

# Senate Bill 1062

Sponsored by Senator DEVLIN (at the request of Secretary of State)

## 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**.

Requires imitation of ballot or sample ballot, outer envelope and return envelope, if any, to specify that imitation ballot or sample ballot is not official ballot and is not to be used to vote.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to elections; creating new provisions; amending ORS 260.695 and 260.995; and declaring an  
3 emergency.

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

5 **SECTION 1.** ORS 260.695 is amended to read:

6 260.695. *[(1) A person may not print or circulate an imitation of the ballot or sample ballot, or a*  
7 *portion of the ballot or sample ballot, which contains information which will not appear, or deletes*  
8 *information which will appear, on the ballot or sample ballot, or that portion of the ballot or sample*  
9 *ballot, unless the imitation of the ballot or sample ballot, or portion of the ballot or sample ballot,*  
10 *contains the following statement in bold type: "NOT FOR OFFICIAL USE." This subsection does not*  
11 *prohibit the printing or circulation of an imitation of a ballot which illustrates the manner in which*  
12 *a candidate's name may be written in for an office.]*

13 **(1)(a) If a person prints or circulates an imitation of the ballot or sample ballot:**

14 **(A) The imitation ballot or sample ballot, the front of any outer envelope in which the**  
15 **imitation ballot or sample ballot is delivered and the front of any return envelope enclosed**  
16 **in the outer envelope, shall state the following: "THIS IS NOT A REAL BALLOT. DO NOT**  
17 **USE TO VOTE." The statement shall be in bold red print that is at least two times as large**  
18 **as the majority of the text on the ballot or sample ballot or envelope or 20-point type,**  
19 **whichever is larger.**

20 **(B) The word "UNOFFICIAL" must be superimposed on the imitation ballot or sample**  
21 **ballot so that the word extends diagonally across the ballot from one margin of the text to**  
22 **the other. The superimposed word may be printed in lighter ink than other text on the ballot**  
23 **or sample ballot.**

24 **(b) For purposes of this subsection, an imitation of the ballot or sample ballot includes**  
25 **an imitation of a portion of the ballot or sample ballot.**

26 (2) A person may not do any electioneering, including circulating any cards or handbills, or so-  
27 liciting of signatures to any petition, within any building in which any state or local government  
28 elections office designated for the deposit of ballots under ORS 254.470 is located, or within 100 feet  
29 measured radially from any entrance to the building. A person may not do any electioneering by  
30 public address system located more than 100 feet from an entrance to the building if the person is  
31 capable of being understood within 100 feet of the building. The electioneering need not relate to

**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 the election being conducted. This subsection applies during the period beginning on the date that  
2 ballots are mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or  
3 when all persons waiting in line at the building who began the act of voting as described in ORS  
4 254.470 (10) by 8 p.m. have finished voting.

5 (3) A person may not obstruct an entrance of a building in which ballots are issued or a place  
6 designated for the deposit of ballots under ORS 254.470 or any voting booth maintained under ORS  
7 254.474 is located. This subsection applies during the period beginning on the date that ballots are  
8 mailed to electors as provided in ORS 254.470 and ending on election day at 8 p.m. or when all  
9 persons waiting in line at the building or location who began the act of voting as described in ORS  
10 254.470 (10) by 8 p.m. have finished voting.

11 (4) A person may not vote or offer to vote in any election knowing the person is not entitled  
12 to vote.

13 (5) A person may not make a false statement about the person's inability to mark a ballot.

14 (6) A person, except an elections official in performance of duties or another person providing  
15 assistance to an elector as described in ORS 254.445, may not ask a person at any place designated  
16 for the deposit of ballots under ORS 254.470 or at any location described in ORS 254.472 or 254.474  
17 for whom that person intends to vote, or examine or attempt to examine the person's ballot.

18 (7) A person may not show the person's own marked ballot to another person to reveal how it  
19 was marked.

20 (8) An elections official, other than in the performance of duties, may not disclose to any person  
21 any information by which it can be ascertained for whom any elector has voted.

22 (9) A person, except an elections official in performance of duties, may not do anything to a  
23 ballot to permit identification of the person who voted.

24 (10) An elector may not willfully leave at any place designated for the deposit of ballots under  
25 ORS 254.470 or at any location described in ORS 254.472 or 254.474 anything that will show how the  
26 elector's ballot was marked.

27 (11) A person, except an elections official in performance of duties, may not remove a ballot  
28 from any place designated for the deposit of ballots under ORS 254.470 or any location described in  
29 ORS 254.472 or 254.474.

30 (12) A person, except an elections official in performance of duties or a person authorized by  
31 that official, may not willfully deface, remove, alter or destroy a posted election notice.

32 (13) A person, except an elections official in performance of duties, may not willfully remove,  
33 alter or destroy election equipment or supplies, or break the seal or open any sealed package con-  
34 taining election supplies.

35 (14) A person, except an elections official in performance of duties, may not provide elections  
36 advice or attempt to collect voted ballots within any building in which any state or local govern-  
37 ment elections office designated for the deposit of ballots under ORS 254.470 is located, or within  
38 100 feet measured radially from any entrance to the building.

39 (15) A person, except an elections official in performance of duties, may not establish a location  
40 to collect ballots voted by electors unless:

41 (a) The person prominently displays at the location a sign stating: "NOT AN OFFICIAL BAL-  
42 LOT DROP SITE"; and

43 (b) The sign is printed in all capital letters in bold 50-point type.

44 **SECTION 2.** ORS 260.995 is amended to read:

45 260.995. (1) Except as provided in subsection (2) of this section, following an investigation under

1 ORS 260.345, the Secretary of State or Attorney General may impose a civil penalty not to exceed  
 2 \$250 for each violation of any provision of Oregon Revised Statutes relating to the conduct of any  
 3 election, any rule adopted by the secretary under ORS chapters 246 to 260 or any other matter  
 4 preliminary to or relating to an election, for which a civil penalty is not otherwise provided.

5 (2) The secretary or the Attorney General may impose a civil penalty not to exceed:

6 (a) \$1,000 for each violation of ORS 251.049 (3) or 251.405 (3);

7 (b) \$1,000 plus the amount converted to personal use for each violation of ORS 260.407; or

8 (c) \$10,000 for each violation of ORS 260.555, 260.558, 260.575, **260.695** (1) or 260.715 (1) or sec-  
 9 tion 1b, Article IV of the Oregon Constitution.

10 (3) Except as otherwise provided by this section, civil penalties under this section shall be im-  
 11 posed as provided in ORS 183.745. In addition to the requirements of ORS 183.745, the notice shall  
 12 include:

13 (a) A statement of the authority and jurisdiction under which the hearing is to be held; and

14 (b) If the person is an agency, corporation or an unincorporated association, a statement that  
 15 such person must be represented by an attorney licensed in Oregon, unless the person is a political  
 16 committee which may be represented by any officer identified in the most recent statement of or-  
 17 ganization filed with the filing officer.

18 (4) A hearing on whether to impose a civil penalty and to consider circumstances in mitigation  
 19 shall be held by the secretary or Attorney General:

20 (a) Upon request of the person against whom the penalty may be assessed, if the request is made  
 21 not later than the 20th day after the date the person received notice sent under subsection (3) of  
 22 this section; or

23 (b) Upon the secretary's or Attorney General's own motion.

24 (5) The person against whom a penalty may be assessed need not appear in person at a hearing  
 25 held under this section, but instead may submit written testimony or other evidence, sworn to before  
 26 a notary public, to the secretary or Attorney General for entry in the hearing record. The testimony  
 27 or other evidence must be received by the secretary or Attorney General not later than three  
 28 business days before the day of the hearing.

29 (6) All hearings under this section shall be held not later than 45 days after the deadline for the  
 30 person against whom the penalty may be assessed to request a hearing. However, if requested by  
 31 the person against whom the penalty may be assessed, a hearing under subsection (4) of this section  
 32 shall be held not later than 60 days after the deadline for the person against whom the penalty may  
 33 be assessed to request a hearing.

34 (7) The secretary or Attorney General shall issue an order not later than 90 days after a hearing  
 35 or after the deadline for requesting a hearing if no hearing is held.

36 (8) All penalties recovered under this section shall be paid into the State Treasury and credited  
 37 to the General Fund.

38 (9) In the case of a civil penalty imposed under this section for a violation of ORS 260.407, the  
 39 person against whom the penalty is assessed:

40 (a) Is personally responsible for the payment of the civil penalty;

41 (b) Shall pay the civil penalty from personal funds of the person; and

42 (c) May not pay the civil penalty from contributions received by a candidate or the principal  
 43 campaign committee of a candidate.

44 **SECTION 3. The amendments to ORS 260.695 and 260.995 by sections 1 and 2 of this 2010**  
 45 **Act apply to imitation ballots or sample ballots printed or circulated on or after the effective**

1 **date of this 2010 Act.**

2 **SECTION 4. This 2010 Act being necessary for the immediate preservation of the public**  
3 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**  
4 **on its passage.**

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