

SENATE AMENDMENTS TO SENATE BILL 105

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

April 8

1 On page 4 of the printed bill, delete lines 13 through 38 and insert:

2 “**SECTION 8.** ORS 468.130 is amended to read:

3 “468.130. (1) The Environmental Quality Commission shall adopt by rule a schedule or schedules
4 establishing the amount of civil penalty that may be imposed for a particular violation. Except as
5 provided in ORS 468.140 (3), no civil penalty shall exceed [*\$10,000*] **\$25,000** per day. Where the
6 classification involves air pollution, the commission shall consult with the regional air quality con-
7 trol authorities before adopting any classification or schedule.

8 “(2) In imposing a penalty pursuant to the schedule or schedules authorized by this section, the
9 commission and regional air quality control authorities shall consider the following factors:

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

12 “(b) Any prior violations of statutes, rules, orders and permits [*pertaining to water or air pol-
13 lution or air contamination or solid waste disposal*] **enforceable by the commission or by regional
14 air quality control authorities.**

15 “(c) The economic and financial conditions of the person incurring a penalty.

16 “(d) The gravity and magnitude of the violation.

17 “(e) Whether the violation was repeated or continuous.

18 “(f) Whether the cause of the violation was an unavoidable accident, negligence or an inten-
19 tional act.

20 “(g) The violator’s cooperativeness and efforts to correct the violation.

21 “**(h) Whether the violator gained an economic benefit as a result of the violation.**

22 “[*h*] (i) Any relevant rule of the commission.

23 “(3) The penalty imposed under this section may be remitted or mitigated upon such terms and
24 conditions as the commission or regional authority considers proper and consistent with the public
25 health and safety.

26 “(4) The commission may by rule delegate to the Department of Environmental Quality, upon
27 such conditions as deemed necessary, all or part of the authority of the commission provided in
28 subsection (3) of this section to remit or mitigate civil penalties.”.

29 On page 5, delete lines 42 through 44 and insert:

30 “**SECTION 11.** ORS 161.655 does not apply to offenses specified in ORS 468.922 to
31 **468.956.**”.

32 On page 7, delete lines 9 through 12 and insert:

33 “**SECTION 17.** Except as provided in section 18 of this 2009 Act, section 11 of this 2009
34 Act and the amendments to ORS 459.995, 465.900, 466.990, 466.992, 466.994, 466.995, 468.130,
35 468.140, 468.922, 468.929, 468.936, 468.996 and 783.992 by sections 1 to 9 and 12 to 16 of this 2009

1 Act become operative on January 1, 2011.

2 “SECTION 18. The Environmental Quality Commission may adopt rules before the oper-
3 ative date specified in section 17 of this 2009 Act or take any action before that date that is
4 necessary to carry out section 11 of this 2009 Act and the amendments to ORS 459.995,
5 465.900, 466.990, 466.992, 466.994, 466.995, 468.130, 468.140, 468.922, 468.929, 468.936, 468.996 and
6 783.992 by sections 1 to 9 and 12 to 16 of this 2009 Act.

7 “SECTION 19. Section 11 of this 2009 Act and the amendments to ORS 459.995, 465.900,
8 466.990, 466.992, 466.994, 466.995, 468.130, 468.140, 468.922, 468.929, 468.936, 468.996 and 783.992
9 by sections 1 to 9 and 12 to 16 of this 2009 Act apply to violations occurring on or after the
10 operative date specified in section 17 of this 2009 Act.”.

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