

# House Bill 2428

Sponsored by Representative ANDERSON (at the request of United Association of Sprinkler Fitters Local 669, United Association of Plumbers and Steamfitters Local 290, Oregon Fire District Directors Association, Oregon Fire Chiefs Association, Oregon Fire Marshals Association)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires person engaging in trade of sprinkler fitter to be licensed by Department of Consumer and Business Services. Requires supervision of sprinkler fitter apprentice by journeyman sprinkler fitter.

Allows municipal enforcement of sprinkler fitter license and apprentice supervision requirements. Imposes civil penalty, not to exceed \$5,000 per offense or \$1,000 per day for continuing offense, for violation of license supervision requirements or related department rules.

## A BILL FOR AN ACT

1  
2 Relating to fire protection sprinklers; creating new provisions; and amending ORS 455.156 and  
3 455.895.

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

5 **SECTION 1. As used in this section and sections 2 to 6 of this 2005 Act:**

6 (1) **"Fire protection sprinkler system" means a water supply and piping system dedicated**  
7 **exclusively for the purpose of automatically suppressing or extinguishing fires.**

8 (2) **"Sprinkler fitter" means a person who installs, maintains, inspects, tests or repairs**  
9 **a fire protection sprinkler system.**

10 **SECTION 2. (1) A person may not engage in the trade of sprinkler fitter unless the per-**  
11 **son has a journeyman or apprentice sprinkler fitter license issued by the Department of**  
12 **Consumer and Business Services.**

13 (2) **An applicant for a journeyman sprinkler fitter license must:**

14 (a) **Submit a completed application and pay fees as provided by the department by rule;**

15 (b) **Have completed a sprinkler fitter apprenticeship program that is:**

16 (A) **Registered with the State Apprenticeship and Training Council under ORS 660.020;**

17 (B) **Approved by the council under ORS 660.158; or**

18 (C) **A federal apprenticeship program recognized by the department; and**

19 (c) **If applying for renewal of a license, meet any continuing education requirement im-**  
20 **posed by the department.**

21 (3) **An applicant for an apprentice sprinkler fitter license must:**

22 (a) **Submit a completed application and pay fees as provided by the department by rule;**

23 **and**

24 (b) **Be enrolled in a sprinkler fitter apprenticeship program that is:**

25 (A) **Registered with the council under ORS 660.020;**

26 (B) **Approved by the council under ORS 660.158; or**

27 (C) **A federal apprenticeship program recognized by the department.**

28 (4) **A person licensed as an apprentice sprinkler fitter may engage in the trade of sprin-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 kler fitter only under the supervision of a licensed journeyman sprinkler fitter as provided  
2 by the department by rule.

3 **SECTION 3.** (1) An applicant for a journeyman sprinkler fitter license under section 2  
4 of this 2005 Act does not need to meet the apprenticeship completion requirement described  
5 in section 2 of this 2005 Act if the applicant:

6 (a) Has acquired 4,000 or more hours of documented fire protection sprinkler system  
7 fitting experience on or before January 1, 2007; and

8 (b) Applies for the license on or before January 1, 2008.

9 (2) The Department of Consumer and Business Services shall adopt rules establishing  
10 means of demonstrating that an applicant for a journeyman sprinkler fitter license qualifies  
11 under this section for exemption from the apprenticeship completion requirement in section  
12 2 of this 2005 Act.

13 **SECTION 4.** The Department of Consumer and Business Services shall adopt rules to  
14 administer and enforce sections 2 to 6 of this 2005 Act. The rules shall include, but need not  
15 be limited to, provisions for the following:

16 (1) Fees in amounts sufficient to cover the cost of administering and enforcing the  
17 sprinkler fitter licensing program.

18 (2) Continuing education requirements for the renewal of a journeyman sprinkler fitter  
19 license.

20 (3) Criteria for department recognition of a federal apprenticeship program.

21 (4) Supervision requirements for work performed by an apprentice sprinkler fitter.

22 **SECTION 5.** The Department of Consumer and Business Services may suspend, revoke  
23 or refuse to renew the license of a sprinkler fitter who fails to comply with department rules  
24 adopted under section 4 of this 2005 Act.

25 **SECTION 6.** Section 2 of this 2005 Act does not apply to the testing of backflow pre-  
26 vention device assemblies by a person licensed under ORS 448.279.

27 **SECTION 7.** (1) The Department of Consumer and Business Services shall make sprinkler  
28 fitter licenses available for issuance under section 2 of this 2005 Act no later than January  
29 1, 2007.

30 (2) Section 2 (1) and (4) of this 2005 Act becomes operative January 1, 2008.

31 (3) The amendments to ORS 455.156 and 455.895 by sections 8 and 9 of this 2005 Act be-  
32 come operative January 1, 2008.

33 **SECTION 8.** ORS 455.156 is amended to read:

34 455.156. (1) Notwithstanding any other provision of this chapter, ORS chapter 693 or ORS  
35 447.010 to 447.156, 447.992, 479.510 to 479.945, 479.990 or 479.995, the Department of Consumer and  
36 Business Services shall carry out the provisions of this section.

37 (2)(a) A municipality that establishes a building inspection program under ORS 455.148 or a  
38 plumbing inspection program under ORS 455.150 covering installations under the plumbing specialty  
39 code or Low-Rise Residential Dwelling Code may act on behalf of the State Plumbing Board to in-  
40 vestigate violations of and enforce ORS 447.030, 447.040, 693.030 and 693.040 and to issue notices  
41 of proposed assessment of civil penalties for those violations.

42 (b) A municipality that establishes a building inspection program under ORS 455.148 or an  
43 electrical inspection program under ORS 455.150 covering installations under the electrical specialty  
44 code or Low-Rise Residential Dwelling Code may act on behalf of the Electrical and Elevator Board  
45 to investigate violations of and enforce ORS 479.550 (1) and 479.620 and to issue notices of proposed

1 assessment of civil penalties for those violations.

2 (c) A municipality that establishes a building inspection program under ORS 455.148 or 455.150  
 3 may investigate violations and enforce any provisions of the program administered by the municipi-  
 4 pality.

5 **(d) A municipality that establishes a building inspection program under ORS 455.148 or**  
 6 **455.150 may act on behalf of the department to investigate violations and enforce section 2**  
 7 **(1) and (4) of this 2005 Act.**

8 (3) The department shall establish:

9 (a) Procedures, forms and standards to carry out the provisions of this section, including but  
 10 not limited to creating preprinted notices of proposed assessment of penalties that can be completed  
 11 and served by municipal inspectors;

12 (b) A program to provide that all of the moneys recovered by the department, less collection  
 13 expenses, be paid to the municipality that initiated the charges when a person charged with a vio-  
 14 lation as provided in subsection (2) of this section, other than a violation of a licensing requirement,  
 15 agrees to the entry of an assessment of civil penalty or does not request a hearing, and an order  
 16 assessing a penalty is entered against the person;

17 (c) A uniform citation process to be used in all jurisdictions of the state for violation of a li-  
 18 censing requirement. The process may include but need not be limited to all program areas admin-  
 19 istered by a municipality under ORS 455.148 or 455.150 and may provide a uniform method for  
 20 checking license status and issuing citations for violation of a licensing requirement, and a con-  
 21 sistent basis for enforcement of licensing requirements and treatment of violations, including fine  
 22 amounts;

23 (d) A program to provide a division of the moneys recovered by the department with the  
 24 municipality that initiated the charges, when a person charged with a violation as provided in sub-  
 25 section (2) of this section, other than a violation of a licensing requirement, requests a hearing and  
 26 is assessed a penalty. One-half of the amounts recovered shall be paid to the municipality. The de-  
 27 partment shall keep an amount equal to its costs of processing the proceeding and collection ex-  
 28 penses out of the remaining one-half and remit the balance, if any, to the municipality; and

29 (e) A program to require municipalities to investigate violations of the department's permit re-  
 30 quirements for plumbing installations and services under the plumbing specialty code and for  
 31 plumbing and electrical installations and services under the Low-Rise Residential Dwelling Code,  
 32 and to:

33 (A) Initiate notices of proposed assessment of civil penalties as agents of the boards designated  
 34 in subsection (2) of this section; and

35 (B) Pay the agents of the boards out of net civil penalty recoveries as if the recoveries were  
 36 under paragraphs (b) and (d) of this subsection.

37 (4) The assessment of a civil penalty under this section by a municipality is subject to the  
 38 amount limitations set forth in ORS 455.895.

39 (5)(a) It shall be a defense for any person charged with a penalty for violation of a building in-  
 40 spection program permit requirement covering plumbing installations under the plumbing specialty  
 41 code, electrical permit requirements under ORS 479.550 or plumbing or electrical requirements un-  
 42 der the Low-Rise Residential Dwelling Code that the person was previously penalized for the same  
 43 occurrence.

44 (b) A building inspection program permit requirement is a requirement contained in a specialty  
 45 code or municipal ordinance or rule requiring a permit before the particular installations covered

1 by the codes are commenced.

2 (c) A penalty for the same occurrence includes a combination of two or more of the following  
 3 that are based on the same plumbing or electrical installation:

4 (A)(i) An investigative or other fee added to an electrical permit fee when a permit was obtained  
 5 after the electrical installation was started;

6 (ii) A civil penalty pursuant to ORS 479.995 for violation of ORS 479.550 for failure to obtain  
 7 an electrical permit;

8 (iii) A civil penalty pursuant to ORS 455.895 for failure to obtain an electrical permit under the  
 9 Low-Rise Residential Dwelling Code; or

10 (iv) A municipal penalty, other than an investigative fee, for making an electrical installation  
 11 under the electrical specialty code or the Low-Rise Residential Dwelling Code without a permit; or

12 (B)(i) An investigative or other fee added to a plumbing permit fee when a permit was obtained  
 13 after the plumbing installation was started;

14 (ii) A civil penalty pursuant to ORS 447.992 for failure to obtain a plumbing permit as required  
 15 under the plumbing specialty code;

16 (iii) A civil penalty pursuant to ORS 455.895 for failure to obtain a plumbing permit under the  
 17 Low-Rise Residential Dwelling Code; or

18 (iv) A municipal penalty, other than an investigative fee, for making a plumbing installation  
 19 under the plumbing specialty code or the Low-Rise Residential Dwelling Code without a permit.

20 **SECTION 9.** ORS 455.895, as amended by section 76, chapter 655, Oregon Laws 2003, is  
 21 amended to read:

22 455.895. (1)(a) The State Plumbing Board may impose a civil penalty against a person as pro-  
 23 vided under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS  
 24 693.165.

25 (b) The Electrical and Elevator Board may impose a civil penalty against a person as provided  
 26 under ORS 479.995. Amounts recovered under this paragraph are subject to ORS 479.850.

27 (c) The Board of Boiler Rules may impose a civil penalty against a person as provided under  
 28 ORS 480.670. Amounts recovered under this paragraph shall be deposited to the General Fund.

29 (2) The Director of the Department of Consumer and Business Services, in consultation with the  
 30 appropriate board, if any, may impose a civil penalty against any person who violates any provision  
 31 of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to  
 32 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670 **and section 2 (1) and (4) of this 2005**  
 33 **Act** and this chapter and ORS chapters 447, 460 and 693, or any rule adopted or order issued for  
 34 the administration and enforcement of those provisions. Except as provided in subsections (3) and  
 35 (8) of this section or ORS 446.995, a civil penalty imposed under this section must be in an amount  
 36 determined by the appropriate board or the director of not more than \$5,000 for each offense or,  
 37 in the case of a continuing offense, not more than \$1,000 for each day of the offense.

38 (3) Each violation of ORS 446.003 to 446.200 or 446.225 to 446.285, or any rule or order issued  
 39 thereunder, constitutes a separate violation with respect to each manufactured structure or with  
 40 respect to each failure or refusal to allow or perform an act required thereby, except that the  
 41 maximum civil penalty may not exceed \$1 million for any related series of violations occurring  
 42 within one year from the date of the first violation.

43 (4) The maximum penalty established by this section for a violation may be imposed only upon  
 44 a finding that the person has engaged in a pattern of violations. The Department of Consumer and  
 45 Business Services, by rule, shall define what constitutes a pattern of violations. Except as provided

1 in subsections (1) and (9) of this section, moneys received from any civil penalty under this section  
 2 are appropriated continuously for and shall be used by the director for enforcement and adminis-  
 3 tration of provisions and rules described in subsection (2) of this section.

4 (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

5 (6) A civil penalty imposed under this section may be remitted or reduced upon such terms and  
 6 conditions as the director or the appropriate board considers proper and consistent with the public  
 7 health and safety. In any judicial review of a civil penalty imposed under this section, the court may,  
 8 in its discretion, reduce the penalty.

9 (7) Any officer, director, shareholder or agent of a corporation, or member or agent of a part-  
 10 nership or association, who personally participates in or is an accessory to any violation by the  
 11 partnership, association or corporation of a provision or rule described in subsection (2) of this  
 12 section is subject to the penalties prescribed in this section.

13 (8) In addition to the civil penalty set forth in subsection (1) or (2) of this section, any person  
 14 who violates a provision or rule described in subsection (2) of this section may be required by the  
 15 director or the appropriate board to forfeit and pay to the General Fund of the State Treasury a  
 16 civil penalty in an amount determined by the director or board that shall not exceed five times the  
 17 amount by which such person profited in any transaction that violates a provision or rule described  
 18 in subsection (2) of this section.

19 (9) If a civil penalty is imposed for a violation of a provision of ORS 446.566 to 446.646 and the  
 20 violation relates to a filing or failure to file with a county assessor functioning as agent of the de-  
 21 partment, the department, after deducting an amount equal to the department's procedural, col-  
 22 lection and other related costs and expenses, shall forward one-half of the remaining civil penalty  
 23 amount to the county in which the manufactured structure is located at the time of the violation.  
 24