a receipt for the money to the commissioner. [1981 c.820 §2; 1985 c.120 §1; 1989 c.706 §20; 1991 c.734 §60]

653.405 [Repealed by 1971 c.626 §7]

653.410 [Repealed by 1971 c.626 §7]

653.415 [Repealed by 1971 c.626 §7]

653.420 [Repealed by 1971 c.626 §7]

653.425 [Repealed by 1971 c.626 §7]

653.430 [Repealed by 1971 c.626 §7]

653.435 [Repealed by 1971 c.626 §7]

653.440 [Repealed by 1971 c.626 §7]

653.445 [Amended by 1967 c.67 §23; repealed by 1971 c.626 §7]

WAGE AND HOUR COMMISSION

653.505 Wage and Hour Commission; appointment; confirmation; term; vacancies. (1) The Wage and Hour Commission is established and shall be composed of three commissioners who shall be appointed by the Governor for the term of four years and until their successors are appointed and qualified. In selection of the members of the commission, the Governor shall give due consideration to the interests of labor, industry and the public. Not more than two of the members of said commission shall belong to the same political party.

(2) Upon the expiration of the term of any commissioner, the Governor shall appoint a successor.

(3) The Governor shall fill any vacancy on the commission by appointment for the unexpired portion of the term in which the vacancy occurs.

(4) All appointments of members of the commission by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. [Amended by 1967 c.596 §17; 1973 c.792 §27]

653.510 Organization of commission; officers; quorum; compensation and expenses. (1) On or before January 20 of each year, the commissioners shall elect a chairman. Each chairman shall hold the position until a successor is elected.

(2) A majority of the commissioners shall constitute a quorum to transact business. The act or decision of such majority is considered the act or decision of the Wage and Hour Commission. No vacancy shall impair the right of the remaining commissioners to exercise all the powers of the commission.

(3) Each commissioner is entitled to compensation and expenses as provided in ORS 292.495. [Amended by 1961 c.337 §2; 1969 c.314 §68; 1993 c.18 §132]

653.515 Commissioner as secretary; personnel and expenses. (1) The Commissioner of the Bureau of Labor and Industries shall be the secretary and executive officer of the Wage and Hour Commission.

(2) The secretary of the commission may employ such clerical assistance and incur such expenses as may be necessary in performing the duties of the secretary.

653.520 Duties of commission generally. The Wage and Hour Commission shall administer, execute and carry out the provisions of ORS 653.010 to 653.545 and 653.991. [Amended by 1975 c.605 §30]

653.525 Rules of commission. The Wage and Hour Commission may prepare, adopt and promulgate rules for the carrying into effect of ORS 653.305, 653.315 and 653.505 to 653.540, including rules for the selection of members and the mode of procedure of conferences. [Amended by 1961 c.205 §2; 1993 c.18 §133]

653.530 Meetings and hearings; subpoena; administering oaths; witness fees. (1) The Wage and Hour Commission may hold meetings for the transaction of any of its business at such times and places as it may prescribe.

(2) The commission may hold public hearings at such times and places as it deems fit and proper for the purpose of investigating any of the matters it is authorized to investigate under ORS 653.535.

(3) At any such public hearing any person interested in the matter being investigated may appear and testify.

(4) The commission may subpoena and compel the attendance of any witness at any such public hearing. Any commissioner may administer an oath to any witness who testifies at any such public hearing.

(5) All witnesses subpoenaed by the commission shall be paid the same mileage and per diem as are allowed by law to witnesses under ORS 444.415 (2). [Amended by 1983 c.740 §241; 1989 c.980 §17a; 1993 c.18 §134]

653.535 Investigating compliance with orders; prosecution for violation. The Wage and Hour Commission shall, from time to time, investigate and ascertain whether or not employers are observing and complying with its orders and take such steps as may be necessary to prosecute such employers as are not observing or complying with its orders. [Amended by 1993 c.18 §135]

653.540 Assistance to commission. The Commissioner of the Bureau of Labor and Industries shall, at all times, give to the Wage and Hour Commission any information or statistics in the office of the commissioner that would assist the commission in carrying out ORS 653.305, 653.505 to 653.535 and render such assistance to the commission as is consistent with the performance of the official duties of the commissioner. [Amended by 1993 c.18 §136]

653.545 Visitation rights of commission; prosecution of offenses against child labor laws. (1) The Wage and Hour Commission or anyone authorized by the commission in writing may visit the factories, workshops and mercantile establishments in their several towns and cities and ascertain whether any minors are employed therein contrary to ORS 653.310 to 653.320, 653.340 and the rules promulgated by the Wage and Hour Commission pursuant to ORS 653.307 and shall report any cases of illegal employment to the proper school authorities and to the district attorney of the county. The commission may require that the employment certificates and lists of minors employed in such factories, workshops, or mercantile establishments, shall be produced for their inspection.

(2) The commission shall bring complaints for offenses under ORS 653.310 to 653.320 and 653.340 to the attention of the proper district attorney who shall prosecute such offenses. [Amended by 1971 c.626 §4; 1993 c.18 §136a]

653.600 [1973 c.564 §2; repealed by 1975 c.114 §1]
653.605 [1973 c.564 §1; repealed by 1975 c.114 §1]
653.610 [1973 c.564 §6; repealed by 1975 c.114 §1]
653.615 [1973 c.564 §3; repealed by 1975 c.114 §1]
653.620 [1973 c.564 §5; repealed by 1975 c.114 §1]
653.625 [1973 c.564 §7; repealed by 1975 c.114 §1]
653.630 [1973 c.564 §8; repealed by 1975 c.114 §1]
653.635 [1973 c.564 §11; repealed by 1975 c.114 §1]
653.640 [1973 c.564 §9; repealed by 1975 c.114 §1]
653.645 [1973 c.564 §10; repealed by 1975 c.114 §1]
653.650 [1973 c.564 §12; repealed by 1975 c.114 §1]
653.655 [1973 c.564 §13; repealed by 1975 c.114 §1]
653.675 [1973 c.564 §14; repealed by 1975 c.114 §1]
653.680 [1973 c.564 §15; repealed by 1975 c.114 §1]
653.685 [1973 c.564 §17; repealed by 1975 c.114 §1]
653.690 [1973 c.564 §18; repealed by 1975 c.114 §1]
653.695 [1973 c.564 §19; repealed by 1975 c.114 §1]
653.700 [1973 c.564 §20; repealed by 1975 c.114 §1]

HEALTH INSURANCE POOL

653.705 Definitions for ORS 653.705 to 653.785. As used in ORS 316.096, 317.113, 318.170 and 653.705 to 653.785, unless the context requires otherwise:

(1) "Board" means the Insurance Pool Governing Board established under ORS 653.725.

(2) "Carrier" means an insurance company or health care service contractor holding a valid certificate of authority from the Director of the Department of Consumer and Business Services, or two or more companies or contractors acting together pursuant to a joint venture, partnership or other joint means of operation.

(3) "Class of employee" means an employee classed as either management or nonmanagement employee.

(4) "Eligible employee" means an employee of an employer who is employed by the employer for an average of at least 17.5 hours per week who elects to participate in one of the group benefit plans provided through board action, and sole proprietors, business partners, and limited partners. The term does not include individuals:

(a) Engaged as independent contractors.

(b) Whose periods of employment are on an intermittent or irregular basis.

(c) Who have been employed by the employer for fewer than 90 days.

(5) "Family member" means an eligible employee's spouse and any unmarried child or stepchild within age limits and other conditions imposed by the board with regard to unmarried children or stepchildren.

(6) "Health benefit plan" means a contract for group medical, surgical, hospital or any other remedial care recognized by state law and related services and supplies.

(7) "Premium" means the monthly or other periodic charge for a health benefit plan. [1987 c.591 §2]

Note: ORS 653.705 to 653.785 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 653 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

653.715 Policy. It is the intent of the Legislative Assembly by enactment of ORS 316.096, 317.113, 318.170 and 653.705 to 653.785 to increase access to health insurance by developing a program employing preventative and primary care and then to minimize the medical care cost shifts caused by the providing of uncompensated care by hospitals. [1987 c.591 §1]

Note: See note under 653.075.

653.717 Policy for level of services. It is the policy of the State of Oregon to provide health services to those in need. Services to Oregonians who do not have health insurance must include substantially similar medical services as those recommended by the Health Services Commission under ORS 414.720 and funded by the appropriate legislative review agency, as defined in ORS 291.371, pursuant to ORS 414.025, 414.036, 414.042, 414.065 and 414.705 to 414.750. [1989 c.381 §1]

Note: 653.717 was enacted into law by the Legislative Assembly but was not added to and made a part of ORS chapter 653 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

653.725 Insurance Pool Governing Board; qualifications; term; vacancies. (1) There is established an Insurance Pool Governing Board consisting of seven voting members six of whom shall be appointed by the Governor. Of the members appointed by the Governor, two shall be employers and one shall be an employee representing organized labor. At least two shall be knowledgeable about insurance but who are not officers or employees of a carrier and not consultants to a carrier or contractor. The Director of the Department of Consumer and Business Services shall appoint a consumer representative who shall serve as a voting member.

(2) The term of office of each member is three years, but a voting member serves at the pleasure of the appointing authority. Before the expiration of the term of a member, the appointing authority shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

(3) The appointing authority shall not allow any position on the board to remain vacant for more than 60 days after the vacancy occurs. [1987 c.591 §3; 1989 c.381 §17]

Note: See note under 653.705.

653.735 Expenses; chairperson; quorum; meetings; rules. (1) A member of the Insurance Pool Governing Board shall not be compensated but is entitled to reimbursement for expenses as provided in ORS 292.495 (2).

(2) The board shall select one of its voting members as chairperson and one of its voting or nonvoting members as vice-chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the board determines.

(3) A majority of the members of the board constitutes a quorum for the transaction of business.

(4) The board shall meet at least once every three months at a place, day and hour determined by the board. The board also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the board.

(5) In accordance with applicable provisions of ORS 183.310 to 183.550, the board may adopt rules necessary for the administration of the laws that the board is charged with administering. [1987 c.591 §5]

Note: See note under 653.705.

653.745 Board duties. (1) In carrying out its duties under ORS 316.096, 317.113, 318.170 and 653.705 to 653.785, the Insurance Pool Governing Board shall:

(a) Enter into contracts for administration of ORS 316.096, 317.113, 318.170 and 653.705 to 653.785 including collection of premiums and paying carriers.

(b) Enter into contracts with carriers or health care providers for health care insurance or services, including contracts where final payment may be reduced if usage is below a level fixed in the contract.

(c) Retain consultants and employ staff.

(d) Set premium rates for employees and employers.

(e) Perform other duties to provide low cost insurance plans of types likely to be purchased by eligible employers.

(2) Notwithstanding any other benefit plan contracted for and offered by the board, the board shall contract for a health benefit plan or plans best designed to meet the needs and provide for the welfare of eligible employees and employers.

(3) The board may approve more than one carrier for each type of plan contracted for and offered but the number of carriers shall be held to a number consistent with adequate service to eligible employees and family members.

(4) Where appropriate for a contracted and offered health benefit plan, the board shall provide options under which an eligible employee may arrange coverage for family members of the employee.

(5) In developing any health benefit plan, the board may provide an option of additional coverage for eligible employees and family members at an additional cost or premium.

(6) Transfer of enrollment from one plan to another shall be open to all eligible employees and family members under rules adopted by the board.

(7) If the board requests less service than is otherwise required by state law, a carrier is not required to offer such service.

(8) The board shall have authority to employ whatever means are reasonably necessary to carry out the purposes of ORS 316.096, 317.113, 318.170 and 653.705 to 653.785. Such authority shall include but is not limited to authority to seek clarification, amendment, modification, suspension or termination of any agreement or contract which in the board's judgment requires such action.

(9) The board by order may terminate the participation of any employer if for a period of three months the employer fails to perform any action required by ORS 316.096, 317.113, 318.170 and 653.705 to 653.785 or by board rule. [1987 c.591 §§6,7]

Note: See note under 653.705.

Note: Section 7, chapter 381, Oregon Laws 1989, provides:

Sec. 7. (1) On and after the applicable date specified in subsection (6) of this section, or the date on which chapter 836, Oregon Laws 1989, is implemented, whichever is later, all employers who have not provided employee and dependent health care benefits, including group health insurance, a self-funding entity or an employee welfare benefit plan that provides health plan benefits, or participation under ORS 653.765, shall make monthly payments to the Insurance Pool Fund equal to the contribution set by the board for each employee of the employer. The payments shall be based on a percentage of taxable payroll calculated to be equivalent to 75 percent of the cost of a basic or standard health benefit plan defined by the Legislative Assembly for each employee and at least 50 percent for dependent coverage.

(2) The Insurance Pool Fund shall be continuously appropriated to the board for the purpose of providing access to adequate health care for employees of employers described in this section.

(3) An employer who is eligible under ORS 653.765 (1)(a) to (c) who obtain health benefits for employees by means other than through the pool shall notify the Insurance Pool Governing Board of the number of employees being provided health benefits by the employer.

(4) Upon application therefor by an employer who is otherwise subject to making the payments required under this section, the board may exempt the employer from such requirement due to hardship and fix the terms and conditions of the exemption. The board by rule shall establish procedures under which it reviews such applications. The denial of an exemption is appealable under ORS 183.484.

(5) After a person first becomes an employer subject to this section, the person shall be allowed 18 months from the commencement of business as an employer before being required to make payments under this section. If the person obtains employee and dependent health benefit coverage during the 18-month period and meets the eligibility requirements of ORS 653.765, the person shall be eligible for a tax credit in the amount of $25 per month per eligible covered employee or 50 percent of the total amount paid by the person during the taxable year, whichever is less, for one year after such coverage is provided. In all other respects, ORS 316.096, 317.113 and 318.170 apply to the person to whom this subsection applies.

(6) This section applies to employers with 26 or more employees on and after March 31, 1997, and to employers with 25 or fewer employees on and after January 1, 1998. However, it shall not apply to either category of employer unless the appropriations necessary to fund chapter 836, Oregon Laws 1989, as amended, and this 1993 Act [chapter 815, Oregon Laws 1993] are enacted by the Legislative Assembly each biennium. [1989 c.381 §7; 1991 c.916 §20; 1993 c.815 §14]

Note: Section 38, chapter 815, Oregon Laws 1993, provides:

Sec. 38. Section 7, chapter 381, Oregon Laws 1989, as amended by section 20, chapter 916, Oregon Laws

1991, and as amended by section 14 of this Act, is repealed on January 2, 1996, unless the United States Congress by January 1, 1996, exempts section 7, chapter 381, Oregon Laws 1989, from those provisions of the Employee Retirement Income Security Act that conflict with employer responsibilities and incentives under the Oregon Health Plan. [1993 c.815 §38]

653.747 Board to encourage health insurance coverage among small employers. The Insurance Pool Governing Board shall encourage increased health insurance coverage among small employers by providing technical assistance on obtaining employee benefits and on incentives including, but not limited to, information on the pretax health benefit options allowed under section 125 of the United States Internal Revenue Code and by using other means necessary to market such coverage to small employers. [1993 c.815 §34]

Note: 653.747 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 653 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

653.748 Board to provide fair health service packages; report to legislative committee. (1) The Insurance Pool Governing Board shall provide packages of health services that are fair to consumers, providers and citizens of this state.

(2) The board shall:

(a) Examine the advantages and disadvantages of various alternatives for implementing a statewide pool;

(b) After considering employee health benefit plans being provided by employers and the full priority list recommended by the Health Services Commission, determine benefit packages and other requirements that should be in place before implementing ORS 653.765 (4); and

(c) Report on its activities pursuant to this section to the Joint Legislative Committee on Health Care. [1989 c.381 §2; 1993 c.18 §137]

Note: 653.748 and 653.750 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 653 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

653.750 Oregon Health Council to monitor and evaluate benefits; board to furnish data to council. (1) The Oregon Health Council shall monitor and evaluate the adequacy and effectiveness of health benefits available under ORS 653.705 to 653.785 and the effect of the plans on health care costs.

(2) The Insurance Pool Governing Board shall supply the Oregon Health Council with data obtained by the board in implementing ORS 653.705 to 653.785. [1989 c.381 §16a]

Note: See note under 653.748.

653.755 Employee contribution; employer contribution; payroll deduction. (1) The monthly contribution of each eligible employee for health benefit plan coverage shall be the total cost per month of the benefit coverage afforded under the plan or plans, for which the employee exercises the option, including the administrative expenses therefor less the portion thereof contributed by the employer. An employee may enroll in more than one option at a time so long as they do not offer overlapping services.

(2) The employer contribution shall be the amount necessary to pay the cost of the health benefit plan covering the employer's covered employees, as described in ORS 653.775, and other plans selected by a covered employee for which the employer does not require the employee to pay, including the administrative expenses therefor. An employer is not required to enroll an employee who is already enrolled in a health benefit plan not offered by the Insurance Pool Governing Board.

(3) Payroll deductions for such costs as are not payable by the employer shall be made by the employer upon receipt of a signed authorization from the employee indicating an election to participate in the plan covering the employee or the employee's immediate family. [1987 c.591 §8]

Note: See note under 653.705.

653.765 Employer eligibility. (1) In order to be eligible to participate in the programs authorized by ORS 316.096, 317.113, 318.170 and 653.705 to 653.785, an employer shall:

(a) Employ no more than 25 employees who do not have health insurance as a spouse, dependent or otherwise.

(b) Have not contributed within the preceding two years to any group health insurance premium on behalf of an employee who is to be covered by the employer's contribution.

(c) Make a contribution to be set by the board toward the premium incurred on behalf of a covered employee.

(2) An employer may elect to cover fewer than the total number of employees so long as its covered class includes all employees in the class.

(3) The Insurance Pool Governing Board may waive the provision of subsection (1)(a) of this section if a sufficient number of the employees of the employer are eligible for medical assistance under ORS chapter 414 so that only 25 or fewer employees are eligible for coverage under this section.

(4) On and after July 1, 1991, with the approval of the Sixty-sixth Legislative As-

sembly, the board may establish health insurance programs for employers who employ more than 25 employees or for those employers employing 25 or fewer employees who have provided health insurance for the purposes of ORS 653.705 to 653.785 only, if the employer otherwise satisfies the requirements of this section.

(5) The board shall not discriminate against any contractors which offer services within their providers' lawful scopes of practice.

(6) Any contribution by an employer to a health insurance plan within the preceding two years solely for the benefit of the employer or the employer's dependents shall not be considered to disqualify the employer under subsection (1)(b) of this section. [1987 c.591 §9; 1989 c.171 §75; 1989 c.381 §4]

Note: See note under 653.705.

653.767 [1989 c.1092 §2; renumbered 279.315 in 1993]

653.770 Notice to employers of effect and operation of law. (1) The Governor shall direct a state agency that regularly distributes notices or report forms, including tax return forms, to persons who are or may be employers to give notice to such persons of the current and anticipated effect and operation of this section and ORS 316.096, 316.113, 653.717, 653.725, 653.748, 653.750, 653.765 and 653.775.

(2) The content of the notice shall be prepared by the Insurance Pool Governing Board. The affected state agency shall use the text supplied by the board.

(3) The notice shall be printed at the board's expense and distributed at the agency's expense. The agency shall make its distribution not later than 120 days after June 19, 1989. [1989 c.381 §5a]

Note: 653.770 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 653 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

653.775 Part I coverage. (1) Part I coverage applies to eligible covered employees only.

(2) The plan shall have a stop loss to insure that no employee is required to pay the costs of a major accident or illness, beyond the costs of the deductible and other reasonable cost-sharing requirements and that Part I coverage can be obtained at a low enough cost to insure accessibility.

(3) All covered eligible employees shall participate in and be covered by at least Part I coverage. An employer may require a minimum employee contribution of not to exceed 25 percent of the premium for only Part I coverage described in this section.

(4) Part I coverage shall include at least those health care services described by ORS 653.717.

(5) The amounts specified in this section apply only to those employers who qualify for tax credits under ORS 316.096, 317.113 or 318.170.

(6) Beginning on January 1, 1994, the limit on the premium described in subsection (3) of this section shall be adjusted annually by the Insurance Pool Governing Board not to exceed the change in the medical component of the Portland Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor, or its successor, during the preceding 12-month period. The amounts determined under this subsection shall be rounded to the nearest dollar. [1987 c.591 §10; 1989 c.381 §5; 1993 c.815 §36]

Note: See note under 653.705.

653.785 Part II coverage. (1) Part II coverage shall consist of a variety of additional benefit packages which an employee may purchase. All packages shall contain incentives to encourage the employee to utilize intelligently services in a cost effective way and disincentives to discourage noncost effective use of services.

(2) At least one Part II package shall reduce the deductible of the Part I package, and provide for access to primary and preventive care. Additional benefit packages may include coverage for optical and dental care.

(3) Packages shall be available to extend coverage to the employee or the employee's family members.

(4) In general, Part II packages shall not provide benefits provided by Part I coverage. Employers may contribute toward the cost of Part II coverage, and may include the cost of Part II contributions when calculating tax credits available under ORS 316.096, 317.113, 318.170 and 653.705 to 653.785.

(5) The board may establish by rule that certain packages shall not be available to an employee who is not covered by a certain other package or packages. [1987 c.591 §11]

Note: See note under 653.705.

BARBERS AND HAIRDRESSERS HEALTH INSURANCE PROGRAM

Note: Sections 1 to 5, chapter 642, Oregon Laws 1993, provide:

Sec. 1. There is established the Barbers and Hairdressers Health Insurance Program Account. All moneys in the account are continuously appropriated for use by the Insurance Pool Governing Board to carry out the provisions of this 1993 Act. [1993 c.642 §1]

Sec. 2. The State Board of Barbers and Hairdressers shall transfer $50,000, representing a portion of excess revenue collected by the board, to the credit of the Barbers and Hairdressers Health Insurance Program Account to be used as provided in section 3 of this 1993 Act. [1993 c.642 §2]

Sec. 3. The Insurance Pool Governing Board shall apply the amount transferred from the State Board of Barbers and Hairdressers under section 2 of this 1993 Act to develop a health insurance program for practitioners and small business owners within the industry of barbering, hair design, facial technology and manicure. [1993 c.642 §3]

Sec. 4. (1) If the State Board of Barbers and Hairdressers believes that the program prepared under section 3 of this 1993 Act is adequate to serve the needs of the practitioners and small business owners described in section 3 of this 1993 Act and those practitioners and small business owners indicate sufficient interest in participating in the program, the board, subject to the review and approval of the Emergency Board, may transfer $300,000 or so much thereof as is required, representing excess revenue collected by the board, to the credit of the Barbers and Hairdressers Health Insurance Program Account to finance the premiums of a health insurance program for the practitioners and small business owners described in section 3 of this 1993 Act.

(2) Upon transference of the funds under subsection (1) of this section, the Insurance Pool Governing Board shall offer a health insurance program described in section 3 of this 1993 Act to practitioners and to small businesses described in section 3 of this 1993 Act, subject to collecting premiums from participants in the manner described in ORS 653.705 to 653.785.

(3) No law requiring coverage or the offer of coverage applies to a health insurance program offered under this 1993 Act. [1993 c.642 §4]

Sec. 5. The Insurance Pool Governing Board may establish a trust, enter into contracts and exercise any other powers necessary for the operation and functioning of the board, the trust or any contracting parties for the purposes authorized in this 1993 Act. [1993 c.642 §5]

PENALTIES

653.990 [Subsections (1) and (2) enacted as 1967 c.596 §14; repealed by 1971 c.626 §7]

653.991 Penalties. Violation of any provision of this section or ORS 653.010 to 653.545 or of any rule adopted by the Wage and Hour Commission under ORS 653.307 shall be punishable as a misdemeanor. [1971 c.626 §6; 1993 c.18 §138]

653.992 [1973 c.564 §16; repealed by 1975 c.114 §1]