

Enrolled
House Bill 3043

Sponsored by COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

CHAPTER

AN ACT

Relating to forests; amending ORS 527.685 and 527.687.

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

SECTION 1. ORS 527.685 is amended to read:

527.685. (1) The State Board of Forestry shall by rule establish the amount of civil penalty that may be imposed for a particular violation. **Except as provided in subsection (5) of this section,** no civil penalty shall exceed \$5,000 per violation.

(2) In imposing a penalty authorized by this section, the State Forester may consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of statutes, rules, orders and permits pertaining to the Oregon Forest Practices Act.

(c) The gravity and magnitude of the violation.

(d) Whether the violation was repeated or continuous.

(e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.

(f) The size and type of ownership of the operation.

(g) Any relevant rule of the board.

(h) The violator's cooperativeness and efforts to correct the violation.

(3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the board determines to be proper and consistent with the public benefit. Upon the request of the person incurring the penalty, the board shall consider evidence of the economic and financial condition of the person in determining whether a penalty shall be remitted or mitigated.

(4) The board, by rule, may delegate to the State Forester upon such conditions as deemed necessary, all or part of the authority of the board provided in subsection (3) of this section to assess, remit or mitigate civil penalties.

(5) For a violation of ORS 527.745, or rules for reforestation adopted pursuant to ORS 527.745, the State Forester may impose a civil penalty in an amount equal to the estimated cost of reforesting lands pursuant to ORS 527.690.

SECTION 2. ORS 527.687 is amended to read:

527.687. (1) Subject to the notice provisions of ORS 527.683, any civil penalty under ORS 527.992 shall be imposed in the manner provided in ORS 183.745.

(2) In no case shall a hearing requested under ORS 183.745 be held less than 45 days from the date of service of the notice of penalty to allow the party to prepare testimony. The hearing shall

be held not more than 180 days following issuance of the notice unless all parties agree on an extension.

(3) Hearings under this section shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(4) **Except as provided in subsection (5) of this section**, all civil penalties recovered under ORS 527.610 to 527.770, 527.990 and 527.992 shall be paid to the General Fund.

(5) Civil penalties recovered under ORS 527.685 (5) shall be deposited in the State Forestry Department Account under ORS 526.060 and used, consistently with ORS 527.690, by the State Forester to reforest the land that is the subject of a violation of ORS 527.745 or rules for reforestation adopted pursuant to ORS 527.745. Civil penalties described in this subsection that exceed the costs of reforestation shall be paid to the General Fund.

Passed by House March 21, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate May 14, 2007

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President of Senate

Received by Governor:

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Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State