

Oppose HB 2205 – Amendments do NOT Address Underlying Flaws of PAGA Lawsuit Scheme Benefits Trial Lawyers and Special Interests at the Expense of Workers

The Private Attorney General Act (PAGA) in California allows private special interests to file lawsuits in the name of the state of Oregon for statutes established to protect workers through education and enforcement actions by state agencies. Modeled after PAGA, the -1 amendments do little to address the overwhelming concerns from employers across the state who fear HB 2205 will seriously threaten their business and have a negative impact on both employers and employees.

PAGA has been disastrous for businesses in California – HB 2205-1 does NOT fix this ill-conceived approach

- California's PAGA statute has been litigated and modified multiple times since passage in 2003. There is not time in what's left of this legislative session to address the flawed approach this bill would introduce into enforcement of labor laws in Oregon. Encouraging lawsuits instead of enforcement will not help Oregon's employees or employers – it will only help trial attorneys who reap the rewards in California.
- This legislation will dramatically impact Oregon's state agencies currently responsible for enforcement of labor laws by essentially privatizing agency enforcement responsibilities, handing the role over to be managed by trial lawyers "Representative Organizations" and the courts through lawsuits.
- HB 2205 will negatively impact every business, non-profit and employer in Oregon, subjecting them to liability exposure never envisioned when laws were adopted.

HB 2205 allows for lawsuits impacting key BOLI and OSHA statutes without any discussion of impact

- The -1 amendments will affect at least 240 pages of Oregon statutes enacted to keep employees and workplaces safe with literally no discussion about the implications for employees, employers or on the important education, investigation and enforcement work these agencies handle.
- California doesn't allow for "Representative Organizations" to file enforcement actions – an employee must pursue the action. This bill allows a "whistleblower relator" to bring an action against the worker's employer, prospective employer or former employer through a representative organization without ever being identified. Employers and agencies will have challenges investigating and correcting and can be further exposed to expansive liability for releasing any employee once a notice has been filed.
- HB 2205 destroys legislative intent of several carefully negotiated employment laws subjecting all to lawsuits – legislators can choose to allow for lawsuits when they pass legislation or can choose agency education and enforcement including civil penalties as a preferred solution – legislators should decide, not lawyers and special interests.

HB 2205 short-changes employees and allows multiple special interest groups to cash in on lawsuits!

- If HB 2205 passes, special interest groups will receive compensation for attorney's fees, as well as for their time investigating, instituting and litigating these actions – two payouts separate from employees and taken from their civil penalties.
- California only compensates the trial attorneys and still employees have been left out – in one case the employees received less than \$1.10 a piece, and trial lawyers got \$7.75 million. In another, \$21 million went to the trial attorney while each employee only received \$108. In a case against a small business owner defendant facing only \$31,000 in underlying violations was held personally liable for the \$300,000 in attorney's fees for the case.
- Under HB 2205, even if an employer is not found by BOLI or OSHA to have violated statute – the lawsuit can still proceed! If an action is pursued by BOLI or OSHA and a settlement is entered, the relator, representative agency and trial lawyer still get paid – "Any settlement must account for reasonable compensation for the attorney fees and costs expended on behalf of the relator in investigating, instituting and litigating this action."

Oppose HB 2205 the -1 Amendments - Oregon Can't Afford California's PAGA Lawsuit Scheme!