

Senate Bill 1049

Sponsored by Senators BROWN, DEVLIN

SUMMARY

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

Directs moneys received from civil penalties imposed by Board of Boiler Rules to use for administration and enforcement of laws governing boilers and pressure vessels. Applies to moneys collected on or after July 1, 2008.

A BILL FOR AN ACT

1
2 Relating to civil penalties imposed by Board of Boiler Rules; creating new provisions; and amending
3 ORS 455.895 and 480.670.

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

5 **SECTION 1.** ORS 455.895 is amended to read:

6 455.895. (1)(a) The State Plumbing Board may impose a civil penalty against a person as pro-
7 vided under ORS 447.992 and 693.992. Amounts recovered under this paragraph are subject to ORS
8 693.165.

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

11 (c) The Board of Boiler Rules may impose a civil penalty against a person as provided under
12 ORS 480.670. Amounts recovered under this paragraph [*shall be deposited to the General Fund*] **are**
13 **subject to ORS 480.670.**

14 (2) The Director of the Department of Consumer and Business Services, in consultation with the
15 appropriate board, if any, may impose a civil penalty against any person who violates any provision
16 of ORS 446.003 to 446.200, 446.225 to 446.285, 446.395 to 446.420, 446.566 to 446.646, 446.666 to
17 446.746, 479.510 to 479.945, 479.950 and 480.510 to 480.670 and this chapter and ORS chapters 447,
18 460 and 693, or any rule adopted or order issued for the administration and enforcement of those
19 provisions. Except as provided in subsections (3) and (8) of this section or ORS 446.995, a civil
20 penalty imposed under this section must be in an amount determined by the appropriate board or
21 the director of not more than \$5,000 for each offense or, in the case of a continuing offense, not
22 more than \$1,000 for each day of the offense.

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

28 (4) The maximum penalty established by this section for a violation may be imposed only upon
29 a finding that the person has engaged in a pattern of violations. The Department of Consumer and
30 Business Services, by rule, shall define what constitutes a pattern of violations. Except as provided
31 in subsections (1) and (9) of this section, moneys received from any civil penalty under this section

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 are appropriated continuously for and shall be used by the director for enforcement and adminis-
2 tration of provisions and rules described in subsection (2) of this section.

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

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

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

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

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

23 **SECTION 2.** ORS 480.670 is amended to read:

24 480.670. The Board of Boiler Rules may impose a civil penalty for a violation of ORS 480.510 to
25 480.670 or rules adopted for the administration and enforcement of those sections. [*The board shall*
26 *impose a civil penalty authorized by this section as provided in ORS 455.895.*] **Moneys received by**
27 **the Department of Consumer and Business Services or the board from civil penalties imposed**
28 **under this section or ORS 455.895 (1)(c) shall be deposited to the Consumer and Business**
29 **Services Fund created under ORS 705.145 and used only for the administration and enforce-**
30 **ment of ORS 480.510 to 480.670 and 480.990 (8).**

31 **SECTION 3.** The amendments to ORS 455.895 and 480.670 by sections 1 and 2 of this 2007
32 Act apply to civil penalty moneys received on or after July 1, 2008, regardless of the date the
33 Board of Boiler Rules imposed the civil penalty.

34 **SECTION 4.** The amendments to ORS 455.895 and 480.670 by sections 1 and 2 of this 2007
35 Act become operative July 1, 2008.

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