

# Senate Bill 544

Sponsored by 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 **as introduced**.

Provides that person served with notice of imposition of civil penalty must apply for hearing within 30 days after date of service, instead of 20 days.

## A BILL FOR AN ACT

1  
2 Relating to administrative law; amending ORS 183.745.

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

4 **SECTION 1.** ORS 183.745 is amended to read:

5 183.745. (1) Except as otherwise provided by law, an agency may only impose a civil penalty as  
6 provided in this section.

7 (2) A civil penalty imposed under this section shall become due and payable 10 days after the  
8 order imposing the civil penalty becomes final by operation of law or on appeal. A person against  
9 whom a civil penalty is to be imposed shall be served with a notice in the form provided in ORS  
10 183.415. Service of the notice shall be accomplished in the manner provided by ORS 183.415.

11 (3) **Except as otherwise provided by law**, the person to whom the notice is addressed shall  
12 have [20] **30** days from the date of service of the notice provided for in subsection (2) of this section  
13 in which to make written application for a hearing. The agency may by rule provide for a longer  
14 period of time in which application for a hearing may be made. If no application for a hearing is  
15 made within the time allowed, the agency may make a final order imposing the penalty. A final order  
16 entered under this subsection need not be delivered or mailed to the person against whom the civil  
17 penalty is imposed.

18 (4) Any person who makes application as provided for in subsection (3) of this section shall be  
19 entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the  
20 applicable provisions of ORS 183.413 to 183.470.

21 (5) Judicial review of an order made after a hearing under subsection (4) of this section shall  
22 be as provided in ORS 183.480 to 183.497 for judicial review of contested cases.

23 (6) When an order assessing a civil penalty under this section becomes final by operation of law  
24 or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final,  
25 the order may be recorded with the county clerk in any county of this state. The clerk shall there-  
26 upon record the name of the person incurring the penalty and the amount of the penalty in the  
27 County Clerk Lien Record.

28 (7) This section does not apply to penalties:

29 (a) Imposed under the tax laws of this state;

30 (b) Imposed under the provisions of ORS 646.760 or 652.332;

31 (c) Imposed under the provisions of ORS chapter 654, 656 or 659A; or

**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 (d) Imposed by the Public Utility Commission.
- 2 (8) This section creates no new authority in any agency to impose civil penalties.
- 3 (9) This section does not affect:
  - 4 (a) Any right under any other law that an agency may have to bring an action in a court of this
  - 5 state to recover a civil penalty; or
  - 6 (b) The ability of an agency to collect a properly imposed civil penalty under the provisions of
  - 7 ORS 305.830.
- 8 (10) The notice provided for in subsection (2) of this section may be made part of any other
- 9 notice served by the agency under ORS 183.415.
- 10 (11) Informal disposition of proceedings under this section, whether by stipulation, agreed
- 11 settlement, consent order or default, may be made at any time.
- 12 (12) In addition to any other remedy provided by law, recording an order in the County Clerk
- 13 Lien Record pursuant to the provisions of this section has the effect provided for in ORS 205.125
- 14 and 205.126, and the order may be enforced as provided in ORS 205.125 and 205.126.
- 15 (13) As used in this section:
  - 16 (a) "Agency" has that meaning given in ORS 183.310.
  - 17 (b) "Civil penalty" includes only those monetary penalties that are specifically denominated as
  - 18 civil penalties by statute.
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