

**Enrolled**  
**House Bill 2153**

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Department of State Lands)

CHAPTER .....

AN ACT

Relating to civil penalties related to use of state land; and declaring an emergency.

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

**SECTION 1.** Sections 2 and 3 of this 2009 Act are added to and made a part of ORS chapter 273.

**SECTION 2.** (1) A person who violates any provision of ORS 273.225, 273.231, 273.551, 273.715, 273.780 or 273.815 or any rule adopted under ORS 273.045 related to those sections is subject to a civil penalty in an amount to be determined by the Director of the Department of State Lands of not more than \$1,000 per day of violation.

(2) Civil penalties under this section shall be imposed in the manner provided in ORS 183.745.

(3) The provisions of this section are in addition to and not in lieu of any other penalty or sanction provided by law.

(4) Any civil penalty recovered under this section shall be deposited in the Common School Fund and made available for expenses of the Department of State Lands and as otherwise provided by law.

**SECTION 3.** (1) The Director of the Department of State Lands shall adopt by rule a schedule establishing the amount of civil penalty that may be imposed for a particular violation of ORS 273.225, 273.231, 273.551, 273.715, 273.780 or 273.815 or any rule adopted under ORS 273.045 related to those sections.

(2) In imposing a penalty under the schedule adopted under subsection (1) of this section, the director shall consider the following factors:

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

(b) Any prior violations by the person of statutes, rules, orders or authorizations pertaining to the use of state land;

(c) The immediacy and extent to which the violation threatens the public health or safety or the assets of the Common School Fund; and

(d) Any other factors determined by the director to be relevant and consistent with the policies established to implement the provisions of ORS 273.225, 273.231, 273.551, 273.715, 273.780 or 273.815 or any rule adopted under ORS 273.045 related to those sections.

(3) The penalty imposed under this section may be remitted or mitigated upon such terms and conditions as the director determines to be proper and consistent with the protection of the public health and safety and the protection of the assets of the Common School

**Fund.** Upon the request of the person incurring the penalty, the director shall consider evidence of the economic and financial condition of the person in determining whether a penalty shall be remitted or mitigated.

**SECTION 4.** Sections 2 and 3 of this 2009 Act apply to violations of ORS 273.225, 273.231, 273.551, 273.715, 273.780 and 273.815 and any rule adopted under ORS 273.045 related to those sections occurring on or after the effective date of this 2009 Act.

**SECTION 5.** This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

**Passed by House April 27, 2009**

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Chief Clerk of House

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Speaker of House

**Passed by Senate May 21, 2009**

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President of Senate

**Received by Governor:**

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**Approved:**

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2009

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Secretary of State