

House Bill 2486

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability)

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 owner of private parking facility to disclose rules and charges for parking violations in writing and on outdoor signs and ticket machines. Establishes maximum amounts owner of parking facility may assess for parking violations. Defines "weekend rate." Requires owner of parking facility to create process to file certificate of nonliability.

Creates cause of action against owner for violation. Requires court, if consumer prevails, to award three times amount of charge, fine or fee wrongly assessed. Allows award of attorney fees and costs to prevailing consumer or registered owner.

A BILL FOR AN ACT

1
2 Relating to parking facilities.

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

4 **SECTION 1. (1) As used in this section and section 2 of this 2011 Act:**

5 (a) "Base amount" means the amount an owner requires a consumer to pay to park the
6 consumer's vehicle at the owner's parking facility on any single occasion and does not in-
7 clude charges, fines or fees assessed against the consumer for parking violations.

8 (b) "Consumer" means a natural person who parks a vehicle at a parking facility under
9 this section.

10 (c) "Local government" means all cities, counties and local service districts located in
11 this state, and all administrative subdivisions of those cities, counties and local service dis-
12 tricts.

13 (d) "Owner" means:

14 (A) The owner, lessee or person in lawful possession of a parking facility;

15 (B) A local government or state agency with authority to control or operate a parking
16 facility; and

17 (C) A person or entity that has assumed responsibility by contract or otherwise on behalf
18 of an owner of a parking facility for the operation, management, maintenance or control of
19 the parking facility.

20 (e) "Parking facility" means property that is used for vehicle parking.

21 (f) "Parking violations" means violations of rules or requirements that must be complied
22 with to park at the owner's parking facility.

23 (g) "Registered owner" means the registered owner of a vehicle registered by this or any
24 other state.

25 (h) "State agency" means any state officer, board, commission, department, institution,
26 branch or agency of the state government as defined in ORS 174.111.

27 (i) "Vehicle" has the meaning given that term in ORS 801.590.

28 (2) The owner of a parking facility may not assess a charge, fine or fee against a con-

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 consumer or a registered owner for a parking violation unless the owner discloses to the con-
2 sumer, before the consumer parks the consumer's vehicle at the parking facility:

3 (a) All rules and requirements that the consumer must comply with in order to avoid
4 being assessed a charge, fine or fee for a parking violation;

5 (b) The amount and manner of calculation of any charge, fine or fee that will be assessed
6 for:

7 (A) A parking violation;

8 (B) Administrative costs associated with assessing a charge, fine or fee for a parking
9 violation;

10 (C) Late payment of a charge, fine or fee assessed for a parking violation; or

11 (D) Any other charges, fines or fees that will be assessed by the owner against a con-
12 sumer or registered owner that arise out of a parking violation; and

13 (c) The process to file a certificate of nonliability under subsection (6) of this section.

14 (3) The disclosures required by subsection (2) of this section must be made:

15 (a) In writing, in at least 18-point font and in red ink:

16 (A) On a paper ticket or other document that is required to be displayed in or on the
17 consumer's vehicle while parked at the parking facility; or

18 (B) On a document that is provided to the consumer at the time the consumer parks at
19 the parking facility; and

20 (b) By clear and conspicuous visual display on:

21 (A) An outdoor sign that is placed on the premises of the parking facility to advise con-
22 sumers the property is a parking facility; and

23 (B) If one is installed on the premises of the parking facility, a ticket machine or booth
24 from which a consumer purchases a ticket that permits the consumer to park the
25 consumer's vehicle on the premises of the parking facility.

26 (4)(a) The owner of a parking facility may not assess a total amount for charges, fines
27 or fees for a parking violation that exceeds twice the base amount charged to the consumer
28 to park at the parking facility on the occasion that the parking violation occurred.

29 (b) Notwithstanding paragraph (a) of this subsection, an owner may assess a late fee if
30 payment of assessed charges, fines or fees is not made within 30 days from the date that the
31 consumer or registered owner receives notice of the parking violation and the assessment.
32 The 30 days shall be calculated from the date the consumer or registered owner received the
33 notice of violation and assessment to the date postmarked on the payment received, if
34 mailed, or the date of payment, if payment is made in person.

35 (5) An owner of a parking facility that charges a base amount for a period of time de-
36 scribed as a "weekend" or "weekend rate" must:

37 (a) Allow parking between, at a minimum, the hours of 6:00 p.m. on a Friday and 11:59
38 p.m. on a Sunday; and

39 (b) Clearly and conspicuously disclose the weekend hours in paragraph (a) of this sub-
40 section during which a consumer may park.

41 (6)(a) The owner of a parking facility may not assess a charge, fine or fee for a parking
42 violation against a consumer or registered owner unless the owner has established a process
43 and created forms, and provided the consumer or registered owner with notice of the process
44 and forms, to:

45 (A) Submit a certificate of nonliability stating that the vehicle was not in the custody

1 and control of the consumer or registered owner at the time of the parking violation; and

2 (B) Providing the name and address of the individual who was in control of the vehicle
3 at the time of the parking violation.

4 (b) Upon receipt of the certificate of nonliability and information described in paragraph
5 (a) of this subsection, the owner of the parking facility must dismiss and not pursue payment
6 of any amounts assessed against the consumer or registered owner for the parking violation
7 and may reassess charges, fines or fees for the parking violation against the individual
8 identified in the certificate of nonliability.

9 SECTION 2. (1) A consumer or registered owner who has suffered any ascertainable loss
10 as a result of an owner's violation of any provision of section 1 of this 2011 Act shall have
11 a cause of action against the owner.

12 (2) If the consumer or registered owner prevails, the court shall enter judgment against
13 the owner for three times the amount of any charge, fine or fee assessed by the owner
14 against the consumer or registered owner, and may award reasonable attorney fees and costs
15 to a prevailing consumer or registered owner.

16 (3) The remedy provided in this section is in addition to any other remedy, civil or
17 criminal, that may be available under any other provision of law.

18