

A-Engrossed
House Bill 2303

Ordered by the House May 8
Including House Amendments dated May 8

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

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

Expands authority of court to reduce fines for violations.

Provides that search warrant that authorizes seizure of tangible things from corporation or limited partnership may be executed in manner provided by Oregon Rules of Civil Procedure for service of summons.

A BILL FOR AN ACT

Relating to criminal procedure; creating new provisions; and amending ORS 133.575 and 153.093.

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

SECTION 1. ORS 153.093 is amended to read:

153.093. (1) Notwithstanding any other provision of law **and except as otherwise provided in this section**, a court or violations bureau may not defer, waive, suspend or otherwise reduce the fine for a violation to an amount that is less than:

(a) [75] **50** percent of the base fine amount established for the offense under ORS 153.125 to 153.145, if the offense is a Class A, B, C or D violation, or an unclassified violation, under ORS 153.012 and 153.015; or

(b) 20 percent of the base fine amount established for the offense under ORS 153.125 to 153.145, if the offense is a specific fine violation as described by ORS 153.015.

(2) A court or violations bureau may impose a fine lower than the amount required by subsection (1) of this section if the court has:

(a) **Authorized imposition of a lower fine for a vehicle equipment violation in a proceeding in which the defendant establishes that the vehicle equipment has been installed or repaired to comply with the law that was violated; or**

(b) **Established procedures for the imposition of a lower fine based on a determination that the defendant has not been convicted of an offense within the three-year period immediately preceding the date on which the citation was issued.**

(3) In addition to the grounds specified in subsection (2) of this section, a court may impose a fine lower than the amount required by subsection (1) of this section if the court determines:

(a) **That the defendant is indigent; or**

(b) **In a specific case, that the amount of the fine required by subsection (1) of this section would be inconsistent with justice.**

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 [(2)] (4) Nothing in this section:

2 (a) Affects the manner in which a court imposes or reduces monetary obligations other than
3 fines.

4 (b) Allows a court to reduce any fine amount below a minimum fine amount established by
5 statute for the offense.

6 (c) Affects the ability of a court to establish a payment schedule for fines imposed by the court.

7 [(3)] (5) For the purpose of determining whether a fine meets the requirements of subsection (1)
8 of this section, the unitary assessment amount under ORS 137.290 and the county assessment amount
9 under ORS 137.309 shall be included in calculating the amount required under subsection (1) of this
10 section.

11 [(4)] (6) The Department of Revenue or Secretary of State may audit any court to determine
12 whether the court is complying with the requirements of this section. In addition, the Department
13 of Revenue or Secretary of State may audit any court to determine whether the court is complying
14 with the requirements of ORS 137.290 (4) and 153.630 (4). The Department of Revenue or Secretary
15 of State may file an action under ORS 34.105 to 34.240 to enforce the requirements of this section
16 and ORS 137.290 (4) and 153.630 (4).

17 **SECTION 2.** ORS 133.575 is amended to read:

18 133.575. (1) **Except as provided in subsection (4) of this section,** a search warrant may be
19 executed only within the period and at the times authorized by the warrant and only by a police
20 officer. A police officer charged with its execution may be accompanied by such other persons as
21 may be reasonably necessary for the successful execution of the warrant with all practicable safety.

22 (2) The executing officer shall, before entering the premises, give appropriate notice of the
23 identity, authority and purpose of the officer to the person to be searched, or to the person in ap-
24 parent control of the premises to be searched, as the case may be.

25 (3) Except as provided in ORS 133.619, before undertaking any search or seizure pursuant to the
26 warrant, the executing officer shall read and give a copy of the warrant to the person to be
27 searched, or to the person in apparent control of the premises to be searched. If the premises are
28 unoccupied or there is no one in apparent control, the officer shall leave a copy of the warrant
29 suitably affixed to the premises.

30 (4) **A search warrant that authorizes the seizure of papers, documents, records and other**
31 **tangible things from a corporation or limited partnership may be executed in the manner**
32 **provided by ORCP 7 D(3)(b) for the service of a summons.**

33 **SECTION 3.** The amendments to ORS 153.093 by section 1 of this 2007 Act apply to vio-
34 **lations committed before, on or after the effective date of this 2007 Act.**