

# DRAFT

## SUMMARY

Revises laws relating to offenses.  
Declares emergency, effective July 1, 2011.

## A BILL FOR AN ACT

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Relating to offenses; creating new provisions; amending ORS 1.178, 1.182, 25.715, 25.990, 33.075, 41.905, 45.900, 51.037, 83.990, 86.990, 92.990, 97.990, 97.992, 100.990, 105.590, 106.990, 131.897, 133.865, 135.265, 135.280, 135.905, 135.921, 137.017, 137.293, 137.300, 137.533, 137.540, 147.227, 151.225, 151.487, 151.505, 153.018, 153.025, 153.051, 153.061, 153.090, 153.099, 153.108, 153.624, 161.566, 161.568, 161.570, 161.665, 161.715, 163.575, 165.107, 165.990, 166.180, 166.300, 166.320, 166.330, 166.715, 167.337, 167.339, 167.808, 192.990, 198.600, 208.990, 221.315, 221.355, 221.357, 221.916, 240.990, 241.990, 267.990, 268.990, 279A.990, 291.990, 293.990, 305.830, 305.990, 307.990, 308.990, 311.990, 319.990, 320.990, 321.991, 339.925, 341.300, 346.991, 352.360, 368.990, 376.990, 390.050, 390.995, 398.224, 399.990, 409.304, 411.990, 414.815, 418.215, 419C.446, 419C.459, 419C.470, 421.990, 431.210, 432.900, 433.855, 433.990, 435.990, 441.990, 448.305, 448.990, 448.992, 448.994, 450.990, 460.370, 460.990, 462.405, 462.990, 466.913, 466.995, 468.140, 468.936, 468.943, 468A.580, 469.990, 471.410, 471.559, 471.990, 473.990, 473.992, 475.495, 475.565, 475.860, 475.864, 475.886, 475.888, 475.890, 475.892, 476.990, 477.985, 479.520, 496.992, 497.415, 498.153, 498.154, 498.155, 498.222, 498.993, 506.306, 520.991, 522.990, 527.990, 532.990, 537.990, 540.990, 541.990, 543.990, 547.990, 549.990, 561.150, 561.990, 565.630, 565.990, 569.390, 571.365, 576.053, 576.595, 576.991, 577.990, 578.990, 585.190, 585.990, 586.990, 596.990, 600.990, 602.990, 607.365, 608.990, 609.060, 609.990, 609.994, 610.990, 618.991, 621.991, 628.990, 632.990, 634.992, 635.991,

**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.

1 646.990, 646A.508, 646A.765, 649.990, 651.990, 652.400, 652.445, 652.990,  
2 654.991, 656.605, 656.990, 657.515, 657.822, 657.990, 658.991, 659.990,  
3 659A.990, 661.990, 671.992, 675.330, 675.337, 676.990, 679.260, 679.991,  
4 683.290, 686.990, 688.160, 688.715, 688.990, 689.135, 689.995, 691.565, 695.990,  
5 705.165, 705.642, 707.145, 717.235, 717.315, 723.014, 723.106, 725.145, 726.075,  
6 726.990, 731.292, 731.992, 756.360, 756.990, 757.990, 759.990, 776.991, 777.990,  
7 778.085, 778.990, 783.610, 783.990, 801.557, 802.110, 802.155, 809.220, 810.530,  
8 811.109, 811.172, 811.182, 811.230, 811.235, 811.483, 811.590, 811.615, 811.617,  
9 811.625, 811.627, 811.630, 813.030, 813.095, 813.240, 813.270, 814.485, 814.486,  
10 814.534, 814.536, 814.600, 818.430, 823.991, 824.014, 824.992, 825.990 and  
11 837.100 and section 2, chapter 659, Oregon Laws 2009; repealing ORS  
12 30.450, 30.830, 137.290, 137.295, 137.301, 137.308, 137.309, 153.093, 153.125,  
13 153.128, 153.131, 153.134, 153.138, 153.142, 153.145, 153.630, 153.635, 153.800,  
14 165.475, 165.480, 165.485, 165.490, 165.495, 165.505, 165.510, 165.515, 165.520,  
15 221.923, 266.470, 376.385, 448.320, 471.670, 496.715, 496.951, 506.630, 530.900,  
16 570.055, 570.365, 632.620, 678.168, 801.145 and 830.145; and declaring an  
17 emergency.

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

19  
20 **PRESUMPTIVE FINES FOR VIOLATIONS**

21  
22 **SECTION 1. Sections 2 to 4 of this 2011 Act are added to and made**  
23 **a part of ORS chapter 153.**

24 **SECTION 2. Presumptive fines; generally. (1) Except as provided in**  
25 **section 3 of this 2011 Act, the presumptive fines for violations are:**

26 **(a) \$430 for a Class A violation.**

27 **(b) \$260 for a Class B violation.**

28 **(c) \$180 for a Class C violation.**

29 **(d) \$135 for a Class D violation.**

30 **(2) The presumptive fine for a specific fine violation is:**

31 **(a) The amount specified by statute as the presumptive fine for the**

1 violation; or

2 (b) An amount equal to the greater of 20 percent of the maximum  
3 fine prescribed for the violation, or the minimum fine prescribed by  
4 statute for the violation.

5 **SECTION 3. Presumptive fines; highway work zones, school zones**  
6 **and safety corridors.** (1) If an individual is charged with a traffic of-  
7 fense and the enforcement officer issuing the citation notes on the  
8 citation that the offense occurred in a highway work zone and is sub-  
9 ject to the provisions of ORS 811.230, occurred in a posted school zone  
10 and is subject to the provisions of ORS 811.235, or occurred in a safety  
11 corridor and is subject to the provisions of ORS 811.483, the  
12 presumptive fine for the violation is:

13 (a) \$860 for a Class A violation.

14 (b) \$520 for a Class B violation.

15 (c) \$360 for a Class C violation.

16 (d) \$270 for a Class D violation.

17 (2) The presumptive fine for a specific fine violation that is subject  
18 to this section is an amount equal to 40 percent of the maximum fine  
19 prescribed for the violation.

20 **SECTION 4. Presumptive fine is minimum fine for violations.** (1)  
21 Except as otherwise provided by law, a court may not defer, waive,  
22 suspend or otherwise reduce the fine for a violation that is subject to  
23 the presumptive fines established by sections 2 and 3 of this 2011 Act  
24 to an amount that is less than the presumptive fine.

25 (2) This section does not affect the manner in which a court im-  
26 poses or reduces monetary obligations other than fines.

27 (3) The Department of Revenue or Secretary of State may audit any  
28 court to determine whether the court is complying with the require-  
29 ments of this section. In addition, the Department of Revenue or  
30 Secretary of State may audit any court to determine whether the  
31 court is complying with the requirements of sections 33 to 38 and 47

1 to 50 of this 2011 Act. The Department of Revenue or Secretary of  
2 State may file an action under ORS 34.105 to 34.240 to enforce the re-  
3 quirements of this section and of sections 33 to 38 and 47 to 50 of this  
4 2011 Act.

5 SECTION 5. ORS 153.093, 153.125, 153.128, 153.131, 153.134, 153.138,  
6 153.142 and 153.145 are repealed.

7 SECTION 6. Sections 2 to 4 of this 2011 Act and the repeal of ORS  
8 153.093, 153.125, 153.128, 153.131, 153.134, 153.138, 153.142 and 153.145 by  
9 section 5 of this 2011 Act apply only to offenses committed on or after  
10 the effective date of this 2011 Act. Any offense committed before the  
11 effective date of this 2011 Act shall continue to be governed by ORS  
12 153.093, 153.125, 153.128, 153.131, 153.134, 153.138, 153.142 and 153.145 as in  
13 effect immediately before the effective date of this 2011 Act.

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#### MAXIMUM FINES FOR VIOLATIONS

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17 SECTION 7. ORS 153.018 is amended to read:

18 153.018. (1) The penalty for committing a violation is a fine. The law  
19 creating a violation may impose other penalties in addition to a fine but may  
20 not impose a term of imprisonment.

21 (2) *[Except as provided in this section, a sentence to pay a fine for a vio-*  
22 *lation shall be a sentence to pay an amount not exceeding]* **The maximum**  
23 **fine for a violation committed by an individual is:**

24 (a) *[\$720]* **\$2,000** for a Class A violation.

25 (b) *[\$360]* **\$1,000** for a Class B violation.

26 (c) *[\$180]* **\$500** for a Class C violation.

27 (d) *[\$90]* **\$250** for a Class D violation.

28 (e) **\$2,000 for a specific fine violation, or** the amount otherwise estab-  
29 lished by law for *[any]* **the** specific fine violation.

30 (3) *[If no special corporate fine is specified in the law creating the violation,*  
31 *a sentence to pay a fine for a violation committed by a corporation shall be in*

1 *an amount not to exceed twice the fine established under this section for a*  
2 *violation by an individual.] If a special corporate fine is specified in the law*  
3 *creating the violation, the sentence to pay a fine shall be governed by the*  
4 *law creating the violation. **If a special corporate fine is not specified in***  
5 ***the law creating the violation, the maximum fine for a violation***  
6 ***committed by a corporation is:***

7 (a) **\$4,000 for a Class A violation.**

8 (b) **\$2,000 for a Class B violation.**

9 (c) **\$1,000 for a Class C violation.**

10 (d) **\$500 for a Class D violation.**

11 [(4) *If a person or corporation has gained money or property through the*  
12 *commission of a violation, instead of sentencing the defendant to pay the fine*  
13 *provided for in subsection (2) or (3) of this section, the court may sentence the*  
14 *defendant to pay an amount fixed by the court, not exceeding double the*  
15 *amount of the defendant's gain from the commission of the violation. For the*  
16 *purposes of this subsection, the defendant's gain is the amount of money or the*  
17 *value of property, as determined under ORS 164.115, derived from the com-*  
18 *mission of the violation, less the amount of money or the value of property, as*  
19 *determined under ORS 164.115, returned to the victim of the violation or seized*  
20 *by or surrendered to lawful authority before the time sentence is imposed.]*

21 **SECTION 8. The amendments to ORS 153.018 by section 7 of this**  
22 **2011 Act apply only to offenses committed on or after the effective date**  
23 **of this 2011 Act. Any offense committed before the effective date of**  
24 **this 2011 Act shall continue to be governed by ORS 153.018 as in effect**  
25 **immediately before the effective date of this 2011 Act.**

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### MINIMUM FINES FOR CRIMES

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29 **SECTION 9. Section 10 of this 2011 Act is added to and made a part**  
30 **of ORS chapter 137.**

31 **SECTION 10. Minimum fines for misdemeanors and felonies. (1)**

1 **Unless a specific minimum fine is provided by law, the minimum fine**  
2 **for a misdemeanor is \$100.**

3 **(2) Unless a specific minimum fine is provided by law, the minimum**  
4 **fine for a felony is \$200.**

5 **(3) A court may waive payment of the minimum fine established**  
6 **by this section, in whole or in part, if the court finds that requiring**  
7 **payment of the minimum fine would be inconsistent with justice in the**  
8 **case. In making its determination under this subsection, the court**  
9 **shall consider:**

10 **(a) The financial resources of the defendant and the burden that**  
11 **payment of the minimum fine will impose, with due regard to the**  
12 **other obligations of the defendant; and**

13 **(b) The extent to which that burden can be alleviated by allowing**  
14 **the defendant to pay the monetary obligations imposed by the court**  
15 **on an installment basis or on other conditions to be fixed by the court.**

16 **(4) This section does not affect the manner in which a court im-**  
17 **poses or reduces monetary obligations other than fines.**

18 **SECTION 11.** ORS 475.886 is amended to read:

19 475.886. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to  
20 475.980, it is unlawful for any person to manufacture methamphetamine.

21 (2) Unlawful manufacture of methamphetamine is a Class B felony.

22 **(3) The minimum fine for unlawful manufacture of methamphet-**  
23 **amine is \$1,000.**

24 **SECTION 12.** ORS 475.888 is amended to read:

25 475.888. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to  
26 475.980, it is unlawful for any person to manufacture methamphetamine  
27 within 1,000 feet of the real property comprising a public or private elemen-  
28 tary, secondary or career school attended primarily by minors.

29 (2) Unlawful manufacture of methamphetamine within 1,000 feet of a  
30 school is a Class A felony.

31 **(3) The minimum fine for unlawful manufacture of methamphet-**

1 **amine within 1,000 feet of a school is \$1,000.**

2 **SECTION 13.** ORS 475.890 is amended to read:

3 475.890. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to  
4 475.980, it is unlawful for any person to deliver methamphetamine.

5 (2) Unlawful delivery of methamphetamine is a Class B felony.

6 (3) Notwithstanding subsection (2) of this section, unlawful delivery of  
7 methamphetamine is a Class A felony if the delivery is to a person under 18  
8 years of age.

9 **(4) The minimum fine for unlawful delivery of methamphetamine**  
10 **is \$500.**

11 **SECTION 14.** ORS 475.892 is amended to read:

12 475.892. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to  
13 475.980, it is unlawful for any person to deliver methamphetamine within  
14 1,000 feet of the real property comprising a public or private elementary,  
15 secondary or career school attended primarily by minors.

16 (2) Unlawful delivery of methamphetamine within 1,000 feet of a school  
17 is a Class A felony.

18 **(3) The minimum fine for unlawful delivery of methamphetamine**  
19 **within 1,000 feet of a school is \$500.**

20 **SECTION 15.** Section 10 of this 2011 Act and the amendments to  
21 **ORS 475.886, 475.888, 475.890 and 475.892 by sections 11 to 14 of this 2011**  
22 **Act apply only to offenses committed on or after the effective date of**  
23 **this 2011 Act.**

24

25 **FINES FOR CRIMES TREATED AS CLASS A VIOLATIONS**  
26 **AND FELONIES TREATED AS CLASS A MISDEMEANORS**

27

28 **SECTION 16.** ORS 161.566 is amended to read:

29 161.566. (1) Except as provided in subsection (4) of this section, a prose-  
30 cuting attorney may elect to treat any misdemeanor as a Class A violation.  
31 The election must be made by the prosecuting attorney orally at the time

1 of the first appearance of the defendant or in writing filed on or before the  
2 time scheduled for the first appearance of the defendant. If no election is  
3 made within the time allowed, the case shall proceed as a misdemeanor.

4 (2) If a prosecuting attorney elects to treat a misdemeanor as a Class A  
5 violation under this section, the court shall amend the accusatory instrument  
6 to reflect the charged offense as a Class A violation and clearly denominate  
7 the offense as a Class A violation in any judgment entered in the matter.  
8 Notwithstanding ORS 153.018, the [*maximum*] fine that a court may impose  
9 upon conviction of a violation under this section may not:

10 (a) **Be less than the presumptive fine established by section 2 of this**  
11 **2011 Act for a Class A violation; or**

12 (b) Exceed the amount provided in ORS 161.635 for the class of  
13 misdemeanor receiving violation treatment.

14 (3) If a prosecuting attorney elects to treat a misdemeanor as a Class A  
15 violation under this section, and the defendant fails to make any required  
16 appearance in the matter, the court may enter a default judgment against the  
17 defendant in the manner provided by ORS 153.102. Notwithstanding ORS  
18 153.018, the [*maximum*] fine that the court may impose under a default  
19 judgment entered pursuant to ORS 153.102 [*is*] **may not:**

20 (a) **Be less than the presumptive fine established by section 2 of this**  
21 **2011 Act for a Class A violation; or**

22 (b) **Exceed** the maximum fine for the class of misdemeanor receiving vi-  
23 olation treatment.

24 (4) A prosecuting attorney may not elect to treat misdemeanors created  
25 under ORS 811.540 or 813.010 as violations under the provisions of this sec-  
26 tion.

27 (5) The election provided for in this section may be made by a city at-  
28 torney acting as prosecuting attorney in the case of municipal ordinance  
29 offenses, a county counsel acting as prosecuting attorney under a county  
30 charter in the case of county ordinance offenses, and the Attorney General  
31 acting as prosecuting attorney in those criminal actions or proceedings

1 within the jurisdiction of the Attorney General.

2 [(6) *Notwithstanding ORS 137.290 (1)(d), the unitary assessment imposed*  
3 *upon conviction of a violation under this section is the amount provided in*  
4 *ORS 137.290 for the misdemeanor receiving violation treatment.*]

5 **SECTION 17.** ORS 161.568 is amended to read:

6 161.568. (1) Except as provided in subsection (4) of this section, a court  
7 may elect to treat any misdemeanor as a Class A violation for the purpose  
8 of entering a default judgment under ORS 153.102 if:

9 (a) A complaint or information has been filed with the court for the  
10 misdemeanor;

11 (b) The defendant has failed to make an appearance in the proceedings  
12 required by the court or by law; and

13 (c) The court has given notice to the district attorney for the county and  
14 the district attorney has informed the court that the district attorney does  
15 not object to treating the misdemeanor as a Class A violation.

16 (2) If the court treats a misdemeanor as a Class A violation under this  
17 section, the court shall amend the accusatory instrument to reflect the  
18 charged offense as a Class A violation and clearly denominate the offense  
19 as a Class A violation in the judgment entered in the matter.

20 (3) Notwithstanding ORS 153.018, if the court treats a misdemeanor as a  
21 Class A violation under this section, the [*maximum*] fine that the court may  
22 impose under a default judgment entered pursuant to ORS 153.102 [*is*] **may**  
23 **not:**

24 (a) **Be less than the presumptive fine established by section 2 of this**  
25 **2011 Act for a Class A violation; or**

26 (b) **Exceed** the maximum fine for the class of misdemeanor receiving vi-  
27 olation treatment.

28 (4) A court may not treat misdemeanors created under ORS 811.540 or  
29 813.010 as violations under the provisions of this section.

30 [(5) *Notwithstanding ORS 137.290 (1)(d), the unitary assessment imposed*  
31 *upon conviction of a violation under this section is the amount provided in*

1 *ORS 137.290 for the misdemeanor receiving violation treatment.]*

2 **SECTION 18.** ORS 161.570 is amended to read:

3 161.570. (1) As used in this section, “nonperson felony” has the meaning  
4 given that term in the rules of the Oregon Criminal Justice Commission.

5 (2) A district attorney may elect to treat a Class C nonperson felony or  
6 a violation of ORS 475.840 (3)(a), 475.854, 475.864 (2) or 475.874 as a Class A  
7 misdemeanor. The election must be made by the district attorney orally or  
8 in writing at the time of the first appearance of the defendant. If a district  
9 attorney elects to treat a Class C felony or a violation of ORS 475.840 (3)(a),  
10 475.854, 475.864 (2) or 475.874 as a Class A misdemeanor under this sub-  
11 section, the court shall amend the accusatory instrument to reflect the  
12 charged offense as a Class A misdemeanor.

13 (3) If, at some time after the first appearance of a defendant charged with  
14 a Class C nonperson felony or a violation of ORS 475.840 (3)(a), 475.854,  
15 475.864 (2) or 475.874, the district attorney and the defendant agree to treat  
16 the charged offense as a Class A misdemeanor, the court may allow the of-  
17 fense to be treated as a Class A misdemeanor by stipulation of the parties.

18 (4) If a Class C felony or a violation of ORS 475.840 (3)(a), 475.854, 475.864  
19 (2) or 475.874 is treated as a Class A misdemeanor under this section, the  
20 court shall clearly denominate the offense as a Class A misdemeanor in any  
21 judgment entered in the matter.

22 (5) If no election or stipulation is made under this section, the case pro-  
23 ceeds as a felony.

24 (6) Before a district attorney may make an election under subsection (2)  
25 of this section, the district attorney shall adopt written guidelines for de-  
26 termining when and under what circumstances the election may be made.  
27 The district attorney shall apply the guidelines uniformly.

28 (7) Notwithstanding ORS 161.635, the [*maximum*] fine that a court may  
29 impose upon conviction of a misdemeanor under this section may not:

30 **(a) Be less than the minimum fine established by section 10 of this**  
31 **2011 Act for a felony; or**

1 (b) Exceed the amount provided in ORS 161.625 for the class of felony  
2 receiving Class A misdemeanor treatment.

3 **SECTION 19. The amendments to ORS 161.566, 161.568 and 161.570**  
4 **by sections 16 to 18 of this 2011 Act apply only to offenses committed**  
5 **on or after the effective date of this 2011 Act. Any offense committed**  
6 **before the effective date of this 2011 Act shall continue to be governed**  
7 **by ORS 161.566, 161.568 and 161.570, as in effect immediately before the**  
8 **effective date of this 2011 Act.**

9  
10 **SENTENCE OF DISCHARGE**

11  
12 **SECTION 20.** ORS 161.715 is amended to read:

13 161.715. (1) Any court empowered to suspend imposition or execution of  
14 sentence or to sentence a defendant to probation may discharge the defend-  
15 ant if:

16 (a) The conviction is for an offense other than murder, treason or a Class  
17 A or B felony; and

18 (b) The court is of the opinion that no proper purpose would be served  
19 by imposing any condition upon the defendant's release.

20 (2) If a sentence of discharge is imposed for a felony, the court shall set  
21 forth in the record the reasons for its action.

22 (3) If the court imposes a sentence of discharge, the defendant shall be  
23 released with respect to the conviction for which the sentence is imposed  
24 without imprisonment, [*fine*,] probationary supervision or conditions. **The**  
25 **judgment entered by the court shall include a monetary obligation**  
26 **payable to the state in an amount equal to the minimum fine for the**  
27 **offense established by section 10 of this 2011 Act.**

28 (4) If a defendant pleads not guilty and is tried and found guilty, a sen-  
29 tence of discharge is a judgment on a conviction for all purposes, including  
30 an appeal by the defendant.

31 (5) If a defendant pleads guilty, a sentence of discharge is not appealable,

1 but for all other purposes is a judgment on a conviction.

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### FINES IN JUVENILE PROCEEDINGS

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5 **SECTION 21.** ORS 419C.459 is amended to read:

6 419C.459. *[In circumstances under which, if the youth offender were an*  
7 *adult, a fine not exceeding a certain amount could be imposed under the*  
8 *Oregon Criminal Code, the court may impose such a fine upon the youth*  
9 *offender. In determining whether to impose a fine and, if so, then in what*  
10 *amount, the court shall consider whether the youth offender will be able to pay*  
11 *a fine and whether payment of a fine is likely to have a rehabilitative effect*  
12 *on the youth offender. Fines ordered paid under this section shall be collected*  
13 *by the clerk of the court.]* **If a youth is found to be within the jurisdiction**  
14 **of the court under ORS 419C.005 for an act that would constitute an**  
15 **offense if committed by an adult, the youth offender is subject to the**  
16 **same fines, including the minimum fines established under sections 4**  
17 **and 10 of this 2011 Act, that are applicable to adults who commit the**  
18 **offense. In determining the amount of the fine, the court shall con-**  
19 **sider the potential rehabilitative effect of a fine.**

20 **SECTION 22.** The amendments to ORS 419C.459 by section 21 of this  
21 **2011 Act apply only to acts committed on or after the effective date**  
22 **of this 2011 Act. Any act committed before the effective date of this**  
23 **2011 Act shall continue to be governed by ORS 419C.459 as in effect**  
24 **immediately before the effective date of this 2011 Act.**

25

26

### CITATIONS

27

28 **SECTION 23.** ORS 153.051 is amended to read:

29 153.051. A summons in a violation citation is sufficient if it contains the  
30 following:

31 (1) The name of the court, the name of the person cited, the date on which

1 the citation was issued, the name of the enforcement officer issuing the ci-  
2 tation, and the time and place at which the person cited is to appear in  
3 court.

4 (2) A statement or designation of the violation that can be readily un-  
5 derstood by a person making a reasonable effort to do so and the date, time  
6 and place at which the violation is alleged to have been committed.

7 (3) A notice to the person cited that a complaint will be filed with the  
8 court based on the violation.

9 (4) The amount of the [*base*] **presumptive** fine, if any, fixed for the vio-  
10 lation.

11 (5) A statement notifying the person that a monetary judgment may be  
12 entered against the person for up to the maximum amount of fines, [*assess-*  
13 *ments*,] restitution and other costs allowed by law for the violation if the  
14 person fails to make all required appearances at the proceedings.

15 **(6) A statement notifying the person that, if the person pleads no**  
16 **contest and delivers to the court the amount of the presumptive fine**  
17 **indicated on the citation, and the court accepts the plea, the amount**  
18 **of the fine imposed against the defendant may not exceed the amount**  
19 **of the presumptive fine indicated on the citation.**

20 **(7) A statement notifying the person that, if the person pleads not**  
21 **guilty and requests a trial, the court cannot impose a fine that is less**  
22 **than the presumptive fine indicated on the citation unless the person**  
23 **is found not guilty, in which case no fine will be imposed.**

24 **SECTION 24. The amendments to ORS 153.051 by section 23 of this**  
25 **2011 Act apply only to citations issued on or after the effective date**  
26 **of this 2011 Act. Any citation issued before the effective date of this**  
27 **2011 Act shall continue to be governed by ORS 153.051 as in effect im-**  
28 **mediately before the effective date of this 2011 Act.**

29 **SECTION 25. ORS 153.061 is amended to read:**

30 153.061. (1) Except as provided in [*subsection (2)*] **subsections (2) and (3)**  
31 of this section, a defendant who has been issued a violation citation must

1 either:

2 (a) Make a first appearance by personally appearing in court at the time  
3 indicated in the summons; or

4 (b) Make a first appearance in the manner provided in subsection [(3)] (4)  
5 of this section before the time indicated in the summons.

6 (2) If a defendant [*has been*] **is** issued a violation citation for careless  
7 driving under ORS 811.135 on which a police officer noted that **the offense**  
8 **contributed to an accident or that** a vulnerable user of a public way suf-  
9 fered serious physical injury or death **by reason of the offense, the officer**  
10 **may not enter the amount of the presumptive fine on the summons**  
11 **and** the defendant must make a first appearance by personally appearing in  
12 court at the time indicated in the summons.

13 (3) **If a corporation is issued a violation citation, the police officer**  
14 **may not enter the amount of the presumptive fine on the summons**  
15 **and the defendant must make a first appearance by appearing in court**  
16 **at the time indicated in the summons.**

17 [(3)] (4) **Except as provided in this section,** a defendant who has been  
18 issued a violation citation may make a first appearance in the matter before  
19 the time indicated in the summons by one of the following means:

20 (a) The defendant may submit to the court a written or oral request for  
21 a trial.

22 (b) The defendant may enter a plea of no contest by delivering to the  
23 court the summons[,] **and** a check or money order in the amount of the  
24 [*base*] **presumptive** fine set forth in the summons[, *and a statement of mat-*  
25 *ters in explanation or mitigation of the violation charged*]. The [*delivery of a*  
26 *statement of matters in explanation or mitigation*] **entry of a plea** under the  
27 provisions of this paragraph constitutes a waiver of trial and consent to the  
28 entry of a judgment forfeiting the [*base*] **presumptive** fine [*based on the*  
29 *statement and any other testimony or written statements that may be presented*  
30 *to the court by the citing officer or other witnesses*]. **A no contest plea under**  
31 **this section is not subject to the requirements of ORS chapter 135 re-**

1 **lating to the entry of pleas and, upon receipt of the plea, the court**  
 2 **shall enter judgment against the defendant without taking further**  
 3 **evidence.**

4 *[(c) The defendant may execute the appearance, waiver of trial and plea of*  
 5 *guilty that appears on the summons and deliver the summons and a check or*  
 6 *money order in the amount of the base fine set forth in the summons to the*  
 7 *court. The defendant may attach a statement of matters in explanation or*  
 8 *mitigation of the violation.]*

9 [(4)] **(5)** The court may require that a defendant requesting a trial under  
 10 subsection [(3)(a)] **(4)** of this section deposit **an amount equal to the**  
 11 *[base]* **presumptive** fine *[specified under ORS 153.125 to 153.145]* **established**  
 12 **under sections 2 and 3 of this 2011 Act** or such other amount as the court  
 13 determines appropriate if the defendant has failed to appear in any court on  
 14 one or more other charges in the past. If the defendant does not deposit the  
 15 amount specified by the court, the defendant must personally appear in court  
 16 at the time indicated in the summons. The amount deposited by the defendant  
 17 may be applied against any fine imposed by the court, and any amount not  
 18 so applied shall be refunded to the defendant at the conclusion of the pro-  
 19 ceedings.

20 [(5) *If the defendant personally appears in court at the time indicated in*  
 21 *the summons and enters a plea of guilty, the judge shall consider any state-*  
 22 *ment in explanation or mitigation made by the defendant.]*

23 (6) The court may require a defendant to appear personally in any case[,  
 24 *or may require that all defendants appear in specified categories of cases].*

25 (7) If a defendant has entered a no contest plea *[or guilty plea]* in the  
 26 manner provided in subsection [(3)(b) or (c)] **(4)** of this section, and the court  
 27 determines that the *[base]* **presumptive** fine *[amount]* is not adequate by  
 28 reason of previous convictions of the defendant, the nature of the offense  
 29 charged or other circumstances, the court may require that a trial be held  
 30 unless an additional fine amount is paid by the defendant before a specified  
 31 date. Notice of an additional fine amount under this subsection may be given

1 to the defendant by mail. In no event may the court require a total fine  
2 amount in excess of the maximum fine established for the violation by stat-  
3 ute.

4 (8) If a defendant fails to make a first appearance on a citation for a  
5 traffic violation, as defined by ORS 801.557, fails to make a first appearance  
6 on a citation for a violation of ORS 471.430, or fails to appear at any other  
7 subsequent time set for trial or other appearance, the driving privileges of  
8 the defendant are subject to suspension under ORS 809.220.

9 **SECTION 25a.** ORS 153.099 is amended to read:

10 153.099. (1) If a trial is held in a violation proceeding, the court shall  
11 enter a judgment based on the evidence presented at the trial.

12 (2) If the defendant appears and enters a plea of no contest in the manner  
13 described in ORS 153.061 [(3)(b),] (4) and a trial is not otherwise required  
14 by the court or by law, the court shall make a decision based on the  
15 citation[, *the statement filed by the defendant and any other information or*  
16 *materials submitted to the court*].

17 [(3) *If the defendant enters a plea of guilty in the manner described in ORS*  
18 *153.061 (3)(c), a trial is not otherwise required by the court or by law and the*  
19 *court accepts the plea of guilty, judgment shall be entered against the defend-*  
20 *ant based on the violation citation.*]

21 **SECTION 26.** **The amendments to ORS 153.061 and 153.099 by**  
22 **sections 25 and 25a of this 2011 Act apply only to violation citations**  
23 **issued, and violation proceedings commenced by citations issued, on**  
24 **or after the effective date of this 2011 Act. Any citation issued, and**  
25 **violation proceeding commenced by a citation issued, before the ef-**  
26 **fective date of this 2011 Act shall continue to be governed by ORS**  
27 **153.061 as in effect immediately before the effective date of this 2011**  
28 **Act.**

29

30

## JUDGMENTS

31

1        **SECTION 27.** ORS 153.090 is amended to read:

2        153.090. (1) Judgments entered under this chapter may include:

3        (a) Imposition of a sentence to pay a fine;

4        (b) Costs[, *assessments*] and restitution authorized by law; **and**

5        [*(c) A requirement that the fine, costs, assessments and restitution, if any,*  
6        *be paid out of any base fine;*]

7        [*(d) Remission of any balance of a base fine to the defendant or to any other*  
8        *person designated by the defendant; and*]

9        [*(e)*] **(c)** Any other provision authorized by law.

10       (2) Notwithstanding ORS 137.106, if the court orders restitution in a de-  
11       fault judgment entered under ORS 153.102, a defendant may allege an ina-  
12       bility to pay the full amount of monetary sanctions imposed, including  
13       restitution, and request a hearing to determine whether the defendant is  
14       unable to pay or to establish a payment schedule by filing a written request  
15       with the court within one year after the entry of the judgment. The court  
16       shall set a hearing on the issue of the defendant's ability to pay upon receipt  
17       of the request and shall give notice to the district attorney. The district at-  
18       torney shall give notice to the victim of the date, time and place of the  
19       hearing. The court may determine a payment schedule for monetary sanc-  
20       tions imposed, including restitution ordered under this subsection, if the de-  
21       fendant establishes at the hearing that the defendant is unable to pay the  
22       ordered restitution in full.

23       (3) If a trial is held in a violation proceeding, or a default judgment is  
24       entered against the defendant under ORS 153.102, the court may impose any  
25       fine within the statutory limits for the violation. If a defendant pleads no  
26       contest under ORS 153.061 [*(3)(b)*] **(4)**[, *or pleads guilty under ORS 153.061*  
27       *(3)(c)*,] and the court accepts the plea and enters judgment against the de-  
28       fendant, the amount of the fine imposed against the defendant by the court  
29       may not exceed the [*amount of the base*] **presumptive** fine established for the  
30       violation under [*ORS 153.125 to 153.145*] **sections 2 and 3 of this 2011 Act.**

31       (4) A judge may suspend operation of any part of a judgment entered

1 under this chapter upon condition that the defendant pay the nonsuspended  
2 portion of a fine within a specified period of time. If the defendant fails to  
3 pay the nonsuspended portion of the fine within the specified period of time,  
4 the suspended portion of the judgment becomes operative without further  
5 proceedings by the court and the suspended portion of the fine becomes im-  
6 mediately due and payable.

7 (5) The court may not recommend a suspension of the defendant's driving  
8 privileges unless a trial has been required. The failure of the defendant to  
9 appear at the trial does not prevent the court from recommending suspension  
10 of the defendant's driving privileges.

11 (6) Entry of a default judgment under ORS 153.102 does not preclude the  
12 arrest and prosecution of the defendant for the crime of failure to appear in  
13 a violation proceeding under ORS 153.992.

14 (7) If a person holds a commercial driver license, a court may not defer  
15 entry of a judgment or allow an individual to enter into a diversion program  
16 that would prevent a conviction for a traffic offense from appearing on the  
17 driving record of the holder. This subsection applies to all traffic offenses,  
18 whether committed while driving a motor vehicle or a commercial motor  
19 vehicle, but does not apply to parking violations. For purposes of this sub-  
20 section, a person holds a commercial driver license if on the date of the  
21 commission of the offense the person holds a commercial driver license is-  
22 sued by the Department of Transportation or the licensing agency of another  
23 jurisdiction that is:

24 (a) Not expired or if expired, expired less than one year; or

25 (b) Suspended, but not canceled or revoked.

26 **SECTION 28. The amendments to ORS 153.090 by section 27 of this**  
27 **2011 Act apply only to judgments in violation proceedings commenced**  
28 **by citations issued on or after the effective date of this 2011 Act. Any**  
29 **judgment in a violation proceeding commenced by a citation issued**  
30 **before the effective date of this 2011 Act shall continue to be governed**  
31 **by ORS 153.090 as in effect immediately before the effective date of this**

1 **2011 Act.**

2 **SECTION 29.** ORS 153.108 is amended to read:

3 153.108. (1) Notwithstanding ORS 131.505 to 131.535, if a person commits  
4 both a crime and a violation as part of the same criminal episode, the pros-  
5 ecution for one offense shall not bar the subsequent prosecution for the  
6 other. However, evidence of the first conviction shall not be admissible in  
7 any subsequent prosecution for the other offense.

8 (2) Notwithstanding ORS 43.130 and 43.160, *[no] a plea, finding or [pro-*  
9 *ceeding upon any violation shall]* **judgment in a violation proceeding, or**  
10 **the fact that a violation proceeding has been commenced and prose-**  
11 **cuted against a defendant, may not** be used for the purpose of res judicata  
12 or collateral estoppel, *[nor shall any plea, finding or proceeding upon any*  
13 *violation be admissible]* **or be admitted** as evidence in any civil proceeding.

14 **SECTION 30.** ORS 41.905 is amended to read:

15 41.905. *[(1)]* **A plea to a charge of a traffic crime, as defined in ORS**  
16 **801.545, and any** judgment of conviction or acquittal of a person charged  
17 with a traffic *[offense]* **crime, as defined by ORS 801.545, [is] are** not ad-  
18 missible in the trial of a subsequent civil action arising out of the same ac-  
19 cident or occurrence to prove or negate the facts upon which such judgment  
20 was rendered.

21 *[(2) A plea of guilty by a person to a traffic offense may be admitted as*  
22 *evidence in the trial of a subsequent civil action arising out of the same acci-*  
23 *dent or occurrence as an admission of the person entering the plea, and for*  
24 *no other purpose.]*

25 *[(3) Evidence that a person has entered a plea of no contest in the manner*  
26 *described in ORS 153.061 (3)(b) to a charge of a traffic offense shall not be*  
27 *admitted as evidence in the trial of a subsequent civil action arising out of the*  
28 *same accident or occurrence.]*

29 **SECTION 31.** **The amendments to ORS 41.905 and 153.108 by sections**  
30 **29 and 30 of this 2011 Act apply only to offenses committed on or after**  
31 **the effective date of this 2011 Act. Any offense committed before the**

1 effective date of this 2011 Act shall continue to be governed by ORS  
2 41.905 and 153.108 as in effect immediately before the effective date of  
3 this 2011 Act.

4  
5 **DISTRIBUTION OF PAYMENTS UNDER JUDGMENT**  
6 **IN CRIMINAL ACTION**

7  
8 **(Priorities for Application of Payments)**  
9

10 **SECTION 32. Sections 33 to 38 of this 2011 Act are added to and**  
11 **made a part of ORS chapter 137.**

12 **SECTION 33. Priorities for application of payments on judgments**  
13 **in criminal actions. (1) There are five levels of priority for application**  
14 **of payments on judgments of conviction in criminal actions, with**  
15 **Level I obligations having the highest priority and Level V having the**  
16 **lowest priority. All payments on a judgment of conviction in a crimi-**  
17 **nal action shall be applied first against the unpaid obligations in the**  
18 **level with highest priority until those obligations have been paid in**  
19 **full, and shall then be applied against the obligations in the level with**  
20 **the next highest level of priority, until all obligations under the judg-**  
21 **ment have been paid in full.**

22 **(2) Except as provided in section 35 of this 2011 Act, if there is more**  
23 **than one person or public body to whom an obligation is payable under**  
24 **a level, the court shall divide each payment based on each person's**  
25 **or public body's proportionate share of the total amount of obligations**  
26 **in that level.**

27 **SECTION 34. Level I obligations. Compensatory fines under ORS**  
28 **137.101 are Level I obligations.**

29 **SECTION 35. Level II obligations. (1) There are two types of Level**  
30 **II obligations:**

31 **(a) Type 1 obligations include awards of restitution as defined in**

1 **ORS 137.103, awards of restitution under ORS 419C.450 and money**  
2 **awards made under ORS 811.706.**

3 **(b) Type 2 obligations include all fines and other monetary obli-**  
4 **gations payable to the state for which the law does not expressly pro-**  
5 **vide other disposition, including fines payable to the state by justice**  
6 **and municipal courts under sections 48 and 49 of this 2011 Act.**

7 **(2) If a judgment contains both types of Level II obligations, the**  
8 **court shall apply 50 percent of amounts creditable to Level II obli-**  
9 **gations to Type 1 obligations and 50 percent of the amounts to Type 2**  
10 **obligations, until all obligations in one of the two types have been paid**  
11 **in full. All subsequent amounts creditable to Level II obligations shall**  
12 **be applied against the other type of obligations until those obligations**  
13 **have been paid in full.**

14 **(3) If there is more than one person for whose benefit a Type 1**  
15 **money award has been made, the clerk shall pay the moneys credited**  
16 **to Type 1 obligations in the following order of priority:**

17 **(a) If the judgment contains a money award payable to the person**  
18 **or persons against whom the defendant committed the offense, the**  
19 **clerk shall first pay all moneys credited to Type 1 obligations to those**  
20 **persons, and shall continue to do so until all those obligations are paid**  
21 **in full. If there is more than one person to whom an obligation is**  
22 **payable under this paragraph, the court shall divide each payment**  
23 **under this paragraph based on each person's proportionate share of**  
24 **the total amount of obligations subject to payment under this para-**  
25 **graph.**

26 **(b) If the judgment contains a money award payable to the Criminal**  
27 **Injuries Compensation Account, the clerk shall thereafter transfer**  
28 **moneys credited to Type 1 obligations to the account until the award**  
29 **is paid in full.**

30 **(c) If the judgment contains a money award payable to any other**  
31 **victims, as defined in ORS 137.103, the clerk shall thereafter pay the**

1 moneys credited to Type 1 obligations to those victims until those  
2 victims are paid in full.

3 **SECTION 36. Level III obligations.** Level III obligations are fines  
4 payable to a county or city under sections 47 to 50 of this 2011 Act.

5 **SECTION 37. Level IV obligations.** Level IV obligations are amounts  
6 that the law expressly directs be paid to a specific account or public  
7 body as defined in ORS 174.109.

8 **SECTION 38. Level V obligations.** Level V obligations are amounts  
9 payable for reward reimbursement under ORS 131.897.

10 **SECTION 39.** Sections 33 to 38 of this 2011 Act and the repeal of ORS  
11 137.295 by section 118 of this 2011 Act apply only to offenses committed  
12 on or after the effective date of this 2011 Act. Any offense committed  
13 before the effective date of this 2011 Act shall continue to be governed  
14 by ORS 137.295 as in effect immediately before the effective date of this  
15 2011 Act.

16

17 **(Application of Security Deposits Against**  
18 **Child Support Obligation)**

19

20 **SECTION 40.** ORS 25.715 is amended to read:

21 25.715. (1) The court may order that the portion of a security deposit made  
22 under ORS 135.265 that would otherwise be returned to the person who made  
23 the deposit or the amount of child support arrearages, whichever is less, be  
24 paid to an obligee or the Division of Child Support of the Department of  
25 Justice if:

26 (a) The defendant is an obligor who owes child support arrearages;

27 (b) The obligee or the administrator has filed a motion requesting the  
28 court to make such an order;

29 (c) The obligee or the administrator has served the defendant with a copy  
30 of the motion;

31 (d) The defendant has an opportunity to respond and request a hearing;

1 and

2 (e) The court has determined that such an order is appropriate.

3 (2) The court may order that a portion of a security [amount] **deposit**  
4 **that is** forfeited under ORS 135.280 be paid to the division and be applied  
5 to any unsatisfied child support judgment and to provide security for child  
6 support payments in accordance with ORS 25.230 if:

7 (a) The defendant is an obligor who owes child support;

8 (b) The administrator has filed a motion requesting the court to make  
9 such an order;

10 (c) The motion specifies the amount to be applied to the child support  
11 judgment under ORS 135.280; and

12 (d) The court has determined that such an order is appropriate.

13 **SECTION 41.** ORS 135.280 is amended to read:

14 135.280. (1) Upon failure of a person to comply with any condition of a  
15 release agreement or personal recognizance, the court having jurisdiction  
16 may, in addition to any other action provided by law, issue a warrant for the  
17 arrest of the person at liberty upon a personal recognizance, conditional or  
18 security release.

19 (2) A warrant issued under subsection (1) of this section by a municipal  
20 judge may be executed by any peace officer authorized to execute arrest  
21 warrants.

22 (3) If the defendant does not comply with the conditions of the release  
23 agreement, the court having jurisdiction shall enter an order declaring the  
24 entire security amount to be forfeited. Notice of the order of forfeiture shall  
25 be given forthwith by personal service, by mail or by such other means as  
26 are reasonably calculated to bring to the attention of the defendant and, if  
27 applicable, of the sureties the order of forfeiture. If, within 30 days after the  
28 court declares the forfeiture, the defendant does not appear or satisfy the  
29 court having jurisdiction that appearance and surrender by the defendant  
30 was, or still is, impossible and without fault of the defendant, the court shall  
31 enter judgment for the state, or appropriate political subdivision thereof,

1 against the defendant and, if applicable, the sureties for the entire security  
2 amount set under ORS 135.265 and the costs of the proceedings. At any time  
3 before or after entry of the judgment, the defendant or the sureties may ap-  
4 ply to the court for a remission of the forfeiture or to modify or set aside  
5 the judgment. The court, upon good cause shown, may remit the forfeiture  
6 or any part thereof or may modify or set aside the judgment as in other  
7 criminal cases, except the portion of the security [*amount*] **deposit** that the  
8 court ordered to be applied to child support under subsection (4) of this  
9 section, as the court considers reasonable under the circumstances of the  
10 case. The court shall adopt procedures to ensure that the amount deposited  
11 under ORS 135.265 is available for a reasonable period of time for disposition  
12 under subsection (4) of this section.

13 (4) After entry of a judgment for the state, the court, upon a motion filed  
14 under ORS 25.715, may order that a portion of the security [*amount*] **deposit**  
15 be applied to any unsatisfied child support award owed by the defendant and  
16 to provide security for child support payments in accordance with ORS  
17 25.230. The portion of the security [*amount*] **deposit** that may be applied to  
18 the child support award:

19 (a) Is limited to the amount deposited under ORS 135.265 (2);

20 (b) May not exceed 66 percent of the entire security amount set under  
21 ORS 135.265 **if the deposit has been made under ORS 135.265 (3)**; and

22 (c) Does not reduce the money award in the judgment entered under  
23 subsection (3) of this section that is owed to the state.

24 (5) When judgment is entered in favor of the state, or any political sub-  
25 division of the state, on any security given for a release, the judgment may  
26 be enforced as a judgment in a civil action. If entered in circuit court, the  
27 judgment shall be entered in the register, and the clerk of the court shall  
28 note in the register that the judgment creates a judgment lien. The district  
29 attorney, county counsel or city attorney may have execution issued on the  
30 judgment and deliver same to the sheriff to be executed by levy on the de-  
31 posit or security amount made in accordance with ORS 135.265, or may col-

1 lect the judgment as otherwise provided by law. The proceeds of any  
2 execution or collection shall be used to satisfy the judgment and costs and  
3 paid into the treasury of the municipal corporation wherein the security was  
4 taken if the offense was defined by an ordinance of a political subdivision  
5 of this state, or paid into the treasury of the county wherein the security  
6 was taken if the offense was defined by a statute of this state and the judg-  
7 ment was entered by a justice court, or paid over as directed by the State  
8 Court Administrator for deposit in the Criminal Fine [*and Assessment*] Ac-  
9 count [*created under ORS 137.300*], if the offense was defined by a statute  
10 of this state and the judgment was entered by a circuit court. The provisions  
11 of this section shall not apply to [*base fine*] amounts deposited upon ap-  
12 pearance under ORS 153.061.

13 (6) When the judgment of forfeiture is entered, the security deposit or  
14 deposit with the clerk is, by virtue of the judgment alone and without re-  
15 quiring further execution, forfeited to and may be kept by the state or its  
16 appropriate political subdivision. Except as provided in subsection (4) of this  
17 section, the clerk shall reduce, by the value of the deposit so forfeited, the  
18 debt remaining on the judgment and shall cause the amount on deposit to  
19 be transferred to the revenue account of the state or political subdivision  
20 thereof entitled to receive the proceeds of execution under this section.

21 (7) The stocks, bonds, personal property and real property shall be sold  
22 in the same manner as in execution sales in civil actions and the proceeds  
23 of such sale shall be used to satisfy all court costs, prior encumbrances, if  
24 any, and from the balance a sufficient amount to satisfy the judgment shall  
25 be paid into the treasury of the municipal corporation wherein the security  
26 was taken if the offense was defined by an ordinance of a political subdivi-  
27 sion of this state, or paid into the treasury of the county wherein the secu-  
28 rity was taken if the offense was defined by a statute of this state and the  
29 judgment was entered by a justice court, or deposited in the General Fund  
30 available for general governmental expenses if the offense was defined by a  
31 statute of this state and the judgment was entered by a circuit court. The

1 balance shall be returned to the owner. The real property sold may be re-  
2 deemed in the same manner as real estate may be redeemed after judicial or  
3 execution sales in civil actions.

4

5

**(Recovery of Costs)**

6

7

**SECTION 42.** ORS 151.487 is amended to read:

8

151.487. (1) If in determining that a person is financially eligible for ap-  
9 pointed counsel under ORS 151.485, the court finds that the person has fi-  
10 nancial resources that enable the person to pay in full or in part the  
11 administrative costs of determining the eligibility of the person and the costs  
12 of the legal and other services to be provided at state expense that are re-  
13 lated to the provision of appointed counsel, the court shall [order] **enter a**  
14 **limited judgment requiring that** the person [to] pay to the Public Defense  
15 Services Account in the General Fund, through the clerk of the court, the  
16 amount that it finds the person is able to pay without creating substantial  
17 hardship in providing basic economic necessities to the person or the  
18 person's dependent family. The amount that a court may [order] **require** the  
19 person to pay is subject to the guidelines and procedures issued by the Public  
20 Defense Services Commission as provided in subsection (4) of this section.

21

(2) Failure to [obey an order] **comply with the requirements of a lim-**  
22 **ited judgment entered** under this section is not grounds for contempt or  
23 grounds for withdrawal by the appointed attorney[, *but any part of the*  
24 *amount ordered under this section and not paid may be:*]

25

*[(a) Enforced against the person as if the order is a civil judgment; or]*

26

*[(b) Enforced as otherwise permitted by law].*

27

(3) Except as authorized in this section, no person, organization or gov-  
28 ernmental agency may request or accept a payment or promise of payment  
29 for assisting in the representation of a person by appointment.

30

(4) The commission shall promulgate and issue guidelines and procedures:

31

(a) For the determination of persons provided with appointed counsel who

1 have some financial resources to pay in full or in part the administrative,  
2 legal and other costs under subsection (1) of this section; and

3 (b) Regarding the amounts persons may be required to pay by a court  
4 under subsection (1) of this section.

5 (5) The determination that a person is able to pay or partially able to pay,  
6 or that a person no longer has the ability to pay the amount ordered in  
7 subsection (1) of this section, is subject to review at any time by the court.

8 **SECTION 43.** ORS 151.505 is amended to read:

9 151.505. (1) At the conclusion of a case or matter in which the first  
10 accusatory instrument or petition in the trial court was filed after January  
11 1, 1998, and in which the court appointed counsel to represent a person, a  
12 trial, appellate or post-conviction court may include in its judgment [*an or-*  
13 *der*] **a money award requiring** that the person repay in full or in part the  
14 administrative costs of determining the eligibility of the person for appointed  
15 counsel, and the costs of the legal and other services that are related to the  
16 provision of appointed counsel, **that have not previously been paid under**  
17 **a limited judgment entered under ORS 151.487. An award under this**  
18 **section is a monetary obligation payable to the state.**

19 (2) Costs [*repayable*] **that may be included in a money award** under  
20 this section include a reasonable attorney fee for counsel appointed to rep-  
21 resent the person and a reasonable amount for expenses authorized under  
22 ORS 135.055. A reasonable attorney fee is presumed to be a reasonable  
23 number of hours at the hourly rate authorized by the Public Defense Services  
24 Commission under ORS 151.216. For purposes of this subsection, compen-  
25 sation of counsel is determined by reference to a schedule of compensation  
26 established by the commission.

27 [(3) *Costs repayable under this section do not include costs imposed and*  
28 *paid under a previous order under ORS 151.487, but may include costs imposed*  
29 *under an order under ORS 151.487 that are unpaid at the time the judgment*  
30 *is filed.*]

31 [(4)] **(3)** The court may not [*order*] **require** a person to pay costs under

1 this section unless the person is or may be able to pay the costs. In deter-  
 2 mining the amount and method of payment of costs, the court shall take  
 3 account of the financial resources of the person and the nature of the burden  
 4 that payment of costs will impose.

5 [(5)] (4) A person who has been [ordered] **required** to pay costs under this  
 6 section and who is not in contumacious default in the payment of the costs  
 7 may at any time petition the court for remission of the payment of costs or  
 8 any unpaid portion of the costs. If it appears to the satisfaction of the court  
 9 that payment of the amount due will impose manifest hardship on the person  
 10 ordered to repay or on the immediate family of the person, the court may  
 11 [remit] **enter a supplemental judgment that remits** all or part of the  
 12 amount due or [modify] **modifies** the method of payment.

13 [(6)] (5) [Except for moneys payable under subsection (1) of this section  
 14 pursuant to an order under ORS 151.487,] All moneys collected or paid under  
 15 **a money award made pursuant to** this section shall be paid into [the  
 16 *General Fund and credited to*] the Criminal Fine [and Assessment] Account.  
 17 **If the money award is part of a criminal judgment of conviction, the**  
 18 **award is a Type 2, Level II obligation for the purpose of sections 33 to**  
 19 **38 of this 2011 Act.**

20 [(7) Any part of the costs ordered to be paid under this section that is not  
 21 paid may be enforced against the person as provided in ORS 137.450 if the  
 22 judgment is a judgment in a criminal action or in the same manner as unpaid  
 23 costs may be enforced under ORS 151.487.]

24 **SECTION 43a.** ORS 151.225 is amended to read:

25 151.225. (1) There is created a Public Defense Services Account in the  
 26 General Fund. The Public Defense Services Account is continuously appro-  
 27 priated to the Public Defense Services Commission to pay compensation of  
 28 counsel and other expenses in connection with the legal representation of  
 29 persons for which the commission is responsible by law.

30 (2) All moneys appropriated to the commission to pay compensation of  
 31 counsel and other expenses in connection with the legal representation of

1 persons for which the commission is responsible by law shall be deposited  
2 in the Public Defense Services Account.

3 (3) All moneys received by the Judicial Department under ORS 135.050 (8),  
4 151.487 (1), [151.505 (3),] 419A.211, 419B.198 (1) or 419C.203 (1) shall be de-  
5 posited in a separate subaccount created in the Public Defense Services Ac-  
6 count to be used by the public defense services executive director to  
7 reimburse the actual costs and expenses, including personnel expenses, in-  
8 curred in administration and support of the public defense system.

9 (4) All gifts, grants or contributions accepted by the commission under  
10 ORS 151.216 shall be deposited in a separate subaccount created in the Public  
11 Defense Services Account to be used by the commission for the purpose for  
12 which the gift, grant or contribution was given or granted.

13 (5) As used in this section, "other expenses in connection with the legal  
14 representation of persons for which the commission is responsible by law"  
15 includes expenses incurred in the administration of the public defense sys-  
16 tem.

17 **SECTION 44.** ORS 161.665 is amended to read:

18 161.665. (1) Except as provided in ORS 151.505, the court, only in the case  
19 of a defendant for whom it enters a judgment of conviction, may include in  
20 its sentence thereunder a [*provision that the convicted defendant pay as costs*  
21 *expenses*] **money award, payable to the state, for all costs** specially in-  
22 curred by the state in prosecuting the defendant. Costs include a reasonable  
23 attorney fee for counsel appointed pursuant to ORS 135.045 or 135.050 and a  
24 reasonable amount for fees and expenses incurred pursuant to preauthori-  
25 zation under ORS 135.055. A reasonable attorney fee is presumed to be a  
26 reasonable number of hours at the hourly rate authorized by the Public De-  
27 fense Services Commission under ORS 151.216. Costs do not include expenses  
28 inherent in providing a constitutionally guaranteed jury trial or expenditures  
29 in connection with the maintenance and operation of government agencies  
30 that must be made by the public irrespective of specific violations of law.

31 (2) Except as provided in ORS 151.505, the court, after the conclusion of

1 an appeal of its initial judgment of conviction, may include in its general  
2 judgment, or enter a supplemental judgment that includes, a [*requirement*]  
3 **money award, payable to the state, that requires** a convicted defendant  
4 **to pay** [*as costs*] a reasonable attorney fee for counsel appointed pursuant  
5 to ORS 138.500, including counsel who is appointed under ORS 151.216 or  
6 counsel who is under contract to provide services for the proceeding under  
7 ORS 151.219, and other costs and expenses allowed by the public defense  
8 services executive director under ORS 138.500 (4). A reasonable attorney fee  
9 is presumed to be a reasonable number of hours at the hourly rate authorized  
10 by the commission under ORS 151.216.

11 (3) For purposes of subsections (1) and (2) of this section, compensation  
12 of counsel is determined by reference to a schedule of compensation estab-  
13 lished by the commission under ORS 151.216.

14 (4) The court may not sentence a defendant to pay costs under this section  
15 unless the defendant is or may be able to pay them. In determining the  
16 amount and method of payment of costs, the court shall take account of the  
17 financial resources of the defendant and the nature of the burden that pay-  
18 ment of costs will impose.

19 (5) A defendant who has been sentenced to pay costs under this section  
20 and who is not in contumacious default in the payment of costs may at any  
21 time petition the court that sentenced the defendant for remission of the  
22 payment of costs or of any unpaid portion of costs. If it appears to the sat-  
23 isfaction of the court that payment of the amount due will impose manifest  
24 hardship on the defendant or the immediate family of the defendant, the  
25 court may [*remit*] **enter a supplemental judgment that remits** all or part  
26 of the amount due in costs, or [*modify*] **modifies** the method of payment  
27 under ORS 161.675.

28 (6) [*Except as provided in subsection (7) of this section,*] All moneys col-  
29 lected or paid under this section shall be paid into [*the General Fund and*  
30 *credited to*] the Criminal Fine [*and Assessment*] Account. **The award is a**  
31 **Type 2, Level II obligation for the purpose of sections 33 to 38 of this**

1 **2011 Act.**

2 [(7) *All moneys collected or paid under this section as costs for expenses*  
3 *incurred by the state in extraditing the defendant to this state shall be depos-*  
4 *ited into the Arrest and Return Account established in ORS 133.865.]*

5 **SECTION 45.** ORS 133.865 is amended to read:

6 133.865. (1) The Arrest and Return Account is established separate and  
7 distinct from the General Fund. The account consists of moneys deposited  
8 into the account under ORS [*161.665*] **144.605, moneys allocated to the**  
9 **account under ORS 137.300** and such other moneys as may be appropriated  
10 to the account by law.

11 **(2)** [*Except as provided in subsection (2) of this section,*] Moneys in the  
12 account are continuously appropriated to the Governor for the [*purpose*]  
13 **purposes** of paying costs incurred in:

14 **(a)** Carrying out the provisions of ORS 133.743 to 133.857[.]; **and**

15 [(2)] **(b)** [*Moneys deposited in the Arrest and Return Account under ORS*  
16 *144.605 are continuously appropriated to the Governor for the purpose of paying*  
17 *costs incurred in*] Retaking offenders who have transferred supervision under  
18 the Interstate Compact for Adult Offender Supervision described in ORS  
19 144.600.

20

21 **(Disposition of Fines for Traffic Offenses)**

22

23 **SECTION 46.** Sections 47 to 50 of this 2011 Act are added to and  
24 **made a part of ORS chapter 153.**

25 **SECTION 47. Disposition of fines for traffic offenses; circuit court.**

26 **(1) If a circuit court enters a judgment of conviction for a traffic of-**  
27 **fense, the full amount of the fine imposed under the judgment is**  
28 **payable to the state if the conviction resulted from a prosecution**  
29 **arising out of an arrest or complaint made by an officer of the Oregon**  
30 **State Police or by any other enforcement officer employed by state**  
31 **government, as defined in ORS 174.111.**

1 (2) If a circuit court enters a judgment of conviction for a traffic  
2 offense and the conviction resulted from a prosecution arising out of  
3 an arrest or complaint made by a sheriff, deputy sheriff, city police  
4 officer or any other enforcement officer employed by a local govern-  
5 ment, as defined in ORS 174.116:

6 (a) \$40 of the fine imposed under the judgment is payable to the  
7 state;

8 (b) One-half of the amount remaining after the payment required  
9 by paragraph (a) of this subsection is payable to the local government  
10 that employs the enforcement officer; and

11 (c) One-half of the amount remaining after the payment required  
12 by paragraph (a) of this subsection is payable to the state.

13 **SECTION 48. Disposition of fines for traffic offenses; justice court.**

14 (1) If a justice court enters a judgment of conviction for a traffic of-  
15 fense and the conviction resulted from a prosecution arising out of an  
16 arrest or complaint made by an officer of the Oregon State Police or  
17 by any other enforcement officer employed by state government, as  
18 defined in ORS 174.111:

19 (a) \$40 of the fine imposed under the judgment is payable to the  
20 state;

21 (b) One-half of the amount remaining after the payment required  
22 by paragraph (a) of this subsection is payable to the county in which  
23 the justice court is located; and

24 (c) One-half of the amount remaining after the payment required  
25 by paragraph (a) of this subsection is payable to the state.

26 (2) If a justice court enters a judgment of conviction for a traffic  
27 offense and the conviction resulted from a prosecution arising out of  
28 an arrest or complaint made by a sheriff, deputy sheriff or any other  
29 enforcement officer employed by the county:

30 (a) \$40 of the fine imposed under the judgment is payable to the  
31 state; and

1 (b) The remaining amount of the fine is payable to the county in  
2 which the court is located.

3 (3) If a justice court enters a judgment of conviction for a traffic  
4 offense and the conviction resulted from a prosecution arising out of  
5 an arrest or complaint made by an enforcement officer employed by  
6 any other local government, as defined in ORS 174.116:

7 (a) \$40 of the fine imposed under the judgment is payable to the  
8 state;

9 (b) One-half of the amount remaining after the payment required  
10 by paragraph (a) of this subsection is payable to the local government  
11 that employs the enforcement officer; and

12 (c) One-half of the amount remaining after the payment required  
13 by paragraph (a) of this subsection is payable to the county in which  
14 the court is located.

15 SECTION 49. Disposition of fines for traffic offenses; municipal  
16 court. (1) If a municipal court enters a judgment of conviction for a  
17 traffic offense and the conviction resulted from a prosecution arising  
18 out of an arrest or complaint made by an officer of the Oregon State  
19 Police or by any other enforcement officer employed by state govern-  
20 ment, as defined in ORS 174.111:

21 (a) \$40 of the fine imposed under the judgment is payable to the  
22 state;

23 (b) One-half of the amount remaining after the payment required  
24 by paragraph (a) of this subsection is payable to the city in which the  
25 municipal court is located; and

26 (c) One-half of the amount remaining after the payment required  
27 by paragraph (a) of this subsection is payable to the state.

28 (2) If a municipal court enters a judgment of conviction for a traffic  
29 offense and the conviction resulted from a prosecution arising out of  
30 an arrest or complaint made by a city police officer or any other  
31 enforcement officer employed by the city:

1 (a) \$40 of the fine imposed under the judgment is payable to the  
2 state; and

3 (b) The remaining amount of the fine is payable to the city in which  
4 the court is located.

5 (3) If a municipal court enters a judgment of conviction for a traffic  
6 offense and the conviction resulted from a prosecution arising out of  
7 an arrest or complaint made by an enforcement officer employed by  
8 any other local government, as defined in ORS 174.116:

9 (a) \$40 of the fine imposed under the judgment is payable to the  
10 state;

11 (b) One-half of the amount remaining after the payment required  
12 by paragraph (a) of this subsection is payable to the local government  
13 that employs the enforcement officer; and

14 (c) One-half of the amount remaining after the payment required  
15 by paragraph (a) of this subsection is payable to the city in which the  
16 court is located.

17 SECTION 49a. Any amount collected by a circuit court, justice  
18 court or municipal court as costs in a criminal action shall be retained  
19 by the court.

20 SECTION 50. Deposit of fines. (1) Amounts payable to the state  
21 under sections 48 and 49 of this 2011 Act shall be transferred by the  
22 court to the Department of Revenue for distribution as provided in  
23 ORS 305.830. Amounts payable to a local government under sections  
24 47 to 50 of this 2011 Act shall be deposited by the court in the local  
25 government's general fund and are available for general governmental  
26 purposes.

27 (2) Justice and municipal courts must make the transfer required  
28 by subsection (1) of this section under sections 48 and 49 of this 2011  
29 Act not later than the last day of the month immediately following the  
30 month in which a payment on a judgment is received by the court.

31 SECTION 51. Sections 47 to 50 of this 2011 Act and the repeal of ORS

1 **153.630 by section 118 of this 2011 Act apply only to offenses committed**  
2 **on or after the effective date of this 2011 Act. Any offense committed**  
3 **before the effective date of this 2011 Act shall continue to be governed**  
4 **by ORS 153.630 as in effect immediately before the effective date of this**  
5 **2011 Act.**

6  
7 **(Criminal Fine Account)**  
8

9 **SECTION 52.** ORS 137.300 is amended to read:

10 137.300. *[(1) The Criminal Fine and Assessment Account is established in*  
11 *the General Fund of the State Treasury. All moneys in the account are con-*  
12 *tinuously appropriated to the Department of Revenue to be distributed by the*  
13 *Department of Revenue according to allocations made by the Legislative As-*  
14 *sembly. The Department of Revenue shall keep a record of moneys transferred*  
15 *into and out of the account. The Department of Revenue shall report monthly*  
16 *to the Attorney General the amount of moneys received from the state courts*  
17 *in each county and from each city court.]*

18 *[(2) The Legislative Assembly shall allocate moneys in the account accord-*  
19 *ing to the following priority:]*

20 *[(a) Public safety standards, training and facilities;]*

21 *[(b) Criminal injuries compensation and assistance to victims of crime and*  
22 *children reasonably suspected of being victims of crime;]*

23 *[(c) Forensic services of the Oregon State Police including, but not limited*  
24 *to, services of the State Medical Examiner; and]*

25 *[(d) Maintenance and operation of the Law Enforcement Data System.]*

26 *[(3) Moneys in the account may not be allocated for:]*

27 *[(a) The payment of debt service obligations; or]*

28 *[(b) Any purpose other than those listed in subsection (2) of this section.]*

29 *[(4) The Department of Revenue shall deposit in the General Fund all*  
30 *moneys remaining in the account after the distributions required by sub-*  
31 *sections (1) and (2) of this section have been made.]*

1       [(5) *The Department of Revenue shall establish by rule a process for dis-*  
2 *tributing moneys in the account.*]

3       [(6) *The Department of Justice shall report monthly to the Department of*  
4 *Revenue the amount of moneys ordered to be applied to child support under*  
5 *ORS 135.280.*]

6       **(1) The Criminal Fine Account is established in the General Fund.**  
7 **All moneys in the account are continuously appropriated to the De-**  
8 **partment of Revenue to be distributed by the Department of Revenue**  
9 **pursuant to allocations made by the Legislative Assembly. The De-**  
10 **partment of Revenue shall keep a record of moneys transferred into**  
11 **and out of the account.**

12       **(2) Allocations from the Criminal Fine Account may be made for**  
13 **the following purposes:**

14       **(a) Allocations for public safety standards, training and facilities.**

15       **(b) Allocations for criminal injuries compensation and assistance**  
16 **to victims of crime and children reasonably suspected of being victims**  
17 **of crime.**

18       **(c) Allocations for the forensic services provided by the Oregon**  
19 **State Police including, but not limited to, services of the State Medical**  
20 **Examiner.**

21       **(d) Allocations for the maintenance and operation of the Law**  
22 **Enforcement Data System.**

23       **(e) Allocations to the Law Enforcement Medical Liability Account**  
24 **established under ORS 414.815.**

25       **(f) Allocations to the State Court Facilities Security Account es-**  
26 **tablished under ORS 1.178.**

27       **(g) Allocations to the State Court Administrator for the purpose of**  
28 **distributing moneys to counties under the Court Security Program**  
29 **established under section 59 of this 2011 Act.**

30       **(h) Allocations to the Department of Corrections for community**  
31 **corrections grants under ORS 423.520.**

1 (i) Allocations to the Oregon Health Authority for the purpose of  
2 grants under ORS 430.345 for the establishment, operation and main-  
3 tenance of alcohol and drug abuse prevention, early intervention and  
4 treatment services provided through a county.

5 (j) Allocations to the Oregon State Police for the purpose of the  
6 enforcement of the laws relating to driving under the influence of  
7 intoxicants.

8 (k) Allocations to the Arrest and Return Account established under  
9 ORS 133.865.

10 (L) Allocations to the Intoxicated Driver Program Fund established  
11 under ORS 813.270.

12 (3) It is the intent of the Legislative Assembly that allocations from  
13 the Criminal Fine Account under subsection (2) of this section be  
14 consistent with historical funding of the entities, programs and ac-  
15 counts listed in subsection (2) of this section from monetary obli-  
16 gations imposed in criminal proceedings.

17 (4) Moneys in the Criminal Fine Account may not be allocated for  
18 the payment of debt service obligations.

19 (5) The Department of Revenue shall deposit in the General Fund  
20 all moneys remaining in the Criminal Fine Account after the distrib-  
21 utions required by subsection (2) of this section have been made.

22 (6) The Department of Revenue shall establish by rule a process for  
23 distributing moneys in the Criminal Fine Account and for reducing the  
24 amount of distributions when amounts in the account are not ade-  
25 quate to fund the allocation. Reductions shall be proportionate to the  
26 amount allocated to an entity, program or account as compared to all  
27 allocations made from the account for the biennium.

28 SECTION 53. Notwithstanding section 52 of this 2011 Act, for the  
29 biennium beginning July 1, 2011, the Department of Revenue shall  
30 distribute the moneys in the Criminal Fine Account as specified in  
31 sections 54 to 58 of this 2009 Act.

1       **SECTION 54.** There are allocated to the Department of Public  
2 **Safety Standards and Training** for the biennium beginning July 1, 2011,  
3 **from the Criminal Fine Account the following amounts for the fol-**  
4 **lowing purposes:**

5       (1) **Police Standards and Training**  
6             **Account for criminal**  
7             **justice training and**  
8             **standards operations..... \$ \_\_\_\_\_**

9       (2) **Public Safety Memorial Fund**  
10            **established under ORS 243.950.. \$ \_\_\_\_\_**

11       **SECTION 55.** There are allocated to the Department of Human  
12 **Services for the biennium beginning July 1, 2011, from the Criminal**  
13 **Fine Account the following amounts for the following purposes:**

14       (1) **Domestic Violence Fund**  
15             **for the purpose of**  
16             **ORS 409.292 (1)(a) to (c)..... \$ \_\_\_\_\_**

17       (2) **Sexual Assault Victims Fund.... \$ \_\_\_\_\_**

18       **SECTION 55a.** There is allocated to the Oregon Health Authority  
19 **for the biennium beginning July 1, 2011, from the Criminal Fine Ac-**  
20 **count \$\_\_\_\_\_ for the Emergency Medical Services and Trauma Sys-**  
21 **tems Program created under ORS 431.623.**

22       **SECTION 56.** There are allocated to the Department of Justice for  
23 **the biennium beginning July 1, 2011, from the Criminal Fine Account**  
24 **the following amounts for the following purposes:**

25       (1) **Criminal Injuries Compensation**  
26             **Account..... \$ \_\_\_\_\_**

27       (2) **Services to children eligible for**  
28             **compensation under ORS 147.390**  
29             **and costs to administer provision of**  
30             **these services, which costs may not**  
31             **exceed five percent ..... \$ \_\_\_\_\_**

- 1       (3) Child Abuse Multidisciplinary
- 2             Intervention Account..... \$ \_\_\_\_\_
- 3       (4) Creation and operation of a statewide
- 4             system of regional assessment centers
- 5             as provided under ORS 418.746 to
- 6             418.796 ..... \$ \_\_\_\_\_

7       **SECTION 57. (1) There is allocated from the Criminal Fine Account**  
 8 **to the Law Enforcement Medical Liability Account established under**  
 9 **ORS 414.815, for the biennium beginning July 1, 2011, \$\_\_\_\_\_.**

10       **(2) There is allocated from the Criminal Fine Account to the State**  
 11 **Court Facilities Security Account established under ORS 1.178, for the**  
 12 **biennium beginning July 1, 2011, \$\_\_\_\_\_.**

13       **(3) There is allocated from the Criminal Fine Account to the State**  
 14 **Court Administrator for the biennium beginning July 1, 2011, \$\_\_\_\_\_,**  
 15 **for the purpose of distributions under the Court Security Program es-**  
 16 **tablished under section 59 of this 2011 Act.**

17       **(4) There is allocated from the Criminal Fine Account to the De-**  
 18 **partment of Corrections for the biennium beginning July 1, 2011,**  
 19 **\$\_\_\_\_\_, for the purpose of community corrections grants under ORS**  
 20 **423.520.**

21       **(5) There is allocated from the Criminal Fine Account to the Oregon**  
 22 **Health Authority for the biennium beginning July 1, 2011, \$\_\_\_\_\_, for**  
 23 **the purpose of grants under ORS 430.345 for the establishment, opera-**  
 24 **tion and maintenance of alcohol and drug abuse prevention, early**  
 25 **intervention and treatment services provided through a county.**

26       **(6) There is allocated from the Criminal Fine Account to the Oregon**  
 27 **State Police for the biennium beginning July 1, 2011, \$\_\_\_\_\_, for the**  
 28 **purpose of the enforcement of the laws relating to driving under the**  
 29 **influence of intoxicants.**

30       **(7) There is allocated from the Criminal Fine Account to the Arrest**  
 31 **and Return Account established under ORS 133.865 for the biennium**

1 beginning July 1, 2011, \$\_\_\_\_\_.

2 (8) There is allocated from the Criminal Fine Account to the  
3 Intoxicated Driver Program Fund created under ORS 813.270 for the  
4 biennium beginning July 1, 2011, \$\_\_\_\_\_.

5 **SECTION 58.** After distributing the amounts specified in sections  
6 54 to 57 of this 2011 Act, the Department of Revenue shall distribute  
7 funds remaining in the Criminal Fine Account to the General Fund.

8

9

**AMOUNTS FORMERLY COLLECTED  
AS COUNTY ASSESSMENT**

10

11

12

**(Court Facilities Security Accounts)**

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19

**SECTION 59.** The State Court Administrator shall establish a Court  
Security Program for the purpose of distributing moneys to counties  
to be used for the purposes specified in ORS 1.182 (1). All distributions  
made by the State Court Administrator to a county under the program  
shall be deposited in the court facilities security account established  
by the county under ORS 1.182.

20

**SECTION 60.** ORS 1.182 is amended to read:

21

22

23

24

1.182. (1) The county treasurer shall deposit moneys received [*under ORS*  
*137.308 (2)*] **from a distribution under section 59 of this 2011 Act** into a  
court facilities security account maintained by the county treasurer. The  
following apply to the account:

25

26

27

28

29

(a) The moneys in the account and interest upon the account are reserved  
for the purpose of providing security in buildings that contain state court  
or justice court facilities other than the Supreme Court, Court of Appeals,  
Oregon Tax Court or office of the State Court Administrator located within  
the county.

30

31

(b) Expenditures by the county governing body from the court facilities  
security account shall be made only for developing or implementing a plan

1 for court security improvement, emergency preparedness and business conti-  
2 nuity under ORS 1.180.

3 (c) Moneys deposited in the account [*under ORS 137.308 (2)*] **from a**  
4 **distribution under section 59 of this 2011 Act** and expended under the  
5 provisions of this section shall be in addition to any other moneys expended  
6 by the county on court facilities security programs and personnel. A county  
7 shall not reduce other expenditures on court facilities security programs and  
8 personnel by reason of the additional moneys provided [*under ORS 137.308*  
9 *(2)*] **from distributions under section 59 of this 2011 Act**.

10 (d) The county treasurer may charge against the court facilities security  
11 account an administrative fee for the actual costs associated with maintain-  
12 ing the account. The total administrative fees charged each year may not  
13 exceed five percent of the moneys [*received under ORS 137.308 (2)*] **from**  
14 **distributions under section 59 of this 2011 Act** for that year.

15 (e) The county treasurer shall provide to the county governing body, the  
16 Advisory Committee on Court Security and Emergency Preparedness and the  
17 presiding judge of the judicial district at least quarterly a financial report  
18 showing all revenues, deposits and expenditures from the court facilities se-  
19 curity account maintained by the county treasurer. The county treasurer may  
20 charge against the court facilities security account the actual costs associ-  
21 ated with providing financial reports under this paragraph.

22 (f) The presiding judge of the judicial district shall provide to the Chief  
23 Justice of the Supreme Court a financial report showing all revenues, de-  
24 posits and expenditures from the court facilities security account for each  
25 fiscal year. The report shall be submitted to the Chief Justice not later than  
26 August 30 of each year.

27 (2) Except as otherwise provided in subsection (3) of this section, a county  
28 may not reduce its actual operating expenditures on court facilities security  
29 programs and personnel, including funds from all local sources, exclusive of  
30 state and federal funds and other short term special funding, below the level  
31 of such expenditures in the preceding fiscal year beginning with the

1 1992-1993 fiscal year.

2 (3) A county may reduce the operating expenditures described in sub-  
3 section (2) of this section if the reduction is in an amount no greater than  
4 the average reduction in general fund commitment to all county agencies  
5 during the fiscal period.

6 **SECTION 61.** ORS 1.178 is amended to read:

7 1.178. (1) The State Court Facilities Security Account is established sep-  
8 arate and distinct from the General Fund. The account consists of moneys  
9 [*deposited to the credit of the account under ORS 137.309 (7)*] **allocated to**  
10 **the account from the Criminal Fine Account.** Interest earned by the  
11 State Court Facilities Security Account shall be credited to the account.  
12 Moneys in the account are continuously appropriated to the State Court  
13 Administrator for the purpose of providing security in buildings that contain  
14 or are utilized by the Supreme Court, Court of Appeals, Oregon Tax Court  
15 or office of the State Court Administrator as described under ORS 1.177.

16 (2) Expenditures by the State Court Administrator from the State Court  
17 Facilities Security Account shall be made only for:

18 (a) Developing or implementing a plan for state court security improve-  
19 ment, emergency preparedness and business continuity under ORS 1.177; and

20 (b) Statewide training on state court security.

21 (3) The State Court Administrator shall provide to the Chief Justice of  
22 the Supreme Court at least quarterly a financial report showing all revenues,  
23 deposits and expenditures from the State Court Facilities Security Account  
24 maintained by the State Court Administrator.

25 (4) It is the intent of the Legislative Assembly that any amounts in the  
26 State Court Facilities Security Account that are not needed for the purposes  
27 specified in subsection (2) of this section be used to fund plans for security  
28 improvement, emergency preparedness and business continuity in circuit  
29 courts, justice courts and municipal courts.

30

31 **(Law Enforcement Medical Liability Account)**



1 *a culpable mental state as defined in ORS 161.085. If the defendant is sen-*  
 2 *tenced to pay a fine, failure to pay the fine, or any portion thereof, shall be*  
 3 *treated as provided in ORS 161.685.]*

4 [(2)] (1) Except as otherwise provided by **this section**, ORS 153.022  
 5 [and] **or** other law, violation of any provision of the wildlife laws or any rule  
 6 promulgated pursuant [thereto] **to the wildlife laws** is [punishable as] a  
 7 Class [A] **D** violation [in the manner prescribed in ORS chapter 153 when the  
 8 offense is committed with no culpable mental state as defined in ORS  
 9 161.085].

10 (2) **Except for violations of provisions described in subsection (3) of**  
 11 **this section, a violation of a provision of the wildlife laws that involves**  
 12 **the taking of wildlife, including size or quantity limits for salmon,**  
 13 **steelhead trout and sturgeon, is a Class A violation if the offense is**  
 14 **committed with no culpable mental state as defined in ORS 161.085. If**  
 15 **the offense is committed with a culpable mental state as defined in**  
 16 **ORS 161.085, a violation of a provision of the wildlife laws that involves**  
 17 **the taking of wildlife, including size or quantity limits for salmon,**  
 18 **steelhead trout and sturgeon, is a Class A misdemeanor.**

19 (3) **A violation of a provision of the wildlife laws that involves the**  
 20 **taking of nongame mammals or game birds, and size or quantity limits**  
 21 **for fish and shellfish other than salmon, steelhead trout and sturgeon,**  
 22 **is a Class C violation.**

23 (4) **A violation of the nonresident licensing provisions of ORS 497.102**  
 24 **and 497.121 is a Class A violation.**

25 [(3)] (5) The second and each subsequent conviction within a 10-year pe-  
 26 riod for the taking of a raptor or the taking of game fish with a total value  
 27 of \$200 or more or the taking of antelope, black bear, cougar, deer, elk,  
 28 moose, mountain goat or mountain sheep in violation of the wildlife laws,  
 29 or any rule promulgated pursuant thereto which occurs more than one hour  
 30 prior to or more than one hour subsequent to a season established for the  
 31 lawful taking of such game mammals or game fish, is a Class C felony when

1 the offense is committed with a culpable mental state as defined in ORS  
2 161.085.

3 **SECTION 64.** ORS 497.415, as amended by section 1, chapter 58, Oregon  
4 Laws 2010, is amended to read:

5 497.415. (1) When any person is convicted of a violation of law or any rule  
6 adopted pursuant thereto or otherwise fails to comply with the requirements  
7 of a citation in connection with such violation as provided in subsection (2)  
8 of this section, the court may order the State Fish and Wildlife Commission  
9 to revoke all licenses, tags and permits issued to that person pursuant to the  
10 wildlife laws. Revocation of licenses, tags and permits is in addition to and  
11 not in lieu of other penalties provided by law.

12 (2) The license, tag and permit revocation provisions of subsection (1) of  
13 this section apply to the following persons:

14 (a) Any person who is convicted of a violation of the wildlife laws, or any  
15 rule adopted pursuant thereto, or who otherwise fails to comply with the  
16 requirements of a citation in connection with any such offense [*when the*  
17 *base fine amount for the offense is \$50 or more*].

18 (b) Any person who is convicted of a violation of ORS 164.245, 164.255,  
19 164.265, 164.345, 164.354 or 164.365 committed while the person was angling,  
20 taking shellfish, hunting or trapping or who otherwise fails to comply with  
21 the requirements of a citation in connection with any such offense [*when the*  
22 *base fine amount for the offense is \$50 or more*].

23 (c) Any person who is convicted of a violation of ORS 166.630 or 166.638  
24 committed while hunting or who otherwise fails to comply with the require-  
25 ments of a citation in connection with any such offense [*when the base fine*  
26 *amount for the offense is \$50 or more*].

27 (3) When a court orders the revocation of a license, tag or permit pursu-  
28 ant to this section, the court shall take up any such licenses, tags and per-  
29 mits and forward them, together with a copy of the revocation order, to the  
30 commission. Upon receipt thereof, the commission shall cause revocation of  
31 the appropriate licenses, tags and permits in accordance with the court or-

1 der.

2 (4) For purposes of the Wildlife Violator Compact:

3 (a) The commission shall suspend a violator's license as defined in ORS  
4 496.750 for failure to comply with the terms of a citation from a party state.  
5 A copy of a report of failure to comply from the licensing authority of the  
6 issuing state shall be conclusive evidence. Suspension under this paragraph  
7 commences on the date the commission issues a final order pursuant to the  
8 provisions of ORS chapter 183 to suspend the license in this state. The period  
9 of suspension under this paragraph is the period provided by Oregon law or  
10 such longer period as provided by commission rule based on the period of  
11 suspension imposed by the party state.

12 (b) The commission shall revoke a violator's license as defined in ORS  
13 496.750 for a conviction in a party state. A report of conviction from the li-  
14 censing authority of the issuing state shall be conclusive evidence. Revoca-  
15 tion under this paragraph commences on the date the commission issues a  
16 final order pursuant to the provisions of ORS chapter 183 to revoke the li-  
17 cense in this state. The period of revocation under this paragraph is the pe-  
18 riod provided by Oregon law or such longer period as provided by  
19 commission rule based on the period of revocation imposed by the party  
20 state.

21 (5)(a) No person who has had a license, tag or permit revoked pursuant  
22 to this section for the first time shall apply for or obtain another such li-  
23 cense, tag or permit for the period of 36 months from the date the court or  
24 commission ordered the revocation.

25 (b) Upon having a license, tag or permit revoked for a second time pur-  
26 suant to this section, no person shall apply for or obtain another such li-  
27 cense, tag or permit for the period of five years.

28 (c) Upon having a license, tag or permit revoked for a third or subsequent  
29 time pursuant to this section, a person is prohibited from applying for or  
30 obtaining another such license, tag or permit.

31 (6)(a) If a person convicted of conduct described in subsection (2) of this

1 section does not possess at the time of conviction those licenses, tags and  
2 permits issued pursuant to the wildlife laws that the court would have re-  
3 voked pursuant to this section, the court shall specify by order those li-  
4 censes, tags and permits that would have been revoked and shall forward a  
5 copy of the order to the commission. No person who is the subject of such  
6 a court order shall apply for, possess or obtain another such license, tag or  
7 permit for the period of 36 months from the date of the order.

8 (b) Upon being the subject of a court order under this subsection for a  
9 second time, no person shall apply for or obtain another such license, tag  
10 or permit for the period of five years.

11 (c) Upon being the subject of a court order under this subsection for a  
12 third time, a person is prohibited from applying for or obtaining another  
13 such license, tag or permit.

14 **SECTION 65.** ORS 498.153 is amended to read:

15 498.153. [(1)] A person who operates or parks a motor-propelled vehicle in  
16 violation of restrictions established and posted under ORS 498.152, **and any**  
17 **owner of the vehicle who authorizes the operation or parking of the**  
18 **vehicle**, commits [*an offense punishable as provided in ORS 496.992*] **a Class**  
19 **A violation.**

20 [(2) *Except as otherwise provided in subsection (1) of this section, a person*  
21 *who is the owner of an unattended motor-propelled vehicle parked in violation*  
22 *of restrictions established and posted under ORS 498.152 is guilty of a Class*  
23 *A violation without regard to culpable mental state.*]

24 [(3) *It is an affirmative defense to a prosecution under subsection (2) of this*  
25 *section that the use of the vehicle was not authorized by the owner, either ex-*  
26 *pressly or by implication.*]

27 **SECTION 65a.** ORS 498.154 is amended to read:

28 498.154. (1) In all prosecutions **against the owner of a motor-propelled**  
29 **vehicle** under ORS 498.153 [(2)], it shall be sufficient for a police officer to  
30 charge the defendant by an unsworn written notice if the notice clearly  
31 states:

1 (a) The date, place and nature of the charge.

2 (b) The time and place for defendant's appearance in court.

3 (c) The name of the issuing officer.

4 (d) The license number of the vehicle.

5 (2) The notice provided for in subsection (1) of this section shall either  
6 be delivered to the defendant or placed in a conspicuous place upon the ve-  
7 hicle involved in the violation. A duplicate original of the notice shall serve  
8 as the complaint in the case when it is filed with the court. The issuing of-  
9 ficer need not have observed the act of parking, but need only have observed  
10 that the vehicle appeared to be parked in violation of restrictions established  
11 and posted under ORS 498.152.

12 *[(3) A circuit court and a justice court have concurrent jurisdiction over the*  
13 *offenses described in ORS 498.153 committed within the county.]*

14 **SECTION 65b.** ORS 498.155 is amended to read:

15 498.155. If a vehicle owner cited under ORS 498.154 to appear in a circuit  
16 [*or justice*] court upon an alleged parking offense fails to appear on or before  
17 the date and time stated on the citation, the court and the Department of  
18 Transportation may take such actions as are otherwise authorized by law  
19 under the Oregon Vehicle Code in the case of a failure to appear, except that  
20 in no case may a warrant of arrest be issued nor a criminal prosecution for  
21 failure to appear be commenced unless the citing or prosecuting authority,  
22 more than 10 days prior thereto, has sent a letter to the registered owner  
23 at the address shown upon the vehicle registration records of the department  
24 advising such owner of the charge pending and informing the owner that the  
25 owner may be subject to arrest if the owner does not appear in the court  
26 within 10 days to answer the charge. The letter must be sent by certified  
27 mail, restricted delivery, return receipt requested. A warrant of arrest may  
28 not be issued, nor a criminal prosecution for failure to appear be commenced  
29 if such a letter has not been sent or if the owner appears in court to answer  
30 the charge within 10 days after receiving the letter.

31 **SECTION 66.** ORS 498.222 is amended to read:

1 498.222. (1) No person shall:

2 (a) Transport any live fish unless the person has first obtained a permit  
3 therefor from the State Fish and Wildlife Commission.

4 (b) Release or attempt to release into any body of water any live fish that  
5 was not taken from that body of water, unless the person has first obtained  
6 a permit therefor from the commission.

7 (2) The commission may refuse to issue the permit referred to in sub-  
8 section (1)(b) of this section if the commission finds that release of the fish  
9 into a body of water would adversely affect existing fish populations.

10 (3) Subsection (1)(a) of this section does not apply to live fish that are for  
11 aquaria use.

12 (4) [*Notwithstanding ORS 496.992,*] Violation of subsection (1)(b) of this  
13 section is:

14 (a) A Class C felony if the violation is committed intentionally or know-  
15 ingly.

16 (b) A Class A misdemeanor if the violation is committed recklessly or  
17 with criminal negligence.

18 (5)(a) Notwithstanding ORS 497.415 (1), (2), (3) and (5), when a person is  
19 convicted of violating subsection (1)(b) of this section, the court in which the  
20 conviction occurs shall notify the commission, which shall revoke all angling  
21 licenses and tags issued to that person pursuant to the wildlife laws. Revo-  
22 cation of licenses and tags is in addition to and not in lieu of other penalties  
23 provided by law.

24 (b) No person who has been convicted of violating subsection (1)(b) of this  
25 section shall apply for, obtain or possess any angling license or tag issued  
26 pursuant to the wildlife laws within five years after the conviction.

27 (6)(a) The commission may institute suit for the recovery of damages for  
28 the control or eradication of live fish released into a body of water in vio-  
29 lation of subsection (1)(b) of this section. The damages awarded under this  
30 subsection shall be the amount necessary to return the body of water to its  
31 condition prior to the violation.

1 (b) In any action under this subsection, the court shall award to the  
2 prevailing party, in addition to costs and disbursements, reasonable attorney  
3 fees.

4 (c) Damages awarded under this subsection shall be in addition to other  
5 penalties prescribed by the wildlife laws for releasing or attempting to re-  
6 lease live fish without a permit.

7 (d) Any circuit or justice court has jurisdiction to try any case for the  
8 recovery of damages as provided by this subsection.

9 **SECTION 67. ORS 496.715 and 496.951 are repealed.**

10 **SECTION 68. The amendments to ORS 496.992, 497.415, 498.153,  
11 498.154, 498.155 and 498.222 by sections 63 to 66 of this 2011 Act and the  
12 repeal of ORS 496.715 and 496.951 by section 67 of this 2011 Act apply  
13 only to offenses committed on or after the effective date of this 2011  
14 Act. Any offense committed before the effective date of this 2011 Act  
15 shall continue to be governed by ORS 496.715, 496.951, 496.992, 497.415,  
16 498.153, 498.154, 498.155 and 498.222 as in effect immediately before the  
17 effective date of this 2011 Act.**

18

19

**HOUSE BILL 2287 (2009) FEES**

20

**(CHAPTER 659, OREGON LAWS 2009)**

21

22

**(Security Release Amounts)**

23

24 **SECTION 69.** ORS 135.265, as amended by section 11, chapter 659, Oregon  
25 Laws 2009, is amended to read:

26 135.265. (1) If the defendant is not released on personal recognizance un-  
27 der ORS 135.255, or granted conditional release under ORS 135.260, or fails  
28 to agree to the provisions of the conditional release, the magistrate shall set  
29 a security amount that will reasonably assure the defendant's appearance.  
30 The defendant shall execute the security release in the amount set by the  
31 magistrate.

1 (2) The defendant shall execute a release agreement and deposit with the  
2 clerk of the court before which the proceeding is pending a sum of money  
3 equal to 10 percent of the security amount, but in no event shall such deposit  
4 be less than \$25. The clerk shall issue a receipt for the sum deposited. Upon  
5 depositing this sum the defendant shall be released from custody subject to  
6 the condition that the defendant appear to answer the charge in the court  
7 having jurisdiction on a day certain and thereafter as ordered by the court  
8 until discharged or final order of the court. Once security has been given  
9 and a charge is pending or is thereafter filed in or transferred to a court of  
10 competent jurisdiction the latter court shall continue the original security  
11 in that court subject to ORS 135.280 and 135.285. When conditions of the  
12 release agreement have been performed and the defendant has been dis-  
13 charged from all obligations in the cause, the clerk of the court shall return  
14 to the person shown by the receipt to have made the deposit, unless the court  
15 orders otherwise, 85 percent of the sum which has been deposited and shall  
16 retain as security release costs 15 percent, but not less than \$5 nor more  
17 than [~~\$200~~] **\$750**, of the amount deposited. The interest that has accrued on  
18 the full amount deposited shall also be retained by the clerk. The amount  
19 retained by the clerk of a circuit court shall be paid over as directed by the  
20 State Court Administrator for deposit in the Criminal Fine [*and*  
21 *Assessment*] Account [*created under ORS 137.300*]. The amount retained by  
22 a justice of the peace shall be deposited in the county treasury. The amount  
23 retained by the clerk of a municipal court shall be deposited in the municipal  
24 corporation treasury. At the request of the defendant the court may order  
25 whatever amount is repayable to defendant from such security amount to be  
26 paid to defendant's attorney of record.

27 (3) Instead of the security deposit provided for in subsection (2) of this  
28 section the defendant may deposit with the clerk of the court an amount  
29 equal to the security amount in cash, stocks, bonds, or real or personal  
30 property situated in this state with equity not exempt owned by the defend-  
31 ant or sureties worth double the amount of security set by the magistrate.

1 The stocks, bonds, real or personal property shall in all cases be justified  
2 by affidavit. The magistrate may further examine the sufficiency of the se-  
3 curity as the magistrate considers necessary.

4 **SECTION 70. The amendments to ORS 135.265 by section 69 of this**  
5 **2011 Act apply only to security deposits returned on or after the ef-**  
6 **fective date of this 2011 Act.**

7

8 **(Bench Probation Fees and Probation Violation Assessments)**

9

10 **SECTION 71.** ORS 137.540, as amended by section 23, chapter 659, Oregon  
11 Laws 2009, is amended to read:

12 137.540. (1) The court may sentence the defendant to probation subject to  
13 the following general conditions unless specifically deleted by the court. The  
14 probationer shall:

15 (a) Pay supervision fees, fines, restitution or other fees ordered by the  
16 court.

17 (b) Not use or possess controlled substances except pursuant to a medical  
18 prescription.

19 (c) Submit to testing for controlled substance or alcohol use if the  
20 probationer has a history of substance abuse or if there is a reasonable sus-  
21 picion that the probationer has illegally used controlled substances.

22 (d) Participate in a substance abuse evaluation as directed by the super-  
23 vising officer and follow the recommendations of the evaluator if there are  
24 reasonable grounds to believe there is a history of substance abuse.

25 (e) Remain in the State of Oregon until written permission to leave is  
26 granted by the Department of Corrections or a county community corrections  
27 agency.

28 (f) If physically able, find and maintain gainful full-time employment, ap-  
29 proved schooling, or a full-time combination of both. Any waiver of this re-  
30 quirement must be based on a finding by the court stating the reasons for  
31 the waiver.

1 (g) Change neither employment nor residence without prior permission  
2 from the Department of Corrections or a county community corrections  
3 agency.

4 (h) Permit the parole and probation officer to visit the probationer or the  
5 probationer's work site or residence and to conduct a walk-through of the  
6 common areas and of the rooms in the residence occupied by or under the  
7 control of the probationer.

8 (i) Consent to the search of person, vehicle or premises upon the request  
9 of a representative of the supervising officer if the supervising officer has  
10 reasonable grounds to believe that evidence of a violation will be found, and  
11 submit to fingerprinting or photographing, or both, when requested by the  
12 Department of Corrections or a county community corrections agency for  
13 supervision purposes.

14 (j) Obey all laws, municipal, county, state and federal.

15 (k) Promptly and truthfully answer all reasonable inquiries by the De-  
16 partment of Corrections or a county community corrections agency.

17 (L) Not possess weapons, firearms or dangerous animals.

18 (m) If recommended by the supervising officer, successfully complete a sex  
19 offender treatment program approved by the supervising officer and submit  
20 to polygraph examinations at the direction of the supervising officer if the  
21 probationer:

22 (A) Is under supervision for a sex offense under ORS 163.305 to 163.467;

23 (B) Was previously convicted of a sex offense under ORS 163.305 to  
24 163.467; or

25 (C) Was previously convicted in another jurisdiction of an offense that  
26 would constitute a sex offense under ORS 163.305 to 163.467 if committed in  
27 this state.

28 (n) Participate in a mental health evaluation as directed by the super-  
29 vising officer and follow the recommendation of the evaluator.

30 (o) Report as required and abide by the direction of the supervising offi-  
31 cer.

1 (p) If required to report as a sex offender under ORS 181.596, report with  
2 the Department of State Police, a city police department, a county sheriff's  
3 office or the supervising agency:

4 (A) When supervision begins;

5 (B) Within 10 days of a change in residence;

6 (C) Once each year within 10 days of the probationer's date of birth;

7 (D) Within 10 days of the first day the person works at, carries on a vo-  
8 cation at or attends an institution of higher education; and

9 (E) Within 10 days of a change in work, vocation or attendance status  
10 at an institution of higher education.

11 (2) In addition to the general conditions, the court may impose any spe-  
12 cial conditions of probation that are reasonably related to the crime of con-  
13 viction or the needs of the probationer for the protection of the public or  
14 reformation of the probationer, or both, including, but not limited to, that  
15 the probationer shall:

16 (a) For crimes committed prior to November 1, 1989, and misdemeanors  
17 committed on or after November 1, 1989, be confined to the county jail or  
18 be restricted to the probationer's own residence or to the premises thereof,  
19 or be subject to any combination of such confinement and restriction, such  
20 confinement or restriction or combination thereof to be for a period not to  
21 exceed one year or one-half of the maximum period of confinement that could  
22 be imposed for the offense for which the defendant is convicted, whichever  
23 is the lesser.

24 (b) For felonies committed on or after November 1, 1989, be confined in  
25 the county jail, or be subject to other custodial sanctions under community  
26 supervision, or both, as provided by rules of the Oregon Criminal Justice  
27 Commission.

28 (c) For crimes committed on or after December 5, 1996, sell any assets of  
29 the probationer as specifically ordered by the court in order to pay  
30 restitution.

31 (3) When a person who is a sex offender is released on probation, the

1 court shall impose as a special condition of probation that the person not  
2 reside in any dwelling in which another sex offender who is on probation,  
3 parole or post-prison supervision resides, without the approval of the  
4 person's supervising parole and probation officer, or in which more than one  
5 other sex offender who is on probation, parole or post-prison supervision re-  
6 sides, without the approval of the director of the probation agency that is  
7 supervising the person or of the county manager of the Department of Cor-  
8 rections, or a designee of the director or manager. As soon as practicable,  
9 the supervising parole and probation officer of a person subject to the re-  
10 quirements of this subsection shall review the person's living arrangement  
11 with the person's sex offender treatment provider to ensure that the ar-  
12 rangement supports the goals of offender rehabilitation and community  
13 safety. As used in this subsection:

14 (a) "Dwelling" has the meaning given that term in ORS 469.160.

15 (b) "Dwelling" does not include a residential treatment facility or a  
16 halfway house.

17 (c) "Halfway house" means a publicly or privately operated profit or  
18 nonprofit residential facility that provides rehabilitative care and treatment  
19 for sex offenders.

20 (d) "Sex offender" has the meaning given that term in ORS 181.594.

21 (4)(a) If the person is released on probation following conviction of a sex  
22 crime, as defined in ORS 181.594, or an assault, as defined in ORS 163.175  
23 or 163.185, and the victim was under 18 years of age, the court, if requested  
24 by the victim, shall include as a special condition of the person's probation  
25 that the person not reside within three miles of the victim unless:

26 (A) The victim resides in a county having a population of less than  
27 130,000 and the person is required to reside in that county;

28 (B) The person demonstrates to the court by a preponderance of the evi-  
29 dence that no mental intimidation or pressure was brought to bear during  
30 the commission of the crime;

31 (C) The person demonstrates to the court by a preponderance of the evi-

1 dence that imposition of the condition will deprive the person of a residence  
2 that would be materially significant in aiding in the rehabilitation of the  
3 person or in the success of the probation; or

4 (D) The person resides in a halfway house. As used in this subparagraph,  
5 “halfway house” means a publicly or privately operated profit or nonprofit  
6 residential facility that provides rehabilitative care and treatment for sex  
7 offenders.

8 (b) A victim may request imposition of the special condition of probation  
9 described in this subsection at the time of sentencing in person or through  
10 the prosecuting attorney.

11 (c) If the court imposes the special condition of probation described in  
12 this subsection and if at any time during the period of probation the victim  
13 moves to within three miles of the probationer’s residence, the court may  
14 not require the probationer to change the probationer’s residence in order  
15 to comply with the special condition of probation.

16 (5) When a person who is a sex offender, as defined in ORS 181.594, is  
17 released on probation, the Department of Corrections or the county commu-  
18 nity corrections agency, whichever is appropriate, shall notify the city police  
19 department, if the person is going to reside within a city, and the county  
20 sheriff’s office of the county in which the person is going to reside of the  
21 person’s release and the conditions of the person’s release.

22 (6) Failure to abide by all general and special conditions imposed by the  
23 court and supervised by the Department of Corrections or a county commu-  
24 nity corrections agency may result in arrest, modification of conditions, re-  
25 vocation of probation or imposition of structured, intermediate sanctions in  
26 accordance with rules adopted under ORS 137.595.

27 **(7) The court may order that probation be supervised by the court.**  
28 **If the court orders that probation be supervised by the court, the de-**  
29 **fendant shall pay a fee of \$100 to the court. Fees imposed under this**  
30 **subsection in the circuit court shall be deposited by the clerk of the**  
31 **court in the Criminal Fine Account. Fees imposed in a justice court**

1 **under this subsection shall be paid to the county treasurer. Fees im-**  
2 **posed in a municipal court under this subsection shall be paid to the**  
3 **city treasurer.**

4 [(7)] (8) The court may at any time modify the conditions of probation.

5 [(8)] (9) A court may not order revocation of probation as a result of the  
6 probationer's failure to pay restitution unless the court determines from the  
7 totality of the circumstances that the purposes of the probation are not being  
8 served.

9 [(9)] (10) It is not a cause for revocation of probation that the probationer  
10 failed to apply for or accept employment at any workplace where there is a  
11 labor dispute in progress. As used in this subsection, "labor dispute" has the  
12 meaning for that term provided in ORS 662.010.

13 **(11) If the court determines that a defendant has violated the terms**  
14 **of probation, the court shall impose a \$25 assessment against the de-**  
15 **fendant. The assessment becomes part of the judgment and may be**  
16 **collected in the same manner as a fine. Assessments imposed under**  
17 **this subsection in the circuit court shall be deposited by the clerk of**  
18 **the court in the Criminal Fine Account. Assessments imposed in a**  
19 **justice court under this subsection shall be paid to the county treas-**  
20 **urer. Assessments imposed in a municipal court under this subsection**  
21 **shall be paid to the city treasurer.**

22 [(10)] (12) As used in this section, "attends," "institution of higher edu-  
23 cation," "works" and "carries on a vocation" have the meanings given those  
24 terms in ORS 181.594.

25 **SECTION 72. The amendments to ORS 137.540 by section 71 of this**  
26 **2011 Act apply only to orders of probation and probation violation de-**  
27 **terminations made on or after the effective date of this 2011 Act.**

28

29 **(Diversion Program Administration Fee)**

30

31 **SECTION 73. ORS 135.905 is amended to read:**

1 135.905. (1) Whenever a defendant accused of committing a crime partic-  
 2 ipates in a diversion agreement under ORS 135.881 to 135.901 or under ORS  
 3 813.210, 813.215, 813.220 and 813.230, the defendant, as a condition of the di-  
 4 version, shall pay [*the unitary assessment for which the defendant would have*  
 5 *been liable under ORS 137.290 if the defendant had been convicted*] **\$70 to the**  
 6 **court**. The district attorney, or the city attorney if the case is prosecuted  
 7 by the city attorney, shall include in the diversion agreement a provision  
 8 setting forth the defendant's obligation. If the diversion is terminated and  
 9 criminal proceedings are resumed against defendant, any payment made by  
 10 the defendant under this subsection shall be refunded upon subsequent ac-  
 11 quittal of the defendant or dismissal of the case.

12 (2) [*Assessments under this section shall be paid within 90 days of impo-*  
 13 *sition, unless the court allows payment at a later time. The assessments shall*  
 14 *be paid to the clerk of*] The court[, *who*] shall account for and distribute [*the*  
 15 *moneys*] **amounts collected under this section** as provided **for fines** in  
 16 [*ORS 137.293 and 137.295*] **sections 47 to 50 of this 2011 Act.**

17 **SECTION 74. The amendments to ORS 135.905 by section 73 of this**  
 18 **2011 Act apply only to diversion agreements entered into on or after**  
 19 **the effective date of this 2011 Act.**

20 **SECTION 75.** ORS 135.921 is amended to read:

21 135.921. (1) The filing fee paid by a defendant at the time of filing a pe-  
 22 tition for a possession of marijuana diversion agreement as provided in ORS  
 23 135.909 shall be [~~\$233~~] **\$333** and shall be ordered paid as follows if the peti-  
 24 tion is allowed:

25 (a) \$123 to the Department of Revenue for deposit in the Criminal Fine  
 26 [*and Assessment*] Account; and

27 (b) [~~\$110~~] **\$210** to be distributed as provided for the disposition of [*costs*  
 28 *under ORS 153.630*] **finest under sections 47 to 50 of this 2011 Act, except**  
 29 **that the payments provided for in sections 47 (2)(a), 48 (1)(a), (2)(a) and**  
 30 **(3)(a) and 49 (1)(a), (2)(a) and (3)(a) shall not be made.**

31 (2) If less than the [~~\$233~~] **full** filing fee is paid to the court by the de-

1 defendant under subsection (1) of this section, the money [actually] received  
2 shall be allocated [in the amounts provided] first to the [State Treasurer and  
3 the remainder as provided for the disposition of costs under ORS 153.630]  
4 **Department of Revenue for deposit in the Criminal Fine Account.**

5 (3) In addition to the filing fee under subsection (1) of this section, the  
6 court shall order the defendant to pay \$90 directly to the agency or organ-  
7 ization providing the diagnostic assessment.

8 (4) The Chief Justice of the Supreme Court may require that any or all  
9 fees distributed by circuit courts under this section be distributed through  
10 the offices of the State Court Administrator.

11 **SECTION 76. The amendments to ORS 135.921 by section 75 of this**  
12 **2011 Act apply only to petitions for diversion filed on or after the ef-**  
13 **fective date of this 2011 Act.**

14 **SECTION 77.** ORS 813.240 is amended to read:

15 813.240. (1) The filing fee paid by a defendant at the time of filing a pe-  
16 tition for a driving while under the influence of intoxicants diversion  
17 agreement as provided in ORS 813.210 shall be [~~\$261~~] **\$361** and shall be or-  
18 dered paid as follows if the petition is allowed:

19 (a) [~~\$136~~] **\$161** to be [*credited and distributed under ORS 137.295 as an*  
20 *obligation payable to the state*] **paid to the Criminal Fine Account; and**

21 (b) [~~\$100~~] **\$200** to be treated as provided for disposition of fines [*and costs*  
22 *under ORS 153.630; and*] **under sections 47 to 50 of this 2011 Act, except**  
23 **that the payments provided for in sections 47 (2)(a), 48 (1)(a), (2)(a) and**  
24 **(3)(a) and 49 (1)(a), 2)(a) and (3)(a) shall not be made.**

25 [(c) \$25 to be paid to the Director of the Oregon Health Authority for de-  
26 posit in the Intoxicated Driver Program Fund created under ORS 813.270, to  
27 be used for purposes of the fund.]

28 (2) In addition to the filing fee under subsection (1) of this section, the  
29 court shall order the defendant to pay \$150 directly to the agency or organ-  
30 ization providing the diagnostic assessment.

31 **SECTION 78. The amendments to ORS 813.240 by section 77 of this**

1 **2011 Act apply only to petitions for diversion filed on or after the ef-**  
2 **fective date of this 2011 Act.**

3 **SECTION 78a.** ORS 813.270 is amended to read:

4 813.270. The Intoxicated Driver Program Fund is created to consist of  
5 moneys [*placed in*] **allocated to** the fund under ORS [*813.030 and 813.240*]  
6 **137.300** or as otherwise provided by law and of gifts and grants made to the  
7 fund for carrying out the purposes of the fund. The moneys in the fund may  
8 be used only for the following purposes:

9 (1) To pay for providing treatment for individuals who enter diversion  
10 agreements under ORS 813.200 and who are found to be indigent. Payment  
11 for treatment under this subsection may include treatment for problem  
12 drinking, alcoholism or drug dependency. Payment shall be made as provided  
13 by the Director of the Oregon Health Authority by rule to agencies or or-  
14 ganizations providing treatment.

15 (2) To pay for evaluation as provided by law of programs used for diver-  
16 sion agreements.

17 (3) To pay the cost of administration of the fund by the Oregon Health  
18 Authority.

19 (4) To pay for materials, resources and training supplied by the authority  
20 to those persons, organizations or agencies performing the diagnostic as-  
21 sessments or providing education or treatment to persons under diversion  
22 agreements.

23 (5) To pay for providing treatment programs required under ORS 813.020  
24 and treatment or information programs required under ORS 471.432 for in-  
25 dividuals who are found to be indigent.

26 (6) To pay for special services required to enable a person with a disa-  
27 bility, or a person whose proficiency in the use of English is limited because  
28 of the person's national origin, to participate in treatment programs that are  
29 used for diversion agreements under ORS 813.200 or are required under ORS  
30 813.020. This subsection applies:

31 (a) Whether or not the person is indigent; and

1 (b) Only to special services required solely because of the person's disa-  
2 bility or limited proficiency in the use of English.

3  
4 **SPECIFIC FINE VIOLATIONS**

5  
6 **SECTION 79.** ORS 163.575 is amended to read:

7 **163.575.** (1) A person commits the crime of endangering the welfare of a  
8 minor if the person knowingly:

9 (a) Induces, causes or permits an unmarried person under 18 years of age  
10 to witness an act of sexual conduct or sadomasochistic abuse as defined by  
11 ORS 167.060; or

12 (b) Permits a person under 18 years of age to enter or remain in a place  
13 where unlawful activity involving controlled substances is maintained or  
14 conducted; or

15 (c) Induces, causes or permits a person under 18 years of age to partic-  
16 ipate in gambling as defined by ORS 167.117; or

17 (d) Distributes, sells, or causes to be sold, tobacco in any form to a person  
18 under 18 years of age; or

19 (e) Sells to a person under 18 years of age any device in which tobacco,  
20 marijuana, cocaine or any controlled substance, as defined in ORS 475.005,  
21 is burned and the principal design and use of which is directly or indirectly  
22 to deliver tobacco smoke, marijuana smoke, cocaine smoke or smoke from  
23 any controlled substance into the human body including but not limited to:

24 (A) Pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric  
25 pipes, air driven pipes, corncob pipes, meerschaum pipes and ceramic pipes,  
26 with or without screens, permanent screens, hashish heads or punctured  
27 metal bowls;

28 (B) Carburetion tubes and devices, including carburetion masks;

29 (C) Bonges;

30 (D) Chillums;

31 (E) Ice pipes or chillers;

1 (F) Cigarette rolling papers and rolling machines; and

2 (G) Cocaine free basing kits.

3 (2) Endangering the welfare of a minor by violation of subsection (1)(a),  
4 (b), (c) or (e) of this section, involving other than a device for smoking to-  
5 bacco, is a Class A misdemeanor.

6 (3) Endangering the welfare of a minor by violation of subsection (1)(d)  
7 of this section or by violation of subsection (1)(e) of this section, involving  
8 a device for smoking tobacco, is a Class A violation [*and the court shall*  
9 *impose a fine of not less than \$100*].

10 **SECTION 80.** ORS 165.107, as amended by section 5, chapter 56, Oregon  
11 Laws 2010, is amended to read:

12 165.107. (1) Before completing a transaction, a scrap metal business en-  
13 gaged in business in this state shall:

14 (a) Create a metal property record for the transaction at the time and in  
15 the location where the transaction occurs. The record must:

16 (A) Be accurate and written clearly and legibly in English;

17 (B) Be entered onto a standardized printed form or an electronic form that  
18 is securely stored and is capable of ready retrieval and printing; and

19 (C) Contain all of the following information:

20 (i) The signature of the individual with whom the scrap metal business  
21 conducts the transaction.

22 (ii) The time, date, location and monetary amount or other value of the  
23 transaction.

24 (iii) The name of the employee who conducts the transaction on behalf  
25 of the scrap metal business.

26 (iv) The name, street address and telephone number of the individual with  
27 whom the scrap metal business conducts the transaction. The metal property  
28 record may contain an address other than a street address if the address is  
29 listed on the government-issued photo identification described in sub-  
30 subparagraph (vi) of this subparagraph.

31 (v) A description of, and the license number and issuing state shown on

1 the license plate affixed to, the motor vehicle, if any, used to transport the  
2 individual who conducts, or the nonferrous metal property or private metal  
3 property that is the subject of, the transaction.

4 (vi) A photocopy of a current, valid driver license or other government-  
5 issued photo identification belonging to the individual with whom the scrap  
6 metal business conducts the transaction.

7 (vii) A photograph of, or video surveillance recording depicting, a recog-  
8 nizable facial image of the individual with whom the scrap metal business  
9 conducts the transaction.

10 (viii) A general description of the nonferrous metal property or private  
11 metal property that constitutes the predominant part of the transaction. The  
12 description must include any identifiable marks on the property, if readily  
13 discernible, and must specify the weight, quantity or volume of the  
14 nonferrous metal property or private metal property.

15 (b) Require the individual with whom the scrap metal business conducts  
16 a transaction to sign and date a declaration printed in conspicuous type, ei-  
17 ther on the record described in this subsection or on a receipt issued to the  
18 individual with whom the scrap metal business conducts the transaction,  
19 that states:

20 \_\_\_\_\_

21 I, \_\_\_\_\_, AFFIRM UNDER PENALTY OF LAW THAT THE  
22 PROPERTY I AM SELLING IN THIS TRANSACTION IS NOT, TO THE  
23 BEST OF MY KNOWLEDGE, STOLEN PROPERTY.

24 \_\_\_\_\_

25 (c) Require the employee of the scrap metal business who conducts the  
26 transaction on behalf of the scrap metal business to witness the individual  
27 sign the declaration, and also to sign and date the declaration in a space  
28 provided for that purpose.

29 (d) For one year following the date of the transaction, keep a copy of the  
30 record and the signed and dated declaration described in this subsection. If  
31 the scrap metal business uses a video surveillance recording as part of the

1 record kept in accordance with this subsection, the scrap metal business need  
2 not keep the video surveillance recording for one year, but shall retain the  
3 video surveillance recording for a minimum of 30 days following the date of  
4 the transaction. The scrap metal business shall at all times keep the copies  
5 at the current place of business for the scrap metal business.

6 (2) A scrap metal business engaged in business in this state may not do  
7 any of the following:

8 (a) Purchase or receive kegs or similar metallic containers used to store  
9 or dispense alcoholic beverages, except from a person that manufactures the  
10 kegs or containers or from a person licensed by the Oregon Liquor Control  
11 Commission under ORS 471.155.

12 (b) Conduct a transaction with an individual if the individual does not  
13 at the time of the transaction consent to the creation of the record described  
14 in subsection (1) of this section and produce for inspection a valid driver li-  
15 cense or other government-issued photo identification that belongs to the  
16 individual.

17 (c) Conduct a transaction with an individual in which the scrap metal  
18 business pays the individual other than by mailing a nontransferable check  
19 for the amount of the transaction to the address the individual provided  
20 under subsection (1)(a)(C)(iv) of this section not earlier than three business  
21 days after the date of the transaction. The check must be drawn on an ac-  
22 count that the scrap metal business maintains with a financial institution,  
23 as defined in ORS 706.008.

24 (d) Cash a check issued in payment for a transaction or release a check  
25 issued in payment for a transaction other than as provided in paragraph (c)  
26 of this subsection. If a check is returned as undelivered or undeliverable, the  
27 scrap metal business shall retain the check until the individual with whom  
28 the scrap metal business conducted the transaction provides a valid address  
29 in accordance with subsection (1)(a)(C)(iv) of this section. If after 30 days  
30 following the date of the transaction the individual fails to provide a valid  
31 address, the scrap metal business may cancel the check and the individual

1 shall forfeit to the scrap metal business the amount due as payment.

2 (3) Before purchasing or receiving metal property from a commercial  
3 seller, a scrap metal business shall:

4 (a) Create and maintain a commercial account with the commercial seller.  
5 As part of the commercial account, the scrap metal business shall enter ac-  
6 curately, clearly and legibly in English onto a standardized printed form, or  
7 an electronic form that is securely stored and is capable of ready retrieval  
8 and printing, the following information:

9 (A) The full name of the commercial seller;

10 (B) The business address and telephone number of the commercial seller;  
11 and

12 (C) The full name of each employee, agent or other individual the com-  
13 mercial seller authorizes to deliver metal property to the scrap metal busi-  
14 ness.

15 (b) Record as part of the commercial account at the time the scrap metal  
16 business purchases or receives metal property from a commercial seller the  
17 following information:

18 (A) The time, date and location at which the commercial seller delivered  
19 the metal property for purchase or receipt;

20 (B) The monetary amount or other value of the metal property;

21 (C) A description of the type of metal property that constitutes the pre-  
22 dominant part of the purchase or receipt; and

23 (D) The signature of the individual who delivered the metal property to  
24 the scrap metal business.

25 (4) A scrap metal business may require an individual from whom the  
26 business obtains metal property to provide the individual's thumbprint to the  
27 scrap metal business.

28 (5) A scrap metal business shall make all records and accounts required  
29 to be maintained under this section available to any peace officer on demand.

30 (6)(a) *[A scrap metal business that violates a provision of subsections (1)*  
31 *to (3) of this section shall pay a fine of \$1,000.]* **Violation of subsections (1)**

1 **to (3) of this section is a specific fine violation, and the presumptive**  
2 **fine for the violation is \$1,000.**

3 (b) Notwithstanding paragraph (a) of this subsection, [*a scrap metal*  
4 *business that violates*] **the presumptive fine for a violation of** a provision  
5 of subsections (1) to (3) of this section [*shall pay a fine of*] **is \$5,000** if the  
6 scrap metal business has at least three previous convictions for violations  
7 of a provision of subsections (1) to (3) of this section.

8 (7) The definitions in ORS 165.116 apply to this section.

9 **SECTION 81.** ORS 167.808 is amended to read:

10 167.808. (1) For the purposes of this section:

11 (a) "Inhalant" means any glue, cement or other substance that is capable  
12 of causing intoxication and that contains one or more of the following  
13 chemical compounds:

- 14 (A) Acetone;
- 15 (B) Amyl acetate;
- 16 (C) Benzol or benzene;
- 17 (D) Butane;
- 18 (E) Butyl acetate;
- 19 (F) Butyl alcohol;
- 20 (G) Carbon tetrachloride;
- 21 (H) Chloroform;
- 22 (I) Cyclohexanone;
- 23 (J) Difluoroethane;
- 24 (K) Ethanol or ethyl alcohol;
- 25 (L) Ethyl acetate;
- 26 (M) Hexane;
- 27 (N) Isopropanol or isopropyl alcohol;
- 28 (O) Isopropyl acetate;
- 29 (P) Methyl cellosolve acetate;
- 30 (Q) Methyl ethyl ketone;
- 31 (R) Methyl isobutyl ketone;

- 1 (S) Nitrous oxide;
- 2 (T) Toluol or toluene;
- 3 (U) Trichloroethylene;
- 4 (V) Tricresyl phosphate;
- 5 (W) Xylol or xylene; or
- 6 (X) Any other solvent, material, substance, chemical or combination
- 7 thereof having the property of releasing toxic vapors or fumes.

8 (b) "Intoxication" means any mental or physical impairment or incapac-

9 ity.

10 (2) It is unlawful for a person to possess any inhalant if the person in-

11 tends to use the inhalant for the purpose of inducing intoxication in the

12 person who possesses the inhalant or for the purpose of inducing intoxication

13 in any other person.

14 (3) A person may not use any inhalant for the purpose of inducing

15 intoxication in the person using the inhalant or for the purpose of inducing

16 intoxication in any other person.

17 (4) The prohibitions of this section do not apply to any substance that:

18 (a) Has been prescribed by a health practitioner, as described in ORS

19 31.740, and that is used in the manner prescribed by the health practitioner;

20 or

21 (b) Is administered or used under the supervision of a health practitioner,

22 as described in ORS 31.740.

23 (5)(a) Any person who violates this section commits a violation. Violation

24 of this section is [*punishable by a fine of not more than \$300*] **a Class C vi-**

25 **olation**. In addition to or in lieu of a fine, a juvenile court may require that

26 a minor who engages in conduct prohibited by this section be provided with

27 treatment and counseling.

28 (b) Notwithstanding paragraph (a) of this subsection, a second or subse-

29 quent violation of this section by a person is a Class B misdemeanor. If a

30 juvenile court finds that a minor has engaged in conduct prohibited by this

31 section on a second or subsequent occasion, the court shall require that the

1 minor receive treatment and counseling.

2 **SECTION 82.** ORS 208.990 is amended to read:

3 208.990. Any county treasurer failing to comply with ORS 208.020 for a  
4 period of 10 days commits a Class A violation [*and the court shall impose a*  
5 *fine of not less than \$500*].

6 **SECTION 83.** ORS 308.990 is amended to read:

7 308.990. (1) Violation of ORS 308.320 (3) or of ORS 308.330 is a **Class A**  
8 misdemeanor. The judgment of conviction of any assessor for such a vio-  
9 lation shall of itself work a forfeiture of the office of the assessor.

10 (2) Any taxpayer or managing officer thereof who fails to furnish, after  
11 written demand so to do by the assessor or the county board of property tax  
12 appeals having jurisdiction or the Department of Revenue, any information  
13 or, upon like demand, fails to produce any books, records, papers or docu-  
14 ments required by ORS 308.285 or 308.335 to be furnished by the taxpayer or  
15 managing officer to the county assessor, the county board of property tax  
16 appeals or the Department of Revenue, [*is guilty of a*] **commits a Class A**  
17 misdemeanor [*and, upon conviction, is punishable by a fine of not less than*  
18 *\$25 nor more than \$1,000. Circuit courts shall have jurisdiction in the trial of*  
19 *such offenses*].

20 (3) Any person, firm, association or corporation, or agent or managing  
21 officer thereof, who presents or furnishes to the Director of the Department  
22 of Revenue any statement, required by ORS 308.335 or required by the di-  
23 rector under the authority of ORS 308.335, that is willfully false or fraudu-  
24 lent, commits a Class A violation [*and upon conviction the court shall impose*  
25 *a fine of not less than \$100*].

26 (4) Any person who willfully presents or furnishes to the director any  
27 statement required by ORS 308.505 to 308.665 that is false or fraudulent [*is*  
28 *guilty of*] **commits** perjury and, upon conviction, shall be punished as oth-  
29 erwise provided by law for such crime.

30 (5) Subject to ORS 153.022, any willful violation of ORS 308.413 or of any  
31 rules adopted under ORS 308.413 is [*punishable, upon conviction, by a fine*

1 *not exceeding \$10,000, or by imprisonment in the county jail for not more than*  
2 *one year, or by both] a **Class A misdemeanor.***

3 **SECTION 84.** ORS 311.990 is amended to read:

4 311.990. (1) Violation of ORS 311.270 is a Class B violation[, *and upon*  
5 *conviction, the court shall impose a fine of not less than \$100*].

6 (2) Violation of ORS 311.350 is [*punishable, upon conviction, by a fine not*  
7 *exceeding \$500 or by imprisonment in the county jail not exceeding six*  
8 *months] a **Class B misdemeanor.***

9 (3) Violation of ORS 311.425 (1) is a Class A violation.

10 (4) If a tax collector fails to comply with any of the provisions of law  
11 relating to the receiving and receipting of moneys and warrants collected by  
12 the tax collector for taxes, the tax collector commits a Class A violation[,  
13 *and upon conviction thereof, the court shall impose a fine of not less than*  
14 *\$100*]. The court before whom the tax collector is tried shall declare the of-  
15 fice of the tax collector vacant for the remainder of the term of the tax  
16 collector.

17 (5) If a tax collector willfully returns as unpaid any tax which has been  
18 paid to the tax collector, the tax collector [*shall be deemed guilty of a*  
19 *misdemeanor and, upon conviction thereof, be punished by a fine not exceeding*  
20 *\$500, or by imprisonment not exceeding six months, or both] **commits a Class**  
21 **B misdemeanor.***

22 (6) If a tax collector or sheriff neglects or refuses to pay over all moneys  
23 collected by the tax collector or sheriff for taxes to the county treasurer, or  
24 neglects or refuses to make a return of delinquent taxes of the county, or  
25 any other return or statement, as required by the laws relating to the col-  
26 lection of property taxes, the tax collector or sheriff [*shall be liable to be*  
27 *indicted therefor and, upon conviction, be punished by a fine of not less than*  
28 *\$100 nor more than \$1,000, or by imprisonment not less than six months nor*  
29 *more than six years, or by both] **commits a Class C felony.***

30 (7) A person who knowingly makes a false oath under ORS 311.666 to  
31 311.701 [*is guilty of*] **commits** perjury and shall be punished as provided by

1 ORS 162.085.

2 **SECTION 84a.** ORS 433.855 is amended to read:

3 433.855. (1) The Oregon Health Authority, in accordance with the pro-  
4 visions of ORS chapter 183:

5 (a) Shall adopt rules necessary to implement the provisions of ORS  
6 433.835 to 433.875 and 433.990 (5);

7 (b) Shall be responsible for compliance with such rules; and

8 (c) May impose a civil penalty not to exceed [*the amount specified in ORS*  
9 *433.990 (5)*] **\$500 per day** for each violation of a rule of the authority appli-  
10 cable to ORS 433.845 or 433.850, to be collected in the manner provided in  
11 ORS 441.705 to 441.745. All penalties recovered shall be paid into the State  
12 Treasury and credited to the Tobacco Use Reduction Account established  
13 under ORS 431.832.

14 (2) In carrying out its duties under this section, the authority is not au-  
15 thorized to require any changes in ventilation or barriers in any public place  
16 or place of employment. However, nothing in this subsection is intended to  
17 limit the power of the authority to impose any requirements under any other  
18 provision of law.

19 (3) In public places which the authority regularly inspects, the authority  
20 shall check for compliance with the provisions of ORS 433.835 to 433.875 and  
21 433.990 (5). In other public places and places of employment, the authority  
22 shall respond in writing or orally by telephone to complaints, notifying the  
23 proprietor or person in charge of responsibilities of the proprietor or person  
24 in charge under ORS 433.835 to 433.875 and 433.990 (5). If repeated complaints  
25 are received, the authority may take appropriate action to ensure compli-  
26 ance.

27 (4) When a county has received delegation of the duties and responsibil-  
28 ities under ORS 446.425 and 448.100, or contracted with the authority under  
29 ORS 190.110, the county shall be responsible for enforcing the provisions of  
30 ORS 433.835 to 433.875 and 433.990 (5) and shall have the same enforcement  
31 power as the authority.

1        **SECTION 85.** ORS 433.990 is amended to read:

2        433.990. (1) Violation of ORS 433.004 or 433.008, 433.255, 433.260 or 433.715  
3 is a Class A misdemeanor.

4        (2) Violation of ORS 433.010 is [*punishable, upon conviction, by*  
5 *imprisonment in the custody of the Department of Corrections for not more*  
6 *than three years*] **a Class C felony.**

7        (3) Violation of ORS 433.035 is [*punishable upon conviction by a fine of*  
8 *not less than \$10 nor more than \$100, or by imprisonment for not less than 10*  
9 *days nor more than 30 days, or by both*] **a Class C misdemeanor.**

10       (4) Violation of ORS 433.131 is a Class D violation [*punishable by fines*  
11 *totaling not more than \$50 per day, not to exceed \$1,000 in any 30-day*  
12 *period*].

13       (5) Violation of ORS 433.850 is a Class A violation [*punishable by a fine*  
14 *of not more than \$500 per day*]. Fines imposed against a single employer un-  
15 der this subsection may not exceed \$2,000 in any 30-day period.

16       (6) Violation of ORS 433.345 or 433.365 is a Class B violation. Failure to  
17 obey any lawful order of the Director of the Oregon Health Authority issued  
18 under ORS 433.350 is a Class C misdemeanor.

19       (7) Any organizer, as defined in ORS 433.735, violating ORS 433.745 [*is*]  
20 **commits a specific fine violation** punishable[, *upon conviction,*] by a fine  
21 of not more than \$10,000.

22       **SECTION 86.** ORS 468.936, as amended by section 14, chapter 267, Oregon  
23 Laws 2009, is amended to read:

24       468.936. (1) A person commits the crime of unlawful air pollution in the  
25 second degree if the person knowingly violates any applicable requirement  
26 of ORS chapter 468A or a permit, rule or order adopted or issued under ORS  
27 chapter 468A.

28       (2) [*Notwithstanding ORS 161.515 and*] Subject to ORS 153.022, unlawful  
29 air pollution in the second degree is a [*criminal offense*] **specific fine vio-**  
30 **lation** punishable [*solely*] by a fine of [*up to*] **not more than \$25,000.**

31       **SECTION 87.** ORS 471.410 is amended to read:

1 471.410. (1) A person may not sell, give or otherwise make available any  
2 alcoholic liquor to any person who is visibly intoxicated.

3 (2) No one other than the person's parent or guardian may sell, give or  
4 otherwise make available any alcoholic liquor to a person under the age of  
5 21 years. A parent or guardian may give or otherwise make alcoholic liquor  
6 available to a person under the age of 21 years only if the person is in a  
7 private residence and is accompanied by the parent or guardian. A person  
8 violates this subsection who sells, gives or otherwise makes available alco-  
9 holic liquor to a person with the knowledge that the person to whom the  
10 liquor is made available will violate this subsection.

11 (3)(a) A person who exercises control over private real property may not  
12 knowingly allow any other person under the age of 21 years who is not a  
13 child or minor ward of the person to consume alcoholic liquor on the prop-  
14 erty, or allow any other person under the age of 21 years who is not a child  
15 or minor ward of the person to remain on the property if the person under  
16 the age of 21 years consumes alcoholic liquor on the property.

17 (b) This subsection:

18 (A) Applies only to a person who is present and in control of the location  
19 at the time the consumption occurs;

20 (B) Does not apply to the owner of rental property, or the agent of an  
21 owner of rental property, unless the consumption occurs in the individual  
22 unit in which the owner or agent resides; and

23 (C) Does not apply to a person who exercises control over a private resi-  
24 dence if the liquor consumed by the person under the age of 21 years is  
25 supplied only by an accompanying parent or guardian.

26 (4) This section does not apply to sacramental wine given or provided as  
27 part of a religious rite or service.

28 (5) Except as provided in subsection (6) of this section, a person who vi-  
29 olates subsection (1) or (2) of this section commits a Class A misdemeanor.  
30 Upon violation of subsection (2) of this section, the court shall impose at  
31 least a mandatory minimum sentence as follows:

1 (a) Upon a first conviction, a fine of at least \$500.

2 (b) Upon a second conviction, a fine of at least \$1,000.

3 (c) Upon a third or subsequent conviction, a fine of at least \$1,500 and  
4 not less than 30 days of imprisonment.

5 (6)(a) A person who violates subsection (2) of this section is subject to a  
6 mandatory minimum penalty under this subsection if the person does not act  
7 knowingly or intentionally and:

8 (A) Is licensed or appointed under this chapter; or

9 (B) Is an employee of a person licensed or appointed under this chapter  
10 and holds a valid service permit or has attended a program approved by the  
11 Oregon Liquor Control Commission that provides training to avoid violations  
12 of this section.

13 (b) For a person described in paragraph (a) of this subsection:

14 (A) A first conviction is a Class A violation. [*The court shall impose a*  
15 *mandatory fine of not less than \$350.*]

16 (B) A second conviction is a [*Class A*] **specific fine violation, and the**  
17 **presumptive fine for the violation is \$720.** [*The court shall impose a*  
18 *mandatory fine of not less than \$720.*]

19 (C) A third conviction is a Class A misdemeanor. The court shall impose  
20 a mandatory fine of not less than \$1,000.

21 (D) A fourth or subsequent conviction is a Class A misdemeanor. The  
22 court shall impose a mandatory fine of not less than \$1,000 and a mandatory  
23 sentence of not less than 30 days of imprisonment.

24 (7) The court may waive an amount that is at least \$200 but not more  
25 than one-third of the fine imposed under subsection (5) of this section, if the  
26 violator performs at least 30 hours of community service.

27 (8) Except as provided in subsection (7) of this section, the court may not  
28 waive or suspend imposition or execution of the mandatory minimum sen-  
29 tence required by subsection (5) or (6) of this section. In addition to the  
30 mandatory sentence, the court may require the violator to make restitution  
31 for any damages to property where the alcoholic liquor was illegally con-

1 sumed or may require participation in volunteer service to a community  
2 service agency.

3 (9)(a) **Except as provided in paragraph (b) of this subsection**, a per-  
4 son who violates subsection (3) of this section commits a **Class A** violation.  
5 [*Upon violation of subsection (3) of this section, the court shall impose at least*  
6 *a mandatory minimum fine as follows:*]

7 [(a) *Upon a first conviction, a fine of \$350.*]

8 [(b) *Upon a second or subsequent conviction, a fine of \$1,000.*]

9 **(b) A second or subsequent violation of subsection (3) of this section**  
10 **is a specific fine violation, and the presumptive fine for the violation**  
11 **is \$1,000.**

12 (10) Nothing in this section prohibits any licensee under this chapter from  
13 allowing a person who is visibly intoxicated from remaining on the licensed  
14 premises so long as the person is not sold or served any alcoholic liquor.

15 **SECTION 88.** ORS 475.860 is amended to read:

16 475.860. (1) It is unlawful for any person to deliver marijuana.

17 (2) Unlawful delivery of marijuana is a:

18 (a) Class B felony if the delivery is for consideration.

19 (b) Class C felony if the delivery is for no consideration.

20 (3) Notwithstanding subsection (2) of this section, unlawful delivery of  
21 marijuana is a:

22 (a) Class A misdemeanor, if the delivery is for no consideration and con-  
23 sists of less than one avoirdupois ounce of the dried leaves, stems and flow-  
24 ers of the plant Cannabis family Moraceae; or

25 (b) Violation, if the delivery is for no consideration and consists of less  
26 than five grams of the dried leaves, stems and flowers of the plant Cannabis  
27 family Moraceae. A violation under this paragraph is [*punishable by a fine*  
28 *of not less than \$500 and not more than \$1,000*] **a specific fine violation.**

29 [*Fines collected under this paragraph shall be forwarded to the Department*  
30 *of Revenue for deposit in the Criminal Fine and Assessment Account estab-*  
31 *lished in ORS 137.300.*] **The presumptive fine for a violation under this**

1 **paragraph is \$650.**

2 (4) Notwithstanding subsections (2) and (3) of this section, unlawful de-  
3 livery of marijuana is a:

4 (a) Class A felony, if the delivery is to a person under 18 years of age and  
5 the defendant is at least 18 years of age and is at least three years older than  
6 the person to whom the marijuana is delivered; or

7 (b) Class C misdemeanor, if the delivery:

8 (A) Is for no consideration;

9 (B) Consists of less than five grams of the dried leaves, stems and flowers  
10 of the plant Cannabis family Moraceae;

11 (C) Takes place in a public place, as defined in ORS 161.015, that is within  
12 1,000 feet of the real property comprising a public or private elementary,  
13 secondary or career school attended primarily by minors; and

14 (D) Is to a person who is 18 years of age or older.

15 **SECTION 89.** ORS 475.864 is amended to read:

16 475.864. (1) It is unlawful for any person knowingly or intentionally to  
17 possess marijuana.

18 (2) Unlawful possession of marijuana is a Class B felony.

19 (3) Notwithstanding subsection (2) of this section, unlawful possession of  
20 marijuana is a violation if the amount possessed is less than one avoirdupois  
21 ounce of the dried leaves, stems and flowers of the plant Cannabis family  
22 Moraceae. A violation under this subsection is [*punishable by a fine of not*  
23 *less than \$500 and not more than \$1,000*] **a specific fine violation.** [*Fines*  
24 *collected under this subsection shall be forwarded to the Department of Reve-*  
25 *nue for deposit in the Criminal Fine and Assessment Account established un-*  
26 *der ORS 137.300.*] **The presumptive fine for a violation under this**  
27 **subsection is \$650.**

28 (4) Notwithstanding subsections (2) and (3) of this section, unlawful pos-  
29 session of marijuana is a Class C misdemeanor if the amount possessed is  
30 less than one avoirdupois ounce of the dried leaves, stems and flowers of the  
31 plant Cannabis family Moraceae and the possession takes place in a public

1 place, as defined in ORS 161.015, that is within 1,000 feet of the real property  
 2 comprising a public or private elementary, secondary or career school at-  
 3 tended primarily by minors.

4 **SECTION 90.** ORS 498.993 is amended to read:

5 498.993. Violation of any provision of ORS 498.029 or 498.400 to 498.464  
 6 is a Class A violation, if committed by an individual. If the violation is  
 7 committed by any person other than an individual, violation of any provision  
 8 of ORS 498.029 or 498.400 to 498.464 is a **specific fine** violation punishable  
 9 by a fine not to exceed \$10,000.

10 **SECTION 90a.** ORS 565.630 is amended to read:

11 565.630. The State Parks and Recreation Director, any county fair board  
 12 and every society mentioned in ORS 565.610 may regulate its prices of ad-  
 13 mission, licenses and all matters pertaining to the conduct of its annual  
 14 fairs, exhibitions or other public events or meetings. The penalty for vio-  
 15 lation of its rules and regulations is *[as provided by ORS 565.990 (2)]* a **Class**  
 16 **D violation.**

17 **SECTION 91.** ORS 565.990 is amended to read:

18 565.990. *[(1)]* Violation of ORS 565.610 **or 565.620** is a Class D violation.  
 19 *[Any person who, after conviction and fine for a violation of ORS 565.610, re-*  
 20 *peats the offense shall, upon conviction, be fined double the maximum amount*  
 21 *imposed by this subsection for the first violation.]*

22 *[(2) Violation of ORS 565.620 is punishable, upon conviction, by a fine of*  
 23 *\$5.]*

24 **SECTION 92.** ORS 686.990 is amended to read:

25 686.990. (1) Violation of ORS 686.020 (1)(a) is a Class A misdemeanor.

26 (2) In addition to any other sanction imposed by law, the Oregon State  
 27 Veterinary Medical Examining Board may impose a civil penalty not to ex-  
 28 ceed \$5,000 for each violation of ORS 686.020 (1).

29 (3) Failure to file a report of suspected aggravated animal abuse as re-  
 30 quired by ORS 686.455 is *[punishable by a fine of not more than \$1,000]* a  
 31 **Class A violation.**

1        **SECTION 93.** ORS 757.990 is amended to read:

2        757.990. (1) Any person or municipality, or their agents, lessees, trustees  
3 or receivers, who omits, fails or refuses to do any act required by ORS  
4 757.035, or fails to comply with any orders, rules or regulations of the Public  
5 Utility Commission made in pursuance of ORS 757.035, shall forfeit and pay  
6 into the State Treasury a sum of not less than \$100, nor more than \$10,000  
7 for each such offense.

8        (2) Any public utility, **or an officer or agent of a public utility**, vio-  
9 lating ORS 757.310 commits a Class A violation [*and upon conviction the*  
10 *court shall impose a fine of not less than \$100*]. [*Violation of ORS 757.310 by*  
11 *an officer or agent of a public utility is punishable, upon conviction, by a fine*  
12 *of not less than \$50 nor more than \$100 for each offense.*]

13        [(3) Any person violating ORS 757.325 shall, upon conviction, forfeit and  
14 pay to the State Treasurer not less than \$100 and not more than \$10,000 for  
15 each offense. Violation of ORS 757.325 by any agent or officer of any public  
16 utility or person is punishable, upon conviction, by a fine of not less than \$100  
17 and not more than \$1,000 for each offense.]

18        **(3) Violation of ORS 757.325 is a Class A violation. Notwithstanding**  
19 **ORS 153.018, if a person other than an individual commits the vio-**  
20 **lation, the maximum fine for the violation is \$10,000.**

21        (4) Violation of ORS 757.330 is a Class A violation.

22        (5) Violation of ORS 757.445 is [*punishable, upon conviction, by a fine of*  
23 *not less than \$500 nor*] **a specific fine violation subject to a fine of not**  
24 **more than \$20,000 for each offense.**

25        (6) Violation of ORS 757.450 is a **Class C** felony and is punishable[, *upon*  
26 *conviction, by a fine of not less than \$1,000 nor more than \$20,000, or by*  
27 *imprisonment in the custody of the Department of Corrections for not less than*  
28 *one nor more than five years, or both*].

29        **SECTION 94.** ORS 759.990 is amended to read:

30        759.990. (1) Any telecommunications utility violating ORS 759.260 commits  
31 a Class A violation[, *and upon conviction the court shall impose a fine of not*

1 *less than \$100*]. Violation of ORS 759.260 by an officer or agent of a tele-  
2 communications utility is a Class D violation.

3 (2) *[Any person violating ORS 759.275 shall, upon conviction, forfeit and*  
4 *pay to the State Treasurer not less than \$100 and not more than \$10,000 for*  
5 *each offense. Violation of ORS 759.275 by any agent or officer of any telecom-*  
6 *munications utility or person is punishable, upon conviction, by a fine of not*  
7 *less than \$100 and not more than \$1,000 for each offense.]* **Violation of ORS**  
8 **759.275 is a specific fine violation punishable by a fine of not more than**  
9 **\$10,000.**

10 (3) Violation of ORS 759.280 is a Class A violation.

11 (4) Violation of ORS 759.355 is a **specific fine violation** punishable[,  
12 *upon conviction,]* by a fine of not [*less than \$500 nor*] more than \$20,000 [*for*  
13 *each offense*].

14 (5) Violation of ORS 759.360 is a **Class C** felony [*and is punishable, upon*  
15 *conviction, by a fine of not less than \$1,000 nor more than \$20,000, or by*  
16 *imprisonment in the penitentiary for not less than one nor more than five*  
17 *years, or both*].

18 (6) A telecommunications carrier, as defined in ORS 759.400, shall forfeit  
19 a sum of not less than \$100 nor more than \$50,000 for each time that the  
20 carrier:

21 (a) Violates any statute administered by the Public Utility Commission;

22 (b) Commits any prohibited act, or fails to perform any duty enjoined  
23 upon the carrier by the commission;

24 (c) Fails to obey any lawful requirement or order made by the commis-  
25 sion; or

26 (d) Fails to obey any judgment made by any court upon the application  
27 of the commission.

28 (7) In construing and enforcing subsection (6) of this section, the act,  
29 omission or failure of any officer, agent or other person acting on behalf of  
30 or employed by a telecommunications carrier and acting within the scope of  
31 the person's employment shall in every case be deemed to be the act, omis-

1 sion or failure of such telecommunications carrier.

2 (8) Except when provided by law that a penalty, [*fine,*] forfeiture or other  
3 sum be paid to the aggrieved party, all penalties, [*finer,*] forfeitures or other  
4 sums collected or paid under subsection (6) of this section shall be paid into  
5 the General Fund and credited to the Public Utility Commission Account.

6 **SECTION 95.** ORS 777.990 is amended to read:

7 777.990. (1) Failure by a port treasurer, or county treasurer charged with  
8 the duties provided by ORS 777.515, to comply with the requirements of that  
9 section for a period of 10 days is a Class A violation[, *and upon conviction*  
10 *the court shall impose a fine of not less than \$500*].

11 (2) Subject to ORS 153.022, any person violating a regulation adopted by  
12 a port board under ORS 777.120 or 777.190 [*shall be guilty of*] **commits** a  
13 **Class A** misdemeanor [*and upon conviction shall be punished by a fine of not*  
14 *more than \$250*].

15 **SECTION 95a.** ORS 801.557 is amended to read:

16 801.557. "Traffic violation" means a traffic offense that is designated as  
17 a traffic violation in the statute defining the offense, or any other offense  
18 defined in the Oregon Vehicle Code that is punishable by a fine but that is  
19 not punishable by a term of imprisonment. Penalties for traffic violations are  
20 as provided for violations generally in ORS [*153.018*] **chapter 153**.

21 **SECTION 96.** ORS 811.109 is amended to read:

22 811.109. (1) Violation of a specific speed limit imposed under law or of a  
23 posted speed limit is punishable as follows:

24 (a) One to 10 miles per hour in excess of the speed limit is a Class D  
25 traffic violation.

26 (b) 11 to 20 miles per hour in excess of the speed limit is a Class C traffic  
27 violation.

28 (c) 21 to 30 miles per hour in excess of the speed limit is a Class B traffic  
29 violation.

30 (d) Over 30 miles per hour in excess of the speed limit is a Class A traffic  
31 violation.

1 (2) Notwithstanding subsection (1) of this section, if the speed limit is 65  
2 miles per hour or greater and:

3 (a) The person is exceeding the speed limit by 10 miles per hour or less,  
4 the offense is a Class C traffic violation.

5 (b) The person is exceeding the speed limit by more than 10 miles per hour  
6 but not more than 20 miles per hour, the offense is a Class B traffic vio-  
7 lation.

8 (c) The person is exceeding the speed limit by more than 20 miles per  
9 hour, the offense is a Class A traffic violation.

10 (3) Violation of the basic speed rule by exceeding a designated speed  
11 posted under ORS 810.180 is punishable as follows:

12 (a) One to 10 miles per hour in excess of the designated speed is a Class  
13 D traffic violation.

14 (b) 11 to 20 miles per hour in excess of the designated speed is a Class  
15 C traffic violation.

16 (c) 21 to 30 miles per hour in excess of the designated speed is a Class  
17 B traffic violation.

18 (d) Over 30 miles per hour in excess of the designated speed is a Class  
19 A traffic violation.

20 (4) In addition to a fine imposed under subsection (1), (2) or (3) of this  
21 section, a court may impose a suspension of driving privileges for up to 30  
22 days if a person exceeds a speed limit or designated speed by more than 30  
23 miles per hour and the person has received at least one prior conviction  
24 under ORS 811.100 or 811.111 within 12 months of the date of the current  
25 offense.

26 *[(5) If a person drives 100 miles per hour or greater when the person com-  
27 mits a violation described in this section, a court shall impose the following  
28 in lieu of a punishment otherwise imposed under this section:]*

29 *[(a) A fine of \$1,000; and]*

30 *[(b) A suspension of driving privileges for not less than 30 days nor more  
31 than 90 days.]*

1       **(5) If a person violates a specific speed limit imposed under law or**  
2 **a posted speed limit, and the person is driving 100 miles per hour or**  
3 **greater when the violation occurs, the person commits a specific fine**  
4 **traffic violation. The presumptive fine for a violation under this sub-**  
5 **section is \$1,150, and upon conviction the court shall order a suspen-**  
6 **sion of driving privileges for not less than 30 days nor more than 90**  
7 **days.**

8       (6) When a court imposes a suspension under subsection (4) or (5) of this  
9 section, the court shall prepare and send to the Department of Transporta-  
10 tion an order of suspension of driving privileges of the person. Upon receipt  
11 of an order under this subsection, the department shall take action as di-  
12 rected under ORS 809.280.

13       **SECTION 97.** ORS 811.182 is amended to read:

14       811.182. (1) A person commits the offense of criminal driving while sus-  
15 pended or revoked if the person violates ORS 811.175 and the suspension or  
16 revocation is one described in this section, or if the hardship or probationary  
17 permit violated is based upon a suspension or revocation described in sub-  
18 section (3) or (4) of this section.

19       (2) Affirmative defenses to the offense described in this section are es-  
20 tablished under ORS 811.180.

21       (3) The offense described in this section, criminal driving while suspended  
22 or revoked, is a Class B felony if the suspension or revocation resulted from  
23 any degree of murder, manslaughter, criminally negligent homicide or assault  
24 resulting from the operation of a motor vehicle, if the suspension or revo-  
25 cation resulted from aggravated vehicular homicide or aggravated driving  
26 while suspended or revoked or if the revocation resulted from a conviction  
27 for felony driving while under the influence of intoxicants.

28       (4) The offense described in this section, criminal driving while suspended  
29 or revoked, is a Class A misdemeanor if the suspension or revocation is any  
30 of the following:

31       (a) A suspension under ORS 809.411 (2) resulting from commission by the

1 driver of any degree of recklessly endangering another person, menacing or  
2 criminal mischief, resulting from the operation of a motor vehicle.

3 (b) A revocation under ORS 809.409 (4) resulting from perjury or the  
4 making of a false affidavit to the Department of Transportation.

5 (c) A suspension under ORS 813.410 resulting from refusal to take a test  
6 prescribed in ORS 813.100 or for taking a breath or blood test the result of  
7 which discloses a blood alcohol content of:

8 (A) 0.08 percent or more by weight if the person was not driving a com-  
9 mercial motor vehicle;

10 (B) 0.04 percent or more by weight if the person was driving a commercial  
11 motor vehicle; or

12 (C) Any amount if the person was under 21 years of age.

13 (d) A suspension of a commercial driver license under ORS 809.413 (1)  
14 resulting from failure to perform the duties of a driver under ORS 811.700  
15 while driving a commercial motor vehicle.

16 (e) A suspension of a commercial driver license under ORS 809.413 (12)  
17 where the person's commercial driving privileges have been suspended or  
18 revoked by the other jurisdiction for failure of or refusal to take a chemical  
19 test to determine the alcoholic content of the person's blood under a statute  
20 that is substantially similar to ORS 813.100.

21 (f) A suspension of a commercial driver license under ORS 809.404.

22 (g) A revocation resulting from habitual offender status under ORS  
23 809.640.

24 (h) A suspension resulting from any crime punishable as a felony with  
25 proof of a material element involving the operation of a motor vehicle, other  
26 than a crime described in subsection (3) of this section.

27 (i) A suspension for failure to perform the duties of a driver under ORS  
28 811.705.

29 (j) A suspension for reckless driving under ORS 811.140.

30 (k) A suspension for fleeing or attempting to elude a police officer under  
31 ORS 811.540.

1 (L) A suspension or revocation resulting from misdemeanor driving while  
2 under the influence of intoxicants under ORS 813.010.

3 (m) A suspension for use of a commercial motor vehicle in the commission  
4 of a crime punishable as a felony.

5 (5) In addition to any other sentence that may be imposed, if a person is  
6 convicted of the offense described in this section and the underlying sus-  
7 pension resulted from driving while under the influence of intoxicants, the  
8 court shall impose a **minimum** fine of at least \$1,000 if it is the person's  
9 first conviction for criminal driving while suspended or revoked and a  
10 **minimum fine of** at least \$2,000 if it is the person's second or subsequent  
11 conviction.

12 (6) The Oregon Criminal Justice Commission shall classify a violation of  
13 this section that is a felony as crime category 6 of the rules of the Oregon  
14 Criminal Justice Commission.

15 **SECTION 98.** ORS 811.590 is amended to read:

16 811.590. (1) A person commits the offense of unlawful parking in a winter  
17 recreation parking area if the person parks a vehicle in a location designated  
18 as a winter recreation parking area under ORS 810.170 at any time from  
19 November 1 of any year to April 30 of the next year and the vehicle is not  
20 displaying a winter recreation parking permit issued under ORS 811.595.

21 (2) Unless the police officer issuing the citation witnesses the parking of  
22 the vehicle, a rebuttable presumption exists that a vehicle parked in vio-  
23 lation of this section was parked by the registered owner of the vehicle. If  
24 the parking of the vehicle is witnessed by the police officer, the operator of  
25 the vehicle is in violation of this section.

26 (3) In addition to those vehicles displaying a winter recreation parking  
27 permit, the following vehicles are not subject to the prohibition or penalty  
28 under this section:

29 (a) A vehicle owned and operated by the United States, another state or  
30 a political subdivision thereof.

31 (b) A vehicle owned and operated by this state or by any city, district or

1 political subdivision thereof.

2 (c) A vehicle owned by a resident of another state if the vehicle displays  
3 a winter area parking permit issued in accordance with the laws of the state  
4 in which the owner of the vehicle resides and that is similar to the winter  
5 recreation parking permit issued under ORS 811.595. The exemption under  
6 this paragraph is only granted to the extent that a similar exemption or  
7 privilege is granted under the laws of the other state for vehicles displaying  
8 a winter recreation parking permit issued under ORS 811.595.

9 (4) The offense described in this section, unlawful parking in a winter  
10 recreation parking area, is [*punishable by a fine of \$30*] **a specific fine**  
11 **traffic violation. The presumptive fine for unlawful parking in a winter**  
12 **recreation parking area is \$30.**

13 **SECTION 99.** ORS 811.615 is amended to read:

14 811.615. (1) A person commits the offense of unlawful parking in a space  
15 reserved for persons with disabilities if:

16 (a) The person parks a vehicle in any parking space that is on private or  
17 public property and that is marked or signed to provide parking for persons  
18 with disabilities and the vehicle does not conspicuously display a disabled  
19 person parking permit described in ORS 811.602 or 811.606 or a disabled  
20 parking permit issued by another jurisdiction;

21 (b) The person parks a vehicle in the aisle required by ORS 447.233 re-  
22 gardless of whether or not the vehicle displays a disabled person parking  
23 permit; or

24 (c) The person parks a vehicle in a parking space that is on private or  
25 public property and that is marked or signed "Wheelchair User Only" as  
26 described in ORS 447.233 and the vehicle does not conspicuously display a  
27 "Wheelchair User" placard or decal issued under ORS 811.613.

28 (2) This section does not apply to any of the following:

29 (a) Momentarily parking a vehicle in a parking space marked or signed  
30 for persons with disabilities for the purposes of allowing a person with a  
31 disability to enter or leave the vehicle.

1 (b) Any parking space that is marked or signed to provide parking for  
2 persons with disabilities and that is subject to different provisions or re-  
3 quirements under city or county ordinance if the different provisions or re-  
4 quirements are clearly posted.

5 (3) Unless the police officer or other authorized person issuing the cita-  
6 tion witnesses the parking of the vehicle, a rebuttable presumption exists  
7 that a vehicle parked in violation of this section was parked by the regis-  
8 tered owner of the vehicle and the citation issued for the violation may be  
9 placed upon the vehicle. If the parking of the vehicle is witnessed by the  
10 police officer or other person authorized to issue a citation for the offense,  
11 the operator of the vehicle is in violation of this section.

12 (4) The penalties provided by this section shall be imposed regardless of  
13 the text or symbol displayed on the marking or sign reserving the space or  
14 aisle for persons with disabilities. The penalties are in addition to the fol-  
15 lowing:

16 (a) A vehicle parked on private property in violation of this section is  
17 subject to removal under ORS 98.810 and to lien and sale under ORS 98.812.

18 (b) A vehicle parked in violation of this section may be removed and sold  
19 as provided under ORS 811.620.

20 *[(5) The offense described in this section, unlawful parking in a space re-*  
21 *served for persons with disabilities, is a Class A traffic violation except that*  
22 *a person in violation of this section shall pay a minimum fine of \$190 for the*  
23 *first offense and a minimum fine of \$450 for each subsequent offense.]*

24 **(5)(a) Except as provided in paragraph (b) of this subsection, un-**  
25 **lawful parking in a space reserved for persons with disabilities is a**  
26 **Class C traffic violation.**

27 **(b) A second or subsequent conviction for unlawful parking in a**  
28 **space reserved for persons with disabilities is a Class A traffic vio-**  
29 **lation.**

30 *[(6) Notwithstanding any other provision of law and except as otherwise*  
31 *provided in subsection (7) of this section:]*

1        *[(a) A court may not suspend imposition or execution of a sentence to pay*  
2 *at least the minimum fine required by this section for a person's first offense*  
3 *unless the court finds from clear and convincing evidence that compelling cir-*  
4 *cumstances require a suspension of a portion of the fine in the interests of*  
5 *justice. In no event shall a court suspend under this paragraph more than*  
6 *\$140 of the minimum \$190 fine.]*

7        *[(b) A court may not suspend imposition or execution of a sentence to pay*  
8 *a fine for a second or subsequent offense.]*

9        *[(7) If the court finds that the person who was issued a citation for the of-*  
10 *fense described in this section lawfully held, but failed to properly display, a*  
11 *valid permit at the time of citation, then the court may suspend all but \$20 of*  
12 *the fine.]*

13        **SECTION 99a.** ORS 811.617 is amended to read:

14        811.617. (1) A person commits the offense of blocking a parking space re-  
15 served for persons with disabilities if the person:

16        (a) Stops or parks a vehicle in such a way as to block access to a parking  
17 space that is on private or public property and that is marked or signed to  
18 provide parking for persons with disabilities; or

19        (b) Places an object or allows an object to be placed in such a manner  
20 that it blocks access to a parking space that is on private or public property  
21 and that is marked or signed to provide parking for persons with disabilities.

22        (2)(a) Unless the police officer or other authorized person issuing the ci-  
23 tation witnesses the stopping or parking of a vehicle in violation of sub-  
24 section (1)(a) of this section, there is a rebuttable presumption that the  
25 vehicle was stopped or parked by the registered owner of the vehicle and a  
26 citation issued for the violation may be placed upon the vehicle. If the  
27 stopping or parking of the vehicle is witnessed by the police officer or other  
28 person authorized to issue a citation for the offense, or if the operator is in  
29 the vehicle, the operator of the vehicle is in violation of this section.

30        (b) Unless the police officer or other authorized person issuing the cita-  
31 tion witnesses the blocking of a parking space in violation of subsection

1 (1)(b) of this section, there is a rebuttable presumption that the owner or  
2 manager of the parking lot placed or allowed placement of the object block-  
3 ing access to the parking space and a citation may be issued to the owner  
4 or manager of the parking lot. If a police officer or other person issuing the  
5 citation sees a person placing an object in violation of subsection (1)(b) of  
6 this section, the officer or other person may issue the citation to the person  
7 seen.

8 (3) For purposes of this section, a parking space includes any adjacent  
9 access aisle as described in ORS 447.233.

10 (4) The offense described in this section, blocking a parking space re-  
11 served for persons with disabilities, is a Class D traffic violation [*except that*  
12 *a person in violation of this section shall pay a minimum fine of \$50*]. [*Not-*  
13 *withstanding any other provision of law, a court may not suspend imposition*  
14 *or execution of a sentence to pay at least the minimum fine required by this*  
15 *section unless the court finds that the defendant is indigent.*]

16 **SECTION 100.** ORS 811.625 is amended to read:

17 811.625. (1) A person commits the offense of unlawful use of a disabled  
18 person parking permit if the person:

19 (a) Is not a person with a disability and is not transporting the holder  
20 of a disabled person parking permit to or from the parking location; and

21 (b) Uses a disabled person parking permit described under ORS 811.602  
22 or 811.606 to exercise any privileges granted under ORS 811.635.

23 [(2) *The offense described in this section, unlawful use of a disabled person*  
24 *parking permit, is a Class A traffic violation except that a person in violation*  
25 *of this section shall pay a minimum fine of \$450. Notwithstanding any other*  
26 *provision of law, a court may not suspend imposition or execution of a sentence*  
27 *to pay at least the minimum fine required by this section.*]

28 **(2) Except as provided in subsection (3) of this section, unlawful use**  
29 **of a disabled person parking permit is a Class C traffic violation.**

30 **(3) A second or subsequent conviction for unlawful use of a disabled**  
31 **person parking permit is a Class A traffic violation.**

1       **SECTION 100a.** ORS 811.627 is amended to read:

2       811.627. (1) A person commits the offense of use of an invalid disabled  
3 person parking permit if the person uses a permit that is not a valid permit  
4 from another jurisdiction, and that:

5       (a) Has been previously reported as lost or stolen;

6       (b) Has been altered;

7       (c) Was issued to a person who is deceased at the time of the citation;

8       (d) Has not been issued under ORS 811.602;

9       (e) Is a photocopy or other reproduction of a permit, regardless of the  
10 permit status; or

11       (f) Is mutilated or illegible.

12       (2) Unless the police officer or other authorized person issuing the cita-  
13 tion witnesses the parking of the vehicle, a rebuttable presumption exists  
14 that a vehicle parked in violation of this section was parked by the regis-  
15 tered owner of the vehicle and the citation issued for the violation may be  
16 placed upon the vehicle. If the parking of the vehicle is witnessed by the  
17 police officer or other person authorized to issue a citation for the offense,  
18 the operator of the vehicle is in violation of this section.

19       (3) The offense described in this section, use of an invalid disabled person  
20 parking permit, is a Class A traffic violation [*except that a person in violation*  
21 *of this section shall pay a minimum fine of \$450*]. [*Notwithstanding any other*  
22 *provision of law and except as provided in subsection (5) of this section, a*  
23 *court may not suspend imposition or execution of a sentence to pay at least the*  
24 *minimum fine required by this section.*]

25       (4) If the court finds that a person committed the offense described in this  
26 section, the court shall collect the permit and return it to the Department  
27 of Transportation for destruction unless the person claims the permit was  
28 lost or destroyed, or the police officer or other person authorized to issue a  
29 citation for the offense collected the permit.

30       (5) If the court finds that a person committed the offense described in this  
31 section by using a permit that was mutilated or illegible, the court may as-

1 sess any fine it deems appropriate up to the maximum amount allowable for  
2 the offense. If the mutilated or illegible permit has been replaced by the de-  
3 partment, the court may dismiss the citation.

4 **SECTION 101.** ORS 811.630 is amended to read:

5 811.630. (1) A person commits the offense of misuse of a program placard  
6 if the person:

7 (a) Is the driver of a vehicle that is being used as part of a program for  
8 the transportation of persons with disabilities; and

9 (b) Uses a program placard described under ORS 811.607 for any purpose  
10 other than exercising privileges granted under ORS 811.637.

11 *[(2) The offense described in this section, misuse of a program placard, is*  
12 *a Class A traffic violation except that a person in violation of this section shall*  
13 *pay a minimum fine of \$190 for a first offense and a minimum fine of \$450 for*  
14 *each subsequent offense. Notwithstanding any other provision of law, a court*  
15 *may not suspend imposition or execution of a sentence to pay at least the*  
16 *minimum fine required by this section.]*

17 **(2) Except as provided in subsection (3) of this section, misuse of a**  
18 **program placard is a Class C traffic violation.**

19 **(3) A second or subsequent conviction for misuse of a program**  
20 **placard is a Class A traffic violation.**

21 **SECTION 102.** ORS 813.095 is amended to read:

22 813.095. (1) A person commits the offense of refusal to take a test for  
23 intoxicants if the person refuses to:

24 (a) Take a breath test when requested to do so in accordance with the  
25 provisions of ORS 813.100; or

26 (b) Take a urine test when requested to do so in accordance with the  
27 provisions of ORS 813.131 and 813.132.

28 (2) The offense described in this section, refusal to take a test for  
29 intoxicants, is a **specific fine** traffic *[offense punishable by a fine of at least*  
30 *\$500 and not more than \$1,000]* **violation. The presumptive fine for refusal**  
31 **to take a test for intoxicants is \$650.** The fine described in this section

1 is in addition to any other consequence prescribed by law for refusal to take  
2 a test for intoxicants.

3 **SECTION 103.** ORS 814.485 is amended to read:

4 814.485. (1) A person commits the offense of failure of a bicycle operator  
5 or rider to wear protective headgear if the person is under 16 years of age,  
6 operates or rides on a bicycle on a highway or on premises open to the public  
7 and is not wearing protective headgear of a type approved under ORS  
8 815.052.

9 (2) Exemptions from this section are as provided in ORS 814.487.

10 (3) The offense described in this section, failure of a bicycle operator or  
11 rider to wear protective headgear, is a **specific fine** traffic violation  
12 [*punishable by a maximum fine of \$25*]. **The presumptive fine for failure**  
13 **of a bicycle operator or rider to wear protective headgear is \$25.**

14 **SECTION 104.** ORS 814.486 is amended to read:

15 814.486. (1) A person commits the offense of endangering a bicycle opera-  
16 tor or passenger if:

17 (a) The person is operating a bicycle on a highway or on premises open  
18 to the public and the person carries another person on the bicycle who is  
19 under 16 years of age and is not wearing protective headgear of a type ap-  
20 proved under ORS 815.052; or

21 (b) The person is the parent, legal guardian or person with legal respon-  
22 sibility for the safety and welfare of a child under 16 years of age and the  
23 child operates or rides on a bicycle on a highway or on premises open to the  
24 public without wearing protective headgear of a type approved under ORS  
25 815.052.

26 (2) Exemptions from this section are as provided in ORS 814.487.

27 (3) The offense described in this section, endangering a bicycle operator  
28 or passenger, is a **specific fine** traffic violation [*punishable by a maximum*  
29 *fine of \$25*]. **The presumptive fine for endangering a bicycle operator**  
30 **or passenger is \$25.**

31 **SECTION 105.** ORS 814.534 is amended to read:

1 814.534. (1) A person commits the offense of failure of a motor assisted  
2 scooter operator to wear protective headgear if the person operates a motor  
3 assisted scooter on a highway or on premises open to the public and is not  
4 wearing protective headgear of a type approved under ORS 815.052.

5 (2) A person is exempt from the protective headgear requirement of sub-  
6 section (1) of this section if wearing the headgear would violate a religious  
7 belief or practice of the person.

8 (3) The first time a person is convicted of an offense under this section,  
9 the person may not be required to pay a fine if the person proves to the  
10 satisfaction of the court that the person has protective headgear of a type  
11 approved under ORS 815.052.

12 (4) The offense described in this section, failure of a motor assisted  
13 scooter operator to wear protective headgear, is a **specific fine** traffic vio-  
14 lation [*punishable by a maximum fine of \$25*]. **The presumptive fine for**  
15 **failure of a motor assisted scooter operator to wear protective**  
16 **headgear is \$25.**

17 **SECTION 106.** ORS 814.536 is amended to read:

18 814.536. (1) A person commits the offense of endangering a motor assisted  
19 scooter operator if the person is the parent, legal guardian or person with  
20 legal responsibility for the safety and welfare of a child under 16 years of  
21 age and authorizes or knowingly permits the child to operate a motor as-  
22 sisted scooter in violation of ORS 814.512 (1)(a).

23 (2) The offense described in this section, endangering a motor assisted  
24 scooter operator, is a **specific fine** traffic violation [*punishable by a maxi-*  
25 *mum fine of \$25*]. **The presumptive fine for endangering a motor assisted**  
26 **scooter operator is \$25.**

27 **SECTION 107.** ORS 814.600 is amended to read:

28 814.600. (1) A person commits the offense of failure of a skateboarder,  
29 scooter rider or in-line skater to wear protective headgear if the person is  
30 under 16 years of age, rides on a skateboard or scooter or uses in-line skates  
31 on a highway or on premises open to the public and is not wearing protective

1 headgear of a type approved under ORS 815.052.

2 (2) The offense described in this section, failure of a skateboarder, scooter  
3 rider or in-line skater to wear protective headgear, is a **specific fine** traffic  
4 violation punishable by a maximum fine of \$25. **The presumptive fine for**  
5 **failure of a skateboarder, scooter rider or in-line skater to wear pro-**  
6 **TECTIVE HEADGEAR IS \$25.**

7 **SECTION 108.** ORS 818.430 is amended to read:

8 818.430. This section establishes schedules of [*penalties*] **presumptive**  
9 **FINES** for violations of maximum weight requirements under the vehicle code.  
10 The particular schedule applicable is the schedule designated in the section  
11 establishing the offense. Upon conviction, a person is punishable by a fine  
12 and other penalty established in the schedule. Fines are based upon the ex-  
13 cess weight by which any loaded weight exceeds the applicable loaded weight  
14 authorized in the provision, permit, order or resolution the person violates.  
15 The schedules are as follows:

16 (1) Except as provided in subsection (2) of this section, the [*penalties*]  
17 **presumptive fines** under Schedule I are as provided in this subsection. If  
18 the excess weight is:

19 (a) One thousand pounds or less, [*by a fine of \$5*] **the presumptive fine**  
20 **is \$\_\_\_\_\_.**

21 (b) More than 1,000 pounds, but not in excess of 2,000 pounds, [*by a fine*  
22 *of not less than \$30*] **the presumptive fine is \$\_\_\_\_\_.**

23 (c) More than 2,000 pounds, but not in excess of 3,000 pounds, [*by a fine*  
24 *of not more than*] **the presumptive fine is an amount equal to** three cents  
25 per pound for each pound of the excess weight.

26 (d) More than 3,000 pounds, but not in excess of 5,000 pounds, [*the fine*  
27 *shall be*] **the presumptive fine is an amount equal to** five cents per pound  
28 for each pound of the excess weight.

29 (e) More than 5,000 pounds, but not in excess of 7,500 pounds, [*the fine*  
30 *shall be*] **the presumptive fine is an amount equal to** 13 cents per pound  
31 for each pound of the excess weight.

1 (f) More than 7,500 pounds, but not in excess of 10,000 pounds, [*the fine*  
2 *shall be*] **the presumptive fine is an amount equal to** 15 cents per pound  
3 for each pound of the excess weight.

4 (g) More than 10,000 pounds, but not in excess of 12,500 pounds, [*the fine*  
5 *shall be*] **the presumptive fine is an amount equal to** 19 cents for each  
6 pound of the excess weight.

7 (h) More than 12,500 pounds over the allowable weight, **the presumptive**  
8 **fine is an amount equal to** 24 cents per pound for each pound of excess  
9 weight.

10 (2) The [*penalties*] **presumptive fines** under Schedule I for trucks that  
11 are described in this subsection shall be one-half the amount stated in sub-  
12 section (1) of this section[, *except that the penalty may not be less than \$5*].  
13 This subsection applies to trucks that are all of the following:

- 14 (a) Registered as farm vehicles under ORS 805.300;
- 15 (b) Transporting agricultural products;
- 16 (c) Loaded in the field without benefit of a scale; and
- 17 (d) Not more than 3,000 pounds over the maximum weight limit.

18 (3) The [*penalties*] **presumptive fines** under Schedule II are as provided  
19 in this subsection. If the excess weight is:

20 (a) One hundred pounds, but not in excess of 5,000 pounds, [*the fine shall*  
21 *be*] **the presumptive fine is an amount equal to** \$100 plus 10 cents per  
22 pound of the excess weight.

23 (b) More than 5,000 pounds, but not in excess of 10,000 pounds, [*the fine*  
24 *shall be*] **the presumptive fine is an amount equal to** \$250 plus 15 cents  
25 per pound of the excess weight.

26 (c) More than 10,000 pounds, [*the fine shall be*] **the presumptive fine is**  
27 **an amount equal to** \$500 plus 30 cents per pound of the excess weight.

28 (4) [*The per pound penalty in subsection (3) of this section shall be waived*  
29 *by the court and the fine*] **Notwithstanding section 4 of this 2011 Act, the**  
30 **fine imposed under subsection (3) of this section** shall be not more than  
31 \$100 if a person charged with an offense punishable under Schedule II

1 produces in court a second valid variance permit issued under ORS 818.200  
2 authorizing a loaded weight equal to or greater than the actual loaded  
3 weight of the vehicle, combination of vehicles, axle, tandem axles or group  
4 of axles upon which the citation was based.

5 (5) The penalties under Schedule III are as provided in this subsection and  
6 are in addition to any suspension of operator's license under ORS 809.120 or  
7 any suspension of vehicle registration under ORS 809.120. If the excess  
8 weight is:

9 (a) One hundred pounds, but not in excess of 5,000 pounds, the  
10 **presumptive** fine shall be \$100 plus 15 cents per pound for each pound of  
11 the excess weight.

12 (b) More than 5,000 pounds but not in excess of 10,000 pounds, the  
13 **presumptive** fine shall be \$250 plus 20 cents per pound for each pound of  
14 excess weight.

15 (c) More than 10,000 pounds, the [*penalty shall be a fine of \$500 plus 30*  
16 *cents per pound for each pound of excess weight or imprisonment in the county*  
17 *or municipal jail for not less than 30 days nor more than 60 days, or both*]  
18 **operator commits a Class C misdemeanor.**

19 **SECTION 109.** ORS 824.992 is amended to read:

20 824.992. (1) Violation of ORS 824.062 is a Class D violation.

21 (2) Violation of ORS 824.064 is a **Class A** misdemeanor.

22 (3) Violation of ORS 824.082 (1), 824.084 or 824.088 by a railroad is a Class  
23 A violation.

24 (4) Violation of ORS 824.082 (2) is a Class A violation.

25 (5) As used in subsection (3) of this section, "railroad" means a railroad  
26 as defined by ORS 824.020 and 824.022.

27 (6) Subject to ORS 153.022, violation of ORS 824.104 (1), 824.106 or 824.108  
28 or any rule promulgated pursuant thereto is a Class A violation[, *and upon*  
29 *conviction the court shall impose a fine of not less than \$100*].

30 (7) A person is subject to the penalties under subsection (8) of this section  
31 if the person knowingly:

1 (a) Transports by railroad any hazardous waste listed under ORS 466.005  
2 or rules adopted thereunder to a facility that does not have appropriate au-  
3 thority to receive the waste under ORS 466.005 to 466.385 and 466.992.

4 (b) Disposes of any hazardous waste listed under ORS 466.005 or rules  
5 adopted thereunder without appropriate authority under ORS 466.005 to  
6 466.385 and 466.992.

7 (c) Materially violates any terms of permit or authority issued to the  
8 person under ORS 466.005 to 466.385 and 466.992 in the transporting or dis-  
9 posing of hazardous waste.

10 (d) Makes any false material statement or representation in any applica-  
11 tion, label, manifest, record, report, permit or other document filed, main-  
12 tained or used for purposes of compliance with requirements under ORS  
13 824.050 to 824.110 for the safe transportation of hazardous wastes.

14 (e) Violates any rules adopted by the Department of Transportation con-  
15 cerning the transportation of hazardous wastes.

16 (8) Subject to ORS 153.022, violation of subsection (7) of this section is  
17 [*subject to the penalty of a fine of not more than \$10,000 for each day of vio-*  
18 *lation, imprisonment of not more than six months, or both*] **a Class B**  
19 **misdemeanor. Each day's violation is a separate offense.**

20 (9) Violation of ORS 824.300 or 824.302 is a Class D violation.

21 (10) Violation of ORS 824.304 is [*punishable, upon conviction, by a fine of*  
22 *not less than \$500 nor more than \$2,000*] **a Class A violation.**

23 (11) Violation of ORS 824.306 by any railroad company or officer or agent  
24 thereof, or any other person is a Class D violation. Each day's violation is  
25 a separate offense.

26 **SECTION 110. The amendments to ORS 163.575, 165.107, 167.808,**  
27 **208.990, 308.990, 311.990, 433.855, 433.990, 468.936, 471.410, 475.860, 475.864,**  
28 **498.993, 565.630, 565.990, 686.990, 757.990, 759.990, 777.990, 801.557, 811.109,**  
29 **811.182, 811.590, 811.615, 811.617, 811.625, 811.627, 811.630, 813.095, 814.485,**  
30 **814.486, 814.534, 814.536, 814.600, 818.430 and 824.992 by sections 79 to 109**  
31 **of this 2011 Act apply only to offenses committed on or after the ef-**

1 **fective date of this 2011 Act. Any offense committed before the effec-**  
2 **tive date of this 2011 Act shall continue to be governed by ORS 163.575,**  
3 **165.107, 167.808, 208.990, 308.990, 311.990, 433.855, 433.990, 468.936, 471.410,**  
4 **475.860, 475.864, 498.993, 565.630, 565.990, 686.990, 757.990, 759.990, 777.990,**  
5 **811.109, 811.182, 811.590, 811.615, 811.625, 811.630, 813.095, 814.485, 814.486,**  
6 **814.534, 814.536, 814.600, 818.430 and 824.992 as in effect immediately be-**  
7 **fore the effective date of this 2011 Act.**

8  
9 **CONFORMING AMENDMENTS FOR PRESUMPTIVE FINE**

10  
11 **SECTION 111.** ORS 153.025 is amended to read:

12 153.025. (1) If a statute provides that violation of the ordinances of a  
13 political subdivision of this state constitutes an offense, as described in ORS  
14 161.505, the political subdivision may by ordinance specify that violation of  
15 a specific ordinance of the political subdivision is subject to a specific fine,  
16 or a specific maximum fine, that is less in amount than the maximum fine  
17 for the offense specified by the statute. In addition, the political subdivision  
18 may specify that violation of the specific ordinance is a Class A, B, C or D  
19 violation under the provisions of ORS 153.012 as long as the class specified  
20 in the ordinance is lower than the statutory classification for the offense.

21 (2) Nothing in this section requires a political subdivision to use the  
22 classifications established by ORS 153.012 or to use the [*base fine amount*  
23 *calculated under ORS 153.125 to 153.145*] **presumptive fines established**  
24 **under sections 2 and 3 of this 2011 Act** for violations of ordinances  
25 adopted by the political subdivision.

26 **SECTION 112.** ORS 801.145 is repealed.

27 **SECTION 113.** ORS 809.220 is amended to read:

28 809.220. This section establishes procedures that are applicable if a person  
29 fails to appear on a citation for a traffic offense or for a violation of ORS  
30 471.430. All of the following apply to this section:

31 (1) If a defendant fails to make any appearance required by the court or

1 by law in a proceeding charging the defendant with a traffic offense or with  
2 a violation of ORS 471.430, the court:

3 (a) Shall issue notice to the Department of Transportation to suspend for  
4 failure to appear if the defendant is charged with a traffic crime or with a  
5 violation of ORS 471.430. If a court issues notice under this paragraph, the  
6 department shall suspend the driving privileges of the person as provided  
7 under ORS 809.280.

8 (b) Shall issue notice to the department to implement procedures under  
9 ORS 809.416 if the defendant is charged with a traffic violation. If a court  
10 issues notice under this paragraph, the department shall implement proce-  
11 dures under ORS 809.416.

12 (2) In any notice to the department under this section, a court shall cer-  
13 tify that the defendant failed to appear in the proceedings in the manner  
14 required by the court or by law.

15 (3) At any time within 10 years from the date of a notice to suspend for  
16 failure to appear given to the department under this section, a court shall  
17 give a second notice to the department to terminate a suspension resulting  
18 from the original notice if any of the following occur:

19 (a) The [*base fine amount or*] fine [*set by the court*] **for the offense** is  
20 paid.

21 (b) The court finds the defendant not guilty or orders a dismissal of the  
22 case.

23 (c) The court determines that the suspension for failure to pay or appear  
24 should be terminated for good cause.

25 (4) Notifications by a court to the department under this section shall be  
26 in a form prescribed by the department.

27 (5) A court shall not notify the department under this section for failure  
28 to appear on any parking, pedestrian or bicyclist offense.

29 **SECTION 114.** ORS 811.230 is amended to read:

30 811.230. (1) As used in ORS 811.230, 811.231, 811.232 and 811.233:

31 (a) "Flagger" means a person who controls the movement of vehicular

1 traffic through construction projects using sign, hand or flag signals.

2 (b) "Highway work zone" means an area identified by advance warning  
3 where road construction, repair or maintenance work is being done by  
4 highway workers on or adjacent to a highway, regardless of whether or not  
5 highway workers are actually present. As used in this paragraph, "road  
6 construction, repair or maintenance work" includes, but is not limited to, the  
7 setting up and dismantling of advance warning systems.

8 (c) "Highway worker" means an employee of a government agency, private  
9 contractor or utility company working in a highway work zone.

10 (2)(a) [*The base fine amount for a person charged with an offense that is*  
11 *listed in subsection (3)(a) or (b) of this section and that is committed in a*  
12 *highway work zone shall be the amount established under ORS 153.125 to*  
13 *153.145 based on the foundation amount calculated under ORS 153.131.*] The  
14 [*minimum*] **presumptive** fine for a person convicted of an offense that is  
15 listed in subsection (3)(a) or (b) of this section and that is committed in a  
16 highway work zone is the [*base fine amount so calculated*] **presumptive fine**  
17 **for the offense established under section 3 of this 2011 Act.**

18 (b) The minimum fine for a person convicted of a misdemeanor offense  
19 that is listed in subsection (3)(c) to (g) of this section and that is committed  
20 in a highway work zone is 20 percent of the maximum fine established for  
21 the offense.

22 (c) The minimum fine for a person convicted of a felony offense that is  
23 listed in subsection (3)(c) to (g) of this section and that is committed in a  
24 highway work zone is two percent of the maximum fine established for the  
25 offense.

26 (3) This section applies to the following offenses if committed in a high-  
27 way work zone:

28 (a) Class A or Class B traffic violations.

29 (b) Class C or Class D traffic violations related to exceeding a legal  
30 speed.

31 (c) Reckless driving, as defined in ORS 811.140.

1 (d) Driving while under the influence of intoxicants, as defined in ORS  
2 813.010.

3 (e) Failure to perform the duties of a driver involved in an accident or  
4 collision, as described in ORS 811.700 or 811.705.

5 (f) Criminal driving while suspended or revoked, as defined in ORS  
6 811.182.

7 (g) Fleeing or attempting to elude a police officer, as defined in ORS  
8 811.540.

9 *[(4) A court shall not waive, reduce or suspend the base fine amount or  
10 minimum fine required by this section.]*

11 *[(5)] (4)* When a highway work zone is created, the agency, contractor or  
12 company responsible for the work may post signs designed to give motorists  
13 notice of the provisions of this section.

14 **SECTION 115.** ORS 811.235 is amended to read:

15 811.235. (1)(a) If signs authorized by ORS 810.245 are posted, the *[base]*  
16 **presumptive** fine *[amount]* for a person charged with an offense that is  
17 listed in subsection (2)(a) or (b) of this section and that is committed in a  
18 school zone shall be the amount established under *[ORS 153.125 to 153.145*  
19 *based on the foundation amount calculated under ORS 153.131]* **section 3 of**  
20 **this 2011 Act for the offense.** *[The minimum fine for a person convicted of*  
21 *an offense that is listed in subsection (2)(a) or (b) of this section and that is*  
22 *committed in a school zone is the base fine amount so calculated.]*

23 (b) If signs authorized by ORS 810.245 are posted, the minimum fine for  
24 a person convicted of a misdemeanor offense that is listed in subsection (2)(c)  
25 to (g) of this section and that is committed in a school zone is 20 percent  
26 of the maximum fine established for the offense.

27 (c) If signs authorized by ORS 810.245 are posted, the minimum fine for  
28 a person convicted of a felony offense that is listed in subsection (2)(c) to (g)  
29 of this section and that is committed in a school zone is two percent of the  
30 maximum fine established for the offense.

31 (2) This section applies to the following offenses if committed in a school

1 zone:

2 (a) Class A or Class B traffic violations.

3 (b) Class C or Class D traffic violations related to exceeding a legal  
4 speed.

5 (c) Reckless driving, as defined in ORS 811.140.

6 (d) Driving while under the influence of intoxicants, as defined in ORS  
7 813.010.

8 (e) Failure to perform the duties of a driver involved in an accident or  
9 collision, as described in ORS 811.700 or 811.705.

10 (f) Criminal driving while suspended or revoked, as defined in ORS  
11 811.182.

12 (g) Fleeing or attempting to elude a police officer, as defined in ORS  
13 811.540.

14 *[(3) A court shall not waive, reduce or suspend the base fine amount or*  
15 *minimum fine required by this section.]*

16 *[(4)]* **(3)** For purposes of this section, a traffic offense occurs in a school  
17 zone if the offense occurs while the motor vehicle is in a school zone, notice  
18 of the school zone is indicated plainly by traffic control devices conforming  
19 to the requirements established under ORS 810.200 and posted under au-  
20 thority granted by ORS 810.210 and:

21 (a) Children are present as described in ORS 811.124; or

22 (b) A flashing light used as a traffic control device and operated under  
23 ORS 811.106 indicates that children may be arriving at or leaving school.

24 **SECTION 116.** ORS 811.483 is amended to read:

25 811.483. (1) The Department of Transportation shall post signs in safety  
26 corridors chosen by the department indicating that fines for traffic offenses  
27 committed in those safety corridors will be doubled.

28 (2)(a) The *[base]* **presumptive** fine *[amount]* for a person charged with  
29 an offense that is listed in subsection (3)(a) or (b) of this section and that  
30 is committed in a safety corridor chosen by the department under subsection

31 (1) of this section shall be the amount established under *[ORS 153.125 to*

1 *153.145, based on the foundation amount calculated under ORS 153.131] **sec-***  
2 **tion 3 of this 2011 Act.** *[The minimum fine for a person convicted of an of-*  
3 *fense that is listed in subsection (3)(a) or (b) of this section and that is*  
4 *committed in a safety corridor is the base fine amount so calculated.]*

5 (b) The minimum fine for a person convicted of a misdemeanor offense  
6 that is listed in subsection (3)(c) to (g) of this section and that is committed  
7 in a safety corridor is 20 percent of the maximum fine established for the  
8 offense.

9 (c) The minimum fine for a person convicted of a felony offense that is  
10 listed in subsection (3)(c) to (g) of this section and that is committed in a  
11 safety corridor is two percent of the maximum fine established for the of-  
12 fense.

13 (3) This section applies to the following offenses if committed in the des-  
14 ignated safety corridors:

15 (a) Class A or Class B traffic violations.

16 (b) Class C or Class D traffic violations related to exceeding a legal  
17 speed.

18 (c) Reckless driving, as defined in ORS 811.140.

19 (d) Driving while under the influence of intoxicants, as defined in ORS  
20 813.010.

21 (e) Failure to perform the duties of a driver involved in an accident or  
22 collision, as described in ORS 811.700 or 811.705.

23 (f) Criminal driving while suspended or revoked, as defined in ORS  
24 811.182.

25 (g) Fleeing or attempting to elude a police officer, as defined in ORS  
26 811.540.

27 *[(4) A court may not waive, reduce or suspend the base fine amount or*  
28 *minimum fine required by this section.]*

29 **SECTION 117. The amendments to ORS 811.230, 811.235 and 811.483**  
30 **by sections 114, 115 and 116 of this 2011 Act apply only to offenses**  
31 **committed on or after the effective date of this 2011 Act. Any offense**

1 committed before the effective date of this 2011 Act shall continue to  
2 be governed by ORS 811.230, 811.235 and 811.483 as in effect immediately  
3 before the effective date of this 2011 Act.

4  
5 **REPEALS AND CONFORMING AMENDMENTS FOR**  
6 **FINE DISTRIBUTION CHANGES**

7  
8 **SECTION 118. ORS 30.450, 30.830, 137.290, 137.295, 137.301, 137.308,**  
9 **137.309, 153.630, 153.635, 266.470, 376.385, 448.320, 471.670, 506.630, 530.900,**  
10 **570.055, 570.365, 678.168 and 830.145 are repealed.**

11 **SECTION 119.** ORS 33.075 is amended to read:

12 33.075. (1) If a person served with an order to appear under ORS 33.055  
13 fails to appear at the time and place specified in the order, the court may  
14 issue any order or warrant necessary to compel the appearance of the de-  
15 fendant.

16 (2) A person against whom a complaint has been issued under ORS 33.065  
17 may be cited to appear in lieu of custody as provided in ORS 133.055. If the  
18 person fails to appear at the time and place specified in the citation, the  
19 court may issue any order or warrant necessary to compel the appearance  
20 of the defendant.

21 (3) When the court issues a warrant for contempt, the court shall specify  
22 a security amount. Unless the defendant pays the security amount upon ar-  
23 rest, the sheriff shall keep the defendant in custody until either a release  
24 decision is made by the court or until disposition of the contempt pro-  
25 ceedings.

26 (4) The defendant shall be discharged from the arrest upon executing and  
27 delivering to the sheriff, at any time before the return day of the warrant,  
28 a security release or a release agreement as provided in ORS 135.230 to  
29 135.290, to the effect that the defendant will appear on the return day and  
30 abide by the order or judgment of the court or officer or pay, as may be di-  
31 rected, the sum specified in the warrant.

1 (5) The sheriff shall return the warrant and the security deposit, if any,  
2 given to the sheriff by the defendant by the return day specified in the  
3 warrant.

4 (6) When a warrant for contempt issued under subsection (2) of this sec-  
5 tion has been returned after having been served and the defendant does not  
6 appear on the return day, the court may do either or both of the following:

7 (a) Issue another warrant.

8 (b) Proceed against the security deposited upon the arrest.

9 (7) If the court proceeds against the security under subsection (6) of this  
10 section and the sum specified is recovered, the court may award to any party  
11 to the action any or all of the money recovered as remedial damages.

12 *[(8) Security deposited under this section shall not be subject to the as-  
13 sessments provided for in ORS 137.309 (1) to (5).]*

14 **SECTION 120.** ORS 51.037 is amended to read:

15 51.037. Any city may enter into an agreement pursuant to ORS 190.010  
16 with the county in which a justice of the peace district is located for the  
17 provision of judicial services. A justice of the peace providing services to a  
18 city pursuant to such an agreement shall have all judicial jurisdiction, au-  
19 thority, powers, functions and duties of the municipal court of the city and  
20 the judges thereof with respect to all and any violations of the charter or  
21 ordinances of the city. Unless the agreement provides otherwise, and subject  
22 to the provisions of [ORS 153.630] **sections 47 to 50 of this 2011 Act**, all  
23 fines, costs and forfeited security deposits collected shall be paid to the  
24 prosecuting city, and the city shall reimburse the county providing judicial  
25 services for expenses incurred under the agreement. The exercise of juris-  
26 diction under such an agreement by a justice of the peace shall not consti-  
27 tute the holding of more than one office.

28 **SECTION 121.** ORS 131.897 is amended to read:

29 131.897. (1) In addition to any other sentence it may impose as a result  
30 of a criminal conviction, the court may order that a defendant reimburse to  
31 a person, organization, association or public body or officer, any sum or

1 portion thereof offered and paid by the person, organization, association or  
 2 public body or officer under ORS 131.885 to 131.895, as a reward for infor-  
 3 mation leading to the apprehension of the defendant. Reimbursement under  
 4 this section shall be ordered paid into the court, for further transfer by the  
 5 clerk to the person, organization, association or public body or officer enti-  
 6 tled to it. [*The monetary obligation described in this section is a category 4*  
 7 *obligation under ORS 137.295.*]

8 (2) In determining whether to order reimbursement under this section, the  
 9 court shall take into account:

10 (a) The financial resources of the defendant and the burden that re-  
 11 imbursement will impose, with due regard to the other obligations of the  
 12 defendant; and

13 (b) The ability of the defendant to make reimbursement on an installment  
 14 basis or on other conditions to be fixed by the court.

15 **SECTION 122.** ORS 137.017 is amended to read:

16 137.017. Except as otherwise specifically provided by law, all fines, costs  
 17 and forfeited security deposits ordered paid in criminal actions [*and pro-*  
 18 *ceedings, as defined in ORS 131.005,*] in the circuit court shall be accounted  
 19 for and distributed [*as provided in ORS 137.293 and 137.295,*] as monetary  
 20 obligations payable to the state.

21 **SECTION 123.** ORS 137.293 is amended to read:

22 137.293. All fines, costs, [*assessments,*] restitution, compensatory fines and  
 23 other monetary obligations imposed upon a convicted person in a circuit,  
 24 justice or municipal court[, *shall*] constitute a single obligation on the part  
 25 of the convicted person. The clerk shall [*subdivide*] **divide** the total obli-  
 26 gation as provided in [*ORS 137.295*] **sections 33 to 38 of this 2011 Act,**  
 27 [*according to the various component*] **based on the different** parts of the  
 28 obligation, and shall credit and distribute [*accordingly, among those subdi-*  
 29 *visions,*] all moneys received **in payment of the obligation in the manner**  
 30 **provided by sections 33 to 38 of this 2011 Act.**

31 **SECTION 124.** ORS 137.533 is amended to read:

1 137.533. (1) Whenever a person pleads guilty to or is found guilty of a  
2 misdemeanor other than driving while under the influence of intoxicants or  
3 other than a misdemeanor involving domestic violence as defined in ORS  
4 135.230, the court may defer further proceedings and place the person on  
5 probation, upon motion of the district attorney and without entering a  
6 judgment of guilt, if the person:

7 (a) Consents to the disposition;

8 (b) Has not previously been convicted of any offense in any jurisdiction;

9 (c) Has not been placed on probation under ORS 475.245;

10 (d) Has not completed a diversion under ORS 135.881 to 135.901; and

11 (e) Agrees to pay [*the unitary assessment for which the person would have*  
12 *been liable under ORS 137.290 if the person had been convicted*] **an amount**  
13 **equal to the minimum fine for a misdemeanor established by section**  
14 **10 of this 2011 Act.** The person must pay the [*unitary assessment*] **amount**  
15 within 90 days of imposition unless the court allows payment at a later time.  
16 [*The person shall pay the unitary assessment to*] The clerk of the court[,  
17 *who*] shall account for and distribute the moneys as provided in [*ORS 137.293*  
18 *and 137.295*] **sections 33 to 38 of this 2011 Act for fines.**

19 (2) A district attorney may submit a motion under subsection (1) of this  
20 section if, after considering the factors listed in subsection (3) of this section,  
21 the district attorney finds that disposition under this section would be in the  
22 interests of justice and of benefit to the person and the community.

23 (3) In determining whether disposition under this section is in the inter-  
24 ests of justice and of benefit to the person and the community, the district  
25 attorney shall consider at least the following factors:

26 (a) The nature of the offense. However, the offense must not have in-  
27 volved injury to another person.

28 (b) Any special characteristics or difficulties of the person.

29 (c) Whether there is a probability that the person will cooperate with and  
30 benefit from alternative treatment.

31 (d) Whether an available program is appropriate to the needs of the per-

1 son.

2 (e) The impact of the disposition upon the community.

3 (f) Recommendations, if any, of the involved law enforcement agency.

4 (g) Recommendations, if any, of the victim.

5 (h) Provisions for restitution.

6 (i) Any mitigating circumstances.

7 (4) Upon violation of a term or condition of probation, the court may  
8 enter an adjudication of guilt and proceed as otherwise provided. Upon the  
9 person's fulfillment of the terms and conditions of probation, the court shall  
10 discharge the person and dismiss the proceedings against the person. A dis-  
11 charge and dismissal under this section is without adjudication of guilt and  
12 is not a conviction for purposes of disqualifications or disabilities imposed  
13 by law upon conviction of a crime. A person may be discharged and have  
14 proceedings dismissed only once under this section.

15 (5) Subsections (1) to (4) of this section do not affect any domestic vi-  
16 olence sentencing programs.

17 **SECTION 125. The amendments to ORS 137.533 by section 124 of this**  
18 **2011 Act apply only to motions filed under ORS 137.533 on or after the**  
19 **effective date of this 2011 Act.**

20 **SECTION 126.** ORS 147.227 is amended to read:

21 147.227. (1) The Attorney General shall disburse a portion of the moneys  
22 that the Criminal Injuries Compensation Account receives from the Criminal  
23 Fine [*and Assessment*] Account to counties and cities where prosecuting at-  
24 torneys maintain victims' assistance programs approved by the Attorney  
25 General. Upon receipt of the moneys, the counties and cities shall provide  
26 the moneys to the prosecuting attorney therein to be used exclusively for the  
27 approved victims' assistance program.

28 (2) To qualify for approval by the Attorney General under this section, a  
29 victims' assistance program must:

30 (a) Be administered by the district attorney of the county or city attorney  
31 of the city;

- 1 (b) Provide services to victims of all crimes;
- 2 (c) Give service priority to victims of serious crimes against persons;
- 3 (d) Collaborate with community-based and government agencies to benefit  
4 victims; and
- 5 (e) Provide the following core services to victims of crime:
- 6 (A) Inform victims, as soon as practicable, of the rights granted to victims  
7 under Oregon law.
- 8 (B) Advocate for victims of serious person crimes as they move through  
9 the criminal justice system and advocate, when requested, for all other vic-  
10 tims of crime.
- 11 (C) Involve victims, when practicable or legally required, in the  
12 decision-making process in the criminal justice system.
- 13 (D) Ensure that victims are informed, upon request, of the status of the  
14 criminal case involving the victim.
- 15 (E) Assist victims in preparing and submitting crime victims' compen-  
16 sation program claims to the Department of Justice under ORS 147.005 to  
17 147.367.
- 18 (F) Assist victims in preparing restitution documentation for purposes of  
19 obtaining a restitution order.
- 20 (G) Prepare victims for court hearings by informing them of the proce-  
21 dures involved.
- 22 (H) Assist victims with the logistics related to court appearances when  
23 practicable and requested.
- 24 (I) Accompany victims to court hearings when practicable and requested.
- 25 (J) Encourage and facilitate victims' testimony.
- 26 (K) Inform victims of the processes necessary to request the return of  
27 property held as evidence.
- 28 (3) If a victims' assistance program substantially complies with subsection  
29 (2) of this section and the Attorney General determines that it would be  
30 impracticable for the program to achieve full compliance, the Attorney  
31 General may approve the program on a temporary basis, subject to conditions

1 the Attorney General deems appropriate.

2 (4) The Attorney General shall adopt administrative rules:

3 (a) Establishing criteria for the equitable distribution of moneys disbursed  
4 under subsection (1) of this section among participating cities and counties;  
5 and

6 (b) Establishing an advisory committee to provide consultation on the  
7 distribution of the moneys. The advisory committee shall consist of at least  
8 the following members:

9 (A) A representative of the Department of Justice;

10 (B) A representative of the Oregon District Attorneys Association; and

11 (C) A representative of a prosecuting attorney's victim assistance pro-  
12 gram.

13 (5) As used in this section, "Attorney General" includes a designee of the  
14 Attorney General.

15 **SECTION 127.** ORS 153.624 is amended to read:

16 153.624. In addition to any other costs charged a person convicted of a  
17 traffic offense, a court shall charge as costs and collect from any person  
18 convicted of a traffic offense any actual costs incurred in obtaining any  
19 driving records relating to the person. [*All costs collected under this section*  
20 *shall be paid as provided in ORS 153.630 (1).*]

21 **SECTION 128.** ORS 221.315 is amended to read:

22 221.315. (1) Prosecution of violations of the charter or ordinances of a city  
23 in circuit or justice court shall be by the city attorney and in the name of  
24 such city. An agreement may be made between any city and, on behalf of the  
25 state, the presiding judge for the judicial district in which all or part of such  
26 city is located, that such violations be prosecuted for such city in the circuit  
27 court by the district attorney in the name of the State of Oregon. An  
28 agreement may be made, pursuant to ORS 190.010, between any city and the  
29 county in which all or part of such city is located, that such violations be  
30 prosecuted for such city in the justice court by the district attorney in the  
31 name of the State of Oregon.

1 (2) Except as otherwise provided by an agreement made under subsection  
 2 (1) of this section in respect to the court, all fines[, *costs and forfeited secu-*  
 3 *rity deposits*] collected by the circuit or justice court having jurisdiction of  
 4 a violation of a city charter or ordinance shall be paid as follows:

5 (a) One-half of [*all fines and forfeited security deposits*] **the fine** shall be  
 6 credited and distributed [*under ORS 137.293 and 137.295*] to the treasurer of  
 7 the city whose charter or ordinance was violated, as a monetary obligation  
 8 payable to the city.

9 (b) If collected by the circuit court, [*the costs and*] one-half of the [*finest*  
 10 *and forfeited security deposits*] **fine** shall be credited and distributed [*under*  
 11 *ORS 137.293 and 137.295,*] as a monetary obligation payable to the state.

12 (c) If collected by the justice court, [*the costs and*] one-half of the [*finest*  
 13 *and forfeited security deposits*] **fine** shall be credited and distributed [*under*  
 14 *ORS 137.293 and 137.295*] to the treasurer of the county in which the court  
 15 is located as a monetary obligation payable to the county.

16 **SECTION 129.** ORS 221.355 is amended to read:

17 221.355. Any city may enter into an agreement pursuant to ORS 190.010  
 18 with another city for the provision of judicial services. A municipal judge  
 19 providing services to another city pursuant to such an agreement shall have  
 20 all judicial jurisdiction, authority, powers, functions and duties of the mu-  
 21 nicipal court of the other city and the judges thereof with respect to all and  
 22 any violations of the charter or ordinances of the other city. Unless the  
 23 agreement provides otherwise, and subject to the provisions of [*ORS*  
 24 *153.630*] **sections 47 to 50 of this 2011 Act**, all fines, costs and forfeited se-  
 25 curity deposits collected shall be paid to the prosecuting city, and that city  
 26 shall reimburse the city providing judicial services for expenses incurred  
 27 under the agreement. The exercise of jurisdiction under such an agreement  
 28 by a municipal judge shall not constitute the holding of more than one office.

29 **SECTION 130.** ORS 221.357 is amended to read:

30 221.357. (1) A city having a population of 300,000 or less may enter into  
 31 an agreement with the State Court Administrator for the provision of judi-

1 cial services by the circuit court for the county in which the city is located.

2 (2) A circuit court providing services to a city under an agreement entered into under subsection (1) of this section shall have all judicial jurisdiction, authority, powers, functions and duties of the municipal court of the city and the municipal court judges with respect to any violations of the charter or ordinances of the city.

7 (3) Unless an agreement entered into under subsection (1) of this section provides otherwise, and subject to the provisions of [ORS 153.630] **sections 47 to 50 of this 2011 Act**, all fines, costs and forfeited security deposits collected shall be paid to the city, and the city shall reimburse the circuit court providing judicial services for expenses incurred under the agreement.

12 (4) The exercise of jurisdiction under an agreement entered into under subsection (1) of this section by a circuit court judge shall not constitute the holding of more than one office.

15 **SECTION 131.** ORS 305.830 is amended to read:

16 305.830. (1) Amounts transferred to the Department of Revenue by justice and municipal courts under [ORS 137.295] **sections 48 and 49 of this 2011 Act** shall be deposited in a suspense account established under ORS 293.445 for the purpose of receiving criminal fines and assessments.

20 (2) In carrying out its duties under this section, the Department of Revenue shall have access to the records and dockets of those courts charged with the duty to transfer moneys to the department under [ORS 137.295] **sections 48 and 49 of this 2011 Act**.

24 (3) The Department of Revenue may retain from the funds transferred under [ORS 137.295] **sections 48 and 49 of this 2011 Act** an amount not to exceed two percent annually for its actual costs of collection and disbursement of funds under this section, including the cost of all examinations, investigations and searches, and of all traveling and other expenses in connection therewith. The department shall deposit the net amount of moneys in the suspense account described in subsection (1) of this section into the Criminal Fine *[and Assessment]* Account *[for distribution as provided in*

1 *ORS 137.300*].

2 (4) All judicial, municipal and county officers shall cooperate with the  
3 Department of Revenue with respect to the collections, searches and inves-  
4 tigations and shall furnish the Department of Revenue with any information  
5 contained in any of the records under their respective custodies relating  
6 thereto.

7 (5) The Department of State Police shall cooperate in the investigation  
8 of fines, penalties and forfeitures.

9 **SECTION 132.** ORS 339.925 is amended to read:

10 339.925. (1) In addition to any other persons permitted to enforce vio-  
11 lations, the school district superintendent or education service district su-  
12 perintendent, or any employee specifically designated by either  
13 superintendent, may issue citations for violations established under ORS  
14 339.990 in the manner provided by ORS chapter 153.

15 (2) Prior to issuing the citation described in subsection (3) of this section  
16 to the parent or guardian of a student not regularly attending full-time  
17 school, a school district superintendent or education service district super-  
18 intendent shall:

19 (a) Provide a parent or guardian of the student and the student with  
20 written notification that:

21 (A) States that the student is required to attend regularly a full-time  
22 school;

23 (B) Explains that the failure to send the student and maintain the student  
24 in regular attendance is a Class C violation;

25 (C) States that the superintendent may issue a citation;

26 (D) Requires the parent or guardian of the student and the student to  
27 attend a conference with a designated official; and

28 (E) Is written in the native language of the parent or guardian of the  
29 student.

30 (b) Schedule the conference described in paragraph (a)(D) of this sub-  
31 section.

1 (3) Notwithstanding ORS 1.525 or any provision of ORS chapter 153, the  
2 State Board of Education by rule shall establish the citation form to be used  
3 by superintendents in citing violations established under ORS 339.990. Not-  
4 withstanding ORS 153.045, each of the parts of the citation shall contain the  
5 information required by the state board.

6 *[(4) All fines and court costs recovered from compulsory school attendance*  
7 *violations shall be paid to the clerk of the court involved. After deductions of*  
8 *court costs provided by law for the proceeding, the clerk shall pay the re-*  
9 *mainder of the money to the State Treasurer to be deposited in the Criminal*  
10 *Fine and Assessment Account in the General Fund.]*

11 **SECTION 133.** ORS 352.360 is amended to read:

12 352.360. (1) The State Board of Higher Education may enact such regu-  
13 lations as the board deems convenient or necessary to provide for the polic-  
14 ing, control and regulation of traffic and parking of vehicles on the property  
15 of any institution of higher education under the jurisdiction of the board.  
16 The regulations may provide for the registration of vehicles, the designation  
17 of parking areas, and the assessment and collection of reasonable fees and  
18 charges for parking, and shall be filed in accordance with the provisions of  
19 ORS chapter 183. The board may require that before a quarterly or yearly  
20 parking privilege for any vehicle is granted to any full-time or part-time  
21 student to use board property, the student must show that the vehicle is  
22 operated by a student holding a valid driver's license, that the vehicle is  
23 currently registered and that the student driving the vehicle is insured under  
24 a motor vehicle liability insurance policy that meets the requirements de-  
25 scribed under ORS 806.080 or that the student or owner of the vehicle has  
26 provided the Department of Transportation with other satisfactory proof of  
27 compliance with the financial responsibility requirements of this state.

28 (2) The regulations enacted pursuant to subsection (1) of this section shall  
29 be enforced administratively under procedures adopted by the board for each  
30 institution of higher education under the jurisdiction of the board. Admin-  
31 istrative and disciplinary sanctions may be imposed upon students, faculty

1 and staff for violation of the regulations, including but not limited to, a  
2 reasonable monetary penalty which may be deducted from student deposits,  
3 and faculty or staff salaries or other funds in the possession of the institu-  
4 tion. The board shall provide opportunity for hearing for the determination  
5 of controversies in connection with imposition of fines or penalties. The  
6 board may prescribe procedures for such hearings despite the provisions of  
7 ORS 183.413 to 183.470. Persons other than students, faculty or staff may  
8 voluntarily submit to the hearing procedures prescribed by the board, and  
9 shall be bound by the results of the hearing. The powers granted to the  
10 board by this section are supplemental to the existing powers of the board  
11 with respect to the government of activities of students, faculty and staff and  
12 the control and management of property under its jurisdiction.

13 (3) The regulations enacted pursuant to subsection (1) of this section may  
14 also be enforced by the impoundment of vehicles, and a reasonable fee may  
15 be enacted for the cost of impoundment and storage, if any, prior to the re-  
16 lease of the vehicles to their owners.

17 (4) All fees and charges for parking privileges and violations are depos-  
18 ited in a designated account in the Oregon University System Fund estab-  
19 lished by ORS 351.506 for the purpose of defraying the costs of constructing  
20 bicycle racks and bicycle lanes and of traffic control, enforcement of traffic  
21 and parking regulations, and maintenance and operation of parking facilities  
22 and for the purpose of acquiring and constructing additional parking facili-  
23 ties for vehicles at the various institutions, departments or activities under  
24 the control of the board. Fees and charges may also be credited to the ac-  
25 count in the Oregon University System Fund designated by ORS 351.460.  
26 Parking fees shall be established at levels no greater than those required to  
27 finance the construction, operation and maintenance of parking facilities on  
28 the same campus of the state institution of higher education on which the  
29 parking is provided. Notwithstanding ORS 351.072, parking fees or changes  
30 in fees shall be adopted by rule of the state board subject to the procedure  
31 for rules adopted in ORS chapter 183.

1 (5) Every peace officer may enforce the regulations made by the board  
 2 under subsection (1) of this section. The board, for the purpose of enforcing  
 3 its rules and regulations governing traffic control, may appoint peace officers  
 4 who have the same authority as other peace officers as defined in ORS  
 5 133.005.

6 (6) The board and any municipal corporation or any department, agency  
 7 or political subdivision of this state may enter into agreements or contracts  
 8 with each other for the purpose of providing a uniform system of enforcement  
 9 of the rules and regulations of the board enacted pursuant to subsection (1)  
 10 of this section.

11 (7) In proceedings brought to enforce regulations enacted pursuant to  
 12 subsection (1) of this section, it shall be sufficient to charge the defendant  
 13 by an unsworn written notice in accordance with the provisions of ORS  
 14 221.333. In any case in which the defendant is not subject to and does not  
 15 voluntarily submit to the hearing procedures prescribed under subsection (2)  
 16 of this section, proceedings to enforce regulations enacted pursuant to sub-  
 17 section (1) of this section shall be brought in the name of the board in a  
 18 circuit court, a justice court or a city court for offenses committed within  
 19 the territorial jurisdiction of such court. Such courts shall have concurrent  
 20 jurisdiction over offenses committed within their respective jurisdictions. All  
 21 fines, penalties and court costs recovered shall be paid to the clerk of the  
 22 court involved and shall be disposed of as provided in [ORS 153.630] **sections**  
 23 **47 to 50 of this 2011 Act.**

24 **SECTION 134.** ORS 390.050 is amended to read:

25 390.050. [(1)] In addition to any other persons permitted to enforce vio-  
 26 lations, the State Parks and Recreation Department and any employee of the  
 27 State Parks and Recreation Department specifically designated by the State  
 28 Parks and Recreation Director may issue citations for park and recreation  
 29 violations established under this chapter in the manner provided by ORS  
 30 chapter 153.

31 [(2) *All fines and court costs recovered from park and recreation violations*

1 *shall be paid to the clerk of the court involved. Such moneys shall be credited*  
2 *and distributed under ORS 137.290 and 137.295 as monetary obligations pay-*  
3 *able to the state.]*

4 **SECTION 135.** ORS 409.304 is amended to read:

5 409.304. Grants awarded through funding from the Criminal Fine [*and*  
6 *Assessment*] Account for domestic violence programs shall be used to support  
7 direct services, with no more than five percent of each grant to be spent for  
8 administration.

9 **SECTION 136.** ORS 419C.446 is amended to read:

10 419C.446. (1) When a court determines it would be in the best interest and  
11 welfare of a youth offender, the court may place the youth offender on pro-  
12 bation. The court may direct that the youth offender remain in the legal  
13 custody of the youth offender's parents or other person with whom the youth  
14 offender is living, or the court may direct that the youth offender be placed  
15 in the legal custody of some relative or some person maintaining a foster  
16 home approved by the court, or in a child care center or a youth care center  
17 authorized to accept the youth offender.

18 (2) The court may specify particular requirements to be observed during  
19 the probation consistent with recognized juvenile court practice, including  
20 but not limited to restrictions on visitation by the youth offender's parents,  
21 restrictions on the youth offender's associates, occupation and activities, re-  
22 strictions on and requirements to be observed by the person having the youth  
23 offender's legal custody, [*requirements that the youth offender pay any as-*  
24 *essment under ORS 137.290,*] requirements for visitation by and consultation  
25 with a juvenile counselor or other suitable counselor, requirements to make  
26 restitution under ORS 419C.450, requirements of a period of detention under  
27 ORS 419C.453, requirements to pay a fine under ORS 419C.459, requirements  
28 to pay a supervision fee under ORS 419C.449, requirements to perform com-  
29 munity service under ORS 419C.462, or service for the victim under ORS  
30 419C.465, or requirements to submit to blood or buccal testing under ORS  
31 419C.473.

1 (3) If the youth offender is a sex offender, as defined in ORS 181.594, the  
2 juvenile department shall notify the chief of police, if the youth offender is  
3 going to reside within a city, and the county sheriff of the county in which  
4 the youth offender is going to reside of the youth offender's release on pro-  
5 bation and the requirements imposed on the youth offender's probation under  
6 subsection (2) of this section.

7 **SECTION 137.** ORS 419C.470 is amended to read:

8 419C.470. The Oregon Youth Authority and county juvenile departments,  
9 respectively, and to the extent practicable, shall create opportunities for  
10 youth offenders placed in the legal custody of the youth authority or under  
11 the supervision of a county juvenile department to pay restitution as ordered  
12 by the court and [*the assessment under ORS 137.290, and*] to perform any  
13 community service ordered by the court, as well as to fulfill any other obli-  
14 gation imposed by the court.

15 **SECTION 138.** ORS 477.985 is amended to read:

16 477.985. [(1)] In addition to any other persons permitted to enforce vio-  
17 lations, the State Forestry Department and the State Forester, or any em-  
18 ployee specifically designated by the department or by the State Forester,  
19 may issue citations for violations established under ORS 477.993 in the  
20 manner provided by ORS chapter 153.

21 *[(2) All fines and court costs recovered from violations established under*  
22 *ORS 477.993 shall be paid to the clerk of the court involved. Such moneys shall*  
23 *be credited and distributed under ORS 137.290 and 137.295 as monetary obli-*  
24 *gations payable to the state.]*

25 **SECTION 139.** ORS 506.306 is amended to read:

26 506.306. [(1)] The State Fish and Wildlife Commission shall collect all  
27 moneys to be paid to this state for the protection, preservation, propagation  
28 and development of the commercial fishing industry and arising under the  
29 commercial fishing laws and deposit such moneys in the Commercial  
30 Fisheries Fund.

31 *[(2) Except as provided in ORS 506.630, all fines collected for violation of*

1 *the commercial fishing laws shall be credited and distributed under ORS*  
2 *137.293 and 137.295 as monetary obligations payable to the state.]*

3 **SECTION 140.** ORS 675.330 is amended to read:

4 675.330. (1) The Occupational Therapy Licensing Board Account is estab-  
5 lished in the State Treasury, separate and distinct from the General Fund.  
6 All moneys received by the Occupational Therapy Licensing Board under  
7 ORS 675.210 to 675.340 shall be deposited into the account and are contin-  
8 uously appropriated to the board to be used only for the administration and  
9 enforcement of ORS 675.210 to 675.340 and 675.990 (2). Any interest or other  
10 income from moneys in the account shall be credited to the account.

11 (2) All civil penalties collected or received for violations of or in prose-  
12 cutions under ORS 675.210 to 675.340 shall be deposited into the Occupa-  
13 tional Therapy Licensing Board Account and shall be used only for the  
14 administration and enforcement of ORS 675.210 to 675.340.

15 *[(3) All fines collected or received for violations of or in prosecutions under*  
16 *ORS 675.210 to 675.340 and 675.990 (2) shall be forwarded to the Department*  
17 *of Revenue for deposit in the Criminal Fine and Assessment Account.]*

18 **SECTION 141.** ORS 683.290 is amended to read:

19 683.290. (1) All moneys received by the Oregon Board of Optometry under  
20 ORS 683.010 to 683.340 shall be deposited into an account established by the  
21 board as provided under ORS 182.470. Moneys deposited into the account  
22 hereby are appropriated continuously to the board and shall be used only for  
23 the administration and enforcement of ORS 182.456 to 182.472 and 683.010 to  
24 683.340.

25 (2) Notwithstanding subsection (1) of this section and ORS 182.470, all  
26 civil penalties collected or received for violations of or in prosecutions under  
27 ORS 683.010 to 683.340 shall be paid to the account described under sub-  
28 section (1) of this section.

29 *[(3) All fines collected or received for violations of or in prosecutions under*  
30 *ORS 683.010 to 683.340 shall be paid to the Criminal Fine and Assessment*  
31 *Account.]*

1       ~~[(4)]~~ **(3)** In addition to making expenditures for the administration and  
2 enforcement of ORS 683.010 to 683.340, the Oregon Board of Optometry may  
3 make expenditures for educational purposes out of funds available.

4       **SECTION 142.** ORS 689.135 is amended to read:

5       689.135. (1) The State Board of Pharmacy shall have such other duties,  
6 powers and authority as may be necessary to the enforcement of this chapter  
7 and to the enforcement of board rules made pursuant thereto, which shall  
8 include, but are not limited to, the following:

9       (a) Cause to have printed and circulated annually copies of any changes  
10 in the laws relating to pharmacy, controlled substances, drugs and poisons  
11 and the rules adopted to enforce such laws, and set reasonable charges  
12 therefor.

13       (b) Appoint advisory committees.

14       (2) The board may join such professional organizations and associations  
15 organized exclusively to promote the improvement of the standards of the  
16 practice of pharmacy for the protection of the health and welfare of the  
17 public and whose activities assist and facilitate the work of the board.

18       (3) In addition to any statutory requirements, the board may require such  
19 surety bonds as it deems necessary to guarantee the performance and dis-  
20 charge of the duties of any officer or employee receiving and disbursing  
21 funds.

22       (4) The executive director of the board shall keep the seal of the board  
23 and shall affix it only in such manner as may be prescribed by the board.

24       (5) The board shall determine within 30 days prior to the beginning of  
25 each state fiscal year the fees to be collected for:

26       (a) Examinations and reexaminations, which fee shall not exceed \$400.

27       (b) Pharmacist licenses, which fee shall not exceed \$250.

28       (c) Pharmacist licensing by reciprocity, which fee shall not exceed \$300.

29       (d) Intern license, which fee shall not exceed \$50.

30       (e) Duplicate pharmacist certificate, which fee shall not exceed \$50.

31       (f) Pharmacist license, delinquent renewal fee, which fee shall not exceed

1 \$50.

2 (g) Certification of approved providers of continuing education courses,  
3 which fee shall not exceed \$300.

4 (h) Registration of drug outlets other than pharmacies and renewal of  
5 registration, which fee shall not exceed \$500.

6 (i) Initial pharmacy or institutional drug outlet, which fee shall not ex-  
7 ceed \$300.

8 (j) Annual pharmacy or institutional drug outlet, which fee shall not ex-  
9 ceed \$300.

10 (k) Pharmacy or institutional drug outlet delinquent renewal fee, which  
11 fee shall not exceed \$200.

12 (L) Nonprescription drug outlets, which fee shall not exceed \$50.

13 (m) Nonprescription drug outlet delinquent renewal fee, which fee shall  
14 not exceed \$50.

15 (n) Reinspection fee, which fee shall not exceed \$100.

16 (o) Drug outlets, other than pharmacies or institutional drug outlets, de-  
17 linquent renewal fee, which fee shall not exceed \$100.

18 *[(6) All moneys collected either as costs or fines under ORS 435.010 to*  
19 *435.130, 453.175, 453.185 and 453.990 and this chapter shall be paid by the*  
20 *magistrate or other officer receiving them to the treasurer of the county where*  
21 *the prosecution is conducted. These moneys shall be applied, first, to the*  
22 *payment of the costs of such prosecution. The remainder shall be paid by the*  
23 *county treasurer into the State Treasury and, in the case of:]*

24 *[(a) All moneys except criminal fines, placed to the credit of the State*  
25 *Board of Pharmacy Account established in ORS 689.139 to be used only for*  
26 *the administration and enforcement of ORS 435.010 to 435.130 and this*  
27 *chapter.]*

28 *[(b) Criminal fines, placed to the credit of the Criminal Fine and Assess-*  
29 *ment Account.]*

30 *[(7)]* **(6)** *[Except as provided in subsection (6) of this section,] All moneys*  
31 *received under ORS 435.010 to 435.130[,] and 453.185 [and 453.990] and this*

1 chapter shall be paid into the State Treasury and placed to the credit of the  
2 State Board of Pharmacy Account to be used only for the administration and  
3 enforcement of ORS 435.010 to 435.130 and this chapter.

4 [(8)] (7) The board may receive and expend funds, in addition to its  
5 biennial appropriation, from parties other than the state, provided:

6 (a) Such moneys are awarded for the pursuit of a specific objective which  
7 the board is authorized to accomplish by this chapter, or which the board is  
8 qualified to accomplish by reason of its jurisdiction or professional expertise;

9 (b) Such moneys are expended for the pursuit of the objective for which  
10 they are awarded;

11 (c) Activities connected with or occasioned by the expenditures of such  
12 funds do not interfere with or impair the performance of the board's duties  
13 and responsibilities and do not conflict with the exercise of the board's  
14 powers as specified by this chapter;

15 (d) Such moneys are kept in a separate, special state account; and

16 (e) Periodic reports are made to the Governor concerning the board's re-  
17 ceipt and expenditure of such moneys.

18 [(9)] (8) The board may assign to each drug outlet under its jurisdiction,  
19 a uniform state number, coordinated where possible with all other states  
20 which adopt the same uniform numbering system.

21 [(10)] (9) The board or its authorized representatives shall also have  
22 power to investigate and gather evidence concerning alleged violations of the  
23 provisions of this chapter or of the rules of the board.

24 [(11)] (10) The president and vice president of the board may administer  
25 oaths in connection with the duties of the board.

26 [(12)] (11) The books, registers and records of the board as made and kept  
27 by the executive director or under the supervision of the executive director,  
28 subject to the direction of the board, shall be prima facie evidence of the  
29 matter recorded therein, in any court of law.

30 [(13)] (12) The board may administer oaths, issue notices and subpoenas  
31 in the name of the board, enforce subpoenas in the manner authorized by

1 ORS 183.440, hold hearings and perform such other acts as are reasonably  
2 necessary to carry out its duties under this chapter.

3 ~~[(14)(a)]~~ **(13)(a)** Notwithstanding anything in this chapter to the contrary,  
4 whenever a duly authorized representative of the board finds or has probable  
5 cause to believe that any drug or device is adulterated, misbranded or a new  
6 drug, as defined in Section 201(p) of the Federal Food, Drug and Cosmetic  
7 Act, for which there is no approval in effect pursuant to Section 505(b) of  
8 the federal Act nor an approved notice of claimed investigational exemption  
9 pursuant to Section 505(i) of the federal Act, or otherwise rendered unsafe  
10 for use as a result of fire, flood or other natural disaster, the representative  
11 shall affix to such drug or device a tag or other appropriate marking giving  
12 notice that such article is or is suspected of being adulterated, misbranded,  
13 or otherwise rendered unsafe and has been detained or embargoed and  
14 warning all persons not to remove or dispose of such article by sale or oth-  
15 erwise until provision for removal or disposal is given by the board, its agent  
16 or the court. No person shall remove or dispose of such embargoed drug or  
17 device by sale or otherwise without the permission of the board or its agent  
18 or, after summary proceedings have been instituted, without permission from  
19 the court.

20 (b) When a drug or device detained or embargoed under paragraph (a) of  
21 this subsection has been declared by such representative to be adulterated,  
22 misbranded or a new drug, or rendered unsafe, the board shall, as soon as  
23 practical thereafter, petition the judge of the circuit court in whose juris-  
24 diction the article is detained or embargoed for an order for condemnation  
25 of such article. If the judge determines that the drug or device so detained  
26 or embargoed is not adulterated or misbranded or rendered unsafe, the board  
27 shall direct the immediate removal of the tag or other marking.

28 (c) If the court finds the detained or embargoed drug or device is  
29 adulterated or misbranded or rendered unsafe, such drug or device, after  
30 entry of the judgment, shall be destroyed at the expense of the owner under  
31 the supervision of a board representative and all court costs and fees, storage

1 and other proper expense shall be borne by the owner of such drug or device.  
2 When the adulteration or misbranding can be corrected by proper labeling  
3 or processing of the drug or device, the court, after entry of the judgment  
4 and after such costs, fees and expenses have been paid and a good and suf-  
5 ficient bond has been posted, may direct that such drug or device be deliv-  
6 ered to the owner thereof for such labeling or processing under the  
7 supervision of a board representative. Expense of such supervision shall be  
8 paid by the owner. Such bond shall be returned to the owner of the drug or  
9 device on representation to the court by the board that the drug or device  
10 is no longer in violation of the embargo and the expense of supervision has  
11 been paid.

12 (d) It is the duty of the Attorney General to whom the board reports any  
13 violation of this subsection to cause appropriate proceedings to be instituted  
14 in the proper court without delay and to be prosecuted in the manner re-  
15 quired by law. Nothing in this subsection shall be construed to require the  
16 board to report violations whenever the board believes the public's interest  
17 will be adequately served in the circumstances by a suitable written notice  
18 or warning.

19 [(15)] (14) Except as otherwise provided to the contrary, the board shall  
20 exercise all of its duties, powers and authority in accordance with ORS  
21 chapter 183.

22 **SECTION 143.** ORS 689.995 is amended to read:

23 689.995. (1) Violation of any provision of this chapter or of any rule of the  
24 State Board of Pharmacy is a misdemeanor.

25 (2) Failure to comply with any notice, citation or subpoena issued by the  
26 board under ORS 689.135 [(13)] (12) is a misdemeanor. Each day during which  
27 the violation continues is a separate offense.

28 (3) Refusal to furnish information required under this chapter or willfully  
29 furnishing false information, is a misdemeanor.

30 (4) Any attempt to secure or the securing of registration or licensure for  
31 any person under any certificate, license or permit authorized by this chapter

1 by making or causing to be made any false representations is a misdemeanor.

2 **SECTION 144.** ORS 802.110 is amended to read:

3 802.110. Any procedures the Department of Transportation establishes for  
4 financial administration of those functions of the department dealing with  
5 driver and motor vehicle services and for the disposition and payment of  
6 moneys it receives from the provision of driver and motor vehicle services  
7 shall comply with all of the following:

8 (1) The department shall deposit all moneys it receives related to driver  
9 and motor vehicle services in the Department of Transportation Driver and  
10 Motor Vehicle Suspense Account for approved expenses and disbursements before  
11 payment of general administrative expenses of the department related to the  
12 provision of driver and motor vehicle services. Notwithstanding this sub-  
13 section, the department may return a bank check or money order when re-  
14 ceived in incorrect or incomplete form or when not accompanied by the  
15 proper application.

16 (2) The department shall pay the following approved expenses and dis-  
17 bursals from the Department of Transportation Driver and Motor Vehicle  
18 Suspense Account before payment of the general administrative expenses of  
19 the department related to driver and motor vehicle services:

20 (a) Refunds authorized by any statute administered by the department  
21 when such refunds are approved by the department.

22 (b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for  
23 the purpose of carrying out the state aviation laws, amounts transferred to  
24 the Boating Safety, Law Enforcement and Facility Account by ORS 319.415,  
25 amounts transferred to the State Aviation Account by ORS 319.417 and  
26 amounts transferred to the Department of Transportation Operating Fund  
27 by ORS 184.643.

28 (c) After deduction of expenses of collection, transfer and administration,  
29 the department shall pay moneys collected from the Student Driver Training  
30 Fund eligibility fee under ORS 807.040, 807.150 and 807.370 to the State  
31 Treasurer for deposit in the Student Driver Training Fund. The moneys de-

1 posited in the Student Driver Training Fund under this paragraph are con-  
2 tinuously appropriated to the department for the following purposes:

3 (A) To the extent of not more than 10 percent of the amount transferred  
4 into the Student Driver Training Fund in any biennium, to pay the expenses  
5 of administering ORS 336.795, 336.800, 336.805, 336.810 (2) and 336.815.

6 (B) The remaining moneys, for reimbursing school districts and commer-  
7 cial driver training schools as provided under ORS 336.805.

8 (d) After deduction of expenses of collection, transfer and administration,  
9 the department shall pay moneys collected for the Motorcycle Safety Subac-  
10 count under ORS 807.170 to the State Treasurer for deposit in the Motorcycle  
11 Safety Subaccount of the Transportation Safety Account. Moneys paid to the  
12 State Treasurer under this paragraph shall be used for the purpose of ORS  
13 802.320.

14 (e) After deduction of expenses for the administration of the issuance of  
15 customized registration plates under ORS 805.240, the department shall place  
16 moneys received from the sale of customized registration plates in the Pas-  
17 senger Rail Transportation Account. The moneys placed in the account are  
18 continuously appropriated to the department and shall be used for the pay-  
19 ment of expenses incurred in administering passenger rail programs.

20 (f) After deduction of expenses of collection, transfer and administration,  
21 the department shall pay moneys from any registration fees established by  
22 the governing bodies of counties or a district, as defined in ORS 801.237,  
23 under ORS 801.041 or 801.042 to the appropriate counties or districts. The  
24 department shall make the payments on at least a monthly basis unless an-  
25 other basis is established by the intergovernmental agreements required by  
26 ORS 801.041 and 801.042 between the department and the governing bodies  
27 of a county or a district.

28 (g) After deducting the expenses of the department in collecting and  
29 transferring the moneys, the department shall make disbursements and payments  
30 of moneys collected for or dedicated to any other purpose or fund except the  
31 State Highway Fund, including but not limited to, payments to the Depart-

1 ment of Transportation Operating Fund established by ORS 184.642 (1) and  
2 (2).

3 (3) The department shall refund from the Department of Transportation  
4 Driver and Motor Vehicle Suspense Account any excess or erroneous pay-  
5 ment to a person who made the payment or to the person's legal represen-  
6 tative when the department determines that money has been received by it  
7 in excess of the amount legally due and payable or that it has received  
8 money in which it has no legal interest. Refunds payable under this sub-  
9 section are continuously appropriated for such purposes in the manner for  
10 payment of refunds under this section. If the department determines that a  
11 refund is due, the department may refund the amount of excess or erroneous  
12 payment without a claim being filed. Except as provided in ORS 319.290,  
13 319.375, 319.820 and 319.831, any claim for a refund from the department must  
14 be filed within 12 months after the date payment is received by the depart-  
15 ment.

16 (4) After payment of those expenses and disbursements approved for payment  
17 before general administrative expenses related to the provision of driver and  
18 motor vehicle services, the department shall pay from the Department of  
19 Transportation Driver and Motor Vehicle Services Administrative Account  
20 its general administrative expenses incurred in the administration of any law  
21 related to driver and motor vehicle services that the department is charged  
22 with administering and any other expenses the department is permitted by  
23 law to pay from moneys held by the department before transfer of the moneys  
24 to the State Highway Fund. The following limitations apply to payments of  
25 administrative expenses under this subsection:

26 (a) The department shall make payment of the expenses of administering  
27 the issuance of winter recreation parking permits under ORS 811.595 from  
28 those moneys received from issuing the permits [*or from moneys received*  
29 *under ORS 153.630 from violation of the requirement to have the permit*].

30 (b) The department shall pay its expenses for administering the registra-  
31 tion and titling of snowmobiles under ORS 821.060 and 821.100 from the fees

1 collected from administering those sections. The department shall also pay  
2 its expenses for the administration of the snowmobile driver permit program  
3 under ORS 821.160 from the moneys otherwise described in this paragraph.

4 (c) The department shall pay its expenses for determining the amount of  
5 money to be withheld under ORS 802.120 from the fees collected for admin-  
6 istering the registration and titling of snowmobiles. The amount used to pay  
7 expenses under this paragraph shall be such sum as necessary but shall not  
8 exceed \$10,000 during each biennium.

9 (d) The department shall retain not more than \$15,000 in any biennium  
10 for the expenses of collecting and transferring moneys to the Student Driver  
11 Training Fund under this section and for the administration of ORS 336.810  
12 (3).

13 (5) Except as otherwise provided in this subsection, the department shall  
14 transfer to the State Highway Fund the moneys not used for payment of the  
15 general administrative expenses or for approved expenses and disbursements be-  
16 fore payment of general administrative expenses. The following apply to this  
17 subsection:

18 (a) If the Director of Transportation certifies the amount of principal or  
19 interest of highway bonds due on any particular date, the department may  
20 make available for the payment of such interest or principal any sums that  
21 may be necessary to the extent of moneys on hand available for the State  
22 Highway Fund regardless of the dates otherwise specified under this section.

23 (b) Notwithstanding paragraph (a) of this subsection the department shall  
24 not make available for purposes described in paragraph (a) of this subsection  
25 any moneys described in ORS 367.605 when there are not sufficient amounts  
26 of such moneys in the State Highway Fund for purposes of bonds issued un-  
27 der ORS 367.615.

28 (6) Notwithstanding any other provision of this section, the following  
29 moneys shall be transferred to the State Highway Fund at the times de-  
30 scribed:

31 (a) Moneys received under ORS 802.120 and not used for the payment of

1 administrative expenses of the department shall be transferred before July  
2 31 of each year.

3 (b) Moneys received from the registration of snowmobiles that is not to  
4 be used for payment of administrative expenses of the department shall be  
5 transferred within 30 days after the end of the quarter.

6 (c) Moneys received from the issuance of winter recreation parking per-  
7 mits [*or under ORS 153.630 from violation of the requirement to have a winter*  
8 *recreation parking permit and*] that is not used for payment of administrative  
9 expenses of the department shall be transferred within 30 days after the end  
10 of the quarter.

11 (7) The following moneys transferred to the State Highway Fund under  
12 this section may be used only for the purposes described as follows:

13 (a) Moneys collected from the issuance of winter recreation parking per-  
14 mits [*or under ORS 153.630 for violation of the requirement to have a winter*  
15 *recreation parking permit*], and the interest on such moneys, shall be used to  
16 enforce the requirement for winter recreation parking permits and to remove  
17 snow from winter recreation parking locations designated under ORS 810.170.  
18 Any remaining moneys shall, upon approval by the Winter Recreation Advi-  
19 sory Committee:

20 (A) Be used to maintain parking locations developed with moneys ob-  
21 tained under ORS 810.170 and snowmobile facilities that are parking lots  
22 developed with moneys as provided under this section;

23 (B) Be used to develop additional winter recreation parking locations  
24 under ORS 810.170; or

25 (C) Be carried over to be used in subsequent years for the purposes and  
26 in the manner described in this paragraph.

27 (b) Moneys received from the registration of snowmobiles or under ORS  
28 802.120 may be used for development and maintenance of multiuse trails  
29 within urban growth boundaries described in ORS 367.017 or for the devel-  
30 opment and maintenance of snowmobile facilities, including the acquisition  
31 of land therefor by any means other than the exercise of eminent domain.

1 Moneys received under ORS 802.120 may also be used for the enforcement  
2 of ORS 811.590, 821.100 to 821.120, 821.140, 821.150, 821.190, 821.210 and  
3 821.240 to 821.290.

4 (8) The department shall maintain the Revolving Account for Emergency  
5 Cash Advances separate from other moneys described in this section. From  
6 the account, the department may pay for the taking up of dishonored remit-  
7 tances returned by banks or the State Treasurer and for emergency cash  
8 advances to be subsequently reimbursed. The account shall be used only as  
9 a revolving fund. The department shall at all times be accountable for the  
10 amount of the account, either in cash or unreimbursed items and advances.  
11 The moneys in the account are continuously appropriated for the purposes  
12 of this subsection. The amount of the account under this subsection shall  
13 not exceed \$40,000 from moneys received by the department in the perform-  
14 ance of its driver and motor vehicle services functions and moneys otherwise  
15 appropriated for purposes of this subsection. The account under this sub-  
16 section shall be kept on deposit with the State Treasurer. The State Treas-  
17 urer is authorized to honor and pay all properly signed and indorsed checks  
18 or warrants drawn against the account.

19 **SECTION 145.** ORS 802.155 is amended to read:

20 802.155. (1) There is created the Safety Education Fund, separate and  
21 distinct from the General Fund. Interest earned by the fund shall be credited  
22 to the fund.

23 (2) Moneys deposited in the Safety Education Fund from the Criminal  
24 Fine [*and Assessment*] Account are continuously appropriated to the office  
25 of the administrator of the Transportation Safety section of the Department  
26 of Transportation to be used for safety education programs:

27 (a) That provide injury prevention education on traffic safety issues for  
28 each age group in the kindergarten through college ages;

29 (b) That have been recipients of funds under 23 U.S.C. 402 for at least  
30 three years;

31 (c) That are found by the Transportation Safety section to be effective,

1 as measured by the three-year reporting cycle funded under 23 U.S.C. 402;  
2 and

3 (d) That operate statewide.

4 **SECTION 146.** ORS 810.530 is amended to read:

5 810.530. (1) A weighmaster or motor carrier enforcement officer in whose  
6 presence an offense described in this subsection is committed may arrest or  
7 issue a citation for the offense in the same manner as under ORS 810.410 as  
8 if the weighmaster or motor carrier enforcement officer were a police officer.

9 This subsection applies to the following offenses:

10 (a) Violation of maximum weight limits under ORS 818.020.

11 (b) Violation of posted weight limits under ORS 818.040.

12 (c) Violation of administratively imposed weight or size limits under ORS  
13 818.060.

14 (d) Violation of maximum size limits under ORS 818.090.

15 (e) Exceeding maximum number of vehicles in combination under ORS  
16 818.110.

17 (f) Violation of posted limits on use of road under ORS 818.130.

18 (g) Violation of towing safety requirements under ORS 818.160.

19 (h) Operating with sifting or leaking load under ORS 818.300.

20 (i) Dragging objects on highway under ORS 818.320.

21 (j) Unlawful use of devices without wheels under ORS 815.155.

22 (k) Unlawful use of metal objects on tires under ORS 815.160.

23 (L) Operation without pneumatic tires under ORS 815.170.

24 (m) Operation in violation of vehicle variance permit under ORS 818.340.

25 (n) Failure to carry and display permit under ORS 818.350.

26 (o) Failure to comply with commercial vehicle enforcement requirements  
27 under ORS 818.400.

28 (p) Violation of any provision of ORS chapter 825.

29 (q) Operation without proper fenders or mudguards under ORS 815.185.

30 (r) Operating a vehicle without driving privileges in violation of ORS  
31 807.010 if the person is operating a commercial motor vehicle and the person

1 does not have a commercial driver license or does not have an appropriate  
2 permit.

3 (s) Violation driving while suspended or revoked in violation of ORS  
4 811.175 if the person is operating a commercial motor vehicle while the  
5 person's commercial driver license is suspended or revoked.

6 (t) Failure to use vehicle traction tires or chains in violation of ORS  
7 815.140 if the person is operating a motor vehicle subject to ORS chapter 825  
8 or 826.

9 (2) A weighmaster or motor carrier enforcement officer in whose presence  
10 an offense described in this subsection is committed by a person operating  
11 a commercial motor vehicle may issue a citation for the offense. A  
12 weighmaster or motor carrier enforcement officer who finds evidence that  
13 an offense described in this subsection has been committed by a person op-  
14 erating a commercial motor vehicle or by a motor carrier for which the  
15 person is acting as an agent may issue a citation for the offense. A  
16 weighmaster or motor carrier enforcement officer issuing a citation under  
17 this subsection has the authority granted a police officer issuing a citation  
18 under ORS 810.410. A citation issued under this subsection to the operator  
19 of a commercial motor vehicle shall be considered to have been issued to the  
20 motor carrier that owns the commercial motor vehicle if the operator is not  
21 the owner. This subsection applies to the following offenses, all of which are  
22 Class A traffic violations under ORS 825.990 (1):

23 (a) Repeatedly violating or avoiding any order or rule of the Department  
24 of Transportation.

25 (b) Repeatedly refusing or repeatedly failing, after being requested to do  
26 so, to furnish service authorized by certificate.

27 (c) Refusing or failing to file the annual report as required by ORS  
28 825.320.

29 (d) Refusing or failing to maintain records required by the department or  
30 to produce such records for examination as required by the department.

31 (e) Failing to appear for a hearing after notice that the carrier's certif-

1 icate or permit is under investigation.

2 (f) Filing with the department an application that is false with regard to  
3 the ownership, possession or control of the equipment being used or the op-  
4 eration being conducted.

5 (g) Delinquency in reporting or paying any fee, tax or penalty due to the  
6 department under ORS chapter 825 or 826.

7 (h) Refusing or failing to file a deposit or bond as required under ORS  
8 825.506.

9 (i) Failing to comply with the applicable requirements for attendance at  
10 a motor carrier education program as required by ORS 825.402.

11 (3) A weighmaster or motor carrier enforcement officer who finds evi-  
12 dence that a person operating a commercial motor vehicle has committed the  
13 offense of failure to pay the appropriate registration fee under ORS 803.315  
14 may issue a citation for the offense in the same manner as under ORS 810.410  
15 as if the weighmaster or motor carrier enforcement officer were a police of-  
16 ficer.

17 (4) The authority of a weighmaster or motor carrier enforcement officer  
18 to issue citations or arrest under this section is subject to ORS chapter 153.

19 (5)(a) A person is a weighmaster for purposes of this section if the person  
20 is a county weighmaster or a police officer.

21 (b) A person is a motor carrier enforcement officer under this section if  
22 the person is duly authorized as a motor carrier enforcement officer by the  
23 Department of Transportation.

24 (6) A weighmaster or motor carrier enforcement officer may accept secu-  
25 rity in the same manner as a police officer under ORS 810.440 and 810.450  
26 and may take as security for the offenses, in addition to other security per-  
27 mitted under this section, the sum fixed as the [*base*] **presumptive** fine for  
28 the offense.

29 (7) A weighmaster or motor carrier enforcement officer may arrest a per-  
30 son for the offense of failure to appear in a violation proceeding under ORS  
31 153.992 if the violation is based upon a citation for any offense described in

1 subsection (1) or (3) of this section except those described in subsection (1)(p)  
2 of this section.

3 (8) A weighmaster or motor carrier enforcement officer may exercise the  
4 same authority as a police officer under ORS 810.490 to enforce vehicle re-  
5 quirements and detain vehicles. A person who fails to comply with the au-  
6 thority of a weighmaster or motor carrier enforcement officer under this  
7 subsection is subject to penalty under ORS 818.400.

8 **SECTION 147.** ORS 813.030 is amended to read:

9 813.030. The fee required by ORS 471.432 and 813.020 (1) shall be in the  
10 amount of \$130, except that the court may waive all or part of the fee in  
11 cases involving indigent defendants. The court may make provision for pay-  
12 ment of the fee on an installment basis. **The court shall deposit the fee**  
13 **in the Criminal Fine Account.** *[The fee shall be ordered paid as follows:]*

14 *[(1) \$105 to be credited and distributed under ORS 137.295 as an obligation*  
15 *payable to the state; and]*

16 *[(2) \$25 to be paid to the Director of the Oregon Health Authority for de-*  
17 *posit in the Intoxicated Driver Program Fund created by ORS 813.270.]*

18 **SECTION 148.** ORS 837.100 is amended to read:

19 837.100. *[(1)]* In addition to any other persons permitted to enforce vio-  
20 lations, the Director of the Oregon Department of Aviation and any employee  
21 specifically designated by the director may issue citations for violations es-  
22 tablished under ORS 837.990 in the manner provided by ORS chapter 153.

23 *[(2) All fines and court costs recovered from violations established under*  
24 *ORS 837.990 shall be paid to the clerk of the court involved. The clerk, after*  
25 *deductions of court costs provided by law for the proceeding, shall pay the re-*  
26 *mainder of the money to the State Treasurer to be deposited in the Criminal*  
27 *Fine and Assessment Account in the General Fund.]*

28

29 **ELIMINATION OF VIOLATIONS BUREAUS**

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31 **SECTION 149.** ORS 153.800 is repealed.

**ELIMINATION OF OFFENSE SURCHARGE**

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**SECTION 150.** Section 2, chapter 659, Oregon Laws 2009, as amended by section 20, chapter 107, Oregon Laws 2010, is amended to read:

**Sec. 2.** (1) In all cases of conviction for the commission of a crime or violation, excluding parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense surcharge under this section. Except when the person successfully asserts the defense set forth in ORS 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in juvenile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a fine and shall be in an amount as follows:

- (a) \$35 in the case of a felony.
- (b) \$35 in the case of a misdemeanor.
- (c) \$45 in the case of a violation as described in ORS 153.008.

(2) A court may waive all or part of the offense surcharge required by this section only if the court imposes no fine on the defendant.

(3) The offense surcharge required by this section shall be imposed only for offenses that are committed on or after October 1, 2009, and before July 1, 2011.

(4)(a) Offense surcharges imposed under this section are part of the base fine for the purposes of ORS chapter 153.

(b) The provisions of ORS 153.093 do not affect the amount of the offense surcharge imposed and collected under this section, and the amount calculated under ORS 153.093 (1) includes the full amount of the offense surcharge.

(5) Offense surcharges imposed in a circuit court under this section are category 3 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Offense surcharges imposed in a justice court, county court or municipal court under this section are cate-

1 gory 4 monetary obligations for the purposes of ORS 137.295 and shall be  
2 collected as provided in ORS 137.295. Amounts collected as offense sur-  
3 charges under this section [*may not be deposited in the Criminal Fine and*  
4 *Assessment Account, or transferred to the Department of Revenue, under ORS*  
5 *137.295 (5), but*] must be deposited or paid as follows:

6 (a) Offense surcharges imposed in circuit courts shall be deposited by the  
7 Department of Revenue in the [*Judicial System Surcharge*] **Criminal Fine**  
8 Account.

9 (b) Offense surcharges imposed in a justice court or county court shall  
10 be paid to the county treasurer.

11 (c) Offense surcharges imposed in a municipal court shall be paid to the  
12 city treasurer.

13 (6) The collections and revenue management program established under  
14 ORS 1.204 may [*not*] be reimbursed under ORS 1.204 from amounts imposed  
15 as offense surcharges under this section.

16

17 **NONSTANDARD OFFENSE PROVISIONS**

18

19 **SECTION 151.** ORS 25.990 is amended to read:

20 25.990. (1) Violation of ORS 25.720 (3) is a Class A violation.

21 (2) Violation of ORS 25.260 is [*punishable, upon conviction, by a fine of*  
22 *not more than \$1,000 or by imprisonment in the county jail for not more than*  
23 *60 days, or by both*] **a Class C misdemeanor.**

24 (3) Violation of ORS 25.785 (3) is a Class A misdemeanor.

25 **SECTION 152.** ORS 45.900 is amended to read:

26 45.900. Violation of ORS 45.135 or 45.138 is a **Class B** violation. [*A person*  
27 *violating ORS 45.135 or 45.138 is subject to a fine of up to \$500.]*

28 **SECTION 153.** ORS 83.990 is amended to read:

29 83.990. (1) Any person who violates any provision of ORS 83.510 to 83.680  
30 commits a Class A violation.

31 (2) A willful violation of ORS 83.520 to 83.600 or 83.650 to 83.670 by any

1 person shall bar recovery of any finance charge, delinquency or collection  
2 charge or refinancing charge on the retail installment contract involved.

3 (3) Notwithstanding the provisions of subsections (1) to (3) of this section,  
4 any failure to comply with any provision of ORS 83.510 to 83.680 may be  
5 corrected within 10 days after the holder is notified thereof in writing by the  
6 buyer, and, if so corrected, neither the seller nor the holder shall be subject  
7 to any penalty.

8 (4) Any person who willfully and intentionally violates any provision of  
9 ORS 83.010 to 83.190 [*shall, upon conviction, be punished by a fine of not more*  
10 *than \$1,000 or by imprisonment for not more than six months, or both*] **com-**  
11 **mits a Class B misdemeanor.** Violation of any order or injunction issued  
12 pursuant to ORS 83.010 to 83.190 shall constitute prima facie proof of a vio-  
13 lation of this subsection.

14 **SECTION 154.** ORS 86.990 is amended to read:

15 86.990. Violation of ORS 86.040 is [*punishable, upon conviction, by a fine*  
16 *not exceeding \$500 or imprisonment in the county jail not exceeding six*  
17 *months, or both*] **a Class B misdemeanor.**

18 **SECTION 155.** ORS 92.990 is amended to read:

19 92.990. (1) Violation of any provision of ORS 92.010 to 92.090, 92.100 and  
20 92.120 to 92.170 or of any regulation or ordinance adopted thereunder, is  
21 [*punishable, upon conviction, by a fine of not less than \$50 nor more than \$500*  
22 *or imprisonment in the county jail for not less than 25 days nor more than 50*  
23 *days, or both*] **a Class C misdemeanor.**

24 (2) Any person who violates any of the provisions of ORS 92.325 (1), 92.345  
25 to 92.365, 92.405 (1), (2) and (3), 92.425, 92.433, 92.460 to 92.475 and any al-  
26 ternative requirements of the Real Estate Commissioner prescribed pursuant  
27 to ORS 92.425 (3), not waived by the commissioner pursuant to ORS 92.395,  
28 or who provides false information or omits to state material facts pursuant  
29 to ORS 92.337, [*shall be punished by a fine not exceeding \$10,000, or by*  
30 *imprisonment in the custody of the Department of Corrections for a period not*  
31 *exceeding three years, or in the county jail not exceeding one year, or by both*

1 *such fine and imprisonment]* **commits a Class C felony.**

2 **SECTION 156.** ORS 97.990 is amended to read:

3 97.990. (1) Violation of ORS 97.160 is a **Class A** misdemeanor [*and upon*  
4 *conviction is punishable by a fine not exceeding \$100*].

5 (2) Every officer, agent or employee of this state or of any county, city  
6 or any other municipal subdivision thereof who willfully neglects to notify  
7 the Demonstrator of Anatomy of the existence of a body as required by ORS  
8 97.170 to 97.210 or who refuses to deliver possession of such body according  
9 to the provisions of ORS 97.170 to 97.210 or who mutilates or permits any  
10 such body to be mutilated so that it is not valuable for anatomical purposes  
11 or who refuses or neglects to perform any of the duties enjoined upon the  
12 officer, agent or employee by ORS 97.170 to 97.210, [*is guilty of a*  
13 *misdemeanor and upon conviction is punishable by a fine of not more than \$50*  
14 *for each offense]* **commits a Class A misdemeanor.**

15 (3) Violation of ORS 97.520, 97.530 or 97.540 is a **Class A** misdemeanor.

16 (4) Any person, association or corporation who operates a cemetery,  
17 mausoleum or columbarium contrary to the provisions of ORS 97.020 to  
18 97.040, 97.110 to 97.130, 97.145, 97.150, 97.220, 97.310 to 97.360 (1), 97.440, 97.510  
19 to 97.560, 97.710, 97.720, 97.810, 97.820, 97.830 and 97.840 to 97.860 [*is guilty*  
20 *of maintaining a nuisance and, upon conviction, is punishable by a fine not*  
21 *exceeding \$500 or by imprisonment in the county jail for not more than six*  
22 *months, or both]* **commits a Class B misdemeanor.**

23 (5)(a) Violation of ORS 97.745 is a Class C felony.

24 (b) In addition to any other sentence provided by law for criminal vio-  
25 lations of ORS 97.745, the judge shall impose a penalty not to exceed \$10,000  
26 on any person convicted of a criminal violation of ORS 97.745.

27 (6) In addition to the penalty of subsection (5) of this section, any native  
28 Indian artifacts or human remains taken by, or in possession of, any person  
29 sentenced under subsection (5) of this section and all equipment used in the  
30 violation may be ordered forfeited by the court in which conviction occurs,  
31 and may be disposed of as the court directs.

1        **SECTION 157.** ORS 97.992 is amended to read:

2        97.992. Violation of any of the provisions of ORS 97.937 is [*punishable,*  
3        *upon conviction, by a fine not exceeding \$1,000, or imprisonment in the county*  
4        *jail not exceeding one year, or both*] **a Class A misdemeanor.**

5        **SECTION 158.** ORS 100.990 is amended to read:

6        100.990. Subject to ORS 153.022, any person who violates any of the pro-  
7        visions of ORS 100.015, 100.635 to 100.730 and 100.740 to 100.780 or any rules  
8        adopted thereunder or any alternative requirements of the Real Estate  
9        Commissioner prescribed pursuant to ORS 100.720 (3), [*shall be punished by*  
10       *a fine not exceeding \$10,000, or by imprisonment in the custody of the De-*  
11       *partment of Corrections for a period not exceeding three years, or in the county*  
12       *jail not exceeding one year, or by both such fine and imprisonment*] **commits**  
13       **a Class C felony.**

14       **SECTION 159.** ORS 105.590 is amended to read:

15       105.590. An intentional violation of a restraining order, preliminary in-  
16       junction or order of abatement under ORS 105.550 to 105.600 is [*punishable*  
17       *as a contempt of court by a fine of not more than \$1,000 which may not be*  
18       *waived, or by imprisonment for not more than six months or by both*] **a Class**  
19       **B misdemeanor.**

20       **SECTION 160.** ORS 106.990 is amended to read:

21       106.990. (1) Violation of ORS 106.041 (5) is [*punishable, upon conviction,*  
22       *by a fine of not more than \$100 or by imprisonment in the county jail for not*  
23       *more than 30 days, or both*] **a Class C misdemeanor.**

24       (2) Violation of ORS 106.110 or 106.140 is [*punishable upon conviction by*  
25       *imprisonment in the custody of the Department of Corrections or county jail*  
26       *for not more than one year, or by a fine of not more than \$500 nor less than*  
27       *\$100*] **a Class A misdemeanor.**

28       (3) Refusal or neglect to comply with ORS 106.170 shall result in the  
29       forfeiture of a penalty of not less than \$10 nor more than \$50 to be recovered  
30       by action for every five days of such refusal or neglect.

31       **SECTION 161.** ORS 165.990 is amended to read:

1 165.990. [(1) Any officer, agent, operator or employee of any telegraph com-  
2 pany who refuses or willfully omits to transmit communications in accordance  
3 with ORS 165.480, or designedly alters or falsifies such communications, is  
4 liable to indictment and, upon conviction, may be punished by fine or  
5 imprisonment, at the discretion of the court.]

6 [(2) Violation of ORS 165.485 or 165.490 is punishable, upon conviction, by  
7 a fine of not exceeding \$1,000 or imprisonment in the county jail for not ex-  
8 ceeding one year, or both.]

9 [(3) Violation of ORS 165.495 is punishable, upon conviction, by a fine of  
10 not exceeding \$500 or imprisonment in the county jail for not exceeding six  
11 months, or both.]

12 [(4)(a)] Violation of ORS 165.692 is a Class C felony [punishable as pro-  
13 vided in ORS chapter 161].

14 [(b)] Criminal prosecution of violators of ORS 165.692 [shall] **must** be  
15 commenced within five years after the commission of the crime.

16 **SECTION 162.** ORS 166.180 is amended to read:

17 166.180. Any person who, as a result of failure to use ordinary care under  
18 the circumstances, wounds any other person with a bullet or shot from any  
19 firearm, or with an arrow from any bow, [shall be punished by imprisonment  
20 in the county jail for a period not to exceed six months, or by a fine not to  
21 exceed \$500, or both] **commits a Class B misdemeanor**. In addition, any  
22 person so convicted shall forfeit any license to hunt, obtained under the laws  
23 of this state, and shall be ineligible to obtain a license to hunt for a period  
24 of 10 years following the date of conviction.

25 **SECTION 163.** ORS 166.300 is amended to read:

26 166.300. (1) Any person who has committed, with firearms of any kind or  
27 description, murder in any degree, or manslaughter, either voluntary or in-  
28 voluntary, or who in a careless or reckless manner, kills or injures another  
29 with firearms, and who, at any time after committing murder or  
30 manslaughter or after said careless or reckless killing or injury of another,  
31 carries or bears firearms of any kind or description within this state, [shall

1 *be punished upon conviction by a fine of not more than \$500, or by*  
2 *imprisonment in the county jail not to exceed one year, or both]* **commits a**  
3 **Class A misdemeanor.**

4 (2) Subsection (1) of this section does not deprive the people of this state  
5 of the right to bear arms for the defense of themselves and the state, and  
6 does not apply to any peace officer in the discharge of official duties or to  
7 a member of any regularly constituted military organization while on duty  
8 with such military organization.

9 [(3) *Justice courts, county courts and all other courts having jurisdiction*  
10 *as justice courts, shall have concurrent jurisdiction with the circuit courts of*  
11 *all prosecutions under subsection (1) of this section.*]

12 **SECTION 164.** ORS 166.320 is amended to read:

13 166.320. (1) Any person who places or sets any loaded springgun, setgun,  
14 or any gun, firearm or other device of any kind designed for containing or  
15 firing explosives, in any place where it may be fired, exploded or discharged  
16 by the contact of any person or animal with any string, wire, rod, stick,  
17 spring or other contrivance affixed to or connected with it, or with its trig-  
18 ger, [*shall be punished upon conviction by a fine of not less than \$100 nor more*  
19 *than \$500, or by imprisonment in the county jail for not less than 30 days nor*  
20 *more than six months, or both]* **commits a Class B misdemeanor.**

21 (2) Subsection (1) of this section does not apply to any loaded springgun,  
22 setgun, firearm or other device placed for the purpose of destroying gophers,  
23 moles or other burrowing rodents, and does not prevent the use of a coyote  
24 getter by employees of county, state or federal governments engaged in co-  
25 operative predatory animal control work.

26 **SECTION 165.** ORS 166.330 is amended to read:

27 166.330. Any person who uses in any firearms discharged on lands within  
28 this state, not owned by the person, anything other than incombustible gun  
29 wadding, [*shall be punished upon conviction by a fine of not less than \$5 nor*  
30 *more than \$100, or by imprisonment in the county jail for not less than two*  
31 *days nor more than 60 days]* **commits a Class C misdemeanor.**

1        **SECTION 166.** ORS 166.715 is amended to read:

2        166.715. As used in ORS 166.715 to 166.735, unless the context requires  
3 otherwise:

4        (1) “Documentary material” means any book, paper, document, writing,  
5 drawing, graph, chart, photograph, phonograph record, magnetic tape, com-  
6 puter printout, other data compilation from which information can be ob-  
7 tained or from which information can be translated into usable form, or  
8 other tangible item.

9        (2) “Enterprise” includes any individual, sole proprietorship, partnership,  
10 corporation, business trust or other profit or nonprofit legal entity, and in-  
11 cludes any union, association or group of individuals associated in fact al-  
12 though not a legal entity, and both illicit and licit enterprises and  
13 governmental and nongovernmental entities.

14        (3) “Investigative agency” means the Department of Justice or any district  
15 attorney.

16        (4) “Pattern of racketeering activity” means engaging in at least two in-  
17 cidents of racketeering activity that have the same or similar intents, re-  
18 sults, accomplices, victims or methods of commission or otherwise are  
19 interrelated by distinguishing characteristics, including a nexus to the same  
20 enterprise, and are not isolated incidents, provided at least one of such in-  
21 cidents occurred after November 1, 1981, and that the last of such incidents  
22 occurred within five years after a prior incident of racketeering activity.  
23 Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision  
24 of law providing that a previous prosecution is a bar to a subsequent prose-  
25 cution, conduct that constitutes an incident of racketeering activity may be  
26 used to establish a pattern of racketeering activity without regard to  
27 whether the conduct previously has been the subject of a criminal prose-  
28 cution or conviction or a juvenile court adjudication, unless the prosecution  
29 resulted in an acquittal or the adjudication resulted in entry of an order  
30 finding the youth not to be within the jurisdiction of the juvenile court.

31        (5) “Person” means any individual or entity capable of holding a legal or

1 beneficial interest in real or personal property.

2 (6) "Racketeering activity" includes conduct of a person committed both  
3 before and after the person attains the age of 18 years, and means to commit,  
4 to attempt to commit, to conspire to commit, or to solicit, coerce or intim-  
5 idate another person to commit:

6 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under  
7 any of the following provisions of the Oregon Revised Statutes:

8 (A) ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995, relating to  
9 securities;

10 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and  
11 perjury;

12 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365,  
13 relating to obstructing governmental administration;

14 (D) ORS 162.405 to 162.425, relating to abuse of public office;

15 (E) ORS 162.455, relating to interference with legislative operation;

16 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to crimi-  
17 nal homicide;

18 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

19 (H) ORS 163.225 and 163.235, relating to kidnapping;

20 (I) ORS 163.275, relating to coercion;

21 (J) ORS 163.670 to 163.693, relating to sexual conduct of children;

22 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095,  
23 164.098, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270, re-  
24 lating to theft, burglary, criminal trespass and related offenses;

25 (L) ORS 164.315 to 164.335, relating to arson and related offenses;

26 (M) ORS 164.345 to 164.365, relating to criminal mischief;

27 (N) ORS 164.395 to 164.415, relating to robbery;

28 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful re-  
29 cording or labeling of a recording;

30 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, re-  
31 lating to forgery and related offenses;

- 1 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;
- 2 (R) ORS [*165.485 to 165.515*], 165.540 and 165.555, relating to communi-  
3 cation crimes;
- 4 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450  
5 and 166.470, relating to firearms and other weapons;
- 6 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007  
7 to 167.017, 167.054, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137,  
8 167.147, 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and  
9 167.439, relating to prostitution, obscenity, sexually explicit material, sexual  
10 conduct, gambling, computer crimes involving the Oregon State Lottery, an-  
11 imal fighting, forcible recovery of a fighting bird and related offenses;
- 12 (U) ORS 171.990, relating to legislative witnesses;
- 13 (V) ORS 260.575 and 260.665, relating to election offenses;
- 14 (W) ORS 314.075, relating to income tax;
- 15 (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cig-  
16 arette and tobacco products taxes and the directories developed under ORS  
17 180.425 and 180.477;
- 18 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance  
19 payments, and ORS 411.990 (2) and (3);
- 20 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;
- 21 (AA) ORS 463.995, relating to boxing, mixed martial arts and enter-  
22 tainment wrestling, as defined in ORS 463.015;
- 23 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405,  
24 471.425, 471.442, 471.445, 471.446, 471.485, 471.490 and 471.675, relating to al-  
25 coholic liquor, and any of the provisions of ORS chapter 471 relating to li-  
26 censes issued under the Liquor Control Act;
- 27 (CC) ORS 475.005 to 475.285 and 475.840 to 475.980, relating to controlled  
28 substances;
- 29 (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to ex-  
30 plosives;
- 31 (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor

1 vehicles;

2 (FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;

3 (GG) ORS chapter 706, relating to banking law administration;

4 (HH) ORS chapter 714, relating to branch banking;

5 (II) ORS chapter 716, relating to mutual savings banks;

6 (JJ) ORS chapter 723, relating to credit unions;

7 (KK) ORS chapter 726, relating to pawnbrokers;

8 (LL) ORS 166.382 and 166.384, relating to destructive devices;

9 (MM) ORS 165.074;

10 (NN) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage  
11 brokers;

12 (OO) ORS chapter 496, 497 or 498, relating to wildlife;

13 (PP) ORS 163.355 to 163.427, relating to sexual offenses;

14 (QQ) ORS 166.015, relating to riot;

15 (RR) ORS 166.155 and 166.165, relating to intimidation;

16 (SS) ORS chapter 696, relating to real estate and escrow;

17 (TT) ORS chapter 704, relating to outfitters and guides;

18 (UU) ORS 165.692, relating to making a false claim for health care pay-  
19 ment;

20 (VV) ORS 162.117, relating to public investment fraud;

21 (WW) ORS 164.170 or 164.172;

22 (XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;

23 (YY) ORS 164.886;

24 (ZZ) ORS 167.312 and 167.388;

25 (AAA) ORS 164.889;

26 (BBB) ORS 165.800; or

27 (CCC) ORS 163.263, 163.264 or 163.266.

28 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961  
29 (1)(B), (C), (D) and (E).

30 (7) “Unlawful debt” means any money or other thing of value constituting  
31 principal or interest of a debt that is legally unenforceable in the state in

1 whole or in part because the debt was incurred or contracted:

2 (a) In violation of any one of the following:

3 (A) ORS chapter 462, relating to racing;

4 (B) ORS 167.108 to 167.164, relating to gambling; or

5 (C) ORS 82.010 to 82.170, relating to interest and usury.

6 (b) In gambling activity in violation of federal law or in the business of  
7 lending money at a rate usurious under federal or state law.

8 (8) Notwithstanding contrary provisions in ORS 174.060, when this section  
9 references a statute in the Oregon Revised Statutes that is substantially  
10 different in the nature of its essential provisions from what the statute was  
11 when this section was enacted, the reference shall extend to and include  
12 amendments to the statute.

13 **SECTION 167.** ORS 167.337 is amended to read:

14 167.337. (1) A person commits the crime of interfering with a law  
15 enforcement animal if the person intentionally or knowingly injures or at-  
16 tempts to injure an animal the person knows or reasonably should know is  
17 a law enforcement animal while the law enforcement animal is being used  
18 in the lawful discharge of its duty.

19 (2) Interfering with a law enforcement animal is a Class A misdemeanor.

20 *[(3) When a person is convicted of interfering with a law enforcement ani-  
21 mal, in addition to any other sentence the court may impose, the court shall  
22 impose a fine in the amount of \$500.]*

23 **SECTION 168.** ORS 167.339 is amended to read:

24 167.339. (1) A person commits the crime of assaulting a law enforcement  
25 animal if:

26 (a) The person knowingly causes serious physical injury to or the death  
27 of a law enforcement animal, knowing that the animal is a law enforcement  
28 animal; and

29 (b) The injury or death occurs while the law enforcement animal is being  
30 used in the lawful discharge of the animal's duties.

31 (2) Assaulting a law enforcement animal is a Class C felony.

1       [(3) *When a person is convicted of assaulting a law enforcement animal, in*  
2 *addition to any other sentence the court may impose, the court shall impose a*  
3 *fine in the amount of \$1,000.*]

4       **SECTION 169.** ORS 192.990 is amended to read:

5       192.990. Violation of ORS 192.710 (1) is a **Class D** violation [*punishable*  
6 *by a fine of \$10*].

7       **SECTION 170.** ORS 198.600 is amended to read:

8       198.600. (1) If a penalty for a violation is not otherwise provided, violation  
9 of any regulation adopted by a district board under ORS 198.510 to 198.600  
10 is [*punishable, upon conviction, by a fine of not more than \$250 or*  
11 *imprisonment of not more than 30 days, or both*] **a Class C misdemeanor.**

12       (2) Actions to impose punishment shall be brought in the name of the  
13 district or county, as the case may be, in any court having jurisdiction of  
14 misdemeanors under state laws. The action shall be brought in the county  
15 in which the district, or the greater portion of the area of the district, is  
16 located. [*Fines recovered shall be paid to the clerk of the court who, after first*  
17 *deducting the court costs in such proceedings, shall pay the remainder thereof*  
18 *to the treasurer of the district or county initiating the action to go to and form*  
19 *a part of its general fund.*]

20       (3) Any peace officer may enforce an ordinance adopted under ORS  
21 198.510 to 198.600. ORS 221.333 is applicable to the enforcement of such or-  
22 dinances.

23       **SECTION 171.** ORS 221.916 is amended to read:

24       221.916. (1) The mayor and alderpersons shall compose the common coun-  
25 cil of any city organized under sections 1 to 6, pages 119 to 123, Oregon Laws  
26 1893. At any regular council meeting, the common council may:

27       (a) Provide for lighting the streets and furnishing such city and its in-  
28 habitants with gas or other lights, and with pure and wholesome water. For  
29 such purpose it may construct such water, gas or other works, within or  
30 without the city limits, as may be necessary or convenient therefor. It may  
31 allow the use of the city streets and alleys to any person, company or cor-

1 poration who may desire to establish works for supplying the city and in-  
2 habitants thereof with such water or lights upon such reasonable terms and  
3 conditions as the common council may prescribe.

4 (b) Permit, allow and regulate the laying down of tracks for streetcars  
5 and other railroads upon such streets as the common council may designate,  
6 and upon such terms and conditions as the common council may prescribe.

7 (c) Allow and regulate the erection and maintenance of poles, or poles  
8 and wires, for telegraph, telephone, electric light or other purposes, upon or  
9 through the streets, alleys or public grounds of such city.

10 (d) Permit and regulate the use of alleys, streets and public grounds of  
11 the city for laying down or repairing gas and water mains, for building and  
12 repairing sewers and for erecting gas or other lights.

13 (e) Preserve the streets, lights, side and crosswalks, bridges and public  
14 grounds from injury, prevent the unlawful use of the same and regulate their  
15 use.

16 (f) Fix the maximum rate of wharfage, rates for gas or other lights, rates  
17 for carrying passengers on street railways and water rates. No city shall ever  
18 deprive itself of the right through its common council of regulating and ad-  
19 justing any such rates, so that the same shall be reasonable for the service  
20 rendered, at least once in any period of two years.

21 (g) License, tax, regulate, restrain and prohibit barrooms and tippling  
22 houses, and all places where spirituous, vinous or malt liquors are sold, or  
23 in any manner disposed of contrary to law. No license shall be issued for a  
24 lesser sum than that provided by law.

25 (h) Prevent and suppress gaming and gambling houses, and all games of  
26 chance, including lotteries and pool selling.

27 (i) Prevent and suppress bawdyhouses, lewd and lascivious cohabitation,  
28 opium-smoking houses and places occupied or kept therefor.

29 (j) License, regulate and control any lawful business, trade, occupation,  
30 profession or calling, carried on or conducted within the corporate limits of  
31 any such city.

1 (k) Suppress and prohibit anything that is injurious to the public morals,  
2 public safety or public health of the inhabitants of any such city. The com-  
3 mon council may define, suppress and prohibit nuisances of every kind, in-  
4 cluding those arising out of the receipt, sale or disposal of intoxicating  
5 liquor in violation of law.

6 (L) Regulate, suppress and prohibit the running at large within the cor-  
7 porate limits of any and all domestic animals, including fowls, and provide  
8 for the impoundment and sale, after notice, of such animals.

9 (m) Exercise any and all police regulations concerning the public morals,  
10 public safety, public health and public convenience of the inhabitants of any  
11 such city.

12 (n) Provide for the surveying of blocks and streets of the city and for  
13 marking the boundary lines of such blocks and streets, and the establishing  
14 of grades of the streets, sidewalks and crosswalks.

15 (o) Prevent and punish trespass on real and personal property within the  
16 corporate limits of such city.

17 (p) Make bylaws and ordinances not inconsistent with the laws of the  
18 United States or of this state to carry into effect the provisions of ORS  
19 221.901 to 221.928.

20 (q) Provide, in addition to such action as may be appropriate to carry into  
21 full effect the object to be achieved, for the punishment of persons violating  
22 any bylaws or ordinances by fine or imprisonment, or both, and the working  
23 of such persons on the city streets or at any other work. [*No fine shall exceed*  
24 *the sum of \$50, nor shall any imprisonment exceed 20 days.*]

25 (2) Nothing contained in ORS 221.901 to 221.928 shall be so construed as  
26 to oust the state courts of jurisdiction to indict or punish persons for of-  
27 fenses against any law of the state committed within the limits of any such  
28 city.

29 **SECTION 172.** ORS 240.990 is amended to read:

30 240.990. (1) Subject to ORS 153.022, any person who willfully violates any  
31 provision of this chapter or of the rules thereunder [*is guilty of a*] **commits**

1 **a Class A** misdemeanor [*and is punishable, upon conviction, by a fine of not*  
2 *more than \$500 or by imprisonment in the county jail for a term not exceeding*  
3 *one year, or both*].

4 (2) Any person who fails to appear in response to a subpoena or to answer  
5 any question or produce any books or papers pertinent to any investigation  
6 or hearing authorized by this chapter [*is guilty of a*] **commits a Class A**  
7 misdemeanor.

8 (3) A state officer or employee who fails to comply with any provision of  
9 this chapter or of any rule, regulation or order thereunder is subject to all  
10 penalties and remedies provided by law for failure of a public officer or em-  
11 ployee to do an act required of a public officer or employee by law.

12 (4) Any person who is convicted of a **Class A** misdemeanor under this  
13 chapter shall, for a period of five years, be ineligible for appointment to or  
14 employment in a position in the state service, and if the person is an officer  
15 or employee of the state, shall be deemed guilty of malfeasance in office and  
16 shall be subject to forfeit of the office or position.

17 **SECTION 173.** ORS 241.990 is amended to read:

18 241.990. (1) Except as otherwise provided in this section, willful violation  
19 of any of the provisions of ORS 241.016 to 241.990 is a **Class A** misdemeanor  
20 [*and, upon conviction, is punishable by a fine of not less than \$25 nor more*  
21 *than \$1,000, or by imprisonment in the county jail for not longer than one year,*  
22 *or both*].

23 (2) Willful false swearing in any hearing or investigation before the  
24 commission, or designated commissioner, is perjury and punishable as such.

25 (3) Violation of ORS 241.525 is [*punishable, upon conviction, by a fine of*  
26 *not less than \$50 nor more than \$1,000 or imprisonment of not less than 10*  
27 *days nor more than two years, or both*] **a Class A misdemeanor**. In addition,  
28 if the person convicted is a public officer of the state or any civil division  
29 thereof, including counties and cities, the person shall be deprived of office.

30 [(4) *The circuit court shall have jurisdiction of all offenses defined by ORS*  
31 *241.016 to 241.990.*]

1        **SECTION 174.** ORS 267.990 is amended to read:

2        267.990. Any person violating a police ordinance of a mass transit district  
3        [*is guilty of a*] **commits a Class A** misdemeanor [*and upon conviction shall*  
4        *be punished by a fine of not more than \$250*].

5        **SECTION 175.** ORS 268.990 is amended to read:

6        268.990. [(1)] Violation of any ordinance, rule or regulation adopted by a  
7        district [*shall be punishable by a fine of not more than \$500 or by*  
8        *imprisonment in a county jail for not more than 30 days or by both*] **is a Class**  
9        **C misdemeanor.**

10        [(2) *Any penalty for such a violation may be imposed or enforced by the*  
11        *district in the circuit court of the state for the county where the violation takes*  
12        *place.*]

13        **SECTION 176.** ORS 279A.990 is amended to read:

14        279A.990. (1) The provisions of ORS 291.990 apply to ORS 279A.140,  
15        279A.280 and 279B.270. Any violation of ORS 279A.140, 279A.280 or 279B.270  
16        shall be punished as described in ORS 291.990.

17        (2) Any contractor, subcontractor, agent or person in authority or in  
18        charge who violates any provision of ORS 279C.520 or 279C.540 as to hours  
19        of labor [*shall be fined not less than \$50 nor more than \$1,000 or imprisoned*  
20        *in the county jail for not less than five days nor more than one year, or both*]  
21        **commits a Class A misdemeanor.**

22        (3) Any contractor or subcontractor subject to ORS 279C.840 who fails to  
23        pay the prevailing rate of wage as required by ORS 279C.840 [*shall be pun-*  
24        *ished by a fine of not more than \$1,000 or by imprisonment in the county jail*  
25        *for not more than six months, or both*] **commits a Class B misdemeanor.**

26        **SECTION 177.** ORS 291.990 is amended to read:

27        291.990. [(1) *A person who makes or orders or votes to make an expenditure*  
28        *in violation of a provision of the statutes listed in subsection (5) of this section,*  
29        *or who makes or authorizes or causes to be made a disbursement of funds from*  
30        *the State Treasury in violation of a provision of the statutes listed in sub-*  
31        *section (5) of this section, commits a violation and shall, upon conviction, be*

1 *punished by a fine of not less than \$500 nor more than \$3,000.]*

2 [(2)] (1) If a person incurs or orders or votes to incur an obligation in  
3 violation of a provision of the statutes listed in subsection [(5)] (4) of this  
4 section, the person and the sureties on the person's bond are jointly and se-  
5 verally liable for the violation to the person in whose favor the obligation  
6 was incurred.

7 [(3)] (2) Upon certification by the Oregon Department of Administrative  
8 Services that a state officer or employee of a state agency has failed or re-  
9 fused to comply with an order, rule or regulation the department made in  
10 accordance with the statutes listed in subsection [(5)] (4) of this section, the  
11 salary of the officer or employee may not be paid until the order, rule or  
12 regulation is complied with.

13 [(4)] (3) A violation of a provision of a statute listed in subsection [(5)]  
14 (4) of this section [*for which no other penalty is provided in this section*] is  
15 a Class A violation.

16 [(5)] (4) Subsections (1) to [(4)] (3) of this section apply to ORS 279A.140,  
17 279A.280, 279B.270, 283.020, 283.110, 283.140, 283.143, 283.305 to 283.390, 291.001  
18 to 291.034, 291.201 to 291.222, 291.232 to 291.260, 291.307, 292.220 and 292.230.

19 **SECTION 178.** ORS 293.990 is amended to read:

20 293.990. (1) Any person, official or state agent violating ORS 293.265 to  
21 293.280 or failing to comply with any of the requirements of those sections  
22 within the time provided shall be liable on the official bond of the person,  
23 officer or state agent and [*shall, upon conviction thereof, be punished by a fine*  
24 *not exceeding \$1,000 or by imprisonment in the county jail for a period not*  
25 *exceeding one year, or both*] **commits a Class A misdemeanor.**

26 (2) In addition to civil liability, violation of ORS 293.620 is a Class A  
27 violation. [*Upon conviction, the defendant is liable for all costs of the prose-*  
28 *cution in accordance with ORS 151.505 or 161.665.]*

29 **SECTION 179.** ORS 305.990 is amended to read:

30 305.990. (1) Any person who willfully presents or furnishes to the De-  
31 partment of Revenue any statement required under ORS 305.160, which

1 statement is false or fraudulent, [*is guilty of*] **commits** perjury and upon  
2 conviction shall be punished as provided by law therefor.

3 (2) Any person who gives testimony before the Director of the Department  
4 of Revenue which is false or fraudulent, [*is guilty of*] **commits** perjury and  
5 upon conviction shall be punished as provided by law therefor.

6 (3) Any public officer who neglects or refuses to perform any of the duties  
7 imposed on the public officer by law as to the assessment, levying or col-  
8 lection of taxes [*shall be punished, upon conviction, by a fine not exceeding*  
9 *\$500 or by imprisonment in the county jail not exceeding one year*] **commits**  
10 **a Class A misdemeanor.**

11 (4) Violation of ORS 305.815 is [*punishable, upon conviction, by a fine of*  
12 *not more than \$1,000 or by imprisonment for not more than one year in the*  
13 *county jail, or both*] **a Class A misdemeanor.**

14 (5) Violation of ORS 305.260 is [*punishable, upon conviction, as*] a Class  
15 A misdemeanor[, *as provided in ORS chapter 161*]. If the offender is an officer  
16 or employee of the state the offender shall be dismissed from office and shall  
17 be incapable of holding any public office in this state for a period of five  
18 years thereafter.

19 **SECTION 180.** ORS 307.990 is amended to read:

20 307.990. If any person shall willfully deliver any statement to the officer  
21 charged with assessment of property for tax purposes in the county of the  
22 person containing a false statement of a material fact, whether it be an  
23 owner, shipper, the agent of the person, or a storageman or warehouseman  
24 of the agent of the person, the person [*shall be guilty of a*] **commits a Class**  
25 **B misdemeanor**[, *and upon conviction shall be punished by a fine of not more*  
26 *than \$500 or by imprisonment in the county jail for not more than six*  
27 *months*].

28 **SECTION 181.** ORS 319.990 is amended to read:

29 319.990. (1) Any person who violates any of the provisions of ORS 319.010  
30 to 319.430, or any person who makes any false statement in any statement  
31 required by ORS 319.010 to 319.430 for the refund of any money or tax as

1 provided in ORS 319.010 to 319.430, or who collects or causes to be repaid  
2 to the person or any person any tax, without being entitled to it under the  
3 provisions of ORS 319.010 to 319.430, [*shall, upon conviction, be punished by*  
4 *a fine of not more than \$1,000, or by imprisonment in the county jail not more*  
5 *than six months, or both*] **commits a Class B misdemeanor.**

6 (2) Violation of ORS 319.180 (6) or 319.694 (4) is theft of public money and,  
7 upon conviction, is punishable as provided in ORS 164.043 to 164.057.

8 (3) Violation of any provision of ORS 319.240 (4) and (5) is [*punishable,*  
9 *upon conviction, by a fine of not more than \$5,000, or by imprisonment in the*  
10 *county jail not exceeding six months, or both*] **a Class B misdemeanor.**

11 (4) Violation of any provision of ORS 319.510 to 319.880 is a **Class A**  
12 **misdemeanor.**

13 [(5) *Justice courts have concurrent jurisdiction with the circuit court of all*  
14 *violations under the provisions of ORS 319.010 to 319.125 and 319.190 to*  
15 *319.430, 319.510 to 319.880 or this section.*]

16 **SECTION 182.** ORS 320.990 is amended to read:

17 320.990. Violation of any provision of ORS 320.005 to 320.150 [*by any per-*  
18 *son is punishable, upon conviction, by a fine of not more than \$500, or by*  
19 *imprisonment in the county jail for not more than six months, or by both*] **is**  
20 **a Class B misdemeanor.** [*Justice courts have concurrent jurisdiction with*  
21 *the circuit courts of any prosecution provided for in this subsection.*]

22 **SECTION 183.** ORS 321.991 is amended to read:

23 321.991. Violation of any provision of ORS 321.005 to 321.185 and 321.560  
24 to 321.600 is [*punishable, upon conviction, by a fine not exceeding \$1,000 or*  
25 *by imprisonment in the county jail for not exceeding one year, or by both*] **a**  
26 **Class A misdemeanor.**

27 **SECTION 184.** ORS 341.300 is amended to read:

28 341.300. (1) The board may adopt such regulations as it considers neces-  
29 sary to provide for the policing, control and regulations of traffic and park-  
30 ing of vehicles on property under the jurisdiction of the board. Such  
31 regulations may provide for the registration of vehicles, the designation and

1 posting of parking areas, and the assessment and collection of reasonable  
2 fees and charges for parking and shall be filed in the board business office  
3 on the campus and shall be available for public inspection. The board may  
4 require that before a quarterly or yearly parking privilege for any vehicle  
5 is granted to any full-time or part-time student to use board property, the  
6 student must show that the vehicle is operated by a student holding a valid  
7 driver license, that the vehicle is currently registered and that the student  
8 driving the vehicle is insured under a motor vehicle liability insurance pol-  
9 icy that meets the requirements described under ORS 806.080 or that the  
10 student or owner of the vehicle has provided the Department of Transporta-  
11 tion with other satisfactory proof of compliance with the financial responsi-  
12 bility requirements of this state.

13 (2) The regulations adopted pursuant to subsection (1) of this section may  
14 be enforced administratively under procedures adopted by the board. Admin-  
15 istrative and disciplinary sanctions may be imposed upon students, faculty,  
16 and staff for violation of the regulations. The board may establish hearing  
17 procedures for the determination of controversies in connection with impo-  
18 sition of [*finer or*] penalties.

19 (3) Upon agreement between the board and a city or county in which all  
20 or part of the community college campus is located, proceedings to enforce  
21 regulations adopted pursuant to subsection (1) of this section shall be  
22 brought in the name of the city or county enforcing the regulation in the  
23 circuit, justice or municipal court in the county in which the violation oc-  
24 curred. [*The fines, penalties and costs recovered shall be paid to the clerk of*  
25 *the court involved in accordance with the agreement between the board and the*  
26 *city or county with which the agreement is made.*]

27 (4) The regulations adopted pursuant to subsection (1) of this section may  
28 also be enforced by the impoundment of vehicles, and a reasonable fee may  
29 be enacted for the cost of impoundment and storage, if any, prior to the re-  
30 lease of the vehicles to their owners.

31 (5) Every peace officer acting within the jurisdictional authority of a

1 governmental unit of the place where the violation occurs shall enforce the  
2 regulations adopted by the board under subsection (1) of this section if an  
3 agreement has been entered into pursuant to subsection (3) of this section.  
4 The board, for the purpose of enforcing its regulations governing traffic  
5 control, may appoint peace officers who shall have the same authority as  
6 other peace officers as defined in ORS 133.005.

7 (6) Issuance of traffic citations to enforce the regulations adopted by the  
8 board under subsection (1) of this section shall conform to the requirements  
9 of ORS chapter 153. However, in proceedings brought to enforce parking  
10 regulations, it shall be sufficient to charge the defendant by an unsworn  
11 written notice in accordance with the provisions of ORS 221.333.

12 (7) Violation of any regulation adopted by the board pursuant to sub-  
13 section (1) of this section and enforced pursuant to subsection (3) of this  
14 section is a **Class A** misdemeanor.

15 **SECTION 185.** ORS 346.991 is amended to read:

16 346.991. [(1)] Violation of ORS 346.167, **346.620 (1) or (2), 346.650 or**  
17 **346.660 or any of the provisions of ORS 346.680 to 346.690** is [*punishable,*  
18 *upon conviction, by a fine of not more than \$1,000 or by imprisonment in the*  
19 *county jail for not more than 60 days, or both*] **a Class C misdemeanor.**

20 [(2) *Violation of ORS 346.620 (1) or (2) is a Class C misdemeanor.*]

21 [(3) *Violation of ORS 346.650 or 346.660 is a Class C misdemeanor.*]

22 [(4) *Violations of ORS 346.680 to 346.690 are subject to the penalties pro-*  
23 *vided in subsections (1) to (3) of this section.*]

24 **SECTION 186.** ORS 368.990 is amended to read:

25 368.990. [(1)] Violation of ORS 368.251 [or], 368.256 **or 368.942** is  
26 [*punishable, upon conviction, by a fine not exceeding \$100 or by imprisonment*  
27 *in the county jail not exceeding 60 days, or both*] **a Class C misdemeanor.**  
28 [*Justice courts shall have concurrent jurisdiction with the circuit courts of*  
29 *such offenses.*]

30 [(2) *Violation of ORS 368.942 is punishable, upon conviction, for each vio-*  
31 *lation by a fine of not more than \$100 or imprisonment in the county jail for*

1 *not more than 30 days or both.]*

2 **SECTION 187.** ORS 376.990 is amended to read:

3 376.990. (1) Operation of a motor vehicle by any person over a contract  
4 forest road in violation of the contract provisions as to equipment, weight,  
5 width, length or height, is [*punishable, upon conviction, by a fine not exceed-*  
6 *ing \$400 or by imprisonment in the county jail not exceeding one year, or*  
7 *both*] **a Class A misdemeanor.** The definitions in ORS 376.310 apply to this  
8 section.

9 (2) Violation by any person of any of the provisions of ORS 376.305 to  
10 376.390 is [*punishable, upon conviction, by a fine not exceeding \$400 or by*  
11 *imprisonment in the county jail not exceeding one year, or both*] **a Class A**  
12 **misdemeanor.**

13 **SECTION 188.** ORS 390.995 is amended to read:

14 390.995. (1) Violation of ORS 390.640 is a misdemeanor.

15 (2) Subject to ORS 153.022, any person who violates a rule adopted under  
16 ORS 390.950 to 390.989 [*is guilty of a misdemeanor, and may be punished by*  
17 *a fine of not more than \$500, or by imprisonment not exceeding six months,*  
18 *or both*] **commits a Class B misdemeanor.**

19 (3) Subject to ORS 153.022, violation of any provision of ORS 390.640 or  
20 390.705, or any rule adopted to carry out the purposes of ORS 390.640 or  
21 390.705, [*may be punished by a fine of not more than \$500, or by imprisonment*  
22 *not exceeding six months, or both*] **is a Class B misdemeanor.** Each day that  
23 a person violates ORS 390.640 or 390.705 shall be considered a separate of-  
24 fense.

25 **SECTION 189.** ORS 398.224 is amended to read:

26 398.224. (1) Any person not subject to this chapter [*is guilty of an offense*  
27 *against the state when*] **commits a Class B misdemeanor if** the person:

28 (a) Has been duly subpoenaed to appear as a witness before a court-  
29 martial, court of inquiry or any other military court or board, or before any  
30 military or civil officer designated to take a deposition to be read in evidence  
31 before such a court, commission or board;

1 (b) Has been duly paid or tendered the fees and mileage of a witness at  
2 the rates allowed to witnesses attending the circuit court of the state in ORS  
3 44.415 (2); and

4 (c) Willfully neglects or refuses to appear, or refuses to qualify as a wit-  
5 ness or to testify or to produce any evidence which that person may have  
6 been legally subpoenaed to produce.

7 [(2) *Any person who commits an offense described in subsection (1) of this*  
8 *section shall be tried before the circuit court or judge thereof of the county*  
9 *where the offense occurred, and exclusive jurisdiction is conferred upon those*  
10 *courts for such purpose. Upon conviction, such a person shall be punished by*  
11 *a fine of not more than \$2,500, or imprisonment for not more than six months,*  
12 *or both.*]

13 [(3)] **(2)** The district attorney of the county in which the offense occurred,  
14 upon certification of the facts by the military court, court of inquiry or  
15 board, shall prosecute any person who commits the offense described in  
16 subsection (1) of this section. [*The fine shall be deposited in the General*  
17 *Fund of the State Treasury, to be available for general governmental*  
18 *expenses.*]

19 **SECTION 190.** ORS 399.990 is amended to read:

20 399.990. Any person violating ORS 399.125 [*is guilty of a misdemeanor*  
21 *punishable by imprisonment in the county jail not to exceed six months and*  
22 *a fine not to exceed \$500]* **commits a Class B misdemeanor.** [*The fine shall*  
23 *be recovered by an action brought by the district attorney in the name of the*  
24 *state and shall be deposited in the General Fund in the State Treasury, to be*  
25 *available for general governmental expenses.*]

26 **SECTION 191.** ORS 411.990 is amended to read:

27 411.990. (1) Violation of ORS 411.320 or 411.335 is [*punishable, upon con-*  
28 *viction, by a fine of not more than \$1,000 or by imprisonment in the county jail*  
29 *for not more than 60 days, or by both]* **a Class C misdemeanor.**

30 (2) Violation of any provision of ORS 411.630 or 411.840 is a Class C fel-  
31 ony which may be reduced to a Class A misdemeanor in accordance with

1 ORS 161.705.

2 (3) Violation of ORS 411.675 is a Class C felony.

3 (4) Criminal prosecution of violators of ORS 411.675 shall be commenced  
4 in accordance with ORS 131.125 (6) and (7).

5 **SECTION 192.** ORS 418.215 is amended to read:

6 418.215. [(1)] No private child-caring agency shall provide or engage in  
7 any care or service described in ORS 418.205 unless the agency is at the time:

8 [(a)] (1) Duly incorporated under the corporation laws of any state; and

9 [(b)] (2) Licensed to provide or engage in the care or service by the De-  
10 partment of Human Services under the provisions of ORS 418.205 to 418.325.

11 [(2) *The fine which may be imposed for violation of the provisions of this*  
12 *section, as provided in ORS 412.991 and 418.990, may be assessed by any court*  
13 *of competent jurisdiction upon presentation of evidence of such action.*]

14 **SECTION 193.** ORS 421.990 is amended to read:

15 421.990. (1) Violation of ORS 421.340 is [*punishable upon conviction by a*  
16 *fine not exceeding \$1,000 or by imprisonment in the county jail for a term not*  
17 *exceeding one year, or both*] **a Class A misdemeanor.**

18 (2) Violation of ORS 421.105 (2) is punishable in the same manner as if  
19 the individual injured unlawfully was not convicted or sentenced.

20 **SECTION 194.** ORS 431.210 is amended to read:

21 431.210. (1) There is established in the General Fund the Public Health  
22 Account, classified separately as to federal and other moneys.

23 (2) All [*fin*es,] fees, penalties, federal apportionments or contributions and  
24 other moneys received by the Oregon Health Authority relating to public  
25 health shall be turned over to the State Treasurer not later than the 10th  
26 day of the calendar month next succeeding their receipt by the authority and  
27 shall be credited to the Public Health Account.

28 (3) All moneys credited to the Public Health Account are continuously  
29 appropriated to the authority for the payment of expenses of the authority.

30 **SECTION 195.** ORS 432.900 is amended to read:

31 432.900. (1) In addition to any other liability or penalty provided by law,

1 the Director of the Oregon Health Authority may impose a civil penalty on  
2 any person for willful failure to comply with any part of ORS 432.520. A civil  
3 penalty may be imposed against a health care facility for each day compli-  
4 ance is refused. The penalty shall be \$50 per day for the first 30 days and  
5 \$500 per day thereafter. A civil penalty of \$50 may be imposed against a  
6 practitioner for each day compliance is refused.

7 (2) Any [*fin*es] **amounts** collected pursuant to subsection (1) of this sec-  
8 tion shall be paid into the State Treasury and deposited in the General Fund.

9 (3) Civil penalties described in subsection (1) of this section shall be im-  
10 posed in the manner provided in ORS 183.745.

11 **SECTION 196.** ORS 435.990 is amended to read:

12 435.990. (1) Violation of any of the provisions of ORS 435.010 to 435.130  
13 is [*punishable, upon conviction, by a fine not to exceed \$200 or imprisonment*  
14 *in a county jail for not exceeding 60 days, or both*] **a Class C**  
15 **misdemeanor.**

16 (2) Sale at wholesale or retail of any goods of the class specified in ORS  
17 435.010 that do not comply with standards promulgated under ORS 435.100  
18 (1) is a Class C misdemeanor.

19 **SECTION 197.** ORS 441.990 is amended to read:

20 441.990. (1) Violation of ORS 441.015 (1) is a **Class B** violation  
21 [*punishable, upon conviction, by a fine of not more than \$100 for the first vi-*  
22 *olation and not more than \$500 for each subsequent violation*]. Each day of  
23 continuing violation after a first conviction shall be considered a subsequent  
24 violation.

25 (2) Any person who willfully prevents, interferes with, or attempts to  
26 impede in any way the work of any duly authorized representative of the  
27 Department of Human Services in the lawful carrying out of the provisions  
28 of ORS 441.087 (1) [*is guilty of*] **commits** a Class C misdemeanor.

29 (3) The removal of the notice required by ORS 441.030 (4) by any person  
30 other than an official of the department is a Class C misdemeanor.

31 (4) Any person who, after being excluded by a trustee pursuant to ORS

1 441.289 (16), remains upon the premises of a facility or returns to a facility  
2 violates ORS 164.245.

3 (5) In addition to the penalties under this section, the Oregon Health  
4 Authority, the Department of Human Services or the Department of Con-  
5 sumer and Business Services may assess civil penalties against any health  
6 care facility or health maintenance organization under ORS 441.030 or for a  
7 violation of ORS 441.015 (1). A civil penalty imposed under this section may  
8 not exceed \$5,000.

9 (6) Civil penalties under this section shall be imposed in the manner  
10 provided by ORS 183.745.

11 (7) Civil penalties recovered under this section shall be paid into the  
12 State Treasury and credited to the General Fund for general governmental  
13 purposes.

14 **SECTION 198.** ORS 448.305 is amended to read:

15 448.305. (1) Subject to subsection (2) of this section, by ordinance a city  
16 may prohibit or restrict access for purposes of fishing, hunting, camping,  
17 hiking, picnicking, trapping of wild animals or birds, harvesting of timber  
18 or mining or removal of minerals or carrying on any other activity in its  
19 watershed area, or by ordinance may permit any such activity in its  
20 watershed area upon conditions specified in the ordinance. However, no or-  
21 dinance passed under authority of this section shall prohibit the hunting or  
22 trapping of fur-bearing or predatory mammals doing damage to public or  
23 private property or prohibit the hunting or trapping of any bird or mammal  
24 for scientific purposes, as defined in ORS 497.298 (3).

25 (2) Subsection (1) of this section applies only to cities with respect to  
26 watershed areas which are the subject of an agreement between the city and  
27 the United States or any department or agency thereof, which agreement  
28 authorizes such action by the city.

29 (3) **Violation of** an ordinance adopted by any city pursuant to this sec-  
30 tion [*shall include a penalty clause providing for a penalty upon conviction*  
31 *of a fine of not more than \$100 or imprisonment for not more than 30 days,*

1 *or both such fine and imprisonment]* **is a Class C misdemeanor.**

2 (4) After adoption of an ordinance pursuant to subsection (1) of this sec-  
3 tion, a city shall post the area with suitable signs setting forth the prohibi-  
4 tion of access or the conditions of limited access imposed by the ordinance.  
5 Failure to post the area as required in this subsection shall be a defense in  
6 any prosecution under an ordinance adopted by any city under authority of  
7 this section.

8 **SECTION 199.** ORS 448.990 is amended to read:

9 448.990. (1) Violation of ORS 448.005 to 448.090 by any person, firm or  
10 corporation, whether acting as principal or agent, employer or employee, is  
11 [*punishable, upon conviction, by a fine of not less than \$25 nor more than \$500*  
12 *or by imprisonment in the county jail not exceeding six months, or by both]* **a**  
13 **Class B misdemeanor.** Each day that the violation continues is a separate  
14 offense.

15 (2) Subject to ORS 153.022, violation of any of the following is [*punishable*  
16 *as]* a Class A misdemeanor:

17 (a) Any rule of the Oregon Health Authority adopted pursuant to ORS  
18 448.115 to 448.330.

19 (b) Any order issued by the authority pursuant to ORS 448.175.

20 (c) ORS 448.265 or 448.315 (2)(a).

21 **SECTION 200.** ORS 448.992 is amended to read:

22 448.992. (1) [*Except as provided in subsection (2) of this section,*] Any per-  
23 son who knowingly and willfully violates ORS 448.415 (2) [*shall upon con-*  
24 *viction be punished by a fine of not more than \$500 per day of violation or*  
25 *imprisonment for not more than six months, or both]* **commits a Class B**  
26 **misdemeanor.**

27 (2) Any person who knowingly makes any false statement, representation,  
28 or certification in any application, record, report, plan or other document  
29 filed or required to be maintained under ORS 448.410 to 448.430, or by any  
30 rule adopted under ORS 448.410 to 448.430, [*shall upon conviction, be punished*  
31 *by a fine of not more than \$500 or by imprisonment for not more than six*

1 *months, or both*] **commits a Class B misdemeanor.**

2 **SECTION 201.** ORS 448.994 is amended to read:

3 448.994. (1) [*Except as provided in subsection (2) of this section,*] Any per-  
4 son who knowingly and willfully violates ORS 448.455 (2) [*shall upon con-*  
5 *viction be punished by a fine of not more than \$500 per day of violation or*  
6 *imprisonment for not more than six months, or both*] **commits a Class B**  
7 **misdemeanor.**

8 (2) Subject to ORS 153.022, any person who knowingly makes any false  
9 statement, representation, or certification in any application, record, report,  
10 plan or other document filed or required to be maintained under ORS 448.450  
11 to 448.465 and 448.992, or by any rule adopted under ORS 448.450 to 448.465  
12 and 448.992, [*shall upon conviction, be punished by a fine of not more than*  
13 *\$500 or by imprisonment for not more than six months, or both*] **commits a**  
14 **Class B misdemeanor.**

15 **SECTION 202.** ORS 450.990 is amended to read:

16 450.990. Violation of any regulation or ordinance under ORS 450.085 is  
17 [*punishable, upon conviction, by a fine of not more than \$100 or imprisonment*  
18 *of not more than one month, or both*] **a Class C misdemeanor.**

19 **SECTION 203.** ORS 460.370 is amended to read:

20 460.370. All moneys from fees collected by the Department of Consumer  
21 and Business Services under ORS 460.310 to 460.370 [*and 460.990 (2)*] shall  
22 be paid into the Consumer and Business Services Fund created by ORS  
23 705.145 and are continuously appropriated to the department for use as pro-  
24 vided in ORS 455.022.

25 **SECTION 204.** ORS 460.990 is amended to read:

26 460.990. (1) Violation of any of the provisions of ORS 460.005 to 460.175  
27 is [*punishable, upon conviction, by a fine not to exceed \$100 or by*  
28 *imprisonment in the county jail for not more than 60 days, or both*] **a Class**  
29 **C misdemeanor.**

30 (2) Violation of any provisions of ORS 460.310 to 460.370 is a Class B  
31 misdemeanor.

1        **SECTION 205.** ORS 462.405 is amended to read:

2        462.405. (1) The board of stewards appointed by the Oregon Racing Com-  
3 mission for a race meet may, after an inquiry and hearing, impose appropri-  
4 ate sanctions for failure to comply with the laws and rules of racing and  
5 with the authorized commission or board directives applicable to said race  
6 meet, subject to the following limitations:

7        (a) [*No fine shall*] **A civil penalty may not** exceed \$500 per offense.

8        (b) [*No*] **A license suspension [shall] may not** be for a period longer than  
9 365 calendar days from the date of issuance of the order of the board of  
10 stewards.

11        (2) Any sanction imposed by the board of stewards shall take effect on the  
12 date so indicated in the board's ruling unless the effective date is stayed for  
13 good cause shown by specific order of the executive director of the commis-  
14 sion, or a member of the commission, pending commission review.

15        (3) In lieu of the board of stewards conducting any inquiry and hearing  
16 provided for by subsection (1) of this section, the board of stewards may re-  
17 quest the commission to appoint and designate a person to conduct such in-  
18 quiry and hearing who shall be known as a hearings master. The hearings  
19 master shall have the same authority and power as the board of stewards in  
20 conducting the inquiry and hearing. Any person adversely affected by any  
21 hearings master ruling has the right to appeal to the commission as provided  
22 for in subsection (4) of this section. The hearings master need not be an ad-  
23 ministrative law judge assigned from the Office of Administrative Hearings  
24 established under ORS 183.605.

25        (4) The board of stewards may refer any matter before it to the commis-  
26 sion for appropriate review or action either before or after a board hearing  
27 or ruling. A person adversely affected by any board ruling has the right to  
28 appeal to the commission for a review and hearing as provided in ORS  
29 chapter 183. Such review shall be perfected by filing a written notice of ap-  
30 peal with the executive director within 10 days after the board ruling is is-  
31 sued. Hearings conducted by the commission under this subsection shall be

1 heard by an administrative law judge assigned from the Office of Adminis-  
2 trative Hearings established under ORS 183.605. The commission is not lim-  
3 ited in its actions or in the sanctions it may impose by any ruling of the  
4 board or by any limitation imposed upon the board by commission rule or  
5 regulation or by subsection (2) of this section.

6 **SECTION 206.** ORS 462.990 is amended to read:

7 462.990. (1) Except as [*hereinafter*] provided in this section, violations of  
8 any provision of this chapter is a **Class A** misdemeanor.

9 (2) Any person violating the provisions of ORS 462.420, 462.430, 462.450,  
10 462.460, 462.470 or 462.415 (2) [*shall, upon conviction, be guilty of a felony and*  
11 *punished by imprisonment in the custody of the Department of Corrections for*  
12 *not more than two years or by a fine of not more than \$5,000, or by both*]  
13 **commits a Class C felony.**

14 (3) Any person who conspires or attempts to commit or commits any act  
15 of touting as defined in ORS 462.510 [*shall, upon conviction, be fined not more*  
16 *than \$500 or be imprisoned for not more than six months, or both*] **commits**  
17 **a Class B misdemeanor.**

18 (4) Any person violating the provisions of ORS 462.140 (1) [*shall be pun-*  
19 *ished upon conviction by imprisonment in the county jail for not more than*  
20 *one year or by imprisonment in the custody of the Department of Corrections*  
21 *for not more than five years or by a fine of not more than \$5,000, or both such*  
22 *fine and imprisonment*] **commits a Class A misdemeanor.**

23 **SECTION 207.** ORS 466.913 is amended to read:

24 466.913. (1) The Fuel Tank Compliance and Corrective Action Fund is  
25 established separate and distinct from the General Fund in the State Treas-  
26 ury.

27 (2) The following moneys, as they pertain to a fuel tank facility, shall be  
28 deposited into the State Treasury and credited to the Fuel Tank Compliance  
29 and Corrective Action Fund:

30 (a) Moneys recovered or otherwise received from responsible parties for  
31 corrective action related to a fuel tank facility;

1 (b) Moneys allocated to the fund from the Administrative Services Eco-  
2 nomic Development Fund;

3 (c) Any penalty[, *fine*] or damages recovered under ORS 466.770 pertaining  
4 to a fuel tank facility; and

5 (d) Any moneys received pursuant to ORS 466.910.

6 (3) The State Treasurer may invest and reinvest moneys in the fund in the  
7 manner provided by law.

8 (4) The moneys in the fund are appropriated continuously to the Depart-  
9 ment of Environmental Quality to be used as provided in subsection (5) of  
10 this section.

11 (5) Moneys in the fund may be used by the department for administration  
12 and funding of the essential services grant program established under ORS  
13 466.903 and 466.905.

14 **SECTION 208.** ORS 466.995, as amended by section 7, chapter 267, Oregon  
15 Laws 2009, is amended to read:

16 466.995. (1) Penalties provided in this section are in addition to and not  
17 in lieu of any other remedy specified in ORS 459.005 to 459.105, 459.205 to  
18 459.385, 466.005 to 466.385 or 466.992.

19 (2) Subject to ORS 153.022, violation by any person of a provision of ORS  
20 466.605 to 466.680 or of any rule or order entered or adopted under ORS  
21 466.605 to 466.680 is [*punishable, upon conviction, by a fine of not more than*  
22 *\$25,000 or by imprisonment in the county jail for not more than one year or*  
23 *both*] **Class A misdemeanor. Notwithstanding ORS 161.635, the maxi-**  
24 **imum fine for a violation is \$25,000.** Each day of violation shall be con-  
25 sidered a separate offense.

26 (3) Subject to ORS 153.022, any person who knowingly violates any pro-  
27 vision of ORS 466.706 to 466.882 and 466.994 or the rules adopted under ORS  
28 466.706 to 466.882 and 466.994 [*shall be subject to a criminal penalty not to*  
29 *exceed \$25,000 or imprisonment for not more than one year or both*] **commits**  
30 **a Class A misdemeanor. Notwithstanding ORS 161.635, the maximum**  
31 **fine for a violation is \$25,000.** Each day of violation shall be deemed a

1 separate offense.

2 (4) Subject to ORS 153.022, any person who knowingly violates any pro-  
3 vision of ORS 465.200 to 465.545 or any rule or order adopted or issued under  
4 ORS 465.200 to 465.545 [*shall, upon conviction, be subject to a criminal penalty*  
5 *not to exceed \$25,000 or imprisonment for not more than one year, or both.*]  
6 **commits a Class A misdemeanor. Notwithstanding ORS 161.635, the**  
7 **maximum fine for a violation is \$25,000.** Each day of violation shall be  
8 deemed a separate offense.

9 (5) Notwithstanding ORS 161.655, if a person incurring a fine under this  
10 section is a corporation, the corporation shall pay the fine provided for un-  
11 der this section.

12 **SECTION 209.** ORS 468.140, as amended by section 9, chapter 267, Oregon  
13 Laws 2009, is amended to read:

14 468.140. (1) In addition to any other penalty provided by law, any person  
15 who violates any of the following shall incur a civil penalty for each day  
16 of violation in the amount prescribed by the schedule adopted under ORS  
17 468.130:

18 (a) The terms or conditions of any permit required or authorized by law  
19 and issued by the Department of Environmental Quality or a regional air  
20 quality control authority.

21 (b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to  
22 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS  
23 chapter 467 and ORS chapters 468, 468A and 468B.

24 (c) Any rule or standard or order of the Environmental Quality Commis-  
25 sion adopted or issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205  
26 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and  
27 ORS chapter 467 and ORS chapters 468, 468A and 468B.

28 (d) Any term or condition of a variance granted by the commission or  
29 department pursuant to ORS 467.060.

30 (e) Any rule or standard or order of a regional authority adopted or is-  
31 sued under authority of ORS 468A.135.

1 (f) The financial assurance requirement under ORS 468B.390 and 468B.485  
2 or any rule related to the financial assurance requirement under ORS  
3 468B.390.

4 (2) Each day of violation under subsection (1) of this section constitutes  
5 a separate offense.

6 (3)(a) In addition to any other penalty provided by law, any person who  
7 intentionally or negligently causes or permits the discharge of oil or haz-  
8 ardous material into the waters of the state or intentionally or negligently  
9 fails to clean up a spill or release of oil or hazardous material into the wa-  
10 ters of the state as required by ORS 466.645 shall incur a civil penalty not  
11 to exceed the amount of \$100,000 for each violation.

12 (b) In addition to any other penalty provided by law, the following per-  
13 sons shall incur a civil penalty not to exceed the amount of \$25,000 for each  
14 day of violation:

15 (A) Any person who violates the terms or conditions of a permit author-  
16 izing waste discharge into the air or waters of the state.

17 (B) Any person who violates any law, rule, order or standard in ORS  
18 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to  
19 454.755 and 783.625 to 783.640 and ORS chapters 468, 468A and 468B relating  
20 to air or water pollution.

21 (C) Any person who violates the provisions of a rule adopted or an order  
22 issued under ORS 459A.590.

23 (4) In addition to any other penalty provided by law, any person who vi-  
24 olates the provisions of ORS 468B.130 shall incur a civil penalty not to ex-  
25 ceed the amount of \$1,000 for each day of violation.

26 (5) Subsection (1)(c) and (e) of this section does not apply to violations  
27 of motor vehicle emission standards which are not violations of standards for  
28 control of noise emissions.

29 (6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any  
30 other penalty provided by law, any person who intentionally or negligently  
31 causes or permits open field burning contrary to the provisions of ORS

1 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed by  
2 the department a civil penalty of at least \$20 but not more than \$40 for each  
3 acre so burned. Any [*fin*es] **amounts** collected by the department pursuant  
4 to this subsection shall be deposited with the State Treasurer to the credit  
5 of the General Fund and shall be available for general governmental expense.  
6 As used in this subsection, “open field burning” does not include propane  
7 flaming of mint stubble.

8 **SECTION 210.** ORS 468.943 is amended to read:

9 468.943. (1) A person commits the offense of unlawful water pollution in  
10 the second degree if the person with criminal negligence violates ORS  
11 chapter 468B or any rule, standard, license, permit or order adopted or issued  
12 under ORS chapter 468B.

13 (2) Subject to ORS 153.022, unlawful water pollution in the second degree  
14 is [*punishable by a fine of up to \$25,000 or imprisonment for not more than*  
15 *one year, or both*] **a Class A misdemeanor. Notwithstanding ORS 161.635,**  
16 **the maximum fine for a violation is \$25,000.**

17 **SECTION 211.** ORS 468A.580 is amended to read:

18 468A.580. (1) Permits under ORS 468A.575 for open field burning of cereal  
19 grain crops shall be issued in the counties listed in ORS 468A.560 only if the  
20 person seeking the permit submits to the issuing authority a signed state-  
21 ment under oath or affirmation that the acreage to be burned will be planted  
22 to seed crops other than cereal grains which require flame sanitation for  
23 proper cultivation.

24 (2) The Department of Environmental Quality shall inspect cereal grain  
25 crop acreage burned under subsection (1) of this section after planting in the  
26 following spring to determine compliance with subsection (1) of this section.

27 (3) Any person planting contrary to the restrictions of subsection (1) of  
28 this section shall be assessed by the department a civil penalty of \$25 for  
29 each acre planted contrary to the restrictions. Any [*fin*es] **amounts** collected  
30 by the department under this subsection shall be deposited by the State  
31 Treasurer in the Department of Agriculture Service Fund to be used in car-

1 rying out the smoke management program in cooperation with the Oregon  
2 Seed Council and for administration of this section.

3 (4) Any person planting seed crops after burning cereal grain crops under  
4 subsection (1) of this section may apply to the department for permission to  
5 plant contrary to the restrictions of subsection (1) of this section if the seed  
6 crop fails to grow. The department may allow planting contrary to the re-  
7 strictions of subsection (1) of this section if the crop failure occurred by  
8 reasons other than the negligence or intentional act of the person planting  
9 the crop or one under the control of the person planting the crop.

10 **SECTION 212.** ORS 469.990 is amended to read:

11 469.990. (1) In addition to any penalties under subsection (2) of this sec-  
12 tion, a person who discloses confidential information in violation of ORS  
13 469.090, willfully or with criminal negligence, as defined by ORS 161.085, may  
14 be subject to removal from office or immediate dismissal from public em-  
15 ployment.

16 (2)(a) Willful disclosure of confidential information in violation of ORS  
17 469.090 is [*punishable upon conviction, by a fine of not more than \$10,000 or*  
18 *imprisonment for up to one year, or both, for each offense]* **a Class A**  
19 **misdemeanor. Notwithstanding ORS 161.635, the maximum fine for a**  
20 **violation is \$10,000.**

21 (b) Disclosure of confidential information in violation of ORS 469.090 with  
22 criminal negligence, as defined by ORS 161.085, is a Class A violation.

23 (3) Any person who violates ORS 469.825 commits a Class A misdemeanor.

24 **SECTION 213.** ORS 471.559 is amended to read:

25 471.559. (1) If no warning sign is posted:

26 (a) The Oregon Liquor Control Commission shall furnish a warning sign.

27 (b) The retailer shall have five days from the receipt of the warning sign  
28 to post it appropriately.

29 (2) If there is a violation of this section or of ORS 471.551, the violator  
30 shall be subject to:

31 (a) A written warning from the commission for the first violation accom-

1 panied by a copy of the sign.

2 (b) A [*fine*] **civil penalty** of not to exceed \$25 payable to the commission  
3 for a second violation.

4 (c) A [*fine*] **civil penalty** of not to exceed \$25 for the third and subsequent  
5 violations for each day the sign is not posted.

6 (3) The [*fine*] **civil penalty** imposed under subsection (2) of this section  
7 shall be separate from any other sanction or penalty imposed by the com-  
8 mission and shall not be used in any progressive violation schedule.

9 (4) The penalty provided by this section shall be the sole penalty for vi-  
10 olation of this section or ORS 471.551 or the rules adopted under section 1,  
11 chapter 324, Oregon Laws 1991.

12 (5) Violation of this section or ORS 471.551 or the rules adopted under  
13 section 1, chapter 324, Oregon Laws 1991, shall not be grounds for refusal  
14 to issue a license, cancellation of a license or suspension of a license issued  
15 under this chapter.

16 (6) Nothing in this section or ORS 471.551 or the rules adopted under  
17 section 1, chapter 324, Oregon Laws 1991, creates any new cause of action  
18 or any private right of any person.

19 **SECTION 214.** ORS 471.990 is amended to read:

20 471.990. (1) Except where other punishment is specifically provided for,  
21 violation of any provision of this chapter and ORS 474.105 and 474.115 is a  
22 **Class A** misdemeanor.

23 [(2) *Except as otherwise specifically provided, municipal, justice and circuit*  
24 *courts have concurrent jurisdiction of all violations of this chapter and ORS*  
25 *474.105 and 474.115 committed within their respective jurisdictions.*]

26 [(3)] (2) A second or subsequent violation of ORS 471.440 is [*punishable*  
27 *upon conviction by imprisonment in the custody of the Department of Cor-*  
28 *rections for not more than three years and by a fine of not more than \$3,000]*  
29 **Class C felony.**

30 (4) Subject to ORS 153.022, violation of any regulation promulgated under  
31 ORS 471.730 (5) is a Class C violation.

1        **SECTION 215.** ORS 473.990 is amended to read:

2        473.990. (1) Violation of ORS 473.170 (1) is [*punishable upon conviction by*  
3        *a fine not exceeding \$500 or by imprisonment in the county jail not exceeding*  
4        *six months, or both*] **a Class B misdemeanor.**

5        (2) Violation of ORS 473.170 (2) is [*punishable upon conviction by a fine*  
6        *not exceeding \$1,000 or by imprisonment in the county jail not exceeding one*  
7        *year, or both*] **a Class A misdemeanor.**

8        **SECTION 216.** ORS 473.992 is amended to read:

9        473.992. Failure to pay a tax under ORS 473.045 (5) is [*punishable, upon*  
10        *conviction, by a fine of not more than \$500, or by imprisonment in the county*  
11        *jail for not more than 90 days, or both*] **a Class C misdemeanor.**

12        **SECTION 217.** ORS 475.495 is amended to read:

13        475.495. (1) The Illegal Drug Cleanup Fund is established separate and  
14        distinct from the General Fund in the State Treasury.

15        (2) The following moneys shall be deposited into the State Treasury and  
16        credited to the Illegal Drug Cleanup Fund:

17        (a) Moneys recovered or otherwise received from responsible parties for  
18        cleanup costs;

19        (b) Moneys received from a state agency, local government unit or any  
20        agency of a local government unit for cleanup of illegal drug manufacturing  
21        sites, including moneys received from forfeiture proceeds under the pro-  
22        visions of ORS 131A.360 and 131A.365;

23        (c) Moneys received from the federal government for cleanup of illegal  
24        drug manufacturing sites; and

25        (d) Any penalty[, *fine*] or punitive damages recovered under ORS 475.435,  
26        475.455 or 475.485.

27        (3) The State Treasurer may invest and reinvest moneys in the Illegal  
28        Drug Cleanup Fund in the manner provided by law. Interest earned by the  
29        fund shall be credited to the fund.

30        (4) The moneys in the Illegal Drug Cleanup Fund are appropriated con-  
31        tinuously to the Department of Environmental Quality to be used as provided

1 for in subsection (5) of this section.

2 (5) Moneys in the Illegal Drug Cleanup Fund may be used for the fol-  
3 lowing purposes:

4 (a) Payment of the state's cleanup costs; and

5 (b) Funding any action or activity authorized by ORS 475.415 to 475.455,  
6 475.475 and 475.485.

7 (6) In addition to the purposes provided for in subsection (5) of this sec-  
8 tion, moneys in the Illegal Drug Cleanup Fund received from forfeiture pro-  
9 ceeds under the provisions of ORS 131A.360 and 131A.365 may be transferred  
10 to the Department of Human Services to support the administration of the  
11 illegal drug manufacturing cleanup program provided for in ORS 453.855 to  
12 453.912.

13 (7) The department may not expend more than \$250,000 in each biennium  
14 of the forfeiture proceeds that are paid into the Illegal Drug Cleanup Fund  
15 by political subdivisions under the provisions of ORS 131A.360. If at the end  
16 of a biennium more than \$250,000 has been paid into the Illegal Drug  
17 Cleanup Fund under the provisions of ORS 131A.360, the department shall  
18 refund to each political subdivision that made payments into the fund a pro  
19 rata share of the excess amount, based on the amount of forfeiture proceeds  
20 paid into the fund by the political subdivision.

21 **SECTION 218.** ORS 475.565 is amended to read:

22 475.565. (1) In addition to any other penalty provided by law:

23 (a) A person who violates ORS 475.525 shall incur a civil penalty in an  
24 amount of at least \$2,000 and not more than \$10,000; and

25 (b) The court may order other equitable remedies including but not lim-  
26 ited to injunctive relief.

27 (2) Any [*fin*es] **amounts** collected under this section shall be forwarded  
28 to the State Treasurer for deposit in the General Fund to the credit of the  
29 Oregon Health Authority. The moneys shall be used for the development and  
30 implementation of drug abuse prevention activities and adolescent treatment.

31 **SECTION 219.** ORS 476.990 is amended to read:

1 476.990. (1) Violation of ORS 476.150 (2) is a **Class A** misdemeanor. [*All*  
2 *penalties, fees or forfeitures collected under the provisions of this subsection,*  
3 *ORS 476.010 to 476.090, 476.155 to 476.170 and 476.210 to 476.270 shall be paid*  
4 *into the State Treasury.*]

5 (2) Violation of ORS 476.380 (1) is a **Class A** misdemeanor.

6 (3) Violation of ORS 476.410 to 476.440 is [*punishable, upon conviction, by*  
7 *a fine of not less than \$25 nor more than \$250, or by imprisonment in the*  
8 *county jail for not less than 10 or more than 60 days, or both]* a **Class C**  
9 **misdemeanor**. [*Justices of the peace and district judges shall have concurrent*  
10 *jurisdiction with the circuit courts over prosecutions for such violations.*]

11 (4) Violation of any provision of ORS 476.510 to 476.610 is a **Class A**  
12 misdemeanor.

13 (5) Subject to ORS 153.022, violation of ORS 476.710 or 476.715 or of any  
14 rule or regulation of the State Parks and Recreation Department  
15 promulgated thereunder is [*punishable, upon conviction, by a fine not exceed-*  
16 *ing \$500 or imprisonment in the county jail not exceeding six months, or*  
17 *both]* a **Class B misdemeanor**.

18 **SECTION 220.** ORS 479.520 is amended to read:

19 479.520. The purpose of the Electrical Safety Law is to protect the health  
20 and safety of the people of Oregon from the danger of electrically caused  
21 shocks, fires and explosions and to protect property situated in Oregon from  
22 the hazard of electrically caused fires and explosions. To accomplish this  
23 purpose the Legislative Assembly intends to provide a procedure:

24 (1) For determining where and by whom electrical installations are being  
25 made and where electrical products are sold in this state.

26 (2) To assure the public that persons making electrical installations in  
27 this state are qualified by experience and training.

28 (3) To assure the public that electrical installations meet minimum safety  
29 standards and that electrical products meet electrical product safety stan-  
30 dards.

31 (4) For the administration and enforcement of the Electrical Safety Law

1 by the Department of Consumer and Business Services and the Electrical and  
2 Elevator Board.

3 (5) By which the cost of administering and enforcing the Electrical Safety  
4 Law is defrayed by the collection of fees in connection with the issuing of  
5 permits and electrical licenses and the collection of [*fin*es and] civil penal-  
6 ties.

7 **SECTION 221.** ORS 520.991 is amended to read:

8 520.991. Subject to ORS 153.022, violation of any provision of this chapter,  
9 any rule adopted by the governing board of the State Department of Geology  
10 and Mineral Industries under this chapter or any order issued by the board  
11 or the State Department of Geology and Mineral Industries under this  
12 chapter is [*punishable, upon conviction, by a fine not exceeding \$2,500 or*  
13 *imprisonment in the county jail for a term not exceeding six months, or both*]  
14 **a Class B misdemeanor.**

15 **SECTION 222.** ORS 522.990 is amended to read:

16 522.990. Subject to ORS 153.022, violation of any provision of this chapter  
17 or of any rule or order of the governing board of the State Department of  
18 Geology and Mineral Industries made thereunder, excluding ORS 522.405 to  
19 522.545 and any rule promulgated thereunder, is [*punishable, upon conviction,*  
20 *by a fine of not more than \$2,500 or by imprisonment in the county jail for not*  
21 *more than six months, or both*] **a Class B misdemeanor.**

22 **SECTION 223.** ORS 527.990 is amended to read:

23 527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.676,  
24 527.740, 527.750 or 527.755, or any rule promulgated under ORS 527.710 is  
25 [*punishable, upon conviction, as*] a **Class A** misdemeanor. Each day of oper-  
26 ation in violation of an order issued under ORS 527.680 (3) shall be deemed  
27 to be a separate offense.

28 (2) Violation of ORS 527.260 (1) is a **Class A** misdemeanor. Violation of  
29 ORS 527.260 [*is punishable, upon conviction, by a fine of not more than \$250*  
30 *or by imprisonment in the county jail for not more than 60 days, or both*] (3)  
31 **is a Class C misdemeanor.**

1        **SECTION 224.** ORS 532.990 is amended to read:

2        532.990. (1) Violation of any of the provisions of ORS 532.130 is  
3        [*punishable, upon conviction, by a fine of not less than \$500 nor more than*  
4        *\$1,000 or by imprisonment in the county jail for not less than 60 days nor more*  
5        *than 180 days, or both*] **a Class B misdemeanor.**

6        (2) Violation of any of the provisions of ORS 532.140 is a **Class C** felony  
7        [*and is punishable, upon conviction, by a fine of not less than \$1,000 nor more*  
8        *than \$5,000 or by imprisonment in the custody of the Department of Corrections*  
9        *for a period not to exceed two years, or both*].

10       **SECTION 225.** ORS 537.990 is amended to read:

11       537.990. (1) Violation of ORS 537.130 (2) is [*punishable, upon conviction,*  
12       *by a fine of not less than \$10 nor more than \$250, or by imprisonment in the*  
13       *county jail for not more than six months, or both*] **a Class B misdemeanor.**

14       (2) Any person who willfully diverts or uses water to the detriment of  
15       others without compliance with law shall be punished as provided in sub-  
16       section (1) of this section. The possession or use of water, except when a  
17       right of use is acquired in accordance with law, shall be prima facie evidence  
18       of the guilt of the person using it.

19       (3) Violation of ORS 537.535 (1) [*is punishable, upon conviction, by a fine*  
20       *of not less than \$10 nor more than \$250, or by imprisonment in the county jail*  
21       *for not more than six months, or both. Violation of ORS*] **or** 537.747 is a Class  
22       B misdemeanor.

23       [(4) *Justice courts shall have concurrent jurisdiction with the circuit courts*  
24       *in the trial of all violations under this section.*]

25       **SECTION 226.** ORS 540.990 is amended to read:

26       540.990. (1) Violation of any provision of ORS 540.440 is [*punishable, upon*  
27       *conviction, by a fine of not less than \$25 nor more than \$150, together with the*  
28       *costs and disbursements of the action, and in default of the payment of the fine*  
29       *and costs, by confinement in the county jail one day for each \$2 thereof*] **a**  
30       **Class C misdemeanor.** [*Justice courts shall have concurrent jurisdiction with*  
31       *the circuit courts in the trial of all proceedings under this subsection.*]

1 (2) Violation of any provision of ORS 540.370 (2), 540.570 (5), 540.710,  
2 540.720 or 540.730 is [*punishable, upon conviction, by a fine of not less than*  
3 *\$10 nor more than \$250, or by imprisonment in the county jail for not more*  
4 *than six months, or both*] **a Class B misdemeanor.** [*Justice courts shall have*  
5 *concurrent jurisdiction with the circuit courts in the trial of all violations*  
6 *under this subsection.*]

7 **SECTION 227.** ORS 541.990 is amended to read:

8 541.990. (1) Any person, or any officer of any firm or corporation who  
9 [*shall be*] **is** found guilty of constructing any splash dam for the floating of  
10 logs or other lumber products on any stream or other body of water in the  
11 State of Oregon [*after August 20, 1957, shall be fined not more than \$1,000,*  
12 *or shall be imprisoned not more than one year in the county jail in the county*  
13 *in which such conviction is entered, or by both fine and imprisonment*] **com-**  
14 **mits a Class A misdemeanor.**

15 (2) Violation of ORS 541.510 is a **Class A** misdemeanor.

16 (3) Violation of ORS 541.545 (1) is a **Class A** misdemeanor.

17 **SECTION 228.** ORS 543.990 is amended to read:

18 543.990. (1) Violation of ORS 543.530 (3) is [*punishable, upon conviction,*  
19 *by a fine of not more than \$5,000, or by imprisonment for not more than one*  
20 *year, or both*] **a Class A misdemeanor.**

21 (2) Violation of any of the provisions of ORS 543.010 to 543.610, or any  
22 of the conditions made a part of any license issued under ORS 543.010 to  
23 543.610, or any subpoena of the Water Resources Commission or of an ad-  
24 ministrative law judge or any person designated by the commission to take  
25 testimony, any lawful order or rule of the commission is a Class B  
26 misdemeanor.

27 (3) Any person who willfully and knowingly gives false testimony con-  
28 cerning a material matter in any hearing before the commission, an admin-  
29 istrative law judge or any person designated by the commission to take  
30 testimony, or in any deposition or affidavit to be used in a matter pending  
31 before the commission or administrative law judge, or willfully and know-

1 ingly verifies a false statement or report filed with the commission, [*shall*  
2 *be guilty of*] **commits** perjury and may be prosecuted and punished as oth-  
3 erwise provided by law for the prosecution and punishment of perjury.

4 **SECTION 229.** ORS 547.990 is amended to read:

5 547.990. Violation of ORS 547.425 is [*punishable, upon conviction, by a fine*  
6 *of not less than \$25 nor more than \$500, or by imprisonment in the county jail*  
7 *for not more than 100 days, or both*] **a Class C misdemeanor.**

8 **SECTION 230.** ORS 549.990 is amended to read:

9 549.990. (1) Subject to ORS 153.022, violation of ORS 549.180 is a Class  
10 D violation, and the violator shall be compelled to restore the drainage to  
11 the condition previously existing.

12 (2) Violation of ORS 549.400 is [*punishable, upon conviction, by a fine of*  
13 *not less than \$10 nor more than \$25, or by imprisonment in the county jail for*  
14 *not more than 10 days, or both*] **a Class C misdemeanor.** [*Justice courts shall*  
15 *have concurrent jurisdiction with the circuit court over violations of ORS*  
16 *549.400.*]

17 **SECTION 231.** ORS 561.150 is amended to read:

18 561.150. (1) All unexpended funds that are available to the State Depart-  
19 ment of Agriculture for its use in carrying out its duties as prescribed by law  
20 and for any other purpose shall be a part of the General Fund of the state  
21 and shall be credited to a fund to be known as the Department of Agriculture  
22 Account except for:

23 (a) Funds to be expended for the extermination of predatory animals un-  
24 der the provisions of ORS chapter 610;

25 (b) Moneys received by the department from the sale of skins of predatory  
26 animals as provided in ORS 610.040; and

27 (c) Moneys received by the department that are subject to ORS 561.144.

28 (2) All appropriations, [*finances,*] fees, penalties and other moneys received  
29 by the department or credited to its use from the State Treasury, except the  
30 funds named in subsection (1)(a) and (b) of this section and money required  
31 by law to be placed therein, shall be placed in the General Fund and credited

1 to the Department of Agriculture Account.

2 (3) All [*fin*es,] fees, penalties and other moneys received by the depart-  
3 ment shall be turned over to the State Treasurer not later than the 10th day  
4 of the calendar month next succeeding their receipt by the department.

5 (4) All moneys without respect to their sources, credited to either the  
6 Department of Agriculture Account or the Department of Agriculture Service  
7 Fund shall be available for the payment of any and all the expenses of the  
8 department, excepting those incurred in connection with the extermination  
9 of predatory animals.

10 (5) The Director of Agriculture shall keep a record of all moneys depos-  
11 ited in the Department of Agriculture Account and the Department of Agri-  
12 culture Service Fund. Such record shall indicate the source from which the  
13 moneys are derived and name the individual departmental activity against  
14 which each withdrawal is charged.

15 **SECTION 232.** ORS 561.990 is amended to read:

16 561.990. (1) Violation of ORS 561.170 is a Class C violation.

17 (2) Violation of ORS 561.200 is [*punishable, upon conviction, by a fine of*  
18 *not to exceed \$100 or by imprisonment for not more than 30 days, or both*] **a**  
19 **Class C misdemeanor.**

20 (3) Violation of ORS 561.220 or 561.230 is a **Class A** misdemeanor.

21 (4) Violation of ORS 561.590 is **a specific fine violation** punishable[,  
22 *upon conviction,*] by a fine of not [*less than \$500 nor*] more than \$5,000.

23 **SECTION 233.** ORS 569.390 is amended to read:

24 569.390. [(1)] Each person, firm or corporation owning or occupying land  
25 within the district shall destroy or prevent the seeding on such land of any  
26 noxious weed within the meaning of ORS 569.360 to 569.495 in accordance  
27 with the declaration of the county court and by the use of the best means  
28 at hand and within a time declared reasonable and set by the court, except  
29 that no weed declared noxious shall be permitted to produce seed.

30 [(2) *All moneys collected as fines for violation of ORS 569.360 to 569.495*  
31 *in any county shall be paid into the county treasury and shall become a part*

1 *of the weed control fund.]*

2 **SECTION 234.** ORS 571.365 is amended to read:

3 571.365. (1) The State Department of Agriculture may revoke, suspend,  
4 deny or refuse to renew any grower or dealer a license if the department  
5 finds the person has violated any provision of ORS 571.355 or 571.360 or any  
6 rule adopted pursuant thereto.

7 (2) In addition to any other liability or penalty provided by law, the Di-  
8 rector of Agriculture may impose a civil penalty on a person for violation  
9 of any provision of ORS 571.355 or 571.360 or any rule adopted pursuant  
10 thereto. The civil penalty for a first violation shall be [*a fine of*] not more  
11 than \$1,000. Upon a second violation, the department may impose a [*fine*]  
12 **civil penalty** of not more than \$2,000.

13 (3) The department shall adopt by rule a schedule establishing the amount  
14 of civil penalty that may be imposed for a particular violation.

15 (4) All penalties recovered under this section shall be deposited by the  
16 State Treasurer in the Department of Agriculture Service Fund. The moneys  
17 are continuously appropriated to the department for the purpose of carrying  
18 out ORS 571.355 and 571.360.

19 **SECTION 235.** ORS 576.053 is amended to read:

20 576.053. ORS 576.051 to 576.455 and 576.991 (2) [*and (3)*] may be known and  
21 cited as the Commodity Commission Act.

22 **SECTION 236.** ORS 576.595 is amended to read:

23 576.595. Any sale of a commodity by a grower or producer is a sale in  
24 commercial channels for the purposes of ORS 576.051 to 576.455 and 576.991  
25 (2) [*and (3)*].

26 **SECTION 237.** ORS 576.991 is amended to read:

27 576.991. (1) Violation of the provisions of ORS 576.024 is a Class B vio-  
28 lation.

29 (2) Violation of any provision of ORS 576.051 to 576.455 is [*punishable,*  
30 *upon conviction, by a fine of not more than \$500, or by imprisonment in the*  
31 *county jail for not more than 90 days, or both*] **a Class C misdemeanor.**

1        *[(3) Justice courts shall have concurrent jurisdiction with circuit courts in*  
2 *all prosecutions under ORS 576.051 to 576.455.]*

3        **SECTION 238.** ORS 577.990 is amended to read:

4        577.990. *[(1)]* Violation of ORS 577.520 is *[punishable, upon conviction, by*  
5 *a fine of not more than \$500, or by imprisonment in the county jail for not*  
6 *more than 90 days, or both]* **a Class C misdemeanor.**

7        *[(2) Justice courts have concurrent jurisdiction with circuit courts in all*  
8 *prosecutions under this section.]*

9        **SECTION 239.** ORS 578.990 is amended to read:

10        578.990. Violation of any of the provisions of this chapter is *[punishable,*  
11 *upon conviction, by a fine of not less than \$25 nor more than \$500, or by*  
12 *imprisonment in the county jail for not less than 30 nor more than 90 days,*  
13 *or by both]* **a Class C misdemeanor.** *[Justice courts have concurrent juris-*  
14 *isdiction with circuit courts in all prosecutions under this chapter.]*

15        **SECTION 240.** ORS 585.190 is amended to read:

16        585.190. *[(1)]* Except for fees paid under ORS 585.050, all fees received by  
17 the State Department of Agriculture pursuant to the provisions of this  
18 chapter shall be paid to the State Treasurer, who shall place the moneys in  
19 the General Fund of the state to the credit of the Department of Agriculture  
20 Account. All such funds paid to the State Treasurer, or so much thereof as  
21 is necessary, shall be a continuing appropriation from the Department of  
22 Agriculture Account and shall be used for the purpose of carrying out the  
23 provisions of this chapter. The fees paid to the department under ORS 585.050  
24 shall be deposited into the Department of Agriculture Service Fund, and such  
25 funds are continuously appropriated to the department for the purpose of  
26 administering and enforcing this chapter.

27        *[(2) All fines collected pursuant to ORS 585.990 shall go into the fruit in-*  
28 *spection fund of the county where collected if that county has a fruit inspection*  
29 *fund, otherwise the fines shall go into the general fund of the county.]*

30        **SECTION 241.** ORS 585.990 is amended to read:

31        585.990. Violation of any provision of ORS 585.010 to 585.220 is

1 [punishable, upon conviction, by a fine of not more than \$1,000, or by confine-  
2 ment in the county jail for not more than one year, or both] **a Class A**  
3 **misdemeanor.**

4 **SECTION 242.** ORS 586.990 is amended to read:

5 586.990. (1) Violation of ORS 586.250 is [punishable, upon conviction, by a  
6 fine of not less than \$1,000 nor more than \$3,000, or by imprisonment in the  
7 county jail for not less than six months nor more than one year, or by both]  
8 **a Class B misdemeanor.**

9 (2) Violation of ORS 586.730 is [punishable, upon conviction, by a fine not  
10 exceeding \$3,000, or by imprisonment in the county jail for not more than one  
11 year, or by both] **a Class A misdemeanor.**

12 (3) Violation of any of the provisions of ORS 586.210 to 586.300, 586.315  
13 to 586.380, 586.400, 586.410, 586.520, 586.525, 586.530, 586.550, 586.570 to 586.630  
14 and 586.650 to 586.720, or failure to comply with any order, rule, direction,  
15 demand or requirement of the State Department of Agriculture made pursu-  
16 ant to those sections, is **a specific fine violation** punishable[, upon con-  
17 viction,] by a fine not exceeding \$3,000 for each offense. Each violation is a  
18 separate and continuing offense[; and]. In case of a continuing violation,  
19 every day's continuance of the violation is a separate and distinct offense.

20 (4) Violation of ORS 586.382, 586.385 and 586.395 is a **Class A**  
21 **misdemeanor.**

22 **SECTION 243.** ORS 596.990 is amended to read:

23 596.990. (1) Violation of any of the provisions of ORS 596.075, 596.321,  
24 596.331 (1) or (3), 596.351, 596.388, 596.392 (1) to (3) or (6), 596.404 to 596.416  
25 or 596.460, or of any lawful order of the State Department of Agriculture  
26 issued pursuant to this chapter, is a Class A violation.

27 (2) Violation of any of the quarantine provisions of ORS 596.331 (2),  
28 596.355, 596.392 (4) or (5) or 596.394 to 596.402 is **a specific fine violation**  
29 punishable[, upon conviction,] by a fine of not [less than \$500 nor] more than  
30 \$5,000.

31 (3) Violation of any of the provisions of ORS 596.100 or 596.105 or rules

1 adopted thereunder is a **Class A** misdemeanor.

2 **SECTION 244.** ORS 600.990 is amended to read:

3 600.990. Subject to ORS 153.022, notwithstanding ORS 596.990, violation  
4 of ORS 600.095, a quarantine imposed under ORS 600.105 or a rule or regu-  
5 lation of the State Department of Agriculture relating to the feeding of swine  
6 is [*punishable, upon conviction, by a fine of not less than \$500 nor more than*  
7 *\$5,000 or by imprisonment in the county jail not exceeding one year, or both*]  
8 **a Class A misdemeanor.**

9 **SECTION 245.** ORS 602.990 is amended to read:

10 602.990. Subject to ORS 153.022, violation of any of the provisions of ORS  
11 602.090 or 602.190, or any rule adopted pursuant thereto, is [*punishable, upon*  
12 *conviction, by a fine not exceeding \$500 or imprisonment in the county jail not*  
13 *exceeding six months, or both*] **a Class B misdemeanor.**

14 **SECTION 246.** ORS 607.365 is amended to read:

15 607.365. (1) No person, who is not the owner of such animal, shall take  
16 or drive, cause to be taken or driven, or assist in driving or taking away any  
17 horse, gelding, mare, foal, mule, ass, jenny, bull, cow, heifer, steer, calf,  
18 sheep, hog or any other domestic animal from the range or place where it  
19 is lawfully grazing, pasturing or ranging, or in the habit of ranging, or where  
20 it has been herded or placed by the owner thereof, for a distance of more  
21 than 10 miles from such place.

22 (2) Persons violating this section shall be liable to the owner of such  
23 animal for all damages sustained by reason of such driving or taking away  
24 of such domestic animal.

25 [(3) *All fines collected for violations of this section shall be paid over to the*  
26 *county treasurer of the county in which the offense was committed, and used*  
27 *for the support of common schools within such county.*]

28 **SECTION 247.** ORS 608.990 is amended to read:

29 608.990. (1) Violation of ORS 608.330 is [*punishable, upon conviction, by a*  
30 *fine not exceeding \$50 or by imprisonment in the county jail not exceeding 10*  
31 *days, or both*] **a Class C misdemeanor.**

1 (2) Violation of ORS 608.380 is a Class A violation.

2 (3) Violation of ORS 608.510 is a Class D violation.

3 **SECTION 248.** ORS 609.060 is amended to read:

4 609.060. (1) If a majority of all votes cast in the election provided for by  
5 ORS 609.040 is against permitting dogs to run at large, or if the governing  
6 body of the county by ordinance prohibits dogs from running at large, the  
7 county shall give notice, by publication in some newspaper having a general  
8 circulation in the county, and in the election precinct if the prohibition of  
9 dogs running at large affects any one precinct only, for three consecutive  
10 weeks.

11 (2) After 60 days from the date of the notice, every person keeping a dog  
12 shall prevent the dog from running at large in any county, city or precinct  
13 where prohibited. A person who is the keeper of a dog [*is guilty of*] **commits**  
14 a **Class B** violation if the dog runs at large in a county, city or precinct  
15 where prohibited.

16 [*(3) County license fees and the penalty for violation of subsection (2) of this*  
17 *section or ORS 609.100, when collected, shall be paid into the county treasury,*  
18 *and kept in a special fund.*]

19 **SECTION 249.** ORS 609.990 is amended to read:

20 609.990. (1) Violation of ORS 609.060 (2), 609.100 or 609.169 is a Class B  
21 violation.

22 (2) Maintaining a public nuisance in violation of ORS 609.095 (2) or (3)  
23 is [*punishable by a fine of not more than \$250*] a **Class B violation**.

24 (3)(a) Except as provided in paragraph (b) of this subsection, violation of  
25 ORS 609.098 is a Class A misdemeanor.

26 (b) If a dog kills a person, violation of ORS 609.098 is a Class C felony.

27 (c) If a keeper violates ORS 609.098, the court shall order the dangerous  
28 dog killed in a humane manner.

29 (4) Violation of ORS 609.405 constitutes a Class C misdemeanor.

30 (5) In addition to any fine or sentence imposed under this section, a court  
31 may order a person who violates ORS 609.060 (2), 609.095, 609.098, 609.100,

1 609.169 or 609.405 to pay restitution for any physical injury, death or prop-  
2 erty damage caused by the dog as a result of the keeper's violation of ORS  
3 609.060 (2), 609.095, 609.098, 609.100, 609.169 or 609.405. The court may also  
4 order the person to pay the cost of keeping the dog in impoundment.

5 (6) In addition to any fine imposed or restitution ordered of a keeper for  
6 a violation of ORS 609.060 (2), 609.095, 609.100, 609.169 or 609.405, the court  
7 may impose reasonable restrictions on the keeping of the dog to ensure the  
8 safety or health of the public. The keeper must pay the cost of complying  
9 with reasonable restrictions. As used in this subsection, "reasonable re-  
10 strictions" may include, but is not limited to, sterilization. If the dog is a  
11 potentially dangerous dog, the court may order the dog killed in a humane  
12 manner. In determining whether to have the dog killed, the court shall give  
13 consideration to the factors described in ORS 609.093 and issue written  
14 findings on those factors.

15 (7) Notwithstanding ORS 19.270 and 19.330, subject to periodic advance  
16 payment of the cost of keeping the dog in impoundment, the killing of a dog  
17 pursuant to an order under subsection (3) or (6) of this section may not be  
18 carried out during the period that the order is subject to the appeal process.  
19 Unless otherwise ordered by the Court of Appeals, the dog may be killed  
20 during the appeal period if the keeper fails to maintain advance payment of  
21 the cost of keeping the dog impounded.

22 (8) If a court orders a dog killed under subsection (6) of this section and  
23 the keeper does not make the dog available for that purpose, the court may  
24 issue a search warrant for a property upon probable cause to believe that the  
25 dog is located at that property.

26 **SECTION 250.** ORS 609.994 is amended to read:

27 609.994. (1) Violation of ORS 609.510, 609.515 or 609.520 is **a specific fine**  
28 **violation** punishable by a fine of not [*less than \$500, nor*] more than \$50,000.

29 (2) A person has a cause of action for the recovery of compensatory  
30 damages from any person violating ORS 164.055 (1)(e), 164.085, 609.510,  
31 609.515 or 609.520. In the action, the minimum pecuniary value of any com-

1 panion animal is \$250.

2 (3) The circuit court for each county has the authority to enjoin any vi-  
3 olation of ORS 609.510, 609.515 or 609.520, to issue warrants and to take such  
4 other actions as equity or justice may require.

5 **SECTION 251.** ORS 610.990 is amended to read:

6 610.990. (1) Violation of ORS 610.045 is a Class A violation.

7 (2) Violation of ORS 610.050 is [*punishable upon conviction by a fine of*  
8 *not more than \$500, or by imprisonment in the county jail not more than one*  
9 *year, or both*] **a Class A misdemeanor.**

10 **SECTION 252.** ORS 618.991 is amended to read:

11 618.991. (1) Violation of ORS 618.086, 618.096, 618.121 or 618.201 is **a Class**  
12 **B misdemeanor.** [*punishable as follows:*]

13 [(a) *If the violator is an individual, by imprisonment for not more than six*  
14 *months, or a fine not to exceed \$500, or both.*]

15 [(b) *If the violator is a person other than an individual, by a fine of not*  
16 *more than \$2,500.*]

17 (2) For the purposes of this section, each day of violation of ORS 618.086,  
18 618.096, 618.121 or 618.201 is a separate offense and the penalties provided in  
19 subsection (1) of this section apply to each such offense.

20 **SECTION 253.** ORS 621.991 is amended to read:

21 621.991. Violation of any provision of ORS 621.056, 621.057, 621.062,  
22 621.070, 621.072, 621.076, 621.084, 621.088, 621.117, 621.122, 621.124, 621.161,  
23 621.166, 621.183, 621.198, 621.207, 621.226, 621.259, 621.335, 621.340, 621.345,  
24 621.418, 621.445 or 621.730 or any rule or standard adopted under ORS 621.060,  
25 621.083, 621.096, 621.224 or 621.261, or failure to pay a fee assessed under ORS  
26 621.166, is [*an unclassified misdemeanor punishable by a fine of not more than*  
27 *\$1,000, imprisonment for not more than one year, or both*] **a Class A**  
28 **misdemeanor.**

29 **SECTION 254.** ORS 628.990 is amended to read:

30 628.990. Violation of ORS 628.210 to 628.370 is [*punishable, upon con-*  
31 *viction, by a fine of not less than \$10 nor more than \$1,000 or by imprisonment*

1 *in the county jail for not more than one year, or both*] **a Class A**  
2 **misdemeanor.**

3 **SECTION 255.** ORS 632.990 is amended to read:

4 632.990. (1) Violation of ORS 632.216 or 632.226 is [*punishable, upon con-*  
5 *viction, by a fine of not less than \$10 or more than \$100, or by imprisonment*  
6 *in the county jail for not less than 10 days or more than 30 days, or both*] **a**  
7 **Class C misdemeanor.**

8 (2) Violation of any provision of ORS 632.275 to 632.290 or of any rule  
9 adopted under ORS 632.275 to 632.290 is a Class B misdemeanor for a first  
10 offense, and a Class A misdemeanor for a second or subsequent offense.

11 (3) Violation of any provision of ORS 632.410 to 632.430 is a Class D vio-  
12 lation.

13 (4) Violation of any provision of ORS 632.450 to 632.490 or of any rule  
14 adopted under ORS 632.450 to 632.490 is a Class B misdemeanor for a first  
15 offense, and a Class A misdemeanor for a second or subsequent offense.

16 (5) Violation of ORS 632.625 is [*punishable, upon conviction, by a fine of*  
17 *not less than \$10 or more than \$100, or by imprisonment in the county jail for*  
18 *not less than 10 days or more than 30 days, or both*] **a Class C**  
19 **misdemeanor.**

20 (6) Violation of any provision of ORS 632.705 to 632.815 is [*punishable,*  
21 *upon conviction, by a fine of not less than \$10 or more than \$100*] **a Class D**  
22 **violation** for a first offense, and [*by a fine of not less than \$25 or more than*  
23 *\$200*] **a Class B violation** for a second or subsequent offense.

24 (7) Violation of any provision of ORS 632.900 to 632.985 or of any rule  
25 adopted under ORS 632.900 to 632.985 is a Class B misdemeanor for a first  
26 offense, and a Class A misdemeanor for a second or subsequent offense.

27 **SECTION 256.** ORS 634.992 is amended to read:

28 634.992. Violation of any of the provisions of this chapter is [*an unclas-*  
29 *sified*] **a Class A** misdemeanor [*and is punishable, upon the first conviction,*  
30 *by a fine of not more than \$1,000, or by imprisonment in the county jail for*  
31 *not more than one year, or both, and upon a second or additional conviction,*

1 *by a fine of not more than \$2,000, or by imprisonment in the county jail for*  
2 *not more than one year, or both].*

3 **SECTION 257.** ORS 635.991 is amended to read:

4 635.991. Violation of any provision of this chapter is [*punishable, upon*  
5 *conviction, by a fine not exceeding \$500 or by imprisonment in the county jail*  
6 *not exceeding six months, or both]* **a Class B misdemeanor.**

7 **SECTION 258.** ORS 646.990 is amended to read:

8 646.990. (1) Each violation of any of the provisions of ORS 646.010 to  
9 646.180 by any person, firm or corporation, whether as principal, agent, offi-  
10 cer or director, is [*punishable, upon conviction, by a fine of not less than \$100*  
11 *nor more than \$500, or by imprisonment in the county jail not exceeding six*  
12 *months, or by both]* **a Class B misdemeanor.**

13 (2) Violation of ORS 646.725 or 646.730 is a Class A misdemeanor.

14 (3) Any person who willfully and intentionally violates any provision of  
15 ORS 646A.220 to 646A.230 [*shall be punished by a fine of not more than \$1,000*  
16 *or by imprisonment for not more than six months or both]* **commits a Class**  
17 **B misdemeanor.** Violation of any order or injunction issued pursuant to  
18 ORS 646A.230 (1) shall constitute prima facie proof of a violation of this  
19 subsection.

20 (4) Violation of ORS 646.910 is a Class D violation.

21 (5) Violation of ORS 646.915 is a Class D violation.

22 (6) Violation of ORS 646.920 is a Class D violation.

23 (7) A person violating ORS 646.930 commits a Class C misdemeanor.

24 **SECTION 259.** ORS 646A.508 is amended to read:

25 646A.508. (1) A commercial user who willfully and knowingly sells, leases  
26 or otherwise places in the stream of commerce an unsafe baby crib as de-  
27 scribed in ORS 646A.506 (1) to (3) commits a **Class A** violation [*punishable*  
28 *by a fine not exceeding \$1,000].*

29 (2) An individual who willfully and knowingly sells, leases or otherwise  
30 places in the stream of commerce an unsafe baby crib as described in ORS  
31 646A.506 (1) to (3) commits a **Class B** violation [*punishable by a fine not ex-*

1 ceeding \$200].

2 **SECTION 260.** ORS 646A.765 is amended to read:

3 646A.765. Violation of a provision of ORS 646A.702 to 646A.720 or  
4 646A.725 to 646A.750 is a **Class A** misdemeanor [*punishable by not more than*  
5 *one year's imprisonment, a fine of not more than \$10,000, or both*].

6 **SECTION 261.** ORS 649.990 is amended to read:

7 649.990. (1) Violation of ORS 649.030 is a Class D violation. [*Default in*  
8 *the payment of a fine shall be dealt with as provided in ORS 161.675.*]

9 (2) Intentional violation of ORS 649.070 is [*punishable, upon conviction,*  
10 *by a fine not to exceed \$500 or imprisonment not to exceed six months*] **a Class**  
11 **B misdemeanor.**

12 (3) Violation of ORS 649.080 is [*punishable:*] **a Class C misdemeanor.**

13 [(a) *Upon conviction, by a fine of not more than \$100 or by imprisonment*  
14 *for not more than 10 days.*]

15 [(b) *Upon a second such conviction within one year after the first con-*  
16 *viction, by a fine of not more than \$200 or by imprisonment for not more than*  
17 *20 days, or both.*]

18 [(c) *Upon a third or subsequent conviction within one year after the first*  
19 *conviction, by a fine of not more than \$500 or by imprisonment for not more*  
20 *than six months, or both.*]

21 **SECTION 262.** ORS 651.990 is amended to read:

22 651.990. (1) Willful neglect or refusal by any person subpoenaed under  
23 ORS 651.060 to attend or testify at the time and place named in the subpoena  
24 is [*punishable, upon conviction, by a fine of not less than \$25 nor more than*  
25 *\$100, or by imprisonment in the county jail not exceeding 30 days*] **a Class C**  
26 **misdemeanor.**

27 (2) Violation of ORS 651.120 (2) is [*punishable, upon conviction, by a fine*  
28 *of not less than \$25 nor more than \$100, or by imprisonment in the county jail*  
29 *not exceeding 90 days*] **a Class C misdemeanor.**

30 **SECTION 263.** ORS 652.400 is amended to read:

31 652.400. Subject to ORS 652.390, all moneys collected on judgments pur-

1 suant to ORS 652.330, or as a result of administrative proceedings pursuant  
 2 to ORS 652.332, [*including fines,*] shall be paid to the Commissioner of the  
 3 Bureau of Labor and Industries and, together with all other sums collected  
 4 under ORS 652.310 to 652.414, be deposited in the State Treasury to become  
 5 part of a special trust account to be known as the Wage Collection Account,  
 6 which account is established in the State Treasury, separate and distinct  
 7 from the General Fund. Interest earned by the account shall be credited to  
 8 the account. All moneys in the Wage Collection Account are appropriated  
 9 continuously for the purpose of payment to the persons entitled thereto.

10 **SECTION 264.** ORS 652.445 is amended to read:

11 652.445. Except as provided in ORS 652.440, all moneys collected pursuant  
 12 to ORS 652.420 to 652.445, including [*fines and*] costs, shall be paid to the  
 13 Commissioner of the Bureau of Labor and Industries and be deposited in the  
 14 State Treasury in the Wage Collection Account established by ORS 652.400.

15 **SECTION 265.** ORS 652.990 is amended to read:

16 652.990. (1) Violation of ORS 652.020 (2) is a Class A violation. Every  
 17 day's violation is deemed a separate offense.

18 (2) Any person, body corporate, general manager or employer who violates  
 19 ORS 652.040 or causes ORS 652.040 to be violated [*is punishable, upon con-*  
 20 *viction, by a fine of not less than \$50, nor more than \$300, or by imprisonment*  
 21 *in the county jail for not less than 30 days, nor more than three months, or*  
 22 *both*] **commits a Class C misdemeanor.**

23 (3) Violation of ORS 652.110 or 652.120 is a Class A violation.

24 (4) Violation of ORS 652.130 by any employer is [*punishable, upon con-*  
 25 *viction, by a fine of not more than \$500 or by imprisonment in the county jail*  
 26 *for not more than 60 days, or by both*] **a Class C misdemeanor.** [*Justice*  
 27 *courts and circuit courts shall have concurrent jurisdiction in all cases arising*  
 28 *under this subsection.*]

29 (5) In addition to the civil damages recoverable under ORS 652.230, vio-  
 30 lation of ORS 652.210 to 652.230 is a **Class A** misdemeanor.

31 (6) The violation of ORS 652.240 is a **Class A** misdemeanor.

1 (7) Violation of ORS 652.355 is a Class C misdemeanor.

2 (8) Violation of ORS 652.610 or 652.620 is a Class D violation.

3 (9) Willful violation of ORS 652.635 or 652.640 by a producer or agent of  
4 the producer is a **Class A** misdemeanor.

5 (10) Violation of any of the provisions of ORS 652.710 or 652.720 by any  
6 employer is a Class A violation.

7 **SECTION 266.** ORS 654.991 is amended to read:

8 654.991. (1) Subject to ORS 153.022, any employer who willfully violates  
9 any provision of, or any regulation, rule, standard or order promulgated  
10 pursuant to, ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780,  
11 and that violation is found to have caused or materially contributed to the  
12 death of any employee, *[shall, upon conviction, be punished by a fine of not*  
13 *more than \$10,000 or by imprisonment for not more than six months, or by*  
14 *both;]* **commits a Class B misdemeanor.** *[Except that]* If the conviction is  
15 for a violation committed after a first conviction of *[such person, punishment*  
16 *shall be by a fine of not more than \$20,000 or by imprisonment for not more*  
17 *than one year, or by both]* **the employer, the violation is a Class A**  
18 **misdemeanor.** For the purposes of this subsection, a violation is willful if  
19 it is committed knowingly by an employer or supervisory employee who,  
20 having a free will or choice, intentionally or knowingly disobeys or  
21 recklessly disregards the requirements of a regulation, rule, standard or or-  
22 der. ORS 161.085 shall apply to terms used in this section.

23 (2) Any person who gives advance notice of any inspection to be con-  
24 ducted under ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780,  
25 without authority from the Director of the Department of Consumer and  
26 Business Services or the designees of the director, *[shall, upon conviction, be*  
27 *punished by a fine of not more than \$1,000 or by imprisonment for not more*  
28 *than six months, or by both]* **commits a Class B misdemeanor.**

29 (3) Whoever knowingly makes a false statement, representation, or cer-  
30 tification in any application, record, report, plan, or other document filed  
31 or required to be maintained pursuant to ORS 654.001 to 654.295, 654.412 to

1 654.423 and 654.750 to 654.780 [*shall, upon conviction, be punished by a fine*  
2 *of not more than \$10,000 or by imprisonment for not more than six months, or*  
3 *by both*] **commits a Class B misdemeanor.**

4 [(4) *Punishment under this section does not affect or lessen the civil li-*  
5 *ability of the offender.*]

6 **SECTION 267.** ORS 656.605 is amended to read:

7 656.605. (1) The Workers' Benefit Fund is created in the State Treasury,  
8 separate and distinct from the General Fund. Moneys in the fund shall be  
9 invested in the same manner as other state moneys and investment earnings  
10 shall be credited to the fund. The fund shall consist of the following:

11 (a) Moneys received pursuant to ORS 656.506.

12 (b) Moneys recovered under ORS 656.054.

13 (c) [*Fines and*] Penalties recovered under ORS 656.735.

14 (d) All moneys received by the Director of the Department of Consumer  
15 and Business Services pursuant to law or from any other source for purposes  
16 for which the fund may be expended.

17 (2) Moneys in the Workers' Benefit Fund may be expended for the fol-  
18 lowing purposes:

19 (a) Expenses of programs under ORS 656.445, 656.506, 656.622, 656.625,  
20 656.628 and 656.630.

21 (b) Proceedings against noncomplying employers pursuant to ORS 656.054  
22 and 656.735.

23 (c) Expenses of vocational assistance on claims, the cost of which was  
24 imposed pursuant to section 15, chapter 600, Oregon Laws 1985.

25 (d) Payment of supplemental temporary disability benefits for workers  
26 employed in more than one job at the time of injury and reimbursement of  
27 the costs of administering payments resulting from elections by insurers and  
28 self-insured employers as provided by ORS 656.210 (5).

29 (e) Payments made to injured workers pursuant to section 6a, chapter 865,  
30 Oregon Laws 2001.

31 (f) Expenses of the Bureau of Labor and Industries for enforcing ORS

1 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052, subject to an agreement  
2 between the Director of the Department of Consumer and Business Services  
3 and the Commissioner of the Bureau of Labor and Industries. The agreement  
4 must include, but is not limited to, the amount of funds to be transferred to  
5 the bureau for enforcing ORS 659A.040, 659A.043, 659A.046, 659A.049 and  
6 659A.052 and the information relating to the enforcement of ORS 659A.040,  
7 659A.043, 659A.046, 659A.049 and 659A.052 that the bureau must report to the  
8 director.

9 (g) Reimbursement to the insurer or self-insured employer for the amount  
10 of permanent total disability benefits paid after the date of the notice of  
11 closure that was upheld pursuant to ORS 656.206.

12 (h) Reimbursement of vocational benefit expenses as provided in ORS  
13 656.313.

14 (3) Subject to the following provisions, all moneys in the fund are appro-  
15 priated continuously to the Director of the Department of Consumer and  
16 Business Services to carry out the activities for which the fund may be ex-  
17 pended:

18 (a) Moneys received pursuant to ORS 656.054 and 656.735 and transfers  
19 made pursuant to ORS 705.148 may be expended only to carry out the pro-  
20 visions of ORS 656.054 and 656.735 and section 15, chapter 600, Oregon Laws  
21 1985.

22 (b) Moneys received pursuant to ORS 656.506 and the transfers of unex-  
23 pended and unobligated moneys in the Retroactive Reserve, Reemployment  
24 Assistance Reserve, Reopened Claims Reserve and Handicapped Workers  
25 Reserve referred to in ORS 656.506, 656.622, 656.625 and 656.628 (All 1993  
26 Edition) may be expended only to carry out the programs referred to in ORS  
27 656.506, 656.622, 656.625, 656.628 and 656.630.

28 (4) Notwithstanding any other provision of this chapter, if the director  
29 determines at any time that there are insufficient moneys in the Workers'  
30 Benefit Fund to pay the expenses of programs for which expenditure of the  
31 fund is authorized, the director may reduce the level of benefits payable ac-

1 cordingly.

2 **SECTION 268.** ORS 656.990 is amended to read:

3 656.990. (1) Any person who knowingly makes any false statement or  
4 representation to the Workers' Compensation Board or its employees, the  
5 Workers' Compensation Board chairperson, the Director of the Department  
6 of Consumer and Business Services or employees of the director, the insurer  
7 or self-insured employer for the purpose of obtaining any benefit or payment  
8 under this chapter, either for self or any other person, or who knowingly  
9 misrepresents to the board, the board chairperson, the director or the cor-  
10 poration or any of their representatives the amount of a payroll, or who  
11 knowingly submits a false payroll report to the board, the board chairperson,  
12 the director or the corporation, [*is punishable, upon conviction, by*  
13 *imprisonment for a term of not more than one year or by a fine of not more*  
14 *than \$1,000, or by both*] **commits a Class A misdemeanor.**

15 (2) Violation of ORS 656.052 is a Class D violation. Each day during  
16 which an employer engages in any subject occupation in violation of ORS  
17 656.052 constitutes a separate offense.

18 (3) Violation of ORS 656.056 is a Class D violation.

19 (4) The individual refusing to keep the payroll in accordance with ORS  
20 656.726 or 656.758 when demanded by the director or corporation[, *is*  
21 *punishable, upon conviction, by a fine of not more than \$100 or by*  
22 *imprisonment in the county jail for not more than 90 days, or by both*] **com-**  
23 **mits a Class C misdemeanor.** [*Circuit courts and justice courts shall have*  
24 *concurrent jurisdiction of this offense.*]

25 (5) Failure on the part of an employer to send the signed payroll state-  
26 ment required by ORS 656.504 within 30 days after receipt of notice by the  
27 director or corporation is a **Class A** misdemeanor.

28 (6) Violation of ORS 656.560 (4) is a Class D violation.

29 **SECTION 269.** ORS 657.515 is amended to read:

30 657.515. (1) If an employer defaults with respect to any payment required  
31 to be made by the employer to the Unemployment Compensation Trust Fund,

1 the taxes at any time due, together with interest thereon and penalties, shall  
2 be collected by the Director of the Employment Department in a civil action  
3 against such employer brought in the name of the director and judgment  
4 rendered thereon shall bear interest at the rate provided in subsection (2)  
5 of this section. Such employer's compliance with this chapter, requiring  
6 payments to be made to the Unemployment Compensation Trust Fund, shall  
7 date from the time said money was collected. The amount of taxes collected  
8 shall be paid into the Unemployment Compensation Trust Fund. The amount  
9 of interest[,] **and** penalties [*and fines*] collected pursuant to this subsection  
10 shall be paid to the Employment Department Special Administrative Fund  
11 in accordance with the provisions of ORS 657.830 (3).

12 (2) Interest upon the amount due from an employer shall be paid and shall  
13 be collected, at the same time payment of taxes is required to be made by  
14 such employer to the Unemployment Compensation Trust Fund at the rate  
15 of one and one-half percent per month from the date prescribed for the pay-  
16 ment to the Unemployment Compensation Trust Fund. In computing such  
17 interest, a fraction of a month shall be counted as a full month.

18 (3) If any employer fails to make payment of taxes required by this  
19 chapter at the time prescribed by the director for the payment thereof, such  
20 employer shall be in default.

21 (4) If any employer who is in default with respect to payment of any taxes  
22 fails to make payment thereof within 10 days after written demand therefor  
23 has been made by the director, such employer shall be subject, in the dis-  
24 cretion of the director, to a penalty of 10 percent of the amount of such  
25 taxes. A demand for payment shall be deemed to have been made when de-  
26 posited in the mail addressed to such employer at the employer's last-known  
27 address as shown by the records of the director.

28 (5) If any part of any deficiency is due to fraud with intent to avoid  
29 payment of taxes to the Unemployment Compensation Trust Fund, then 50  
30 percent of the total amount of the deficiency, in addition to such deficiency,  
31 shall be assessed, collected and paid in the same manner as if it were a de-

1   iciency and shall be paid into the Employment Department Special Admin-  
2   istrative Fund pursuant to this section and ORS 657.822.

3       (6) Civil actions brought in the name of the director under this section  
4   to collect taxes, interest or penalties from an employer, shall be entitled to  
5   preference upon the calendar over all civil cases which involve only private  
6   parties.

7       (7) Notwithstanding the provisions of this section, if the director finds  
8   that the total interest collectible on any delinquent account is in excess of  
9   25 percent of the principal and that an employer or former employer, who  
10   no longer conducts an active business, has insufficient net assets to pay the  
11   full amount of all taxes, interest or penalties that may be due and where  
12   such employer or former employer can pay some but not all of such amount,  
13   the director may agree to accept any amount the director finds reasonable  
14   under the circumstances, as consideration for the settlement of the full  
15   amount of taxes, interest or penalties due. Whenever such an agreement is  
16   made a written record signed by the director shall be maintained in the files  
17   of the director. Such records shall set forth:

18       (a) The name of the taxpayer against whom the liability was assessed;

19       (b) The amount of the assessed liability;

20       (c) The amount of the liability paid;

21       (d) The amount of the liability canceled or waived;

22       (e) A sworn statement of the taxpayer or personal representative setting  
23   forth the complete financial responsibility of the taxpayer or the taxpayer's  
24   estate, and containing a full disclosure of all matters bearing upon the  
25   ability of the taxpayer or estate to pay the full amount of the liability as-  
26   sessed; and

27       (f) The written recommendation of an assistant to the Attorney General  
28   assigned to the director that the liability be reduced in the amount shown  
29   by the record.

30       (8) A full and true copy of the record of each such agreement and settle-  
31   ment as provided in subsection (7) of this section shall be filed by the di-

1 rector with the Secretary of State as a public record.

2 (9) The amount of any settlement reached pursuant to this section shall  
3 be first credited to the taxes due from such employer until the principal  
4 amount of taxes due has been satisfied and shall be deposited in the Unem-  
5 ployment Compensation Trust Fund.

6 **SECTION 270.** ORS 657.822 is amended to read:

7 657.822. (1) There is established in the State Treasury, separate and dis-  
8 tinct from the General Fund, the Employment Department Special Adminis-  
9 trative Fund. The Employment Department Special Administrative Fund  
10 shall consist of moneys collected or received by the Employment Department  
11 as follows:

12 (a) All interest collected under ORS 657.515.

13 (b) All [*finis and*] penalties collected pursuant to this chapter, except as  
14 provided in ORS 657.400.

15 (c) All gifts to or interest on or profits earned by the Employment De-  
16 partment Special Administrative Fund.

17 (2) The moneys in the Employment Department Special Administrative  
18 Fund are continuously appropriated to the department, and may not be  
19 transferred or otherwise made available to any other state agency, to pay the  
20 expenses of the Secretary of State incurred in performing the audit of the  
21 department and such other expenses as may be included in the biennial  
22 budget of the department and approved by the Legislative Assembly for  
23 payment from the fund. On July 1 of every odd-numbered year, any amounts  
24 in the Employment Department Special Administrative Fund that have not  
25 been appropriated in the biennial budget of the department approved by the  
26 Legislative Assembly shall be transferred to the Unemployment Compen-  
27 sation Trust Fund.

28 **SECTION 271.** ORS 657.990 is amended to read:

29 657.990. (1) Violation of ORS 657.295 is [*punishable for each offense by a*  
30 *fine of not less than \$50 nor more than \$500, or by imprisonment for not more*  
31 *than six months, or both*] **a Class B misdemeanor.**

1 (2) Violation of ORS 657.300 is a **Class A** misdemeanor.

2 (3) Violation of ORS 657.480 (3)(a) or (b) is a Class C felony.

3 (4) In addition to any penalties otherwise prescribed in this chapter, vio-  
4 lation of ORS 657.495, 657.565, 657.660 (2) or any other provision of this  
5 chapter is a **Class C** misdemeanor [*and is punishable by a fine of not less*  
6 *than \$100 nor more than \$500, or by imprisonment for not more than 90 days,*  
7 *or both*]. If an offending employer or the employer of an offending agent is  
8 a corporation, the president, secretary and the treasurer, or officers exercis-  
9 ing corresponding functions, are subject to the penalties in this subsection  
10 in respect to any duties of which they respectively had or, in the proper ex-  
11 ercise of their duties, ought to have had knowledge.

12 (5) Subject to ORS 153.022, willful violation of this chapter or of any or-  
13 der issued or rule adopted under this chapter, the violation of which is made  
14 unlawful or the observance of which is required under this chapter, and for  
15 which a penalty neither is prescribed in this section nor provided by any  
16 other applicable statute, is [*punishable by a fine of not less than \$20 nor more*  
17 *than \$200, or by imprisonment for not more than 60 days, or both*] a **Class C**  
18 **misdemeanor**. Each day the violation continues is considered a separate  
19 offense.

20 [(6) *Circuit courts and justice courts have concurrent jurisdiction of any*  
21 *offense under this section.*]

22 **SECTION 272.** ORS 658.991 is amended to read:

23 658.991. (1) Violation of ORS 658.005 to 658.245 or 658.250 is [*punishable,*  
24 *upon conviction, by a fine of not more than \$250 or by imprisonment in the*  
25 *county jail for not more than 60 days, or by both*] a **Class C misdemeanor**.

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

27 (3) Any person who intentionally defaces, alters or changes a license or  
28 permit to act as a farm labor contractor, or who uses the license or permit  
29 of another or knowingly permits that person's license or permit to be used  
30 by another, or who acts as a farm labor contractor without a valid license  
31 or permit under ORS 658.405 to 658.503, [*is guilty of*] **commits** a Class A

1 misdemeanor.

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

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

9 (6) Any person who violates the provisions of ORS 658.410 (1) or 658.417  
10 (1) *[is guilty of]* **commits** a Class C felony if:

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

13 (b) The person's license to act as a farm labor contractor has been sus-  
14 pended, revoked or denied; or

15 (c) The person is acting in violation of an outstanding order of any court  
16 of competent jurisdiction arising out of the enforcement of ORS 658.405 to  
17 658.503.

18 **SECTION 273.** ORS 659.990 is amended to read:

19 659.990. (1) Violation of ORS 659.815 is *[punishable, upon conviction, by a*  
20 *fine of not more than \$1,000 or imprisonment in the county jail for not more*  
21 *than one year, or both]* **a Class A misdemeanor.**

22 (2) Violation of ORS 659.805 by any officer or agent of a corporation or  
23 any other person is *[punishable, upon conviction, by a fine of not less than*  
24 *\$50 nor more than \$250, or by imprisonment in the county jail not less than*  
25 *30 nor more than 90 days, or both]* **a Class C misdemeanor.**

26 (3) Violation of ORS 659.800 is *[punishable, upon conviction, by a fine of*  
27 *not less than \$10 nor more than \$200 or by imprisonment in the county jail for*  
28 *not less than one month nor more than six months]* **a Class B**  
29 **misdemeanor.**

30 (4) Violation of ORS 659.810 or 659.845 is *[punishable, upon conviction, by*  
31 *a fine of not more than \$100 or imprisonment in the county jail for not more*

1 *than 60 days, or both*] **a Class C misdemeanor.**

2 (5) Any person who violates ORS 659.825, **commits a Class A**  
3 **misdemeanor and**, upon conviction, shall be required to make immediate  
4 restitution of delinquent payments to the fund or funds mentioned in ORS  
5 659.825 [*and shall be punished by a fine of not more than \$1,000 or*  
6 *imprisonment in the county jail for not more than one year, or both*].

7 (6) Violation of ORS 659.840 is [*punishable, upon conviction, by a fine of*  
8 *not more than \$500 or by imprisonment in the county jail for not more than*  
9 *one year, or by both*] **a Class A misdemeanor.**

10 **SECTION 274.** ORS 659A.990 is amended to read:

11 659A.990. Violation of ORS 659A.810 is [*punishable, upon conviction, by*  
12 *imprisonment in the county jail for not more than one year or by a fine of not*  
13 *more than \$500, or by both*] **a Class A misdemeanor.**

14 **SECTION 275.** ORS 661.990 is amended to read:

15 661.990. (1) Violation of ORS 661.040 is a **Class A** misdemeanor.

16 (2) Violation of ORS 661.210, **661.220** or 661.260 is [*punishable, upon con-*  
17 *viction, by a fine of not more than \$500 or by imprisonment for not more than*  
18 *three months, or by both*] **a Class C misdemeanor.**

19 [(3) Violation of ORS 661.220 is punishable, upon conviction, by a fine of  
20 not more than \$500 or by imprisonment in the county jail for not more than  
21 three months.]

22 **SECTION 276.** ORS 671.992 is amended to read:

23 671.992. [A person who violates] **Violation of** any provision of ORS 671.310  
24 to 671.459, or any rule of the State Landscape Architect Board adopted  
25 thereunder, is [*guilty of*] a **Class A** misdemeanor. [*Subject to ORS 161.655, a*  
26 *court may impose on the person a fine of not less than \$250 or more than*  
27 *\$5,000, a term of imprisonment of not more than six months, or both.*]

28 **SECTION 277.** ORS 675.337 is amended to read:

29 675.337. (1) After public hearing, the Occupational Therapy Licensing  
30 Board by rule shall adopt a schedule establishing the civil penalty that may  
31 be imposed under ORS 675.336. For a first violation of the provisions of ORS

1 675.210 to 675.340, the board shall issue a warning notice. The board may  
2 impose a [*fine*] **civil penalty** of not to exceed \$200 on a second violation and  
3 may impose a [*fine*] **civil penalty** of not to exceed \$1,000 upon third and  
4 subsequent violations.

5 (2) In imposing a **civil** penalty pursuant to the schedule adopted pursuant  
6 to subsection (1) of this section, the board shall consider the following fac-  
7 tors:

8 (a) The past history of the person incurring a penalty in taking all fea-  
9 sible steps or procedures necessary or appropriate to correct any violation.

10 (b) Any prior violations of the statute or rule.

11 (c) The economic or financial conditions of the person incurring the pen-  
12 alty.

13 (d) The immediacy and extent to which the violation threatens the public  
14 health or safety.

15 (3) A civil penalty imposed under ORS 675.336 may be remitted or reduced  
16 upon such terms or conditions as the board considers proper and consistent  
17 with the public health and safety.

18 **SECTION 278.** ORS 676.990 is amended to read:

19 676.990. Violation of any of the provisions of ORS 676.110 to 676.130 is  
20 [*punishable, upon conviction, by a fine of not more than \$250, or by*  
21 *imprisonment in the county jail for not more than 30 days, or by both*] **a Class**  
22 **C misdemeanor.**

23 **SECTION 279.** ORS 679.260 is amended to read:

24 679.260. (1) The Oregon Board of Dentistry Account is established in the  
25 State Treasury separate and distinct from the General Fund.

26 (2) All moneys received by the Oregon Board of Dentistry under this  
27 chapter shall be paid to the State Treasury and credited to the Oregon Board  
28 of Dentistry Account. Any interest or other income derived from moneys paid  
29 into the account shall be credited monthly to the account.

30 (3) Moneys in the Oregon Board of Dentistry Account are appropriated  
31 continuously and shall be used only for the administration and enforcement

1 of ORS 680.010 to 680.205 and this chapter.

2 *[(4) All fines imposed and collected under this chapter shall be paid into*  
3 *the treasury of the county in which the suits, actions or proceedings were*  
4 *commenced. All money thus paid into the treasury, over and above the amount*  
5 *necessary to reimburse the county for any expense incurred by the county, in*  
6 *any suit, action or proceeding brought under this chapter, shall be paid before*  
7 *January 1 of each year, into the State Treasury and placed to the credit of the*  
8 *Oregon Board of Dentistry Account and such moneys hereby are continuously*  
9 *appropriated and shall be used only for the administration and enforcement*  
10 *of ORS 680.010 to 680.205 and this chapter.]*

11 [(5)] (4) Ten percent of the annual license fee to be paid by each licensee  
12 of the Oregon Board of Dentistry shall be used by the board to ensure the  
13 continued professional competence of licensees. Such activities shall include  
14 the development of performance standards and professional peer review.

15 **SECTION 280.** ORS 679.991 is amended to read:

16 679.991. (1) Violation of any provision of ORS 679.020 or 679.025 (1), is a  
17 Class A misdemeanor.

18 (2) Violation of ORS 679.170 or 679.176 is a Class B misdemeanor.

19 (3) In the event of a second or subsequent conviction under subsection (1)  
20 of this section, *[it is mandatory upon the part of the court to sentence the*  
21 *convicted person to imprisonment in the county jail for not less than 10 days*  
22 *in addition to the maximum fine or imprisonment permitted]* **the court must**  
23 **impose a minimum sentence of 10 days of imprisonment.**

24 (4) In any prosecution for violation of subsection (1) or (2) of this section,  
25 it shall be sufficient to sustain a conviction to show a single act of conduct  
26 in violation of any of the provisions of this chapter and it shall not be nec-  
27 essary to show a general course of such conduct.

28 **SECTION 281.** ORS 688.715 is amended to read:

29 688.715. The Oregon Health Licensing Agency is granted authority to  
30 carry out the following duties:

31 (1) Adopt rules that are necessary to conduct business, carry out duties

1 and administer the provisions of ORS 688.701 to 688.734.

2 (2) Issue registrations, including temporary registrations, permits, waivers  
3 and other authorizations to practice athletic training as determined by the  
4 Board of Athletic Trainers.

5 (3) Establish and collect fees and charges to carry out its legal responsi-  
6 bilities.

7 (4) Authorize all necessary disbursements to carry out the provisions of  
8 ORS 688.701 to 688.734, including but not limited to payment for necessary  
9 supplies, office equipment, books and expenses for the conduct of examina-  
10 tions, payment for legal and investigative services rendered to the agency  
11 and such other expenditures as are provided for in ORS 688.701 to 688.734.

12 (5) Employ inspectors, examiners, special agents, investigators, clerical  
13 assistants and accountants as are necessary for the investigation and prose-  
14 cution of alleged violations and the enforcement of ORS 688.701 to 688.734,  
15 and for such other purposes as the agency may require. Nothing in ORS  
16 688.701 to 688.734 shall be construed to prevent assistance being rendered by  
17 an employee of the agency in any hearing called by it. However, all obli-  
18 gations for salaries and expenses incurred under ORS 688.701 to 688.734 shall  
19 be paid only from the fees accruing to the agency under ORS 688.701 to  
20 688.734.

21 (6) The agency shall provide the board with such administrative services  
22 and employees as the board requires to carry out its duties.

23 (7) Maintain an accurate record of all proceedings of the board and of all  
24 its meetings, receipts and disbursements, [*fin*es] **civil penalties** and orders  
25 for violation of ORS 688.701 to 688.734, records for registration to practice  
26 athletic training together with the addresses of those registered, and the  
27 names of all persons whose registration has been subject to disciplinary  
28 action.

29 (8) Investigate complaints, take disciplinary action, including assessment  
30 of civil [*fin*es] **penalties**, and provide opportunity for hearing according to  
31 ORS 183.745.

1 (9) Administer oaths, issue notices and subpoenas in the name of the  
2 board, enforce subpoenas in the manner authorized by ORS 183.440, hold  
3 hearings and perform such other acts as are reasonably necessary to carry  
4 out duties of the board granted under ORS 688.701 to 688.734.

5 **SECTION 282.** ORS 688.160 is amended to read:

6 688.160. (1) The Physical Therapist Licensing Board operates as a semi-  
7 independent state agency subject to ORS 182.456 to 182.472, for purposes of  
8 carrying out the provisions of ORS 688.010 to 688.201 and 688.990 [(1)]. The  
9 Physical Therapist Licensing Board consists of eight members appointed by  
10 the Governor and subject to confirmation by the Senate in the manner pro-  
11 vided in ORS 171.562 and 171.565. All members of the board must be residents  
12 of this state. Of the members of the board:

13 (a) Five must be physical therapists who are Oregon residents, possess  
14 unrestricted licenses to practice physical therapy in this state, have been  
15 practicing in this state for at least two years immediately preceding their  
16 appointments and have been practicing in the field of physical therapy for  
17 at least five years.

18 (b) One must be a licensed physical therapist assistant.

19 (c) Two must be public members who have an interest in consumer rights  
20 and who are not:

21 (A) Otherwise eligible for appointment to the board; or

22 (B) The spouse, domestic partner, child, parent or sibling of a physical  
23 therapist or physical therapist assistant.

24 (2)(a) Board members required to be physical therapists or physical ther-  
25 apist assistants may be selected by the Governor from a list of three to five  
26 nominees for each vacancy, submitted by the Oregon Physical Therapy As-  
27 sociation.

28 (b) In selecting the members of the board, the Governor shall strive to  
29 balance the representation on the board according to:

30 (A) Geographic areas of this state; and

31 (B) Ethnic group.

1 (3)(a) The term of office of each member is four years, but a member  
2 serves at the pleasure of the Governor. The terms must be staggered so that  
3 no more than three terms end each year. A member is eligible for reap-  
4 pointment.

5 (b) In the event of a vacancy in the office of a member of the board other  
6 than by reason of the expiration of a term, the Governor, not later than 90  
7 days after the occurrence of the vacancy, shall appoint a person to fill the  
8 vacancy for the unexpired term.

9 (c) A board member shall be removed immediately from the board if,  
10 during the member's term, the member:

11 (A) Is not a resident of this state;

12 (B) Has been absent from three consecutive board meetings, unless at  
13 least one absence is excused;

14 (C) Is not a licensed physical therapist or a retired physical therapist who  
15 was a licensed physical therapist in good standing at the time of retirement,  
16 if the board member was appointed to serve on the board as a physical  
17 therapist; or

18 (D) Is not a licensed physical therapist assistant or a retired physical  
19 therapist assistant who was a licensed physical therapist assistant in good  
20 standing at the time of retirement, if the board member was appointed to  
21 serve on the board as a retired physical therapist assistant.

22 (4) Each member of the board is entitled to compensation and expenses  
23 as provided in ORS 292.495. The board may provide by rule for compensation  
24 to board members for the performance of official duties at a rate that is  
25 greater than the rate provided in ORS 292.495.

26 (5) A board member who acts within the scope of board duties, without  
27 malice and in reasonable belief that the member's action is warranted by  
28 law, is immune from civil liability.

29 (6) The board shall have power to:

30 (a) Establish matters of policy affecting administration of ORS 688.010 to  
31 688.201;

1 (b) Provide for examinations for physical therapists and physical therapist  
2 assistants and adopt passing scores for the examinations;

3 (c) Adopt rules necessary to carry out and enforce the provisions of ORS  
4 688.010 to 688.201;

5 (d) Establish standards and tests to determine the qualifications of ap-  
6 plicants for licenses to practice physical therapy in this state;

7 (e) Issue licenses to persons who meet the requirements of ORS 688.010  
8 to 688.201;

9 (f) Adopt rules relating to the supervision and the duties of physical  
10 therapist aides who assist in performing routine work under supervision;

11 (g) Adopt rules establishing minimum continuing education requirements  
12 for all licensees;

13 (h) Exercise general supervision over the practice of physical therapy  
14 within this state;

15 (i) Establish and collect fees for the application or examination for, or the  
16 renewal, reinstatement or duplication of, a license under ORS 688.040, 688.080  
17 or 688.100 or for the issuance of a temporary permit under ORS 688.110; and

18 (j) Establish and collect fees to carry out and enforce the provisions of  
19 ORS 688.010 to 688.201.

20 (7) The board shall meet as determined by the board and at any other time  
21 at the call of the board chairperson, who shall be elected by the members  
22 of the board. All members have equal voting privileges.

23 (8) The board may appoint and fix the compensation of staff as necessary  
24 to carry out the operations of the board.

25 (9) The board shall:

26 (a) Maintain a current list of all persons regulated under ORS 688.010 to  
27 688.201, including the persons' names, current business and residential ad-  
28 dresses, telephone numbers, electronic mail addresses and license numbers.

29 (b) Provide information to the public regarding the procedure for filing  
30 a complaint against a physical therapist or physical therapist assistant.

31 (c) Publish at least annually, and in a format or place determined by the

1 board, final disciplinary actions taken against physical therapists and phys-  
2 ical therapist assistants and other information, including rules, in order to  
3 guide physical therapists and physical therapist assistants regulated pursu-  
4 ant to ORS 688.010 to 688.201.

5 **SECTION 283.** ORS 688.990 is amended to read:

6 688.990. *[(1)]* Violation of any provision of ORS 688.020 *[or]*, 688.120,  
7 **688.415 or 688.425** is a **Class A** misdemeanor.

8 *[(2) Violation of ORS 688.415 or 688.425 is punishable by a fine of not more*  
9 *than \$500, or imprisonment for not more than one year, or both.]*

10 **SECTION 284.** ORS 691.565 is amended to read:

11 691.565. *[(1)]* The Board of Examiners of Licensed Dietitians Account is  
12 established in the State Treasury, separate and distinct from the General  
13 Fund. All moneys received by the Board of Examiners of Licensed Dietitians  
14 under ORS 691.405 to 691.585 shall be deposited into the account and are  
15 continuously appropriated to the board to be used only for the adminis-  
16 tration and enforcement of ORS 691.405 to 691.585. Any interest or other in-  
17 come from moneys in the account shall be credited to the account.

18 *[(2) All fines collected or received for violations of or prosecutions under*  
19 *ORS 691.405 to 691.585 shall be paid into the account and used only for the*  
20 *administration and enforcement of ORS 691.405 to 691.585.]*

21 **SECTION 285.** ORS 695.990 is amended to read:

22 695.990. Violation of any of the provisions of ORS 695.210 to 695.240 is  
23 *[punishable, upon conviction, by a fine of not more than \$500 or by*  
24 *imprisonment in the county jail for not more than one year]* **a Class A**  
25 **misdemeanor.**

26 **SECTION 286.** ORS 705.165 is amended to read:

27 705.165. (1) Except as provided in ORS 59.255, 59.995, 86A.130, 86A.992 and  
28 645.950, the net amount accruing to the Department of Consumer and Busi-  
29 ness Services from all fees, charges, interest, *[fines,]* penalties and miscella-  
30 neous revenues from all sources under ORS chapter 645 and ORS 59.005 to  
31 59.451, 59.710 to 59.830, 59.991, 86A.095 to 86A.198, 650.005 to 650.100 and

1 705.350 shall, after deduction of refunds, be paid over to the State Treasurer  
2 and deposited in a separate subaccount in the Consumer and Business Ser-  
3 vices Fund created under ORS 705.145 at least monthly and may be used only  
4 for the expenses of the department in carrying out its functions and duties  
5 under ORS chapter 645 and ORS 59.005 to 59.451, 59.710 to 59.830, 59.991,  
6 59.995, 86A.095 to 86A.198, 650.005 to 650.100 and 705.350.

7 (2) Any amount deposited in the separate subaccount in the Consumer and  
8 Business Services Fund as provided in subsection (1) of this section that at  
9 the end of each quarter is determined by the Director of the Department of  
10 Consumer and Business Services to be in excess of the amount needed to  
11 administer ORS chapter 645 and ORS 59.005 to 59.451, 59.710 to 59.830, 59.991,  
12 59.995, 86A.095 to 86A.198 and 650.005 to 650.100 shall be transferred to the  
13 General Fund and shall become available for general governmental expenses.

14 **SECTION 287.** ORS 705.642 is amended to read:

15 705.642. (1) Whenever the Director of the Department of Consumer and  
16 Business Services determines that a person has engaged, is engaging or is  
17 about to engage in an act or practice constituting a violation of a provision  
18 of ORS 705.638, 707.005 or 707.010 or any rule or order of the director, the  
19 director may bring suit in the name of or on behalf of the State of Oregon  
20 in the circuit court of any county of this state to enjoin the acts or practices  
21 and to enforce compliance with the provisions of ORS 705.638, 707.005 or  
22 707.010 or the rule or order. Upon a proper showing, the court shall grant  
23 a permanent or temporary injunction, restraining order or writ of mandamus.  
24 The court may [*fine*] **impose a penalty against** the person [*against whom*  
25 *the order is entered*] **of** not more than \$20,000 for each violation, which shall  
26 be entered as a judgment and paid to the General Fund of the State Treas-  
27 ury. Each violation is a separate offense. In the case of a continuing vio-  
28 lation, each day's continuance is a separate violation, but the maximum  
29 penalty for a continuing violation may not exceed \$100,000. If the court finds  
30 that the defendant has violated a provision of ORS 705.638, 707.005 or 707.010  
31 or a rule or order, the court may appoint a receiver, who may be the director,

1 for the defendant or the defendant's assets. The court may not require the  
2 director to post a bond. The court may award reasonable attorney fees to the  
3 director if the director prevails in an action under this section. The court  
4 may award reasonable attorney fees to a defendant who prevails in an action  
5 under this section if the court determines that the director had no objec-  
6 tively reasonable basis for asserting the claim or no reasonable basis for  
7 appealing an adverse decision of the trial court.

8 (2) The director may include either of the following in any action au-  
9 thorized by subsection (1) of this section:

10 (a) A claim for restitution or damages on behalf of the persons injured  
11 by the act or practice constituting the subject matter of the action. The  
12 court shall have jurisdiction to award appropriate relief to such persons, if  
13 the court finds that enforcement of the rights of such persons by private civil  
14 action, whether by class action or otherwise, would be so burdensome or  
15 expensive as to be impractical.

16 (b) A claim for disgorgement of illegal gains or profits derived. Any re-  
17 covery under this paragraph must be turned over to the General Fund of the  
18 State Treasury unless the court requires another disposition.

19 **SECTION 288.** ORS 707.145 is amended to read:

20 707.145. The Director of the Department of Consumer and Business Ser-  
21 vices may disapprove an application for a permit to organize or refuse to  
22 approve the articles of incorporation or to grant a charter upon a finding  
23 that any person named in the application to organize or in other documents  
24 submitted for filing:

25 (1) Is insolvent, either in the sense that the person's liabilities exceed the  
26 person's assets or that the person cannot meet the person's obligations as  
27 they mature, or is in such financial condition that the person cannot con-  
28 tinue in business with safety to the person's customers;

29 (2) Has engaged in dishonest, fraudulent or illegal practices or conduct  
30 in any business or profession;

31 (3) Has willfully or repeatedly violated or failed to comply with any pro-

1 visions of the Bank Act or any rule or order of the director;

2 (4) Has been convicted of a crime, an essential element of which is fraud;

3 (5) Is not qualified to conduct a banking business on the basis of such  
4 factors as training, experience and knowledge of the business;

5 (6) Is permanently or temporarily enjoined by a court of competent juris-  
6 diction from engaging in or continuing any conduct or practice involving any  
7 aspect of the banking business or other business that may lawfully be con-  
8 ducted by an insured institution;

9 (7) Is the subject of an order of the director subjecting the person to [*a*  
10 *fine or*] a civil penalty, or removing the person from an office in any entity  
11 regulated by the director; or

12 (8) Is the subject of an order entered within the past five years, directing  
13 the person to cease and desist from any fraudulent or unlawful business or  
14 banking practice, subjecting the person to a [*fine or other*] civil penalty, or  
15 removing the person from an office in a financial institution or a consumer  
16 finance company issued by the banking supervisor of another state or by the  
17 Comptroller of the Currency, the Board of Governors of the Federal Reserve  
18 System or by any other agency of the federal government or another state  
19 with regulatory authority over such financial institutions or consumer fi-  
20 nance companies.

21 **SECTION 289.** ORS 717.235 is amended to read:

22 717.235. (1) Upon the filing of a complete application, the Director of the  
23 Department of Consumer and Business Services shall review the application  
24 and may investigate the financial condition and responsibility, financial and  
25 business experience, character and general fitness of the applicant. The di-  
26 rector may conduct an on-site investigation of the applicant, the reasonable  
27 cost of which shall be paid by the applicant. The director may disapprove  
28 an application if the director finds that the applicant:

29 (a) Is insolvent, either in the sense that the person's liabilities exceed the  
30 person's assets or that the person cannot meet obligations as they mature,  
31 or that the person is in such financial condition that the person cannot

1 continue in business with safety to the person's customers;

2 (b) Has engaged in dishonest, fraudulent or illegal practices or conduct  
3 in any business or profession;

4 (c) Has willfully or repeatedly violated or failed to comply with a pro-  
5 vision of the Oregon Bank Act, Oregon Securities Law, Oregon Credit Union  
6 Act, Oregon Consumer Finance Act or Pawnbrokers Act or any rule or order  
7 of the director adopted under those laws;

8 (d) Has been convicted of a crime, an essential element of which is fraud;

9 (e) Is not qualified to engage in the business of money transmission on  
10 the basis of such factors as training, experience and knowledge of the busi-  
11 ness;

12 (f) Is permanently or temporarily enjoined by a court of competent juris-  
13 diction from engaging in or continuing any conduct or practice involving an  
14 aspect of the banking business or of the money transmission business;

15 (g) Is the subject of an order of the director subjecting the person to a  
16 [*fine or other*] civil penalty or removing the person from an office in any  
17 entity regulated by the director; or

18 (h) Is the subject of an order entered within the past five years, subjecting  
19 the person to a [*fine or other*] civil penalty or removing the person from an  
20 office in a state or federally chartered, licensed or regulated financial ser-  
21 vices company.

22 (2) The director may also disapprove an application if the director finds  
23 that a controlling person is subject to a provision of subsection (1) of this  
24 section except subsection (1)(a) or (e) of this section. If a controlling person  
25 is the sole owner of the applicant, then the director may disapprove an ap-  
26 plication if the director finds that the controlling person is subject to a  
27 provision of subsection (1) of this section.

28 (3) If the director finds that the applicant's business will be conducted  
29 honestly, fairly and in a manner commanding the confidence and trust of the  
30 community, and that the applicant has fulfilled the requirements imposed by  
31 ORS 717.200 to 717.320, 717.900 and 717.905 and has paid the required license

1 fee, the director shall issue a license to the applicant authorizing the appli-  
2 cant to conduct money transmission business in this state for a term of one  
3 year. If these requirements have not been met, the director shall deny the  
4 application in writing and shall describe the reasons for the denial.

5 (4) An order of the director denying an application under ORS 717.200 to  
6 717.320, 717.900 and 717.905 shall state the grounds upon which the order is  
7 based and shall not become effective for at least 20 days after written notice  
8 of the order has been sent by registered or certified mail to the applicant  
9 at the principal place of business of the applicant.

10 (5) Appeals from an order of the director denying an application may be  
11 taken to the courts of this state as provided by ORS chapter 183.

12 **SECTION 290.** ORS 717.315 is amended to read:

13 717.315. All fees, charges, costs and [ *fines*] **civil penalties** collected by the  
14 Director of the Department of Consumer and Business Services under ORS  
15 717.200 to 717.320, 717.900 and 717.905 shall be paid to the State Treasurer  
16 and credited as provided in ORS 705.145.

17 **SECTION 291.** ORS 723.014 is amended to read:

18 723.014. The Director of the Department of Consumer and Business Ser-  
19 vices may not issue a certificate of approval under ORS 723.012 if a person  
20 named in the articles of incorporation submitted for approval:

21 (1) Is insolvent or bankrupt;

22 (2) Has engaged in dishonest, fraudulent or illegal practices or conduct  
23 in any business or profession;

24 (3) Has willfully or repeatedly violated or failed to comply with a pro-  
25 vision of the Oregon Bank Act, the Oregon Credit Union Act, the Oregon  
26 Consumer Finance Act, the Oregon Securities Law, the Oregon Mortgage  
27 Lender Law or the Pawnbrokers Act, or an administrative rule or order  
28 adopted under an Act identified in this subsection;

29 (4) Has been convicted of a crime, an essential element of which is fraud;

30 (5) Is not qualified to conduct a credit union business on the basis of such  
31 factors as training, experience and knowledge of the business;

1 (6) Is permanently or temporarily enjoined by a court of competent juris-  
2 diction from engaging in or continuing any conduct or practice involving any  
3 aspect of the credit union business;

4 (7) Is the subject of an order of the director subjecting the person to a  
5 [*fine or other*] civil penalty, or removing the person from an office in any  
6 entity regulated by the director; or

7 (8) Is the subject of an order that was issued by the regulatory authority  
8 of another state, or of the federal government, with authority over banking  
9 institutions, credit unions, consumer finance companies, savings associations,  
10 securities firms or mortgage lenders, that was entered within the past five  
11 years and that subjects the person to a [*fine or other*] civil penalty or re-  
12 moves the person from an office in a state banking institution, a national  
13 bank, a state or federal credit union, a state or federal savings association  
14 or a consumer finance company, or from a position as a securities broker or  
15 dealer, a state or federal investment adviser or a mortgage lender.

16 **SECTION 292.** ORS 723.106 is amended to read:

17 723.106. (1) Credit unions shall report to the Director of the Department  
18 of Consumer and Business Services annually by a date established by the  
19 director on forms supplied and in the manner specified by the director for  
20 that purpose. Additional reports may be required.

21 (2) A [*fine*] **civil penalty** in an amount to be established by rule of the  
22 director, but not to exceed \$1,000 for each day a report is in arrears shall  
23 be levied against the offending credit union unless it is excused for cause  
24 by the director.

25 **SECTION 293.** ORS 725.145 is amended to read:

26 725.145. The Director of the Department of Consumer and Business Ser-  
27 vices may disapprove an application for a license if a person named in the  
28 application submitted pursuant to ORS 725.120:

29 (1) Is insolvent, either in the sense that the person's liabilities exceed the  
30 person's assets or that the person cannot meet the person's obligations as  
31 they mature, or is in such financial condition that the person cannot con-

1   tinue in business with safety to the person's customers;

2       (2) Has engaged in dishonest, fraudulent or illegal practices or conduct  
3   in any business or profession;

4       (3) Has knowingly or repeatedly violated or failed to comply with any  
5   provision of the Oregon Bank Act, the Oregon Credit Union Act, the Oregon  
6   Consumer Finance Act or the Pawnbrokers Act, or any administrative rule  
7   or order adopted under an Act identified in this subsection;

8       (4) Has been convicted of a crime, an essential element of which is fraud;

9       (5) Is permanently or temporarily enjoined by a court of competent juris-  
10   diction from engaging in or continuing any conduct or practice involving an  
11   aspect of the consumer finance business;

12       (6) Is the subject of an order of the director subjecting the person to a  
13   [*fine or other*] civil penalty under the Bank Act or ORS chapter 723 or this  
14   chapter, or removing the person from an office in any entity regulated under  
15   the Bank Act or ORS chapter 723 or this chapter; or

16       (7) Is the subject of an order that was issued by the regulatory authority  
17   of another state or of the federal government with authority over banking  
18   institutions, savings associations, credit unions or consumer finance compa-  
19   nies, that was entered within the past five years and that subjects the person  
20   to a [*fine or other*] civil penalty or removes the person from an office in a  
21   state banking institution, a national bank, a state or federal savings associ-  
22   ation, a state or federal credit union or a consumer finance company.

23       **SECTION 294.** ORS 726.075 is amended to read:

24       726.075. The Director of the Department of Consumer and Business Ser-  
25   vices may not grant a license to engage in the business of pawnbroker to any  
26   person if any person named in the application submitted pursuant to ORS  
27   726.060:

28       (1) Is insolvent, either in the sense that the person's liabilities exceed the  
29   person's assets or that the person cannot meet obligations as they mature,  
30   or is in such financial condition that the person cannot continue in business  
31   with safety to the person's customers;

1 (2) Has engaged in dishonest, fraudulent or illegal practices or conduct  
2 in any business or profession;

3 (3) Has willfully or repeatedly violated or failed to comply with a pro-  
4 vision of the Oregon Bank Act, the Oregon Credit Union Act, the Oregon  
5 Consumer Finance Act or the Pawnbrokers Act, or any administrative rule  
6 or order adopted under an Act identified in this subsection;

7 (4) Has been convicted of a crime, an essential element of which is fraud;

8 (5) Is not qualified to conduct a pawnbroker business on the basis of such  
9 factors as training, experience and knowledge of the business;

10 (6) Is permanently or temporarily enjoined by a court of competent juris-  
11 diction from engaging in or continuing any conduct or practice involving an  
12 aspect of the pawnbroker business;

13 (7) Is the subject of an order of the director, subjecting the person to a  
14 [*fine or other*] civil penalty, or removing the person from an office in an en-  
15 tity regulated by either director; or

16 (8) Is the subject of an order that was issued by the regulatory authority  
17 of another state or of the federal government with authority over such  
18 banking institutions, credit unions, consumer finance companies or savings  
19 associations, that was entered within the past five years and that subjects  
20 the person to a [*fine or other*] civil penalty or removes the person from an  
21 office in a state banking institution, a national bank, a state or federal  
22 savings association, a state or federal credit union or a consumer finance  
23 company.

24 **SECTION 295.** ORS 726.990 is amended to read:

25 726.990. (1) Violation, or participation in the violation, of any provision  
26 of this chapter by any pawnbroker or any agent, member, officer or employee  
27 thereof, or any other person is [*punishable, upon conviction, by a fine of not*  
28 *less than \$100 nor more than \$500 or by imprisonment in the county jail for*  
29 *not less than one month and not more than six months, or both*] **a Class B**  
30 **misdemeanor.**

31 (2) Upon conviction under subsection (1) of this section, no license shall

1 be granted to such person, nor to the husband or wife of such person, nor  
2 to any partnership, association or corporation of which the person is an  
3 agent or member, until two years after the date of the conviction.

4 **SECTION 296.** ORS 731.292 is amended to read:

5 731.292. (1) Except as provided in subsections (2), (3) and (4) of this sec-  
6 tion, all fees, charges and other moneys received by the Department of Con-  
7 sumer and Business Services or the Director of the Department of Consumer  
8 and Business Services under the Insurance Code shall be deposited in the  
9 fund created by ORS 705.145 and are continuously appropriated to the de-  
10 partment for the payment of the expenses of the department in carrying out  
11 the Insurance Code.

12 (2) All taxes[, *fin*es] and penalties paid pursuant to the Insurance Code  
13 shall be paid to the director and after deductions of refunds shall be paid  
14 by the director to the State Treasurer, at the end of every calendar month  
15 or more often in the director's discretion, for deposit in the General Fund  
16 to become available for general governmental expenses.

17 (3) All premium taxes received by the director pursuant to ORS 731.820  
18 shall be paid by the director to the State Treasurer for deposit in the State  
19 Fire Marshal Fund.

20 (4) Assessments received by the department under ORS 743.951 and 743.961  
21 and penalties received by the department under ORS 743.990 and section 10,  
22 chapter 867, Oregon Laws 2009, shall be paid into the State Treasury and  
23 credited to the Health System Fund established in section 1, chapter 867,  
24 Oregon Laws 2009, after deducting the following amounts:

25 (a) Amounts needed to reimburse the department for expenses in admin-  
26 istering ORS 743.951 to 743.965 and 743.990; and

27 (b) Amounts needed to reimburse the General Fund for reductions in  
28 revenue caused by the effect of ORS 743.961 on the retaliatory tax imposed  
29 under ORS 731.854 and 731.859.

30 **SECTION 297.** ORS 731.992 is amended to read:

31 731.992. (1) Violation of ORS 731.260 is [*punishable upon conviction, in the*

1 *case of an individual, by imprisonment in the county jail for not more than*  
2 *one year or by a fine not exceeding \$1,000; or, in the case of a corporation, by*  
3 *a fine not exceeding \$10,000] a **Class A misdemeanor**.*

4 (2) Violation of any provision of the Insurance Code for which a greater  
5 penalty is not otherwise provided by the Insurance Code or by other appli-  
6 cable laws of this state, in addition to any applicable prescribed denial,  
7 suspension or revocation of any certificate or license or any civil forfeiture,  
8 [*shall be punishable upon conviction as for a*] **is a Class A misdemeanor**.

9 **SECTION 298.** ORS 756.360 is amended to read:

10 756.360. All fees, [*fin*es,] penalties and other moneys collected by the  
11 Public Utility Commission under ORS 756.310, 756.320, 756.350, 758.015,  
12 758.400 to 758.475 and ORS chapter 759 shall be paid by the commission into  
13 the State Treasury within 30 days after the collection thereof, and shall be  
14 placed by the State Treasurer to the credit of the Public Utility Commission  
15 Account and the fees, [*fin*es,] penalties and other moneys collected from:

16 (1) Public utilities shall be used only for the purpose of paying the ex-  
17 penses of the commission in performing the duties imposed by law upon the  
18 commission in respect to utilities, and for the purpose of paying the expenses  
19 of the Office of the Governor for its responsibilities in administering energy  
20 conservation and allocation programs.

21 (2) Telecommunications providers shall be used only for the purpose of  
22 paying the expenses of the commission in performing the duties imposed by  
23 law upon the commission in respect to telecommunications providers, and for  
24 the purpose of paying the expenses of the Office of the Governor for its re-  
25 sponsibilities in administering energy conservation and allocation programs.

26 **SECTION 299.** ORS 756.990 is amended to read:

27 756.990. (1) Any public utility or telecommunications utility that fails to  
28 comply with an order or subpoena issued pursuant to ORS 756.090 shall for-  
29 feit, for each day it so fails, a sum of not less than \$50 nor more than \$500.

30 (2) Except where a penalty is otherwise provided by law, any public util-  
31 ity, telecommunications utility or other person subject to the jurisdiction of

1 the Public Utility Commission shall forfeit a sum of not less than \$100 nor  
2 more than \$10,000 for each time that the person:

3 (a) Violates any statute administered by the commission;

4 (b) Does any act prohibited, or fails to perform any duty enjoined upon  
5 the person;

6 (c) Fails to obey any lawful requirement or order made by the commis-  
7 sion; or

8 (d) Fails to obey any judgment made by any court upon the application  
9 of the commission.

10 (3) Violation of ORS 756.115 is a Class A violation. [*A penalty of not less*  
11 *than \$500 nor more than \$1,000 shall be recovered from the public utility or*  
12 *telecommunications utility for each such offense when such officer, agent or*  
13 *employee acted in obedience to the direction, instruction or request of the*  
14 *public utility, telecommunications utility or any general officer thereof.*]

15 (4) Violation of ORS 756.125 is [*punishable, upon conviction, by a fine of*  
16 *not more than \$100 or imprisonment for not more than 30 days, or both*] **a**  
17 **Class C misdemeanor**. [*Any public utility or telecommunications utility that*  
18 *knowingly permits the violation of ORS 756.125 shall forfeit, upon conviction,*  
19 *not more than \$1,000 for each offense.*]

20 (5) Violation of ORS 756.543 (1) is [*punishable, upon conviction, by a fine*  
21 *of not less than \$100 nor more than \$1,000, or by imprisonment in the county*  
22 *jail for not more than one year, or both*] **a Class A misdemeanor**.

23 (6) In construing and enforcing this section, the act, omission or failure  
24 of any officer, agent or other person acting for or employed by any public  
25 utility, telecommunications utility or other person subject to the jurisdiction  
26 of the commission acting within the scope of the person's employment shall  
27 in every case be deemed to be the act, omission or failure of such public  
28 utility, telecommunications utility or other person subject to the jurisdiction  
29 of the commission. With respect to any violation of any statute administered  
30 by the commission, any penalty provision applying to such a violation by a  
31 public utility or telecommunications utility shall apply to such a violation

1 by any other person.

2 (7) Except when provided by law that a penalty, [*fine,*] forfeiture or other  
3 sum be paid to the aggrieved party, or as provided in ORS 757.994 (1), all  
4 penalties[, *finer*] or forfeitures or other sums collected or paid under the  
5 provisions of any law administered by the commission shall be paid into the  
6 General Fund and credited to the Public Utility Commission Account.

7 **SECTION 300.** ORS 776.991 is amended to read:

8 776.991. [(1) *Except as provided in subsection (2) of this section, any person*  
9 *violating*] **Violation of** any of the provisions of this chapter is [*punishable,*  
10 *upon conviction, by a fine not to exceed \$500, or by imprisonment in the county*  
11 *jail not to exceed six months, or both*] **a Class B misdemeanor. Notwith-**  
12 **standing ORS 161.635 and section 10 of this 2011 Act, the minimum fine**  
13 **for a violation of ORS 776.405 (1)(a) is \$5,000 and the maximum fine is**  
14 **\$50,000.**

15 [(2) *Any person violating the provisions of ORS 776.405 (1)(a) is punishable,*  
16 *upon conviction, by a fine of not less than \$5,000 nor more than \$50,000, or by*  
17 *imprisonment in the county jail not to exceed six months, or both.*]

18 **SECTION 301.** ORS 778.085 is amended to read:

19 778.085. (1) To the full extent the State of Oregon might exercise control,  
20 or grant to the Port of Portland the right to exercise control, the port has  
21 full control of the rivers, harbors and waterways within its boundaries and  
22 between its boundaries and the sea.

23 (2) The port may make, change or abolish wharf lines of, in and for the  
24 rivers, harbors and waterways within its boundaries.

25 (3) As it considers convenient, requisite or necessary, or in the best in-  
26 terests of the maritime shipping or commercial interests of the port, the  
27 board may by ordinance make, modify or abolish regulations:

28 (a) For the use or navigation of the rivers, harbors and waterways men-  
29 tioned in subsection (1) of this section; or

30 (b) For the placing of obstructions therein, or the removal of obstructions  
31 therefrom.

1 (4) The port may enforce the regulations by [*fin*es and] penalties or seek  
2 other appropriate remedies as the port considers necessary. [*Fines and*]  
3 Penalties are recoverable in the name of the port in any court of this state  
4 [*having jurisdiction of actions for the recovery of fines or penalties imposed*  
5 *by state laws. Fines recovered shall be paid to the clerk of the court who, after*  
6 *deducting court costs in the proceedings, shall pay the remainder thereof to the*  
7 *treasurer of the port, to go to its general fund*].

8 (5) This section does not authorize the port to cause the removal of  
9 bridges or other obstructions existing under a grant by this state. This sec-  
10 tion does not authorize the port to exclude cities other than the City of  
11 Portland from free access to the channel of either the Willamette or  
12 Columbia Rivers or the Oregon and the Columbia Sloughs, or the free use  
13 of the rivers or sloughs for navigation.

14 **SECTION 302.** ORS 778.990 is amended to read:

15 778.990. Any person who violates an ordinance adopted by the board of  
16 the Port of Portland under ORS 778.085 or 778.260 [*shall be guilty of a*  
17 *misdemeanor and, upon conviction, shall be punished by a fine of not more*  
18 *than \$250*] **commits a Class A misdemeanor.**

19 **SECTION 303.** ORS 783.610 is amended to read:

20 783.610. [(1)] No person shall moor any vessel of any kind or any name,  
21 or any boat, skiff, barge, scow, raft, or part of a raft, to any buoy or beacon  
22 placed in the navigable waters of this state, or in any bay, river or arm of  
23 the sea bordering upon this state, by the authority of the United States  
24 Coast Guard or shall in any manner hang on with any vessel, boat, barge,  
25 scow, raft, or part of a raft, to any such buoy or beacon, or shall willfully  
26 remove, damage or destroy any such buoy or beacon, or shall cut down, re-  
27 move, damage or destroy any beacon or beacons erected on land in this state  
28 by authority of the United States Coast Guard.

29 [(2) *All fines for violation of this section shall be paid into the county*  
30 *school fund of the county in which the action is tried.*]

31 **SECTION 304.** ORS 783.990 is amended to read:

1 783.990. (1) Violation of ORS 783.510, **783.520 or 793.610** is [*punishable,*  
2 *upon conviction, in a justice or circuit court, by a fine of not less than \$50 nor*  
3 *more than \$200, or by imprisonment in the county jail for not less than one*  
4 *nor more than six months, or both*] **a Class B misdemeanor.**

5 [(2) *Violation of ORS 783.520 is punishable, upon conviction, in a justice*  
6 *or circuit court, by a fine of not less than \$50 nor more than \$250, or by*  
7 *imprisonment in the county jail for not less than 60 days nor more than six*  
8 *months.*]

9 [(3)] **(2)** Violation of ORS 783.530, **793.550 or 783.560** is [*punishable, upon*  
10 *conviction, in a justice or circuit court, by a fine of not less than \$20 nor more*  
11 *than \$200, or by imprisonment in the county jail for not less than 10 nor more*  
12 *than 100 days*] **a Class C misdemeanor.**

13 [(4) *Violation of ORS 783.550 is punishable, upon conviction, in a justice*  
14 *or circuit court, by a fine of not less than \$20 nor more than \$100 or by*  
15 *imprisonment in the county jail for not less than 10 nor more than 100 days,*  
16 *or both.*]

17 [(5)] **(3)** Violation of ORS 783.560 by any officer is a Class D violation.

18 [(6) *Violation of ORS 783.580 is punishable, upon conviction, by a fine of*  
19 *not less than \$100 nor more than \$250, and by imprisonment in the county jail*  
20 *not less than 10 nor more than 25 days. Justices of the peace have jurisdiction*  
21 *of violations of ORS 783.580.*]

22 [(7)] **(4)** Violation of ORS 783.590 and injury or damage of any bridge  
23 across the Willamette River for want of the appliances described in ORS  
24 783.590 is a Class A violation.

25 [(8)] **(5)** Violation of ORS 783.620 is [*punishable, upon conviction, by a fine*  
26 *of not less than \$100 nor more than \$500, or by imprisonment in the county jail*  
27 *for not less than three months nor more than one year*] **a Class A**  
28 **misdemeanor.**

29 [(9) *Violation of ORS 783.610 is punishable, upon conviction, by a fine of*  
30 *not less than \$100 nor more than \$200, or by imprisonment in the county jail*  
31 *not less than one nor more than six months, or both.*]

1        **SECTION 305.** ORS 811.172 is amended to read:

2        811.172. (1) A person commits the offense of improperly disposing of hu-  
3 man waste if the person is operating or riding in a motor vehicle and the  
4 person throws, puts or otherwise leaves a container of urine or other human  
5 waste on or beside the highway.

6        (2) The offense described in this section, improperly disposing of human  
7 waste, is a **Class A** misdemeanor [*and is punishable by a maximum fine of*  
8 *\$250*].

9        **SECTION 306.** ORS 823.991 is amended to read:

10       823.991. (1) Any motor carrier or railroad that fails to comply with an  
11 order or subpoena issued pursuant to ORS 823.025 shall pay a civil penalty,  
12 for each day it so fails, of not less than \$50 nor more than \$500.

13       (2) Except where a penalty is otherwise provided by law, any motor car-  
14 rier or railroad shall pay a civil penalty of not less than \$100 nor more than  
15 \$10,000 for each time that the motor carrier or railroad:

16       (a) Violates any statute regarding motor carriers or railroads, as appro-  
17 priate, administered by the Department of Transportation;

18       (b) Does any act prohibited, or fails to perform any duty enjoined upon  
19 the motor carrier or railroad;

20       (c) Fails to obey any lawful requirement or order made by the department;  
21 or

22       (d) Fails to obey any judgment made by any court upon the application  
23 of the department.

24       (3) Violation of ORS 823.029 is punishable after issuance of a final order  
25 by the department, by a civil penalty of not less than \$1,000 for each offense.  
26 A penalty of not less than \$500 nor more than \$1,000 shall be recovered from  
27 the motor carrier or railroad for each such offense when such officer, agent  
28 or employee acted in obedience to the direction, instruction or request of the  
29 motor carrier or railroad, or any general officer thereof.

30       (4) Violation of ORS 823.029 is a Class A violation.

31       (5) Violation of ORS 823.051 is [*punishable, upon conviction, by a fine of*

1 *not more than \$100 or imprisonment for not more than 30 days, or both*] a  
2 **Class C misdemeanor.** Any motor carrier or railroad that knowingly per-  
3 mits the violation of ORS 823.051 shall forfeit, upon conviction, not more  
4 than \$1,000 for each offense.

5 (6) In construing and enforcing this section, the act, omission or failure  
6 of any officer, agent or other person acting for or employed by any motor  
7 carrier or railroad shall in every case be deemed to be the act, omission or  
8 failure of such motor carrier or railroad. With respect to any violation of  
9 any statute administered by the department regarding motor carriers or  
10 railroads, any penalty provision applying to such a violation by a motor  
11 carrier or railroad shall apply to such a violation by any other person.

12 (7) Except as provided in ORS 824.019 and 825.326, and except when pro-  
13 vided by law that a penalty, [*fine,*] forfeiture or other sum be paid to the  
14 aggrieved party, all penalties[, *finer*] or forfeitures collected from persons  
15 subject to the regulatory authority of the department under ORS chapters  
16 823, 824, 825 and 826 shall be paid into the General Fund and credited to the  
17 Motor Carrier Account if collected from a motor carrier and to the Railroad  
18 Fund created under ORS 824.014 (1) if collected from a railroad.

19 (8) Violation of ORS 823.105 is punishable, after issuance of a final order  
20 by the department, by a civil penalty of not more than \$5,000 for each of-  
21 fense.

22 (9) Violation of ORS 823.105 is a **specific fine** violation punishable by a  
23 fine of not more than \$5,000 for each offense.

24 (10) Civil penalties under this section shall be imposed in the manner  
25 provided by ORS 183.745.

26 **SECTION 307.** ORS 824.014 is amended to read:

27 824.014. (1) The Railroad Fund is established separate and distinct from  
28 the General Fund. Interest earned, if any, shall inure to the benefit of the  
29 Railroad Fund.

30 (2) All fees, [*finer,*] penalties and other moneys collected by the Depart-  
31 ment of Transportation under ORS 824.010 and 824.012 shall be paid by the

1 department into the State Treasury within 30 days after the collection  
2 thereof, and shall be placed by the State Treasurer to the credit of the  
3 Railroad Fund created by subsection (1) of this section. The fees, [*fin*es,]  
4 penalties and other moneys collected from railroads shall be used only for  
5 the purpose of paying the expenses of the department in performing the du-  
6 ties imposed by law upon the department in respect to railroads.

7 **SECTION 308.** ORS 825.990 is amended to read:

8 825.990. (1) Except as otherwise provided in subsection (2) of this section,  
9 every person who violates or procures, aids or abets violation of this chapter  
10 and any person who refuses or fails to obey any order, decision or rule, made  
11 under or pursuant to this chapter commits a Class A traffic violation.

12 (2) Knowingly violating an out-of-service notice issued under authority  
13 of the Department of Transportation is a Class A misdemeanor.

14 (3) A person is subject to the penalties under subsection (4) of this section  
15 if the person knowingly:

16 (a) Transports any hazardous waste listed under ORS 466.005 or rules  
17 adopted thereunder to a facility that does not have appropriate authority to  
18 receive the waste under ORS 466.005 to 466.385 and 466.992.

19 (b) Disposes of any hazardous waste listed under ORS 466.005 or rules  
20 adopted thereunder without appropriate authority under ORS 466.005 to  
21 466.385 and 466.992.

22 (c) Materially violates terms of any permit or authority issued to the  
23 person under this chapter or ORS 466.005 to 466.385 and 466.992 in the  
24 transporting or disposing of hazardous waste.

25 (d) Makes any false material statement or representation in any applica-  
26 tion, label, manifest, record, report, permit or other document filed, main-  
27 tained or used for purposes of compliance with requirements under this  
28 chapter for the safe transportation of hazardous wastes.

29 (e) Fails to include material information required under rules of the De-  
30 partment of Transportation in any application for any permit or authority  
31 to transport hazardous waste under this chapter.

1 (f) Violates any rules adopted by the Department of Transportation con-  
2 cerning the transportation of hazardous wastes.

3 (4) Subject to ORS 153.022, violation of subsection (3) of this section is  
4 [*subject to the penalty of a fine of not more than \$10,000 for each day of vio-*  
5 *lation, imprisonment of not more than six months, or both*] **a Class B**  
6 **misdemeanor.**

7 **SECTION 309. ORS 165.475, 165.480, 165.485, 165.490, 165.495, 165.505,**  
8 **165.510, 165.515, 165.520, 221.923 and 632.620 are repealed.**

9 **SECTION 310. The amendments to statutes by sections 151 to 308**  
10 **of this 2011 Act and the repeal of statutes by section 309 of this 2011**  
11 **Act apply only to offenses committed on or after the effective date of**  
12 **this 2011 Act.**

13  
14 **CAPTIONS**

15  
16 **SECTION 311. The unit and section captions used in this 2011 Act**  
17 **are provided only for the convenience of the reader and do not become**  
18 **part of the statutory law of this state or express any legislative intent**  
19 **in the enactment of this 2011 Act.**

20  
21 **EFFECTIVE DATE**

22  
23 **SECTION 312. This 2011 Act being necessary for the immediate**  
24 **preservation of the public peace, health and safety, an emergency is**  
25 **declared to exist, and this 2011 Act takes effect July 1, 2011.**

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