

A-Engrossed
House Bill 2712

Ordered by the House April 29
Including House Amendments dated April 29

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Joint Interim Committee on State Justice System Revenues)

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.

Revises laws relating to offenses.
Declares emergency, effective July 1, 2011.

A BILL FOR AN ACT

1
2 Relating to offenses; creating new provisions; amending ORS 1.178, 1.182, 25.715, 25.990, 33.075,
3 41.905, 45.900, 51.037, 83.990, 86.990, 92.990, 97.990, 97.992, 100.990, 105.590, 106.990, 131.897,
4 133.865, 135.265, 135.280, 135.905, 135.921, 137.017, 137.293, 137.300, 137.301, 137.533, 137.540,
5 147.227, 151.225, 151.487, 151.505, 153.018, 153.025, 153.051, 153.061, 153.090, 153.099, 153.108,
6 153.624, 153.800, 161.566, 161.568, 161.570, 161.665, 161.715, 163.575, 165.107, 165.990, 166.180,
7 166.300, 166.320, 166.330, 166.715, 167.337, 167.339, 167.808, 192.990, 198.600, 208.990, 221.315,
8 221.355, 221.357, 221.916, 240.990, 241.990, 267.990, 268.990, 279A.990, 291.990, 293.990, 305.830,
9 305.990, 307.990, 308.990, 311.990, 319.990, 320.990, 321.991, 339.925, 341.300, 346.991, 352.360,
10 368.990, 376.990, 390.050, 390.995, 398.224, 399.990, 409.304, 411.990, 414.815, 418.215, 419C.446,
11 419C.459, 419C.470, 421.990, 431.210, 432.900, 433.855, 433.990, 435.990, 441.990, 448.305, 448.990,
12 448.992, 448.994, 450.990, 460.370, 460.990, 462.405, 462.990, 466.913, 466.995, 468.140, 468.936,
13 468.943, 468A.580, 469.990, 471.410, 471.559, 471.990, 473.990, 473.992, 475.495, 475.565, 475.860,
14 475.864, 475.886, 475.888, 475.890, 475.892, 476.990, 477.985, 479.520, 496.992, 497.415, 498.153,
15 498.154, 498.155, 498.222, 498.993, 506.306, 520.991, 522.990, 527.990, 532.990, 537.990, 540.990,
16 541.990, 543.990, 547.990, 549.990, 561.150, 561.990, 565.630, 565.990, 569.390, 571.365, 576.053,
17 576.595, 576.991, 577.990, 578.990, 585.190, 585.990, 586.990, 596.990, 600.990, 602.990, 607.365,
18 608.990, 609.060, 609.990, 609.994, 610.990, 618.991, 621.991, 628.990, 632.990, 634.992, 635.991,
19 646.990, 646A.508, 646A.765, 649.990, 651.990, 652.400, 652.445, 652.990, 654.991, 656.605, 656.990,
20 657.515, 657.822, 657.990, 658.991, 659.990, 659A.990, 661.990, 671.992, 675.330, 675.337, 676.990,
21 679.260, 679.991, 683.290, 686.990, 688.160, 688.715, 688.990, 689.135, 689.995, 691.565, 695.990,
22 705.165, 705.642, 707.145, 717.235, 717.315, 723.014, 723.106, 725.145, 726.075, 726.990, 731.292,
23 731.992, 756.360, 756.990, 757.990, 759.990, 776.991, 777.990, 778.085, 778.990, 783.610, 783.990,
24 801.557, 802.110, 802.155, 809.220, 810.530, 811.109, 811.172, 811.182, 811.230, 811.235, 811.483,
25 811.590, 811.615, 811.617, 811.625, 811.627, 811.630, 813.030, 813.095, 813.240, 813.270, 814.485,
26 814.486, 814.534, 814.536, 814.600, 818.430, 823.991, 824.014, 824.992, 825.990 and 837.100 and
27 sections 2, 10, 12, 22, 24 and 26, chapter 659, Oregon Laws 2009; repealing ORS 30.450, 30.830,
28 137.290, 137.295, 137.308, 137.309, 153.093, 153.125, 153.128, 153.131, 153.134, 153.138, 153.142,

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.

1 153.145, 153.630, 153.635, 165.475, 165.480, 165.485, 165.490, 165.495, 165.505, 165.510, 165.515,
2 165.520, 221.923, 266.470, 376.385, 448.320, 471.670, 496.715, 496.951, 506.630, 530.900, 570.055,
3 570.365, 632.620, 678.168, 801.145 and 830.145 and section 1, chapter 659, Oregon Laws 2009; and
4 declaring an emergency.

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

6
7 **PRESUMPTIVE FINES FOR VIOLATIONS**

8
9 **SECTION 1. Sections 2 to 4 of this 2011 Act are added to and made a part of ORS chapter**
10 **153.**

11 **SECTION 2. Presumptive fines; generally. (1) Except as provided in section 3 of this 2011**
12 **Act, the presumptive fines for violations are:**

13 (a) \$385 for a Class A violation.

14 (b) \$225 for a Class B violation.

15 (c) \$140 for a Class C violation.

16 (d) \$85 for a Class D violation.

17 (2) The presumptive fine for a specific fine violation is:

18 (a) The amount specified by statute as the presumptive fine for the violation; or

19 (b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the
20 violation, or the minimum fine prescribed by statute for the violation.

21 **SECTION 3. Presumptive fines; highway work zones, school zones and safety corridors.**

22 (1) If an individual is charged with a traffic offense and the enforcement officer issuing the
23 citation notes on the citation that the offense occurred in a highway work zone and is sub-
24 ject to the provisions of ORS 811.230, occurred in a posted school zone and is subject to the
25 provisions of ORS 811.235, or occurred in a safety corridor and is subject to the provisions
26 of ORS 811.483, the presumptive fine for the violation is:

27 (a) \$770 for a Class A violation.

28 (b) \$450 for a Class B violation.

29 (c) \$280 for a Class C violation.

30 (d) \$170 for a Class D violation.

31 (2) The presumptive fine for a specific fine violation that is subject to this section is an
32 amount equal to 40 percent of the maximum fine prescribed for the violation.

33 (3) A court may not defer, waive, suspend or otherwise reduce the fine for a violation
34 that is subject to the presumptive fines established by this section to an amount that is less
35 than the presumptive fine established under this section.

36 **SECTION 4. Minimum fine for violations. (1) Except as otherwise provided by law, a court**
37 **may not defer, waive, suspend or otherwise reduce the fine for a violation that is subject to**
38 **the presumptive fines established by section 2 of this 2011 Act to an amount that is less than:**

39 (a) \$290 for a Class A violation.

40 (b) \$170 for a Class B violation.

41 (c) \$105 for a Class C violation.

42 (d) \$64 for a Class D violation.

43 (2) This section does not affect the manner in which a court imposes or reduces mone-
44 tary obligations other than fines.

45 (3) The Department of Revenue or Secretary of State may audit any court to determine

1 whether the court is complying with the requirements of this section. In addition, the De-
2 partment of Revenue or Secretary of State may audit any court to determine whether the
3 court is complying with the requirements of sections 33 to 38 and 47 to 50 of this 2011 Act.
4 The Department of Revenue or Secretary of State may file an action under ORS 34.105 to
5 34.240 to enforce the requirements of this section and of sections 33 to 38 and 47 to 50 of this
6 2011 Act.

7 **SECTION 5.** ORS 153.093, 153.125, 153.128, 153.131, 153.134, 153.138, 153.142 and 153.145 are
8 repealed.

9 **SECTION 6.** Sections 2 to 4 of this 2011 Act and the repeal of ORS 153.093, 153.125,
10 153.128, 153.131, 153.134, 153.138, 153.142 and 153.145 by section 5 of this 2011 Act apply only
11 to offenses committed on or after January 1, 2012. Any offense committed before January
12 1, 2012, shall continue to be governed by ORS 153.093, 153.125, 153.128, 153.131, 153.134, 153.138,
13 153.142 and 153.145 as in effect immediately before January 1, 2012.

14
15 **MAXIMUM FINES FOR VIOLATIONS**

16
17 **SECTION 7.** ORS 153.018 is amended to read:

18 153.018. (1) The penalty for committing a violation is a fine. The law creating a violation may
19 impose other penalties in addition to a fine but may not impose a term of imprisonment.

20 (2) *[Except as provided in this section, a sentence to pay a fine for a violation shall be a sentence*
21 *to pay an amount not exceeding]* **The maximum fine for a violation committed by an individual**
22 **is:**

23 (a) ~~[\$720]~~ **\$2,000** for a Class A violation.

24 (b) ~~[\$360]~~ **\$1,000** for a Class B violation.

25 (c) ~~[\$180]~~ **\$500** for a Class C violation.

26 (d) ~~[\$90]~~ **\$250** for a Class D violation.

27 (e) **\$2,000 for a specific fine violation, or** the amount otherwise established by law for *[any]*
28 **the** specific fine violation.

29 (3) *[If no special corporate fine is specified in the law creating the violation, a sentence to pay a*
30 *fine for a violation committed by a corporation shall be in an amount not to exceed twice the fine es-*
31 *tablished under this section for a violation by an individual.]* If a special corporate fine is specified
32 in the law creating the violation, the sentence to pay a fine shall be governed by the law creating
33 the violation. **If a special corporate fine is not specified in the law creating the violation, the**
34 **maximum fine for a violation committed by a corporation is:**

35 (a) **\$4,000 for a Class A violation.**

36 (b) **\$2,000 for a Class B violation.**

37 (c) **\$1,000 for a Class C violation.**

38 (d) **\$500 for a Class D violation.**

39 *[(4) If a person or corporation has gained money or property through the commission of a violation,*
40 *instead of sentencing the defendant to pay the fine provided for in subsection (2) or (3) of this section,*
41 *the court may sentence the defendant to pay an amount fixed by the court, not exceeding double the*
42 *amount of the defendant's gain from the commission of the violation. For the purposes of this sub-*
43 *section, the defendant's gain is the amount of money or the value of property, as determined under ORS*
44 *164.115, derived from the commission of the violation, less the amount of money or the value of prop-*
45 *erty, as determined under ORS 164.115, returned to the victim of the violation or seized by or surren-*

1 *dered to lawful authority before the time sentence is imposed.]*

2 **SECTION 8.** The amendments to ORS 153.018 by section 7 of this 2011 Act apply only to
3 offenses committed on or after January 1, 2012. Any offense committed before January 1,
4 2012, shall continue to be governed by ORS 153.018 as in effect immediately before January
5 1, 2012.

6
7 **MINIMUM FINES FOR CRIMES**

8
9 **SECTION 9.** Section 10 of this 2011 Act is added to and made a part of ORS chapter 137.

10 **SECTION 10. Minimum fines for misdemeanors and felonies.** (1) Unless a specific mini-
11 mum fine is provided by law, the minimum fine for a misdemeanor is \$100.

12 (2) Unless a specific minimum fine is provided by law, the minimum fine for a felony is
13 \$200.

14 (3) A court may waive payment of the minimum fine established by this section, in whole
15 or in part, if the court finds that requiring payment of the minimum fine would be incon-
16 sistent with justice in the case. In making its determination under this subsection, the court
17 shall consider:

18 (a) The financial resources of the defendant and the burden that payment of the mini-
19 mum fine will impose, with due regard to the other obligations of the defendant; and

20 (b) The extent to which that burden can be alleviated by allowing the defendant to pay
21 the monetary obligations imposed by the court on an installment basis or on other conditions
22 to be fixed by the court.

23 (4) This section does not affect the manner in which a court imposes or reduces mone-
24 tary obligations other than fines.

25 **SECTION 11.** ORS 475.886 is amended to read:

26 475.886. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to 475.980, it is unlawful
27 for any person to manufacture methamphetamine.

28 (2) Unlawful manufacture of methamphetamine is a Class B felony.

29 (3) **The minimum fine for unlawful manufacture of methamphetamine is \$1,000.**

30 **SECTION 12.** ORS 475.888 is amended to read:

31 475.888. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to 475.980, it is unlawful
32 for any person to manufacture methamphetamine within 1,000 feet of the real property comprising
33 a public or private elementary, secondary or career school attended primarily by minors.

34 (2) Unlawful manufacture of methamphetamine within 1,000 feet of a school is a Class A felony.

35 (3) **The minimum fine for unlawful manufacture of methamphetamine within 1,000 feet**
36 **of a school is \$1,000.**

37 **SECTION 13.** ORS 475.890 is amended to read:

38 475.890. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to 475.980, it is unlawful
39 for any person to deliver methamphetamine.

40 (2) Unlawful delivery of methamphetamine is a Class B felony.

41 (3) Notwithstanding subsection (2) of this section, unlawful delivery of methamphetamine is a
42 Class A felony if the delivery is to a person under 18 years of age.

43 (4) **The minimum fine for unlawful delivery of methamphetamine is \$500.**

44 **SECTION 14.** ORS 475.892 is amended to read:

45 475.892. (1) Except as authorized by ORS 475.005 to 475.285 and 475.840 to 475.980, it is unlawful

1 for any person to deliver methamphetamine within 1,000 feet of the real property comprising a public
2 or private elementary, secondary or career school attended primarily by minors.

3 (2) Unlawful delivery of methamphetamine within 1,000 feet of a school is a Class A felony.

4 (3) **The minimum fine for unlawful delivery of methamphetamine within 1,000 feet of a**
5 **school is \$500.**

6 **SECTION 15. Section 10 of this 2011 Act and the amendments to ORS 475.886, 475.888,**
7 **475.890 and 475.892 by sections 11 to 14 of this 2011 Act apply only to offenses committed on**
8 **or after January 1, 2012.**

9
10 **FINES FOR CRIMES TREATED AS CLASS A VIOLATIONS**
11 **AND FELONIES TREATED AS CLASS A MISDEMEANORS**
12

13 **SECTION 16.** ORS 161.566 is amended to read:

14 161.566. (1) Except as provided in subsection (4) of this section, a prosecuting attorney may elect
15 to treat any misdemeanor as a Class A violation. The election must be made by the prosecuting at-
16 torney orally at the time of the first appearance of the defendant or in writing filed on or before the
17 time scheduled for the first appearance of the defendant. If no election is made within the time al-
18 lowed, the case shall proceed as a misdemeanor.

19 (2) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this
20 section, the court shall amend the accusatory instrument to reflect the charged offense as a Class
21 A violation and clearly denominate the offense as a Class A violation in any judgment entered in
22 the matter. Notwithstanding ORS 153.018, the [*maximum*] fine that a court may impose upon con-
23 viction of a violation under this section may not:

24 (a) **Be less than the presumptive fine established by section 2 of this 2011 Act for a Class**
25 **A violation; or**

26 (b) Exceed the amount provided in ORS 161.635 for the class of misdemeanor receiving violation
27 treatment.

28 (3) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this
29 section, and the defendant fails to make any required appearance in the matter, the court may enter
30 a default judgment against the defendant in the manner provided by ORS 153.102. Notwithstanding
31 ORS 153.018, the [*maximum*] fine that the court may impose under a default judgment entered pur-
32 suant to ORS 153.102 [*is*] **may not:**

33 (a) **Be less than the presumptive fine established by section 2 of this 2011 Act for a Class**
34 **A violation; or**

35 (b) **Exceed** the maximum fine for the class of misdemeanor receiving violation treatment.

36 (4) A prosecuting attorney may not elect to treat misdemeanors created under ORS 811.540 or
37 813.010 as violations under the provisions of this section.

38 (5) The election provided for in this section may be made by a city attorney acting as prose-
39 cuting attorney in the case of municipal ordinance offenses, a county counsel acting as prosecuting
40 attorney under a county charter in the case of county ordinance offenses, and the Attorney General
41 acting as prosecuting attorney in those criminal actions or proceedings within the jurisdiction of the
42 Attorney General.

43 [(6) *Notwithstanding ORS 137.290 (1)(d), the unitary assessment imposed upon conviction of a vi-*
44 *olation under this section is the amount provided in ORS 137.290 for the misdemeanor receiving vio-*
45 *lation treatment.*]

1 **SECTION 17.** ORS 161.568 is amended to read:

2 161.568. (1) Except as provided in subsection (4) of this section, a court may elect to treat any
3 misdemeanor as a Class A violation for the purpose of entering a default judgment under ORS
4 153.102 if:

5 (a) A complaint or information has been filed with the court for the misdemeanor;

6 (b) The defendant has failed to make an appearance in the proceedings required by the court
7 or by law; and

8 (c) The court has given notice to the district attorney for the county and the district attorney
9 has informed the court that the district attorney does not object to treating the misdemeanor as a
10 Class A violation.

11 (2) If the court treats a misdemeanor as a Class A violation under this section, the court shall
12 amend the accusatory instrument to reflect the charged offense as a Class A violation and clearly
13 denominate the offense as a Class A violation in the judgment entered in the matter.

14 (3) Notwithstanding ORS 153.018, if the court treats a misdemeanor as a Class A violation under
15 this section, the [*maximum*] fine that the court may impose under a default judgment entered pur-
16 suant to ORS 153.102 [*is*] **may not:**

17 **(a) Be less than the presumptive fine established by section 2 of this 2011 Act for a Class**
18 **A violation; or**

19 **(b) Exceed** the maximum fine for the class of misdemeanor receiving violation treatment.

20 (4) A court may not treat misdemeanors created under ORS 811.540 or 813.010 as violations
21 under the provisions of this section.

22 [*(5) Notwithstanding ORS 137.290 (1)(d), the unitary assessment imposed upon conviction of a vi-*
23 *olation under this section is the amount provided in ORS 137.290 for the misdemeanor receiving vio-*
24 *lation treatment.*]

25 **SECTION 18.** ORS 161.570 is amended to read:

26 161.570. (1) As used in this section, “nonperson felony” has the meaning given that term in the
27 rules of the Oregon Criminal Justice Commission.

28 (2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS
29 475.840 (3)(a), 475.854, 475.864 (2) or 475.874 as a Class A misdemeanor. The election must be made
30 by the district attorney orally or in writing at the time of the first appearance of the defendant. If
31 a district attorney elects to treat a Class C felony or a violation of ORS 475.840 (3)(a), 475.854,
32 475.864 (2) or 475.874 as a Class A misdemeanor under this subsection, the court shall amend the
33 accusatory instrument to reflect the charged offense as a Class A misdemeanor.

34 (3) If, at some time after the first appearance of a defendant charged with a Class C nonperson
35 felony or a violation of ORS 475.840 (3)(a), 475.854, 475.864 (2) or 475.874, the district attorney and
36 the defendant agree to treat the charged offense as a Class A misdemeanor, the court may allow the
37 offense to be treated as a Class A misdemeanor by stipulation of the parties.

38 (4) If a Class C felony or a violation of ORS 475.840 (3)(a), 475.854, 475.864 (2) or 475.874 is
39 treated as a Class A misdemeanor under this section, the court shall clearly denominate the offense
40 as a Class A misdemeanor in any judgment entered in the matter.

41 (5) If no election or stipulation is made under this section, the case proceeds as a felony.

42 (6) Before a district attorney may make an election under subsection (2) of this section, the
43 district attorney shall adopt written guidelines for determining when and under what circumstances
44 the election may be made. The district attorney shall apply the guidelines uniformly.

45 (7) Notwithstanding ORS 161.635, the [*maximum*] fine that a court may impose upon conviction

1 of a misdemeanor under this section may not:

2 (a) **Be less than the minimum fine established by section 10 of this 2011 Act for a felony;**

3 **or**

4 (b) Exceed the amount provided in ORS 161.625 for the class of felony receiving Class A
5 misdemeanor treatment.

6 **SECTION 19. The amendments to ORS 161.566, 161.568 and 161.570 by sections 16 to 18**
7 **of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense**
8 **committed before January 1, 2012, shall continue to be governed by ORS 161.566, 161.568 and**
9 **161.570, as in effect immediately before January 1, 2012.**

10
11 **SENTENCE OF DISCHARGE**

12
13 **SECTION 20.** ORS 161.715 is amended to read:

14 161.715. (1) Any court empowered to suspend imposition or execution of sentence or to sentence
15 a defendant to probation may discharge the defendant if:

16 (a) The conviction is for an offense other than murder, treason or a Class A or B felony; and

17 (b) The court is of the opinion that no proper purpose would be served by imposing any condi-
18 tion upon the defendant's release.

19 (2) If a sentence of discharge is imposed for a felony, the court shall set forth in the record the
20 reasons for its action.

21 (3) If the court imposes a sentence of discharge, the defendant shall be released with respect to
22 the conviction for which the sentence is imposed without imprisonment, [*fine*,] probationary super-
23 vision or conditions. **The judgment entered by the court shall include a monetary obligation**
24 **payable to the state in an amount equal to the minimum fine for the offense established by**
25 **section 10 of this 2011 Act.**

26 (4) If a defendant pleads not guilty and is tried and found guilty, a sentence of discharge is a
27 judgment on a conviction for all purposes, including an appeal by the defendant.

28 (5) If a defendant pleads guilty, a sentence of discharge is not appealable, but for all other
29 purposes is a judgment on a conviction.

30
31 **FINES IN JUVENILE PROCEEDINGS**

32
33 **SECTION 21.** ORS 419C.459 is amended to read:

34 419C.459. [*In circumstances under which, if the youth offender were an adult, a fine not exceeding*
35 *a certain amount could be imposed under the Oregon Criminal Code, the court may impose such a fine*
36 *upon the youth offender. In determining whether to impose a fine and, if so, then in what amount, the*
37 *court shall consider whether the youth offender will be able to pay a fine and whether payment of a*
38 *fine is likely to have a rehabilitative effect on the youth offender. Fines ordered paid under this section*
39 *shall be collected by the clerk of the court.] **If a youth is found to be within the jurisdiction of**
40 **the court under ORS 419C.005 for an act that would constitute an offense if committed by**
41 **an adult, the youth offender is subject to the same fines, including the minimum fines es-**
42 **tablished under sections 4 and 10 of this 2011 Act, that are applicable to adults who commit**
43 **the offense. In determining the amount of the fine, the court shall consider the potential**
44 **rehabilitative effect of a fine.***

45 **SECTION 22. The amendments to ORS 419C.459 by section 21 of this 2011 Act apply only**

1 to acts committed on or after January 1, 2012. Any act committed before January 1, 2012,
2 shall continue to be governed by ORS 419C.459 as in effect immediately before January 1,
3 2012.

4
5 **CITATIONS**
6

7 **SECTION 23.** ORS 153.051 is amended to read:

8 153.051. A summons in a violation citation is sufficient if it contains the following:

9 (1) The name of the court, the name of the person cited, the date on which the citation was is-
10 sued, the name of the enforcement officer issuing the citation, and the time and place at which the
11 person cited is to appear in court.

12 (2) A statement or designation of the violation that can be readily understood by a person
13 making a reasonable effort to do so and the date, time and place at which the violation is alleged
14 to have been committed.

15 (3) A notice to the person cited that a complaint will be filed with the court based on the vio-
16 lation.

17 (4) The amount of the *[base]* **presumptive** fine, if any, fixed for the violation.

18 (5) A statement notifying the person that a monetary judgment may be entered against the per-
19 son for up to the maximum amount of fines, *[assessments,]* restitution and other costs allowed by law
20 for the violation if the person fails to make all required appearances at the proceedings.

21 **(6) A statement notifying the person that, if the person pleads no contest and delivers**
22 **to the court the amount of the presumptive fine indicated on the citation, and the court**
23 **accepts the plea, the amount of the fine imposed against the defendant may not exceed the**
24 **amount of the presumptive fine indicated on the citation.**

25 **(7) A statement notifying the person that, if the person pleads no contest and delivers**
26 **to the court the amount of the presumptive fine indicated on the citation:**

27 **(a) The person may submit an explanation of the circumstances of the violation; and**

28 **(b) The court may consider the explanation in establishing the amount of the fine, but**
29 **in no event can the court impose a fine that is less than the minimum fine established under**
30 **section 4 of this 2011 Act.**

31 **(8) A statement notifying the person that, if the person pleads not guilty and requests a**
32 **trial, the court cannot impose a fine that is less than the minimum fine established under**
33 **section 4 of this 2011 Act unless the person is found not guilty, in which case no fine will be**
34 **imposed.**

35 **SECTION 24.** The amendments to ORS 153.051 by section 23 of this 2011 Act apply only
36 to citations issued on or after January 1, 2012. Any citation issued before January 1, 2012,
37 shall continue to be governed by ORS 153.051 as in effect immediately before January 1, 2012.

38 **SECTION 25.** ORS 153.061 is amended to read:

39 153.061. (1) Except as provided in *[subsection (2)]* **subsections (2) and (3)** of this section, a de-
40 fendant who has been issued a violation citation must either:

41 (a) Make a first appearance by personally appearing in court at the time indicated in the sum-
42 mons; or

43 (b) Make a first appearance in the manner provided in subsection *[(3)]* **(4)** of this section before
44 the time indicated in the summons.

45 (2) If a defendant *[has been]* **is** issued a violation citation for careless driving under ORS 811.135

1 on which a police officer noted that **the offense contributed to an accident or that** a vulnerable
 2 user of a public way suffered serious physical injury or death **by reason of the offense, the officer**
 3 **may not enter the amount of the presumptive fine on the summons and** the defendant must
 4 make a first appearance by personally appearing in court at the time indicated in the summons.

5 **(3) If a corporation is issued a violation citation, the police officer may not enter the**
 6 **amount of the presumptive fine on the summons and the defendant must make a first ap-**
 7 **pearance by appearing in court at the time indicated in the summons.**

8 [(3)] (4) **Except as provided in this section,** a defendant who has been issued a violation ci-
 9 tation may make a first appearance in the matter before the time indicated in the summons by one
 10 of the following means:

11 (a) The defendant may submit to the court a written or oral request for a trial.

12 (b) The defendant may enter a plea of no contest by delivering to the court the summons[,] **and**
 13 a check or money order in the amount of the [base] **presumptive** fine set forth in the summons[,
 14 and a statement of matters in explanation or mitigation of the violation charged]. The [delivery of a
 15 statement of matters in explanation or mitigation] **entry of a plea** under the provisions of this para-
 16 graph constitutes a waiver of trial and consent to the entry of a judgment forfeiting the [base]
 17 **presumptive** fine [based on the statement and any other testimony or written statements that may be
 18 presented to the court by the citing officer or other witnesses]. **A no contest plea under this section**
 19 **is not subject to the requirements of ORS chapter 135 relating to the entry of pleas and, upon**
 20 **receipt of the plea, the court shall enter judgment against the defendant without taking**
 21 **further evidence.**

22 [(c) The defendant may execute the appearance, waiver of trial and plea of guilty that appears on
 23 the summons and deliver the summons and a check or money order in the amount of the base fine set
 24 forth in the summons to the court. The defendant may attach a statement of matters in explanation or
 25 mitigation of the violation.]

26 [(4)] (5) The court may require that a defendant requesting a trial under subsection [(3)(a)] (4)
 27 of this section deposit **an amount equal to** the [base] **presumptive** fine [specified under ORS
 28 153.125 to 153.145] **established under sections 2 and 3 of this 2011 Act** or such other amount as
 29 the court determines appropriate if the defendant has failed to appear in any court on one or more
 30 other charges in the past. If the defendant does not deposit the amount specified by the court, the
 31 defendant must personally appear in court at the time indicated in the summons. The amount de-
 32 posited by the defendant may be applied against any fine imposed by the court, and any amount not
 33 so applied shall be refunded to the defendant at the conclusion of the proceedings.

34 [(5) If the defendant personally appears in court at the time indicated in the summons and enters
 35 a plea of guilty, the judge shall consider any statement in explanation or mitigation made by the de-
 36 fendant.]

37 (6) The court may require a defendant to appear personally in any case, or may require that all
 38 defendants appear in specified categories of cases.

39 (7) If a defendant has entered a no contest plea [or guilty plea] in the manner provided in sub-
 40 section [(3)(b) or (c)] (4) of this section, and the court determines that the [base] **presumptive** fine
 41 [amount] is not adequate by reason of previous convictions of the defendant, the nature of the of-
 42 fense charged or other circumstances, the court may require that a trial be held unless an additional
 43 fine amount is paid by the defendant before a specified date. Notice of an additional fine amount
 44 under this subsection may be given to the defendant by mail. In no event may the court require a
 45 total fine amount in excess of the maximum fine established for the violation by statute.

1 (8) If a defendant fails to make a first appearance on a citation for a traffic violation, as defined
2 by ORS 801.557, fails to make a first appearance on a citation for a violation of ORS 471.430, or fails
3 to appear at any other subsequent time set for trial or other appearance, the driving privileges of
4 the defendant are subject to suspension under ORS 809.220.

5 **SECTION 25a.** ORS 153.099 is amended to read:

6 153.099. (1) If a trial is held in a violation proceeding, the court shall enter a judgment based
7 on the evidence presented at the trial.

8 (2) If the defendant appears and enters a plea of no contest in the manner described in ORS
9 153.061 [(3)(b),] (4) and a trial is not otherwise required by the court or by law, the court shall make
10 a decision based on the citation[, *the statement filed by the defendant and any other information or*
11 *materials submitted to the court*]. **The court may consider any statement of explanation sub-**
12 **mitted with the plea.**

13 [(3) *If the defendant enters a plea of guilty in the manner described in ORS 153.061 (3)(c), a trial*
14 *is not otherwise required by the court or by law and the court accepts the plea of guilty, judgment shall*
15 *be entered against the defendant based on the violation citation.*]

16 **SECTION 26. The amendments to ORS 153.061 and 153.099 by sections 25 and 25a of this**
17 **2011 Act apply only to violation citations issued, and violation proceedings commenced by**
18 **citations issued, on or after January 1, 2012. Any citation issued, and violation proceeding**
19 **commenced by a citation issued, before January 1, 2012, shall continue to be governed by**
20 **ORS 153.061 as in effect immediately before January 1, 2012.**

21
22 **JUDGMENTS**
23

24 **SECTION 27.** ORS 153.090 is amended to read:

25 153.090. (1) Judgments entered under this chapter may include:

26 (a) Imposition of a sentence to pay a fine;

27 (b) Costs[, *assessments*] and restitution authorized by law;

28 [(c) *A requirement that the fine, costs, assessments and restitution, if any, be paid out of any base*
29 *fine;*]

30 [(d) *Remission of any balance of a base fine to the defendant or to any other person designated by*
31 *the defendant; and*]

32 (c) **A requirement that the fine, costs and restitution, if any, be paid out of the**
33 **presumptive fine;**

34 (d) **Remission of any balance of a presumptive fine to the defendant; and**

35 (e) Any other provision authorized by law.

36 (2) Notwithstanding ORS 137.106, if the court orders restitution in a default judgment entered
37 under ORS 153.102, a defendant may allege an inability to pay the full amount of monetary sanctions
38 imposed, including restitution, and request a hearing to determine whether the defendant is unable
39 to pay or to establish a payment schedule by filing a written request with the court within one year
40 after the entry of the judgment. The court shall set a hearing on the issue of the defendant's ability
41 to pay upon receipt of the request and shall give notice to the district attorney. The district attor-
42 ney shall give notice to the victim of the date, time and place of the hearing. The court may deter-
43 mine a payment schedule for monetary sanctions imposed, including restitution ordered under this
44 subsection, if the defendant establishes at the hearing that the defendant is unable to pay the or-
45 dered restitution in full.

1 (3) If a trial is held in a violation proceeding, or a default judgment is entered against the de-
 2 fendant under ORS 153.102, the court may impose any fine within the statutory limits for the vio-
 3 lation. If a defendant pleads no contest under ORS 153.061 [(3)(b)] (4), or pleads guilty under ORS
 4 153.061 (3)(c), and the court accepts the plea and enters judgment against the defendant, the amount
 5 of the fine imposed against the defendant by the court may not exceed the [amount of the base]
 6 **presumptive** fine established for the violation under [ORS 153.125 to 153.145] **sections 2 and 3 of**
 7 **this 2011 Act.**

8 (4) A judge may suspend operation of any part of a judgment entered under this chapter upon
 9 condition that the defendant pay the nonsuspended portion of a fine within a specified period of
 10 time. If the defendant fails to pay the nonsuspended portion of the fine within the specified period
 11 of time, the suspended portion of the judgment becomes operative without further proceedings by the
 12 court and the suspended portion of the fine becomes immediately due and payable.

13 (5) The court may not recommend a suspension of the defendant's driving privileges unless a
 14 trial has been required. The failure of the defendant to appear at the trial does not prevent the
 15 court from recommending suspension of the defendant's driving privileges.

16 (6) Entry of a default judgment under ORS 153.102 does not preclude the arrest and prosecution
 17 of the defendant for the crime of failure to appear in a violation proceeding under ORS 153.992.

18 (7) If a person holds a commercial driver license, a court may not defer entry of a judgment or
 19 allow an individual to enter into a diversion program that would prevent a conviction for a traffic
 20 offense from appearing on the driving record of the holder. This subsection applies to all traffic of-
 21 fenses, whether committed while driving a motor vehicle or a commercial motor vehicle, but does
 22 not apply to parking violations. For purposes of this subsection, a person holds a commercial driver
 23 license if on the date of the commission of the offense the person holds a commercial driver license
 24 issued by the Department of Transportation or the licensing agency of another jurisdiction that is:

- 25 (a) Not expired or if expired, expired less than one year; or
- 26 (b) Suspended, but not canceled or revoked.

27 **SECTION 28. The amendments to ORS 153.090 by section 27 of this 2011 Act apply only**
 28 **to judgments in violation proceedings commenced by citations issued on or after January 1,**
 29 **2012. Any judgment in a violation proceeding commenced by a citation issued before January**
 30 **1, 2012, shall continue to be governed by ORS 153.090 as in effect immediately before January**
 31 **1, 2012.**

32 **SECTION 29.** ORS 153.108 is amended to read:

33 153.108. (1) Notwithstanding ORS 131.505 to 131.535, if a person commits both a crime and a
 34 violation as part of the same criminal episode, the prosecution for one offense shall not bar the
 35 subsequent prosecution for the other. However, evidence of the first conviction shall not be admis-
 36 sible in any subsequent prosecution for the other offense.

37 (2) Notwithstanding ORS 43.130 and 43.160, [no] a plea, finding or [proceeding upon any violation
 38 shall] **judgment in a violation proceeding, or the fact that a violation proceeding has been**
 39 **commenced and prosecuted against a defendant, may not** be used for the purpose of res judicata
 40 or collateral estoppel, [nor shall any plea, finding or proceeding upon any violation be admissible]
 41 **or be admitted** as evidence in any civil proceeding.

42 **SECTION 30.** ORS 41.905 is amended to read:

43 41.905. [(1)] A **plea to a charge of a traffic crime, as defined in ORS 801.545, and any judg-**
 44 **ment of conviction or acquittal of a person charged with a traffic [offense] crime, as defined by**
 45 **ORS 801.545, [is] are** not admissible in the trial of a subsequent civil action arising out of the same

1 accident or occurrence to prove or negate the facts upon which such judgment was rendered.

2 [(2) A plea of guilty by a person to a traffic offense may be admitted as evidence in the trial of a
3 subsequent civil action arising out of the same accident or occurrence as an admission of the person
4 entering the plea, and for no other purpose.]

5 [(3) Evidence that a person has entered a plea of no contest in the manner described in ORS
6 153.061 (3)(b) to a charge of a traffic offense shall not be admitted as evidence in the trial of a subse-
7 quent civil action arising out of the same accident or occurrence.]

8 **SECTION 31. The amendments to ORS 41.905 and 153.108 by sections 29 and 30 of this 2011**
9 **Act apply only to offenses committed on or after January 1, 2012. Any offense committed**
10 **before January 1, 2012, shall continue to be governed by ORS 41.905 and 153.108 as in effect**
11 **immediately before January 1, 2012.**

12
13 **DISTRIBUTION OF PAYMENTS UNDER JUDGMENT**
14 **IN CRIMINAL ACTION**

15
16 **(Priorities for Application of Payments)**
17

18 **SECTION 32. Sections 33 to 38 of this 2011 Act are added to and made a part of ORS**
19 **chapter 137.**

20 **SECTION 33. Priorities for application of payments on judgments in criminal actions. (1)**
21 **There are five levels of priority for application of payments on judgments of conviction in**
22 **criminal actions, with Level I obligations having the highest priority and Level V having the**
23 **lowest priority. All payments on a judgment of conviction in a criminal action shall be applied**
24 **first against the unpaid obligations in the level with highest priority until those obligations**
25 **have been paid in full, and shall then be applied against the obligations in the level with the**
26 **next highest level of priority, until all obligations under the judgment have been paid in full.**

27 **(2) Except as provided in section 35 of this 2011 Act, if there is more than one person or**
28 **public body to whom an obligation is payable under a level, the court shall divide each pay-**
29 **ment based on each person's or public body's proportionate share of the total amount of**
30 **obligations in that level.**

31 **SECTION 34. Level I obligations. Compensatory fines under ORS 137.101 are Level I ob-**
32 **ligations.**

33 **SECTION 35. Level II obligations. (1) There are two types of Level II obligations:**

34 **(a) Type 1 obligations include awards of restitution as defined in ORS 137.103, awards of**
35 **restitution under ORS 419C.450 and money awards made under ORS 811.706.**

36 **(b) Type 2 obligations include all fines and other monetary obligations payable to the**
37 **state for which the law does not expressly provide other disposition, including fines payable**
38 **to the state by justice and municipal courts under sections 48 and 49 of this 2011 Act.**

39 **(2) If a judgment contains both types of Level II obligations, the court shall apply 50**
40 **percent of amounts creditable to Level II obligations to Type 1 obligations and 50 percent of**
41 **the amounts to Type 2 obligations, until all obligations in one of the two types have been paid**
42 **in full. All subsequent amounts creditable to Level II obligations shall be applied against the**
43 **other type of obligations until those obligations have been paid in full.**

44 **(3) If there is more than one person for whose benefit a Type 1 money award has been**
45 **made, the clerk shall pay the moneys credited to Type 1 obligations in the following order**

1 of priority:

2 (a) If the judgment contains a money award payable to the person or persons against
3 whom the defendant committed the offense, the clerk shall first pay all moneys credited to
4 Type 1 obligations to those persons, and shall continue to do so until all those obligations
5 are paid in full. If there is more than one person to whom an obligation is payable under this
6 paragraph, the court shall divide each payment under this paragraph based on each person's
7 proportionate share of the total amount of obligations subject to payment under this para-
8 graph.

9 (b) If the judgment contains a money award payable to the Criminal Injuries Compensa-
10 tion Account, the clerk shall thereafter transfer moneys credited to Type 1 obligations to
11 the account until the award is paid in full.

12 (c) If the judgment contains a money award payable to any other victims, as defined in
13 ORS 137.103, the clerk shall thereafter pay the moneys credited to Type 1 obligations to those
14 victims until those victims are paid in full.

15 **SECTION 36. Level III obligations.** Level III obligations are fines payable to a county or
16 city under sections 47 to 50 of this 2011 Act.

17 **SECTION 37. Level IV obligations.** Level IV obligations are amounts that the law ex-
18 pressly directs be paid to a specific account or public body as defined in ORS 174.109.

19 **SECTION 38. Level V obligations.** Level V obligations are amounts payable for reward
20 reimbursement under ORS 131.897.

21 **SECTION 39.** Sections 33 to 38 of this 2011 Act and the repeal of ORS 137.295 by section
22 118 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense
23 committed before January 1, 2012, shall continue to be governed by ORS 137.295 as in effect
24 immediately before January 1, 2012.

25
26 (Application of Security Deposits Against
27 Child Support Obligation)
28

29 **SECTION 40.** ORS 25.715 is amended to read:

30 25.715. (1) The court may order that the portion of a security deposit made under ORS 135.265
31 that would otherwise be returned to the person who made the deposit or the amount of child support
32 arrearages, whichever is less, be paid to an obligee or the Division of Child Support of the Depart-
33 ment of Justice if:

- 34 (a) The defendant is an obligor who owes child support arrearages;
35 (b) The obligee or the administrator has filed a motion requesting the court to make such an
36 order;
37 (c) The obligee or the administrator has served the defendant with a copy of the motion;
38 (d) The defendant has an opportunity to respond and request a hearing; and
39 (e) The court has determined that such an order is appropriate.

40 (2) The court may order that a portion of a security [amount] **deposit that is** forfeited under
41 ORS 135.280 be paid to the division and be applied to any unsatisfied child support judgment and
42 to provide security for child support payments in accordance with ORS 25.230 if:

- 43 (a) The defendant is an obligor who owes child support;
44 (b) The administrator has filed a motion requesting the court to make such an order;
45 (c) The motion specifies the amount to be applied to the child support judgment under ORS

1 135.280; and

2 (d) The court has determined that such an order is appropriate.

3 **SECTION 41.** ORS 135.280 is amended to read:

4 135.280. (1) Upon failure of a person to comply with any condition of a release agreement or
5 personal recognizance, the court having jurisdiction may, in addition to any other action provided
6 by law, issue a warrant for the arrest of the person at liberty upon a personal recognizance, condi-
7 tional or security release.

8 (2) A warrant issued under subsection (1) of this section by a municipal judge may be executed
9 by any peace officer authorized to execute arrest warrants.

10 (3) If the defendant does not comply with the conditions of the release agreement, the court
11 having jurisdiction shall enter an order declaring the entire security amount to be forfeited. Notice
12 of the order of forfeiture shall be given forthwith by personal service, by mail or by such other
13 means as are reasonably calculated to bring to the attention of the defendant and, if applicable, of
14 the sureties the order of forfeiture. If, within 30 days after the court declares the forfeiture, the
15 defendant does not appear or satisfy the court having jurisdiction that appearance and surrender
16 by the defendant was, or still is, impossible and without fault of the defendant, the court shall enter
17 judgment for the state, or appropriate political subdivision thereof, against the defendant and, if
18 applicable, the sureties for the entire security amount set under ORS 135.265 and the costs of the
19 proceedings. At any time before or after entry of the judgment, the defendant or the sureties may
20 apply to the court for a remission of the forfeiture or to modify or set aside the judgment. The court,
21 upon good cause shown, may remit the forfeiture or any part thereof or may modify or set aside the
22 judgment as in other criminal cases, except the portion of the security [*amount*] **deposit** that the
23 court ordered to be applied to child support under subsection (4) of this section, as the court con-
24 sidered reasonable under the circumstances of the case. The court shall adopt procedures to ensure
25 that the amount deposited under ORS 135.265 is available for a reasonable period of time for dis-
26 position under subsection (4) of this section.

27 (4) After entry of a judgment for the state, the court, upon a motion filed under ORS 25.715,
28 may order that a portion of the security [*amount*] **deposit** be applied to any unsatisfied child support
29 award owed by the defendant and to provide security for child support payments in accordance with
30 ORS 25.230. The portion of the security [*amount*] **deposit** that may be applied to the child support
31 award:

32 (a) Is limited to the amount deposited under ORS 135.265 **(2)**;

33 (b) May not exceed 66 percent of the entire security amount set under ORS 135.265 **if the de-**
34 **posit has been made under ORS 135.265 (3)**; and

35 (c) Does not reduce the money award in the judgment entered under subsection (3) of this sec-
36 tion that is owed to the state.

37 (5) When judgment is entered in favor of the state, or any political subdivision of the state, on
38 any security given for a release, the judgment may be enforced as a judgment in a civil action. If
39 entered in circuit court, the judgment shall be entered in the register, and the clerk of the court
40 shall note in the register that the judgment creates a judgment lien. The district attorney, county
41 counsel or city attorney may have execution issued on the judgment and deliver same to the sheriff
42 to be executed by levy on the deposit or security amount made in accordance with ORS 135.265, or
43 may collect the judgment as otherwise provided by law. The proceeds of any execution or collection
44 shall be used to satisfy the judgment and costs and paid into the treasury of the municipal corpo-
45 ration wherein the security was taken if the offense was defined by an ordinance of a political

1 subdivision of this state, or paid into the treasury of the county wherein the security was taken if
 2 the offense was defined by a statute of this state and the judgment was entered by a justice court,
 3 or paid over as directed by the State Court Administrator for deposit in the Criminal Fine [*and*
 4 *Assessment*] Account [*created under ORS 137.300*], if the offense was defined by a statute of this
 5 state and the judgment was entered by a circuit court. The provisions of this section shall not apply
 6 to [*base fine*] amounts deposited upon appearance under ORS 153.061.

7 (6) When the judgment of forfeiture is entered, the security deposit or deposit with the clerk is,
 8 by virtue of the judgment alone and without requiring further execution, forfeited to and may be
 9 kept by the state or its appropriate political subdivision. Except as provided in subsection (4) of this
 10 section, the clerk shall reduce, by the value of the deposit so forfeited, the debt remaining on the
 11 judgment and shall cause the amount on deposit to be transferred to the revenue account of the
 12 state or political subdivision thereof entitled to receive the proceeds of execution under this section.

13 (7) The stocks, bonds, personal property and real property shall be sold in the same manner as
 14 in execution sales in civil actions and the proceeds of such sale shall be used to satisfy all court
 15 costs, prior encumbrances, if any, and from the balance a sufficient amount to satisfy the judgment
 16 shall be paid into the treasury of the municipal corporation wherein the security was taken if the
 17 offense was defined by an ordinance of a political subdivision of this state, or paid into the treasury
 18 of the county wherein the security was taken if the offense was defined by a statute of this state
 19 and the judgment was entered by a justice court, or deposited in the General Fund available for
 20 general governmental expenses if the offense was defined by a statute of this state and the judgment
 21 was entered by a circuit court. The balance shall be returned to the owner. The real property sold
 22 may be redeemed in the same manner as real estate may be redeemed after judicial or execution
 23 sales in civil actions.

24
 25 **(Recovery of Costs)**
 26

27 **SECTION 42.** ORS 151.487 is amended to read:

28 151.487. (1) If in determining that a person is financially eligible for appointed counsel under
 29 ORS 151.485, the court finds that the person has financial resources that enable the person to pay
 30 in full or in part the administrative costs of determining the eligibility of the person and the costs
 31 of the legal and other services to be provided at state expense that are related to the provision of
 32 appointed counsel, the court shall [*order*] **enter a limited judgment requiring that** the person
 33 [*to*] pay to the Public Defense Services Account in the General Fund, through the clerk of the court,
 34 the amount that it finds the person is able to pay without creating substantial hardship in providing
 35 basic economic necessities to the person or the person's dependent family. The amount that a court
 36 may [*order*] **require** the person to pay is subject to the guidelines and procedures issued by the
 37 Public Defense Services Commission as provided in subsection (4) of this section.

38 (2) Failure to [*obey an order*] **comply with the requirements of a limited judgment entered**
 39 under this section is not grounds for contempt or grounds for withdrawal by the appointed
 40 attorney[, *but any part of the amount ordered under this section and not paid may be:*]

41 [*(a) Enforced against the person as if the order is a civil judgment; or*]

42 [*(b) Enforced as otherwise permitted by law.*]

43 (3) Except as authorized in this section, no person, organization or governmental agency may
 44 request or accept a payment or promise of payment for assisting in the representation of a person
 45 by appointment.

1 (4) The commission shall promulgate and issue guidelines and procedures:

2 (a) For the determination of persons provided with appointed counsel who have some financial
3 resources to pay in full or in part the administrative, legal and other costs under subsection (1) of
4 this section; and

5 (b) Regarding the amounts persons may be required to pay by a court under subsection (1) of
6 this section.

7 (5) The determination that a person is able to pay or partially able to pay, or that a person no
8 longer has the ability to pay the amount ordered in subsection (1) of this section, is subject to re-
9 view at any time by the court.

10 **SECTION 43.** ORS 151.505 is amended to read:

11 151.505. (1) At the conclusion of a case or matter in which the first accusatory instrument or
12 petition in the trial court was filed after January 1, 1998, and in which the court appointed counsel
13 to represent a person, a trial, appellate or post-conviction court may include in its judgment [*an*
14 *order*] **a money award requiring** that the person repay in full or in part the administrative costs
15 of determining the eligibility of the person for appointed counsel, and the costs of the legal and
16 other services that are related to the provision of appointed counsel, **that have not previously**
17 **been required to be paid under a limited judgment entered under ORS 151.487. An award un-**
18 **der this section is a monetary obligation payable to the state.**

19 (2) Costs [*repayable*] **that may be included in a money award** under this section include a
20 reasonable attorney fee for counsel appointed to represent the person and a reasonable amount for
21 expenses authorized under ORS 135.055. A reasonable attorney fee is presumed to be a reasonable
22 number of hours at the hourly rate authorized by the Public Defense Services Commission under
23 ORS 151.216. For purposes of this subsection, compensation of counsel is determined by reference
24 to a schedule of compensation established by the commission.

25 [(3) *Costs repayable under this section do not include costs imposed and paid under a previous*
26 *order under ORS 151.487, but may include costs imposed under an order under ORS 151.487 that are*
27 *unpaid at the time the judgment is filed.*]

28 [(4)] (3) The court may not [*order*] **require** a person to pay costs under this section unless the
29 person is or may be able to pay the costs. In determining the amount and method of payment of
30 costs, the court shall take account of the financial resources of the person and the nature of the
31 burden that payment of costs will impose.

32 [(5)] (4) A person who has been [*ordered*] **required** to pay costs under this section and who is
33 not in contumacious default in the payment of the costs may at any time petition the court for re-
34 mission of the payment of costs or any unpaid portion of the costs. If it appears to the satisfaction
35 of the court that payment of the amount due will impose manifest hardship on the person ordered
36 to repay or on the immediate family of the person, the court may [*remit*] **enter a supplemental**
37 **judgment that remits** all or part of the amount due or [*modify*] **modifies** the method of payment.

38 [(6)] (5) [*Except for moneys payable under subsection (1) of this section pursuant to an order under*
39 *ORS 151.487,*] All moneys collected or paid under **a money award made pursuant to** this section
40 shall be paid into [*the General Fund and credited to*] the Criminal Fine [*and Assessment*] Account.
41 **If the money award is part of a criminal judgment of conviction, the award is a Type 2, Level**
42 **II obligation for the purpose of sections 33 to 38 of this 2011 Act.**

43 [(7) *Any part of the costs ordered to be paid under this section that is not paid may be enforced*
44 *against the person as provided in ORS 137.450 if the judgment is a judgment in a criminal action or*
45 *in the same manner as unpaid costs may be enforced under ORS 151.487.*]

1 **SECTION 43a.** ORS 151.225 is amended to read:

2 151.225. (1) There is created a Public Defense Services Account in the General Fund. The Public
3 Defense Services Account is continuously appropriated to the Public Defense Services Commission
4 to pay compensation of counsel and other expenses in connection with the legal representation of
5 persons for which the commission is responsible by law.

6 (2) All moneys appropriated to the commission to pay compensation of counsel and other ex-
7 penses in connection with the legal representation of persons for which the commission is respon-
8 sible by law shall be deposited in the Public Defense Services Account.

9 (3) All moneys received by the Judicial Department under ORS 135.050 (8), 151.487 (1), [151.505
10 (3),] 419A.211, 419B.198 (1) or 419C.203 (1) shall be deposited in a separate subaccount created in the
11 Public Defense Services Account to be used by the public defense services executive director to
12 reimburse the actual costs and expenses, including personnel expenses, incurred in administration
13 and support of the public defense system.

14 (4) All gifts, grants or contributions accepted by the commission under ORS 151.216 shall be
15 deposited in a separate subaccount created in the Public Defense Services Account to be used by
16 the commission for the purpose for which the gift, grant or contribution was given or granted.

17 (5) As used in this section, "other expenses in connection with the legal representation of per-
18 sons for which the commission is responsible by law" includes expenses incurred in the adminis-
19 tration of the public defense system.

20 **SECTION 44.** ORS 161.665 is amended to read:

21 161.665. (1) Except as provided in ORS 151.505, the court, only in the case of a defendant for
22 whom it enters a judgment of conviction, may include in its sentence thereunder a [*provision that*
23 *the convicted defendant pay as costs expenses*] **money award, payable to the state, for all costs**
24 specially incurred by the state in prosecuting the defendant. Costs include a reasonable attorney fee
25 for counsel appointed pursuant to ORS 135.045 or 135.050 and a reasonable amount for fees and
26 expenses incurred pursuant to preauthorization under ORS 135.055. A reasonable attorney fee is
27 presumed to be a reasonable number of hours at the hourly rate authorized by the Public Defense
28 Services Commission under ORS 151.216. Costs do not include expenses inherent in providing a
29 constitutionally guaranteed jury trial or expenditures in connection with the maintenance and op-
30 eration of government agencies that must be made by the public irrespective of specific violations
31 of law.

32 (2) Except as provided in ORS 151.505, the court, after the conclusion of an appeal of its initial
33 judgment of conviction, may include in its general judgment, or enter a supplemental judgment that
34 includes, a [*requirement*] **money award, payable to the state, that requires** a convicted defendant
35 **to pay** [*as costs*] a reasonable attorney fee for counsel appointed pursuant to ORS 138.500, including
36 counsel who is appointed under ORS 151.216 or counsel who is under contract to provide services
37 for the proceeding under ORS 151.219, and other costs and expenses allowed by the public defense
38 services executive director under ORS 138.500 (4). A reasonable attorney fee is presumed to be a
39 reasonable number of hours at the hourly rate authorized by the commission under ORS 151.216.

40 (3) For purposes of subsections (1) and (2) of this section, compensation of counsel is determined
41 by reference to a schedule of compensation established by the commission under ORS 151.216.

42 (4) The court may not sentence a defendant to pay costs under this section unless the defendant
43 is or may be able to pay them. In determining the amount and method of payment of costs, the court
44 shall take account of the financial resources of the defendant and the nature of the burden that
45 payment of costs will impose.

1 (5) A defendant who has been sentenced to pay costs under this section and who is not in
2 contumacious default in the payment of costs may at any time petition the court that sentenced the
3 defendant for remission of the payment of costs or of any unpaid portion of costs. If it appears to
4 the satisfaction of the court that payment of the amount due will impose manifest hardship on the
5 defendant or the immediate family of the defendant, the court may *[remit]* **enter a supplemental**
6 **judgment that remits** all or part of the amount due in costs, or *[modify]* **modifies** the method of
7 payment under ORS 161.675.

8 (6) *[Except as provided in subsection (7) of this section,]* All moneys collected or paid under this
9 section shall be paid into *[the General Fund and credited to]* the Criminal Fine *[and Assessment]*
10 Account. **The award is a Type 2, Level II obligation for the purpose of sections 33 to 38 of this**
11 **2011 Act.**

12 *[(7) All moneys collected or paid under this section as costs for expenses incurred by the state in*
13 *extraditing the defendant to this state shall be deposited into the Arrest and Return Account estab-*
14 *lished in ORS 133.865.]*

15 **SECTION 45.** ORS 133.865 is amended to read:

16 133.865. (1) The Arrest and Return Account is established separate and distinct from the General
17 Fund. The account consists of moneys deposited into the account under ORS *[161.665]* **144.605,**
18 **moneys allocated to the account under ORS 137.300** and such other moneys as may be appro-
19 priated to the account by law.

20 (2) *[Except as provided in subsection (2) of this section,]* Moneys in the account are continuously
21 appropriated to the Governor for the *[purpose]* **purposes** of paying costs incurred in:

22 (a) Carrying out the provisions of ORS 133.743 to 133.857[.]; **and**

23 *[(2)]* (b) *[Moneys deposited in the Arrest and Return Account under ORS 144.605 are continuously*
24 *appropriated to the Governor for the purpose of paying costs incurred in]* Retaking offenders who have
25 transferred supervision under the Interstate Compact for Adult Offender Supervision described in
26 ORS 144.600.

27
28 (Disposition of Fines for Traffic Offenses)

29
30 **SECTION 46.** Sections 47 to 50 of this 2011 Act are added to and made a part of ORS
31 chapter 153.

32 **SECTION 47. Disposition of fines for traffic offenses; circuit court.** (1) If a circuit court
33 enters a judgment of conviction for a traffic offense, the full amount of the fine imposed
34 under the judgment is payable to the state if the conviction resulted from a prosecution
35 arising out of an arrest or complaint made by an officer of the Oregon State Police or by any
36 other enforcement officer employed by state government, as defined in ORS 174.111.

37 (2) If a circuit court enters a judgment of conviction for a traffic offense and the con-
38 viction resulted from a prosecution arising out of an arrest or complaint made by a sheriff,
39 deputy sheriff, city police officer or any other enforcement officer employed by a local gov-
40 ernment, as defined in ORS 174.116:

41 (a) \$40 of the fine imposed under the judgment is payable to the state;

42 (b) One-half of the amount remaining after the payment required by paragraph (a) of this
43 subsection is payable to the local government that employs the enforcement officer; and

44 (c) One-half of the amount remaining after the payment required by paragraph (a) of this
45 subsection is payable to the state.

1 **SECTION 48. Disposition of fines for traffic offenses; justice court.** (1) If a justice court
2 enters a judgment of conviction for a traffic offense and the conviction resulted from a
3 prosecution arising out of an arrest or complaint made by an officer of the Oregon State
4 Police or by any other enforcement officer employed by state government, as defined in ORS
5 174.111:

6 (a) \$40 of the fine imposed under the judgment is payable to the state;

7 (b) One-half of the amount remaining after the payment required by paragraph (a) of this
8 subsection is payable to the county in which the justice court is located; and

9 (c) One-half of the amount remaining after the payment required by paragraph (a) of this
10 subsection is payable to the state.

11 (2) If a justice court enters a judgment of conviction for a traffic offense and the con-
12 viction resulted from a prosecution arising out of an arrest or complaint made by a sheriff,
13 deputy sheriff or any other enforcement officer employed by the county:

14 (a) \$40 of the fine imposed under the judgment is payable to the state; and

15 (b) The remaining amount of the fine is payable to the county in which the court is lo-
16 cated.

17 (3) If a justice court enters a judgment of conviction for a traffic offense and the con-
18 viction resulted from a prosecution arising out of an arrest or complaint made by an
19 enforcement officer employed by any other local government, as defined in ORS 174.116:

20 (a) \$40 of the fine imposed under the judgment is payable to the state;

21 (b) One-half of the amount remaining after the payment required by paragraph (a) of this
22 subsection is payable to the local government that employs the enforcement officer; and

23 (c) One-half of the amount remaining after the payment required by paragraph (a) of this
24 subsection is payable to the county in which the court is located.

25 **SECTION 49. Disposition of fines for traffic offenses; municipal court.** (1) If a municipal
26 court enters a judgment of conviction for a traffic offense and the conviction resulted from
27 a prosecution arising out of an arrest or complaint made by an officer of the Oregon State
28 Police or by any other enforcement officer employed by state government, as defined in ORS
29 174.111:

30 (a) \$40 of the fine imposed under the judgment is payable to the state;

31 (b) One-half of the amount remaining after the payment required by paragraph (a) of this
32 subsection is payable to the city in which the municipal court is located; and

33 (c) One-half of the amount remaining after the payment required by paragraph (a) of this
34 subsection is payable to the state.

35 (2) If a municipal court enters a judgment of conviction for a traffic offense and the
36 conviction resulted from a prosecution arising out of an arrest or complaint made by a city
37 police officer or any other enforcement officer employed by the city:

38 (a) \$40 of the fine imposed under the judgment is payable to the state; and

39 (b) The remaining amount of the fine is payable to the city in which the court is located.

40 (3) If a municipal court enters a judgment of conviction for a traffic offense and the
41 conviction resulted from a prosecution arising out of an arrest or complaint made by an
42 enforcement officer employed by any other local government, as defined in ORS 174.116:

43 (a) \$40 of the fine imposed under the judgment is payable to the state;

44 (b) One-half of the amount remaining after the payment required by paragraph (a) of this
45 subsection is payable to the local government that employs the enforcement officer; and

1 (c) One-half of the amount remaining after the payment required by paragraph (a) of this
2 subsection is payable to the city in which the court is located.

3 **SECTION 49a.** Any amount collected by a circuit court, justice court or municipal court
4 as costs in a criminal action shall be retained by the court.

5 **SECTION 50. Deposit of fines.** (1) Amounts payable to the state under sections 48 and 49
6 of this 2011 Act shall be transferred by the court to the Department of Revenue for distrib-
7 ution as provided in ORS 305.830. Amounts payable to a local government under sections 47
8 to 50 of this 2011 Act shall be deposited by the court in the local government's general fund
9 and are available for general governmental purposes.

10 (2) Justice and municipal courts must make the transfer required by subsection (1) of
11 this section under sections 48 and 49 of this 2011 Act not later than the last day of the month
12 immediately following the month in which a payment on a judgment is received by the court.

13 **SECTION 51.** Sections 47 to 50 of this 2011 Act and the repeal of ORS 153.630 by section
14 118 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense
15 committed before January 1, 2012, shall continue to be governed by ORS 153.630 as in effect
16 immediately before January 1, 2012.

17
18 (Criminal Fine Account)

19
20 **SECTION 52.** ORS 137.300 is amended to read:

21 137.300. [(1) *The Criminal Fine and Assessment Account is established in the General Fund of the*
22 *State Treasury. All moneys in the account are continuously appropriated to the Department of Revenue*
23 *to be distributed by the Department of Revenue according to allocations made by the Legislative As-*
24 *sembly. The Department of Revenue shall keep a record of moneys transferred into and out of the ac-*
25 *count. The Department of Revenue shall report monthly to the Attorney General the amount of moneys*
26 *received from the state courts in each county and from each city court.]*

27 [(2) *The Legislative Assembly shall allocate moneys in the account according to the following pri-*
28 *ority:]*

29 [(a) *Public safety standards, training and facilities;*]

30 [(b) *Criminal injuries compensation and assistance to victims of crime and children reasonably*
31 *suspected of being victims of crime;*]

32 [(c) *Forensic services of the Oregon State Police including, but not limited to, services of the State*
33 *Medical Examiner; and]*

34 [(d) *Maintenance and operation of the Law Enforcement Data System.*]

35 [(3) *Moneys in the account may not be allocated for:]*

36 [(a) *The payment of debt service obligations; or]*

37 [(b) *Any purpose other than those listed in subsection (2) of this section.*]

38 [(4) *The Department of Revenue shall deposit in the General Fund all moneys remaining in the*
39 *account after the distributions required by subsections (1) and (2) of this section have been made.]*

40 [(5) *The Department of Revenue shall establish by rule a process for distributing moneys in the*
41 *account.*]

42 [(6) *The Department of Justice shall report monthly to the Department of Revenue the amount of*
43 *moneys ordered to be applied to child support under ORS 135.280.]*

44 (1) **The Criminal Fine Account is established in the General Fund. Except as otherwise**
45 **provided by law, all amounts collected in state courts as monetary obligations in criminal**

1 actions shall be deposited by the courts in the account. All moneys in the account are con-
2 tinuously appropriated to the Department of Revenue to be distributed by the Department
3 of Revenue as provided in this section. The Department of Revenue shall keep a record of
4 moneys transferred into and out of the account.

5 (2) The Criminal Fine Account shall be divided into the Public Safety Subaccount and the
6 Miscellaneous Distributions Subaccount. Seventy percent of all moneys deposited in the
7 Criminal Fine Account shall be credited to the Public Safety Subaccount. The remaining 30
8 percent of moneys deposited in the Criminal Fine Account shall be credited to the Miscella-
9 neous Distributions Subaccount.

10 (3) The Legislative Assembly shall make allocations from the Public Safety Subaccount
11 for the following purposes in the following order of priority:

12 (a) Allocations for public safety standards, training and facilities.

13 (b) Allocations for criminal injuries compensation and assistance to victims of crime and
14 children reasonably suspected of being victims of crime.

15 (c) Allocations for the forensic services provided by the Oregon State Police including,
16 but not limited to, services of the State Medical Examiner.

17 (d) Allocations for the maintenance and operation of the Law Enforcement Data System.

18 (4) The Legislative Assembly shall make allocations from the Miscellaneous Distributions
19 Subaccount for the following purposes, without order of priority:

20 (a) Allocations to the Law Enforcement Medical Liability Account established under ORS
21 414.815.

22 (b) Allocations to the State Court Facilities Security Account established under ORS
23 1.178.

24 (c) Allocations to the State Court Administrator for the purpose of distributing moneys
25 to counties under the Court Security Program established under section 59 of this 2011 Act.

26 (d) Allocations to the Department of Corrections for community corrections grants under
27 ORS 423.520.

28 (e) Allocations to the Oregon Health Authority for the purpose of grants under ORS
29 430.345 for the establishment, operation and maintenance of alcohol and drug abuse pre-
30 vention, early intervention and treatment services provided through a county.

31 (f) Allocations to the Oregon State Police for the purpose of the enforcement of the laws
32 relating to driving under the influence of intoxicants.

33 (g) Allocations to the Arrest and Return Account established under ORS 133.865.

34 (h) Allocations to the Intoxicated Driver Program Fund established under ORS 813.270.

35 (5) Each biennium, the Department of Revenue shall distribute from the Miscellaneous
36 Distributions Subaccount \$1.9 million to the counties of this state. The distribution to each
37 county shall be based on revenues received by the Department of Revenue from judgments
38 in criminal actions in the circuit court for the county. Amounts distributed to counties
39 under this subsection may be used only for the construction, operation and maintenance of
40 circuit court facilities. The Department of Revenue shall distribute one-eighth of the
41 amounts specified in this subsection at the end of each quarter.

42 (6) It is the intent of the Legislative Assembly that allocations from the Criminal Fine
43 Account under subsections (3) and (4) of this section be consistent with historical funding
44 of the entities, programs and accounts listed in subsections (3) and (4) of this section from
45 monetary obligations imposed in criminal proceedings.

1 (7) Moneys in the Criminal Fine Account may not be allocated for the payment of debt
2 service obligations.

3 (8) The Department of Revenue shall deposit in the General Fund all moneys remaining
4 in the Criminal Fine Account after the distributions required by this section have been made.

5 (9) The Department of Revenue shall establish by rule a process for distributing moneys
6 in the Criminal Fine Account and for reducing the amount of distributions when amounts in
7 the account are not adequate to fund the allocation or other distribution. Reductions shall
8 be proportionate to the amount allocated or otherwise distributed to an entity, program or
9 account as compared to all allocations and distributions made from the account for the
10 biennium.

11 **SECTION 52a.** ORS 137.301 is amended to read:

12 137.301. The Legislative Assembly finds that:

13 (1) Systems critical components of the Oregon criminal justice system exist that require the
14 highest priority considerations for funding from the Criminal Fine [*and Assessment*] Account.

15 (2) The systems critical components of the Oregon criminal justice system are interrelated and
16 essential to the initiation and successful conclusion of criminal investigations.

17 (3) The interests of victims of crime and other Oregonians are advanced by the ability of the
18 public safety community to respond professionally to reports of criminal activity and to successfully
19 investigate criminal cases in a manner that protects the constitutional rights of all Oregonians.

20 (4) The effective training of police officers, corrections officers, parole and probation officers
21 and other first responders increases the likelihood that crimes will be solved quickly and that the
22 needs of victims of crime will be met.

23 (5) The collection of evidence at crime scenes, the forensic processing of the evidence by quali-
24 fied, well-trained technicians and the work of medical examiners are critical statewide functions that
25 allow all Oregonians an equal opportunity to justice.

26 (6) The collection of criminal information such as that retained in the Law Enforcement Data
27 System enhances the ability of investigators to identify criminals and the unnamed victims of violent
28 crimes.

29 (7) Timely intervention on behalf of victims of crime through effective assistance programs
30 makes recovery from victimization possible and is necessary to the well-being of Oregonians ad-
31 versely affected by violent crime.

32 **SECTION 53.** Notwithstanding section 52 of this 2011 Act, for the period beginning Janu-
33 ary 1, 2012, and ending June 30, 2013, the Department of Revenue shall distribute the moneys
34 in the Criminal Fine Account as specified in sections 54 to 58 of this 2009 Act.

35 **SECTION 54.** There are allocated to the Department of Public Safety Standards and
36 Training for the period beginning January 1, 2012, and ending June 30, 2013, from the Public
37 Safety Subaccount of the Criminal Fine Account the following amounts for the following
38 purposes:

- 39 (1) Police Standards and Training
- 40 Account for criminal
- 41 justice training and
- 42 standards operations..... \$ _____
- 43 (2) Public Safety Memorial Fund
- 44 established under ORS 243.950.. \$ _____

45 **SECTION 55.** There are allocated to the Department of Human Services for the period

1 beginning January 1, 2012, and ending June 30, 2013, from the Public Safety Subaccount of
2 the Criminal Fine Account the following amounts for the following purposes:

- 3 (1) Domestic Violence Fund
- 4 for the purpose of
- 5 ORS 409.292 (1)(a) to (c)..... \$ _____
- 6 (2) Sexual Assault Victims Fund.... \$ _____

7 **SECTION 55a.** There is allocated to the Oregon Health Authority for the period beginning
8 January 1, 2012, and ending June 30, 2013, from the Public Safety Subaccount of the Criminal
9 Fine Account \$_____ for the Emergency Medical Services and Trauma Systems Program
10 created under ORS 431.623.

11 **SECTION 56.** There are allocated to the Department of Justice for the period beginning
12 January 1, 2012, and ending June 30, 2013, from the Public Safety Subaccount of the Criminal
13 Fine Account the following amounts for the following purposes:

- 14 (1) Criminal Injuries Compensation
- 15 Account..... \$ _____
- 16 (2) Services to children eligible for
- 17 compensation under ORS 147.390
- 18 and costs to administer provision
- 19 of these services, which costs
- 20 may not exceed five percent.... \$ _____
- 21 (3) Child Abuse Multidisciplinary
- 22 Intervention Account..... \$ _____
- 23 (4) Creation and operation of a
- 24 statewide system of regional
- 25 assessment centers as provided
- 26 under ORS 418.746 to 418.796 \$ _____

27 **SECTION 57.** (1) There is allocated \$_____ from the Miscellaneous Distributions Sub-
28 account of the Criminal Fine Account to the Law Enforcement Medical Liability Account
29 established under ORS 414.815, for the period beginning January 1, 2012, and ending June 30,
30 2013.

31 (2) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
32 Criminal Fine Account to the State Court Facilities Security Account established under ORS
33 1.178, for the period beginning January 1, 2012, and ending June 30, 2013.

34 (3) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
35 Criminal Fine Account to the State Court Administrator for the period beginning January
36 1, 2012, and ending June 30, 2013, for the purpose of distributions under the Court Security
37 Program established under section 59 of this 2011 Act.

38 (4) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
39 Criminal Fine Account to the Department of Corrections for the period beginning January
40 1, 2012, and ending June 30, 2013, for the purpose of community corrections grants under
41 ORS 423.520.

42 (5) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
43 Criminal Fine Account to the Oregon Health Authority for the period beginning January 1,
44 2012, and ending June 30, 2013, for the purpose of grants under ORS 430.345 for the estab-
45 lishment, operation and maintenance of alcohol and drug abuse prevention, early inter-

1 vention and treatment services provided through a county.

2 (6) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
3 Criminal Fine Account to the Oregon State Police for the period beginning January 1, 2012,
4 and ending June 30, 2013, for the purpose of the enforcement of the laws relating to driving
5 under the influence of intoxicants.

6 (7) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
7 Criminal Fine Account to the Arrest and Return Account established under ORS 133.865 for
8 the period beginning January 1, 2012, and ending June 30, 2013.

9 (8) There is allocated \$_____ from the Miscellaneous Distributions Subaccount of the
10 Criminal Fine Account to the Intoxicated Driver Program Fund created under ORS 813.270
11 for the period beginning January 1, 2012, and ending June 30, 2013.

12 **SECTION 58.** After distributing the amounts specified in sections 54 to 57 of this 2011
13 Act, the Department of Revenue shall distribute funds remaining in the Criminal Fine Ac-
14 count to the General Fund.

15
16 **AMOUNTS FORMERLY COLLECTED**
17 **AS COUNTY ASSESSMENT**

18
19 **(Court Facilities Security Accounts)**

20
21 **SECTION 59.** The State Court Administrator shall establish a Court Security Program
22 for the purpose of distributing moneys to counties to be used for the purposes specified in
23 ORS 1.182 (1). All distributions made by the State Court Administrator to a county under
24 the program shall be deposited in the court facilities security account established by the
25 county under ORS 1.182.

26 **SECTION 60.** ORS 1.182 is amended to read:

27 1.182. (1) The county treasurer shall deposit moneys received [*under ORS 137.308 (2)*] **from a**
28 **distribution under section 59 of this 2011 Act** into a court facilities security account maintained
29 by the county treasurer. The following apply to the account:

30 (a) The moneys in the account and interest upon the account are reserved for the purpose of
31 providing security in buildings that contain state court or justice court facilities other than the
32 Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator lo-
33 cated within the county.

34 (b) Expenditures by the county governing body from the court facilities security account shall
35 be made only for developing or implementing a plan for court security improvement, emergency
36 preparedness and business continuity under ORS 1.180.

37 (c) Moneys deposited in the account [*under ORS 137.308 (2)*] **from a distribution under section**
38 **59 of this 2011 Act** and expended under the provisions of this section shall be in addition to any
39 other moneys expended by the county on court facilities security programs and personnel. A county
40 shall not reduce other expenditures on court facilities security programs and personnel by reason
41 of the additional moneys provided [*under ORS 137.308 (2)*] **from distributions under section 59**
42 **of this 2011 Act.**

43 (d) The county treasurer may charge against the court facilities security account an adminis-
44 trative fee for the actual costs associated with maintaining the account. The total administrative
45 fees charged each year may not exceed five percent of the moneys [*received under ORS 137.308 (2)*]

1 **from distributions under section 59 of this 2011 Act** for that year.

2 (e) The county treasurer shall provide to the county governing body, the Advisory Committee
3 on Court Security and Emergency Preparedness and the presiding judge of the judicial district at
4 least quarterly a financial report showing all revenues, deposits and expenditures from the court
5 facilities security account maintained by the county treasurer. The county treasurer may charge
6 against the court facilities security account the actual costs associated with providing financial re-
7 ports under this paragraph.

8 (f) The presiding judge of the judicial district shall provide to the Chief Justice of the Supreme
9 Court a financial report showing all revenues, deposits and expenditures from the court facilities
10 security account for each fiscal year. The report shall be submitted to the Chief Justice not later
11 than August 30 of each year.

12 (2) Except as otherwise provided in subsection (3) of this section, a county may not reduce its
13 actual operating expenditures on court facilities security programs and personnel, including funds
14 from all local sources, exclusive of state and federal funds and other short term special funding,
15 below the level of such expenditures in the preceding fiscal year beginning with the 1992-1993 fiscal
16 year.

17 (3) A county may reduce the operating expenditures described in subsection (2) of this section
18 if the reduction is in an amount no greater than the average reduction in general fund commitment
19 to all county agencies during the fiscal period.

20 **SECTION 61.** ORS 1.178 is amended to read:

21 1.178. (1) The State Court Facilities Security Account is established separate and distinct from
22 the General Fund. The account consists of moneys [*deposited to the credit of the account under ORS*
23 *137.309 (7)*] **allocated to the account from the Criminal Fine Account.** Interest earned by the
24 State Court Facilities Security Account shall be credited to the account. Moneys in the account are
25 continuously appropriated to the State Court Administrator for the purpose of providing security in
26 buildings that contain or are utilized by the Supreme Court, Court of Appeals, Oregon Tax Court
27 or office of the State Court Administrator as described under ORS 1.177.

28 (2) Expenditures by the State Court Administrator from the State Court Facilities Security Ac-
29 count shall be made only for:

30 (a) Developing or implementing a plan for state court security improvement, emergency
31 preparedness and business continuity under ORS 1.177; and

32 (b) Statewide training on state court security.

33 (3) The State Court Administrator shall provide to the Chief Justice of the Supreme Court at
34 least quarterly a financial report showing all revenues, deposits and expenditures from the State
35 Court Facilities Security Account maintained by the State Court Administrator.

36 (4) It is the intent of the Legislative Assembly that any amounts in the State Court Facilities
37 Security Account that are not needed for the purposes specified in subsection (2) of this section be
38 used to fund plans for security improvement, emergency preparedness and business continuity in
39 circuit courts, justice courts and municipal courts.

40
41 **(Law Enforcement Medical Liability Account)**

42
43 **SECTION 62.** ORS 414.815 is amended to read:

44 414.815. (1) The Law Enforcement Medical Liability Account is established separate and distinct
45 from the General Fund. Interest earned, if any, shall inure to the benefit of the account. The moneys

1 in the Law Enforcement Medical Liability Account are appropriated continuously to the Oregon
2 Health Authority to pay expenses in administering the account and paying claims out of the account
3 as provided in ORS 414.807.

4 (2) The liability of the Law Enforcement Medical Liability Account is limited to funds
5 [accrued] **allocated** to the account from [assessments collected under ORS 137.309 (6), (8) or (9)] **the**
6 **Criminal Fine Account**, or collected from individuals under ORS 414.805.

7 (3) The authority may contract with persons experienced in medical claims processing to provide
8 claims processing for the account.

9 (4) The authority shall adopt rules to implement administration of the Law Enforcement Medical
10 Liability Account including, but not limited to, rules that establish reasonable deadlines for sub-
11 mission of claims.

12 (5) Each biennium, the Oregon Health Authority shall submit a report to the Legislative As-
13 sembly regarding the status of the Law Enforcement Medical Liability Account. Within 30 days of
14 the convening of each regular legislative session, the authority shall submit the report to the chair
15 of the Senate Judiciary Committee and the chair of the House Judiciary Committee. The report shall
16 include, but is not limited to, the number of claims submitted and paid during the biennium and the
17 amount of money in the fund at the time of the report.

18 WILDLIFE LAWS

19
20
21 **SECTION 63.** ORS 496.992 is amended to read:

22 496.992. [(1) Except as otherwise provided by ORS 153.022 and other law, violation of any pro-
23 vision of the wildlife laws, or any rule promulgated pursuant thereto, is a Class A misdemeanor when
24 the offense is committed with a culpable mental state as defined in ORS 161.085. If the defendant is
25 sentenced to pay a fine, failure to pay the fine, or any portion thereof, shall be treated as provided in
26 ORS 161.685.]

27 [(2)] (1) Except as otherwise provided by **this section**, ORS 153.022 [and] **or** other law, violation
28 of any provision of the wildlife laws or any rule promulgated pursuant [thereto] **to the wildlife laws**
29 is [punishable as] a Class [A] **D** violation [in the manner prescribed in ORS chapter 153 when the
30 offense is committed with no culpable mental state as defined in ORS 161.085].

31 (2) **Except for violations of provisions described in subsection (3) of this section, a vio-**
32 **lation of a provision of the wildlife laws that involves the taking of wildlife, including size or**
33 **quantity limits for salmon, steelhead trout and sturgeon, is a Class A violation if the offense**
34 **is committed with no culpable mental state as defined in ORS 161.085. If the offense is com-**
35 **mitted with a culpable mental state as defined in ORS 161.085, a violation of a provision of**
36 **the wildlife laws that involves the taking of wildlife, including size or quantity limits for**
37 **salmon, steelhead trout and sturgeon, is a Class A misdemeanor.**

38 (3) **A violation of a provision of the wildlife laws that involves the taking of nongame**
39 **mammals or game birds, and size or quantity limits for fish and shellfish other than salmon,**
40 **steelhead trout and sturgeon, is a Class C violation.**

41 (4) **A violation of the nonresident licensing provisions of ORS 497.102 and 497.121 is a**
42 **Class A violation.**

43 [(3)] (5) The second and each subsequent conviction within a 10-year period for the taking of a
44 raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope, black
45 bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of the wildlife laws,

1 or any rule promulgated pursuant thereto which occurs more than one hour prior to or more than
2 one hour subsequent to a season established for the lawful taking of such game mammals or game
3 fish, is a Class C felony when the offense is committed with a culpable mental state as defined in
4 ORS 161.085.

5 **SECTION 64.** ORS 497.415, as amended by section 1, chapter 58, Oregon Laws 2010, is amended
6 to read:

7 497.415. (1) When any person is convicted of a violation of law or any rule adopted pursuant
8 thereto or otherwise fails to comply with the requirements of a citation in connection with such
9 violation as provided in subsection (2) of this section, the court may order the State Fish and
10 Wildlife Commission to revoke all licenses, tags and permits issued to that person pursuant to the
11 wildlife laws. Revocation of licenses, tags and permits is in addition to and not in lieu of other
12 penalties provided by law.

13 (2) The license, tag and permit revocation provisions of subsection (1) of this section apply to
14 the following persons:

15 (a) Any person who is convicted of a violation of the wildlife laws, or any rule adopted pursuant
16 thereto, or who otherwise fails to comply with the requirements of a citation in connection with any
17 such offense [*when the base fine amount for the offense is \$50 or more*].

18 (b) Any person who is convicted of a violation of ORS 164.245, 164.255, 164.265, 164.345, 164.354
19 or 164.365 committed while the person was angling, taking shellfish, hunting or trapping or who
20 otherwise fails to comply with the requirements of a citation in connection with any such offense
21 [*when the base fine amount for the offense is \$50 or more*].

22 (c) Any person who is convicted of a violation of ORS 166.630 or 166.638 committed while
23 hunting or who otherwise fails to comply with the requirements of a citation in connection with any
24 such offense [*when the base fine amount for the offense is \$50 or more*].

25 (3) When a court orders the revocation of a license, tag or permit pursuant to this section, the
26 court shall take up any such licenses, tags and permits and forward them, together with a copy of
27 the revocation order, to the commission. Upon receipt thereof, the commission shall cause revoca-
28 tion of the appropriate licenses, tags and permits in accordance with the court order.

29 (4) For purposes of the Wildlife Violator Compact:

30 (a) The commission shall suspend a violator's license as defined in ORS 496.750 for failure to
31 comply with the terms of a citation from a party state. A copy of a report of failure to comply from
32 the licensing authority of the issuing state shall be conclusive evidence. Suspension under this par-
33 agraph commences on the date the commission issues a final order pursuant to the provisions of
34 ORS chapter 183 to suspend the license in this state. The period of suspension under this paragraph
35 is the period provided by Oregon law or such longer period as provided by commission rule based
36 on the period of suspension imposed by the party state.

37 (b) The commission shall revoke a violator's license as defined in ORS 496.750 for a conviction
38 in a party state. A report of conviction from the licensing authority of the issuing state shall be
39 conclusive evidence. Revocation under this paragraph commences on the date the commission issues
40 a final order pursuant to the provisions of ORS chapter 183 to revoke the license in this state. The
41 period of revocation under this paragraph is the period provided by Oregon law or such longer pe-
42 riod as provided by commission rule based on the period of revocation imposed by the party state.

43 (5)(a) No person who has had a license, tag or permit revoked pursuant to this section for the
44 first time shall apply for or obtain another such license, tag or permit for the period of 36 months
45 from the date the court or commission ordered the revocation.

1 (b) Upon having a license, tag or permit revoked for a second time pursuant to this section, no
2 person shall apply for or obtain another such license, tag or permit for the period of five years.

3 (c) Upon having a license, tag or permit revoked for a third or subsequent time pursuant to this
4 section, a person is prohibited from applying for or obtaining another such license, tag or permit.

5 (6)(a) If a person convicted of conduct described in subsection (2) of this section does not possess
6 at the time of conviction those licenses, tags and permits issued pursuant to the wildlife laws that
7 the court would have revoked pursuant to this section, the court shall specify by order those li-
8 censes, tags and permits that would have been revoked and shall forward a copy of the order to the
9 commission. No person who is the subject of such a court order shall apply for, possess or obtain
10 another such license, tag or permit for the period of 36 months from the date of the order.

11 (b) Upon being the subject of a court order under this subsection for a second time, no person
12 shall apply for or obtain another such license, tag or permit for the period of five years.

13 (c) Upon being the subject of a court order under this subsection for a third time, a person is
14 prohibited from applying for or obtaining another such license, tag or permit.

15 **SECTION 65.** ORS 498.153 is amended to read:

16 498.153. [(1)] A person who operates or parks a motor-propelled vehicle in violation of re-
17 strictions established and posted under ORS 498.152, **and any owner of the vehicle who author-**
18 **izes the operation or parking of the vehicle,** commits [*an offense punishable as provided in ORS*
19 *496.992*] **a Class A violation.**

20 [(2) *Except as otherwise provided in subsection (1) of this section, a person who is the owner of*
21 *an unattended motor-propelled vehicle parked in violation of restrictions established and posted under*
22 *ORS 498.152 is guilty of a Class A violation without regard to culpable mental state.*]

23 [(3) *It is an affirmative defense to a prosecution under subsection (2) of this section that the use*
24 *of the vehicle was not authorized by the owner, either expressly or by implication.*]

25 **SECTION 65a.** ORS 498.154 is amended to read:

26 498.154. (1) In all prosecutions **against the owner of a motor-propelled vehicle** under ORS
27 498.153 [(2)], it shall be sufficient for a police officer to charge the defendant by an unsworn written
28 notice if the notice clearly states:

29 (a) The date, place and nature of the charge.

30 (b) The time and place for defendant's appearance in court.

31 (c) The name of the issuing officer.

32 (d) The license number of the vehicle.

33 (2) The notice provided for in subsection (1) of this section shall either be delivered to the de-
34 fendant or placed in a conspicuous place upon the vehicle involved in the violation. A duplicate
35 original of the notice shall serve as the complaint in the case when it is filed with the court. The
36 issuing officer need not have observed the act of parking, but need only have observed that the ve-
37 hicle appeared to be parked in violation of restrictions established and posted under ORS 498.152.

38 [(3) *A circuit court and a justice court have concurrent jurisdiction over the offenses described in*
39 *ORS 498.153 committed within the county.*]

40 **SECTION 65b.** ORS 498.155 is amended to read:

41 498.155. If a vehicle owner cited under ORS 498.154 to appear in a circuit [*or justice*] court upon
42 an alleged parking offense fails to appear on or before the date and time stated on the citation, the
43 court and the Department of Transportation may take such actions as are otherwise authorized by
44 law under the Oregon Vehicle Code in the case of a failure to appear, except that in no case may
45 a warrant of arrest be issued nor a criminal prosecution for failure to appear be commenced unless

1 the citing or prosecuting authority, more than 10 days prior thereto, has sent a letter to the regis-
2 tered owner at the address shown upon the vehicle registration records of the department advising
3 such owner of the charge pending and informing the owner that the owner may be subject to arrest
4 if the owner does not appear in the court within 10 days to answer the charge. The letter must be
5 sent by certified mail, restricted delivery, return receipt requested. A warrant of arrest may not be
6 issued, nor a criminal prosecution for failure to appear be commenced if such a letter has not been
7 sent or if the owner appears in court to answer the charge within 10 days after receiving the letter.

8 **SECTION 66.** ORS 498.222 is amended to read:

9 498.222. (1) No person shall:

10 (a) Transport any live fish unless the person has first obtained a permit therefor from the State
11 Fish and Wildlife Commission.

12 (b) Release or attempt to release into any body of water any live fish that was not taken from
13 that body of water, unless the person has first obtained a permit therefor from the commission.

14 (2) The commission may refuse to issue the permit referred to in subsection (1)(b) of this section
15 if the commission finds that release of the fish into a body of water would adversely affect existing
16 fish populations.

17 (3) Subsection (1)(a) of this section does not apply to live fish that are for aquaria use.

18 (4) [Notwithstanding ORS 496.992,] Violation of subsection (1)(b) of this section is:

19 (a) A Class C felony if the violation is committed intentionally or knowingly.

20 (b) A Class A misdemeanor if the violation is committed recklessly or with criminal negligence.

21 (5)(a) Notwithstanding ORS 497.415 (1), (2), (3) and (5), when a person is convicted of violating
22 subsection (1)(b) of this section, the court in which the conviction occurs shall notify the commis-
23 sion, which shall revoke all angling licenses and tags issued to that person pursuant to the wildlife
24 laws. Revocation of licenses and tags is in addition to and not in lieu of other penalties provided
25 by law.

26 (b) No person who has been convicted of violating subsection (1)(b) of this section shall apply
27 for, obtain or possess any angling license or tag issued pursuant to the wildlife laws within five
28 years after the conviction.

29 (6)(a) The commission may institute suit for the recovery of damages for the control or
30 eradication of live fish released into a body of water in violation of subsection (1)(b) of this section.
31 The damages awarded under this subsection shall be the amount necessary to return the body of
32 water to its condition prior to the violation.

33 (b) In any action under this subsection, the court shall award to the prevailing party, in addition
34 to costs and disbursements, reasonable attorney fees.

35 (c) Damages awarded under this subsection shall be in addition to other penalties prescribed by
36 the wildlife laws for releasing or attempting to release live fish without a permit.

37 (d) Any circuit or justice court has jurisdiction to try any case for the recovery of damages as
38 provided by this subsection.

39 **SECTION 67.** ORS 496.715 and 496.951 are repealed.

40 **SECTION 68.** The amendments to ORS 496.992, 497.415, 498.153, 498.154, 498.155 and 498.222
41 by sections 63 to 66 of this 2011 Act and the repeal of ORS 496.715 and 496.951 by section 67
42 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense
43 committed before January 1, 2012, shall continue to be governed by ORS 496.715, 496.951,
44 496.992, 497.415, 498.153, 498.154, 498.155 and 498.222 as in effect immediately before January
45 1, 2012.

**HOUSE BILL 2287 (2009) FEES
(CHAPTER 659, OREGON LAWS 2009)**

(Security Release Amounts)

SECTION 68a. Section 10, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 10. (1) The amendments to ORS 135.265 by section 9, **chapter 659, Oregon Laws 2009**, [of this 2009 Act] apply only to security deposits made on or after October 1, 2009, and before [July 1, 2011] **January 1, 2012**.

(2) All amounts retained in a circuit court under ORS 135.265 as security deposit costs from security deposits made on or after October 1, 2009, and before [July 1, 2011] **January 1, 2012**, that are in excess of \$200 shall be deposited in the [Judicial System Surcharge] **Criminal Fine and Assessment** Account. All amounts retained in a justice court under ORS 135.265 as security deposit costs from security deposits made on or after October 1, 2009, and before [July 1, 2011] **January 1, 2012**, that are in excess of \$200 shall be paid to the county treasurer. All amounts retained in a municipal court under ORS 135.265 as security deposit costs from security deposits made on or after October 1, 2009, and before [July 1, 2011] **January 1, 2012**, that are in excess of \$200 shall be paid to the city treasurer.

(3) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from amounts retained as security deposit costs that are in excess of \$200 pursuant to the amendments to ORS 135.265 by section 9, **chapter 659, Oregon Laws 2009** [of this 2009 Act].

SECTION 68b. Section 12, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 12. (1) The amendments to ORS 135.265 by section 11, **chapter 659, Oregon Laws 2009**, [of this 2009 Act] become operative [July 1, 2011] **January 1, 2012**.

(2) The amendments to ORS 135.265 by section 11, **chapter 659, Oregon Laws 2009**, [of this 2009 Act] do not affect the amount of security release costs that may be deducted from security amounts deposited on or after October 1, 2009, and before [July 1, 2011] **January 1, 2012**.

SECTION 69. ORS 135.265, as amended by section 11, chapter 659, Oregon Laws 2009, is amended to read:

135.265. (1) If the defendant is not released on personal recognizance under ORS 135.255, or granted conditional release under ORS 135.260, or fails to agree to the provisions of the conditional release, the magistrate shall set a security amount that will reasonably assure the defendant's appearance. The defendant shall execute the security release in the amount set by the magistrate.

(2) The defendant shall execute a release agreement and deposit with the clerk of the court before which the proceeding is pending a sum of money equal to 10 percent of the security amount, but in no event shall such deposit be less than \$25. The clerk shall issue a receipt for the sum deposited. Upon depositing this sum the defendant shall be released from custody subject to the condition that the defendant appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court. Once security has been given and a charge is pending or is thereafter filed in or transferred to a court of competent jurisdiction the latter court shall continue the original security in that court subject to ORS 135.280 and 135.285. When conditions of the release agreement have been performed and the defendant has been discharged from all obligations in the cause, the clerk of the court shall return to the person shown by the receipt to have made the deposit, unless the court orders otherwise, 85

1 percent of the sum which has been deposited and shall retain as security release costs 15 percent,
 2 but not less than \$5 nor more than [\$200] **\$750**, of the amount deposited. The interest that has ac-
 3 crued on the full amount deposited shall also be retained by the clerk. The amount retained by the
 4 clerk of a circuit court shall be paid over as directed by the State Court Administrator for deposit
 5 in the Criminal Fine *[and Assessment]* Account *[created under ORS 137.300]*. The amount retained
 6 by a justice of the peace shall be deposited in the county treasury. The amount retained by the clerk
 7 of a municipal court shall be deposited in the municipal corporation treasury. At the request of the
 8 defendant the court may order whatever amount is repayable to defendant from such security
 9 amount to be paid to defendant's attorney of record.

10 (3) Instead of the security deposit provided for in subsection (2) of this section the defendant
 11 may deposit with the clerk of the court an amount equal to the security amount in cash, stocks,
 12 bonds, or real or personal property situated in this state with equity not exempt owned by the de-
 13 fendant or sureties worth double the amount of security set by the magistrate. The stocks, bonds,
 14 real or personal property shall in all cases be justified by affidavit. The magistrate may further ex-
 15 amine the sufficiency of the security as the magistrate considers necessary.

16 **SECTION 70. The amendments to ORS 135.265 by section 69 of this 2011 Act apply only**
 17 **to security deposits returned on or after January 1, 2012.**

18
 19 **(Bench Probation Fees and Probation Violation Assessments)**

20
 21 **SECTION 70a.** Section 22, chapter 659, Oregon Laws 2009, is amended to read:

22 **Sec. 22.** (1) The amendments to ORS 137.540 by section 21, **chapter 659, Oregon Laws 2009,**
 23 *[of this 2009 Act]* apply only to orders of probation and probation violation determinations made on
 24 or after October 1, 2009, and before *[July 1, 2011]* **January 1, 2012.**

25 (2) The collections and revenue management program established under ORS 1.204 may not be
 26 reimbursed under ORS 1.204 from assessments imposed by a court under the amendments to ORS
 27 137.540 by section 21, **chapter 659, Oregon Laws 2009** *[of this 2009 Act]*.

28 **SECTION 70b.** Section 24, chapter 659, Oregon Laws 2009, is amended to read:

29 **Sec. 24.** (1) The amendments to ORS 137.540 by section 23, **chapter 659, Oregon Laws 2009,**
 30 *[of this 2009 Act]* become operative *[July 1, 2011]* **January 1, 2012.**

31 (2) The amendments to ORS 137.540 by section 23, **chapter 659, Oregon Laws 2009,** *[of this 2009*
 32 *Act]* do not affect any fee or assessment that was added to a judgment under ORS 137.540 before
 33 *[July 1, 2011]* **January 1, 2012.**

34 **SECTION 70c.** ORS 137.540 is amended to read:

35 137.540. (1) The court may sentence the defendant to probation subject to the following general
 36 conditions unless specifically deleted by the court. The probationer shall:

37 (a) Pay supervision fees, fines, restitution or other fees ordered by the court.

38 (b) Not use or possess controlled substances except pursuant to a medical prescription.

39 (c) Submit to testing for controlled substance or alcohol use if the probationer has a history of
 40 substance abuse or if there is a reasonable suspicion that the probationer has illegally used con-
 41 trolled substances.

42 (d) Participate in a substance abuse evaluation as directed by the supervising officer and follow
 43 the recommendations of the evaluator if there are reasonable grounds to believe there is a history
 44 of substance abuse.

45 (e) Remain in the State of Oregon until written permission to leave is granted by the Depart-

1 ment of Corrections or a county community corrections agency.

2 (f) If physically able, find and maintain gainful full-time employment, approved schooling, or a
3 full-time combination of both. Any waiver of this requirement must be based on a finding by the
4 court stating the reasons for the waiver.

5 (g) Change neither employment nor residence without prior permission from the Department of
6 Corrections or a county community corrections agency.

7 (h) Permit the parole and probation officer to visit the probationer or the probationer's work
8 site or residence and to conduct a walk-through of the common areas and of the rooms in the resi-
9 dence occupied by or under the control of the probationer.

10 (i) Consent to the search of person, vehicle or premises upon the request of a representative of
11 the supervising officer if the supervising officer has reasonable grounds to believe that evidence of
12 a violation will be found, and submit to fingerprinting or photographing, or both, when requested
13 by the Department of Corrections or a county community corrections agency for supervision pur-
14 poses.

15 (j) Obey all laws, municipal, county, state and federal.

16 (k) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections
17 or a county community corrections agency.

18 (L) Not possess weapons, firearms or dangerous animals.

19 (m) If recommended by the supervising officer, successfully complete a sex offender treatment
20 program approved by the supervising officer and submit to polygraph examinations at the direction
21 of the supervising officer if the probationer:

22 (A) Is under supervision for a sex offense under ORS 163.305 to 163.467;

23 (B) Was previously convicted of a sex offense under ORS 163.305 to 163.467; or

24 (C) Was previously convicted in another jurisdiction of an offense that would constitute a sex
25 offense under ORS 163.305 to 163.467 if committed in this state.

26 (n) Participate in a mental health evaluation as directed by the supervising officer and follow
27 the recommendation of the evaluator.

28 (o) Report as required and abide by the direction of the supervising officer.

29 (p) If required to report as a sex offender under ORS 181.596, report with the Department of
30 State Police, a city police department, a county sheriff's office or the supervising agency:

31 (A) When supervision begins;

32 (B) Within 10 days of a change in residence;

33 (C) Once each year within 10 days of the probationer's date of birth;

34 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an
35 institution of higher education; and

36 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher
37 education.

38 (2) In addition to the general conditions, the court may impose any special conditions of pro-
39 bation that are reasonably related to the crime of conviction or the needs of the probationer for the
40 protection of the public or reformation of the probationer, or both, including, but not limited to, that
41 the probationer shall:

42 (a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after
43 November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence
44 or to the premises thereof, or be subject to any combination of such confinement and restriction,
45 such confinement or restriction or combination thereof to be for a period not to exceed one year

1 or one-half of the maximum period of confinement that could be imposed for the offense for which
2 the defendant is convicted, whichever is the lesser.

3 (b) For felonies committed on or after November 1, 1989, be confined in the county jail, or be
4 subject to other custodial sanctions under community supervision, or both, as provided by rules of
5 the Oregon Criminal Justice Commission.

6 (c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as
7 specifically ordered by the court in order to pay restitution.

8 (3) When a person who is a sex offender is released on probation, the court shall impose as a
9 special condition of probation that the person not reside in any dwelling in which another sex
10 offender who is on probation, parole or post-prison supervision resides, without the approval of the
11 person's supervising parole and probation officer, or in which more than one other sex offender who
12 is on probation, parole or post-prison supervision resides, without the approval of the director of the
13 probation agency that is supervising the person or of the county manager of the Department of
14 Corrections, or a designee of the director or manager. As soon as practicable, the supervising parole
15 and probation officer of a person subject to the requirements of this subsection shall review the
16 person's living arrangement with the person's sex offender treatment provider to ensure that the
17 arrangement supports the goals of offender rehabilitation and community safety. As used in this
18 subsection:

19 (a) "Dwelling" has the meaning given that term in ORS 469.160.

20 (b) "Dwelling" does not include a residential treatment facility or a halfway house.

21 (c) "Halfway house" means a publicly or privately operated profit or nonprofit residential facil-
22 ity that provides rehabilitative care and treatment for sex offenders.

23 (d) "Sex offender" has the meaning given that term in ORS 181.594.

24 (4)(a) If the person is released on probation following conviction of a sex crime, as defined in
25 ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years
26 of age, the court, if requested by the victim, shall include as a special condition of the person's
27 probation that the person not reside within three miles of the victim unless:

28 (A) The victim resides in a county having a population of less than 130,000 and the person is
29 required to reside in that county;

30 (B) The person demonstrates to the court by a preponderance of the evidence that no mental
31 intimidation or pressure was brought to bear during the commission of the crime;

32 (C) The person demonstrates to the court by a preponderance of the evidence that imposition
33 of the condition will deprive the person of a residence that would be materially significant in aiding
34 in the rehabilitation of the person or in the success of the probation; or

35 (D) The person resides in a halfway house. As used in this subparagraph, "halfway house" means
36 a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative
37 care and treatment for sex offenders.

38 (b) A victim may request imposition of the special condition of probation described in this sub-
39 section at the time of sentencing in person or through the prosecuting attorney.

40 (c) If the court imposes the special condition of probation described in this subsection and if at
41 any time during the period of probation the victim moves to within three miles of the probationer's
42 residence, the court may not require the probationer to change the probationer's residence in order
43 to comply with the special condition of probation.

44 (5) When a person who is a sex offender, as defined in ORS 181.594, is released on probation,
45 the Department of Corrections or the county community corrections agency, whichever is appropri-

1 ate, shall notify the city police department, if the person is going to reside within a city, and the
 2 county sheriff's office of the county in which the person is going to reside of the person's release
 3 and the conditions of the person's release.

4 (6) Failure to abide by all general and special conditions imposed by the court and supervised
 5 by the Department of Corrections or a county community corrections agency may result in arrest,
 6 modification of conditions, revocation of probation or imposition of structured, intermediate sanc-
 7 tions in accordance with rules adopted under ORS 137.595.

8 (7) The court may order that probation be supervised by the court. If the court orders that
 9 probation be supervised by the court, the defendant shall pay a fee of \$100 to the court. Fees im-
 10 posed under this subsection in the circuit court shall be deposited by the clerk of the court in the
 11 [*Judicial System Surcharge*] **Criminal Fine and Assessment** Account. Fees imposed in a justice
 12 court under this subsection shall be paid to the county treasurer. Fees imposed in a municipal court
 13 under this subsection shall be paid to the city treasurer.

14 (8) The court may at any time modify the conditions of probation.

15 (9) A court may not order revocation of probation as a result of the probationer's failure to pay
 16 restitution unless the court determines from the totality of the circumstances that the purposes of
 17 the probation are not being served.

18 (10) It is not a cause for revocation of probation that the probationer failed to apply for or ac-
 19 cept employment at any workplace where there is a labor dispute in progress. As used in this sub-
 20 section, "labor dispute" has the meaning for that term provided in ORS 662.010.

21 (11) If the court determines that a defendant has violated the terms of probation, the court shall
 22 impose a \$25 assessment against the defendant. The assessment becomes part of the judgment and
 23 may be collected in the same manner as a fine. Assessments imposed under this subsection in the
 24 circuit court shall be deposited by the clerk of the court in the [*Judicial System Surcharge*] **Crimi-
 25 nal Fine and Assessment** Account. Assessments imposed in a justice court under this subsection
 26 shall be paid to the county treasurer. Assessments imposed in a municipal court under this sub-
 27 section shall be paid to the city treasurer.

28 (12) As used in this section, "attends," "institution of higher education," "works" and "carries
 29 on a vocation" have the meanings given those terms in ORS 181.594.

30 **SECTION 71.** ORS 137.540, as amended by section 23, chapter 659, Oregon Laws 2009, is
 31 amended to read:

32 137.540. (1) The court may sentence the defendant to probation subject to the following general
 33 conditions unless specifically deleted by the court. The probationer shall:

34 (a) Pay supervision fees, fines, restitution or other fees ordered by the court.

35 (b) Not use or possess controlled substances except pursuant to a medical prescription.

36 (c) Submit to testing for controlled substance or alcohol use if the probationer has a history of
 37 substance abuse or if there is a reasonable suspicion that the probationer has illegally used con-
 38 trolled substances.

39 (d) Participate in a substance abuse evaluation as directed by the supervising officer and follow
 40 the recommendations of the evaluator if there are reasonable grounds to believe there is a history
 41 of substance abuse.

42 (e) Remain in the State of Oregon until written permission to leave is granted by the Depart-
 43 ment of Corrections or a county community corrections agency.

44 (f) If physically able, find and maintain gainful full-time employment, approved schooling, or a
 45 full-time combination of both. Any waiver of this requirement must be based on a finding by the

1 court stating the reasons for the waiver.

2 (g) Change neither employment nor residence without prior permission from the Department of
3 Corrections or a county community corrections agency.

4 (h) Permit the parole and probation officer to visit the probationer or the probationer's work
5 site or residence and to conduct a walk-through of the common areas and of the rooms in the resi-
6 dence occupied by or under the control of the probationer.

7 (i) Consent to the search of person, vehicle or premises upon the request of a representative of
8 the supervising officer if the supervising officer has reasonable grounds to believe that evidence of
9 a violation will be found, and submit to fingerprinting or photographing, or both, when requested
10 by the Department of Corrections or a county community corrections agency for supervision pur-
11 poses.

12 (j) Obey all laws, municipal, county, state and federal.

13 (k) Promptly and truthfully answer all reasonable inquiries by the Department of Corrections
14 or a county community corrections agency.

15 (L) Not possess weapons, firearms or dangerous animals.

16 (m) If recommended by the supervising officer, successfully complete a sex offender treatment
17 program approved by the supervising officer and submit to polygraph examinations at the direction
18 of the supervising officer if the probationer:

19 (A) Is under supervision for a sex offense under ORS 163.305 to 163.467;

20 (B) Was previously convicted of a sex offense under ORS 163.305 to 163.467; or

21 (C) Was previously convicted in another jurisdiction of an offense that would constitute a sex
22 offense under ORS 163.305 to 163.467 if committed in this state.

23 (n) Participate in a mental health evaluation as directed by the supervising officer and follow
24 the recommendation of the evaluator.

25 (o) Report as required and abide by the direction of the supervising officer.

26 (p) If required to report as a sex offender under ORS 181.596, report with the Department of
27 State Police, a city police department, a county sheriff's office or the supervising agency:

28 (A) When supervision begins;

29 (B) Within 10 days of a change in residence;

30 (C) Once each year within 10 days of the probationer's date of birth;

31 (D) Within 10 days of the first day the person works at, carries on a vocation at or attends an
32 institution of higher education; and

33 (E) Within 10 days of a change in work, vocation or attendance status at an institution of higher
34 education.

35 (2) In addition to the general conditions, the court may impose any special conditions of pro-
36 bation that are reasonably related to the crime of conviction or the needs of the probationer for the
37 protection of the public or reformation of the probationer, or both, including, but not limited to, that
38 the probationer shall:

39 (a) For crimes committed prior to November 1, 1989, and misdemeanors committed on or after
40 November 1, 1989, be confined to the county jail or be restricted to the probationer's own residence
41 or to the premises thereof, or be subject to any combination of such confinement and restriction,
42 such confinement or restriction or combination thereof to be for a period not to exceed one year
43 or one-half of the maximum period of confinement that could be imposed for the offense for which
44 the defendant is convicted, whichever is the lesser.

45 (b) For felonies committed on or after November 1, 1989, be confined in the county jail, or be

1 subject to other custodial sanctions under community supervision, or both, as provided by rules of
2 the Oregon Criminal Justice Commission.

3 (c) For crimes committed on or after December 5, 1996, sell any assets of the probationer as
4 specifically ordered by the court in order to pay restitution.

5 (3) When a person who is a sex offender is released on probation, the court shall impose as a
6 special condition of probation that the person not reside in any dwelling in which another sex
7 offender who is on probation, parole or post-prison supervision resides, without the approval of the
8 person's supervising parole and probation officer, or in which more than one other sex offender who
9 is on probation, parole or post-prison supervision resides, without the approval of the director of the
10 probation agency that is supervising the person or of the county manager of the Department of
11 Corrections, or a designee of the director or manager. As soon as practicable, the supervising parole
12 and probation officer of a person subject to the requirements of this subsection shall review the
13 person's living arrangement with the person's sex offender treatment provider to ensure that the
14 arrangement supports the goals of offender rehabilitation and community safety. As used in this
15 subsection:

16 (a) "Dwelling" has the meaning given that term in ORS 469.160.

17 (b) "Dwelling" does not include a residential treatment facility or a halfway house.

18 (c) "Halfway house" means a publicly or privately operated profit or nonprofit residential facil-
19 ity that provides rehabilitative care and treatment for sex offenders.

20 (d) "Sex offender" has the meaning given that term in ORS 181.594.

21 (4)(a) If the person is released on probation following conviction of a sex crime, as defined in
22 ORS 181.594, or an assault, as defined in ORS 163.175 or 163.185, and the victim was under 18 years
23 of age, the court, if requested by the victim, shall include as a special condition of the person's
24 probation that the person not reside within three miles of the victim unless:

25 (A) The victim resides in a county having a population of less than 130,000 and the person is
26 required to reside in that county;

27 (B) The person demonstrates to the court by a preponderance of the evidence that no mental
28 intimidation or pressure was brought to bear during the commission of the crime;

29 (C) The person demonstrates to the court by a preponderance of the evidence that imposition
30 of the condition will deprive the person of a residence that would be materially significant in aiding
31 in the rehabilitation of the person or in the success of the probation; or

32 (D) The person resides in a halfway house. As used in this subparagraph, "halfway house" means
33 a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative
34 care and treatment for sex offenders.

35 (b) A victim may request imposition of the special condition of probation described in this sub-
36 section at the time of sentencing in person or through the prosecuting attorney.

37 (c) If the court imposes the special condition of probation described in this subsection and if at
38 any time during the period of probation the victim moves to within three miles of the probationer's
39 residence, the court may not require the probationer to change the probationer's residence in order
40 to comply with the special condition of probation.

41 (5) When a person who is a sex offender, as defined in ORS 181.594, is released on probation,
42 the Department of Corrections or the county community corrections agency, whichever is appropri-
43 ate, shall notify the city police department, if the person is going to reside within a city, and the
44 county sheriff's office of the county in which the person is going to reside of the person's release
45 and the conditions of the person's release.

1 (6) Failure to abide by all general and special conditions imposed by the court and supervised
2 by the Department of Corrections or a county community corrections agency may result in arrest,
3 modification of conditions, revocation of probation or imposition of structured, intermediate sanc-
4 tions in accordance with rules adopted under ORS 137.595.

5 (7) **The court may order that probation be supervised by the court. If the court orders**
6 **that probation be supervised by the court, the defendant shall pay a fee of \$100 to the court.**
7 **Fees imposed under this subsection in the circuit court shall be deposited by the clerk of the**
8 **court in the Criminal Fine Account. Fees imposed in a justice court under this subsection**
9 **shall be paid to the county treasurer. Fees imposed in a municipal court under this sub-**
10 **section shall be paid to the city treasurer.**

11 [(7)] (8) The court may at any time modify the conditions of probation.

12 [(8)] (9) A court may not order revocation of probation as a result of the probationer's failure
13 to pay restitution unless the court determines from the totality of the circumstances that the pur-
14 poses of the probation are not being served.

15 [(9)] (10) It is not a cause for revocation of probation that the probationer failed to apply for
16 or accept employment at any workplace where there is a labor dispute in progress. As used in this
17 subsection, "labor dispute" has the meaning for that term provided in ORS 662.010.

18 (11) **If the court determines that a defendant has violated the terms of probation, the**
19 **court shall impose a \$25 assessment against the defendant. The assessment becomes part of**
20 **the judgment and may be collected in the same manner as a fine. Assessments imposed un-**
21 **der this subsection in the circuit court shall be deposited by the clerk of the court in the**
22 **Criminal Fine Account. Assessments imposed in a justice court under this subsection shall**
23 **be paid to the county treasurer. Assessments imposed in a municipal court under this sub-**
24 **section shall be paid to the city treasurer.**

25 [(10)] (12) As used in this section, "attends," "institution of higher education," "works" and
26 "carries on a vocation" have the meanings given those terms in ORS 181.594.

27 **SECTION 72. The amendments to ORS 137.540 by section 71 of this 2011 Act apply only**
28 **to orders of probation and probation violation determinations made on or after January 1,**
29 **2012.**

30
31 **(Diversion Program Administration Fee)**

32
33 **SECTION 72a.** Section 26, chapter 659, Oregon Laws 2009, is amended to read:

34 **Sec. 26.** (1) In addition to the fees provided in ORS 135.921 and 813.240, upon the filing of a
35 petition for diversion under ORS 135.909 or 813.210, the court shall order the defendant to pay \$100
36 to the court as a program administration fee.

37 (2) This section applies only to petitions for diversion filed on or after October 1, 2009, and be-
38 fore [July 1, 2011] **January 1, 2012.**

39 (3) Fees imposed under this section in the circuit court shall be deposited by the clerk of the
40 court in the [Judicial System Surcharge] **Criminal Fine and Assessment** Account. Fees imposed in
41 a justice court under this section shall be paid to the county treasurer. Fees imposed in a municipal
42 court under this section shall be paid to the city treasurer.

43 (4) The collections and revenue management program established under ORS 1.204 may not be
44 reimbursed under ORS 1.204 from fees imposed under this section.

45 **SECTION 73.** ORS 135.905 is amended to read:

1 135.905. (1) Whenever a defendant accused of committing a crime participates in a diversion
 2 agreement under ORS 135.881 to 135.901 or under ORS 813.210, 813.215, 813.220 and 813.230, the
 3 defendant, as a condition of the diversion, shall pay *[the unitary assessment for which the defendant*
 4 *would have been liable under ORS 137.290 if the defendant had been convicted]* **\$70 to the court.**
 5 The district attorney, or the city attorney if the case is prosecuted by the city attorney, shall in-
 6 clude in the diversion agreement a provision setting forth the defendant's obligation. If the diversion
 7 is terminated and criminal proceedings are resumed against defendant, any payment made by the
 8 defendant under this subsection shall be refunded upon subsequent acquittal of the defendant or
 9 dismissal of the case.

10 (2) *[Assessments under this section shall be paid within 90 days of imposition, unless the court*
 11 *allows payment at a later time. The assessments shall be paid to the clerk of]* The court~~], who]~~ shall
 12 account for and distribute *[the moneys]* **amounts collected under this section** as provided for fines
 13 in *[ORS 137.293 and 137.295]* **sections 47 to 50 of this 2011 Act.**

14 **SECTION 74. The amendments to ORS 135.905 by section 73 of this 2011 Act apply only**
 15 **to diversion agreements entered into on or after January 1, 2012.**

16 **SECTION 75.** ORS 135.921 is amended to read:

17 135.921. (1) The filing fee paid by a defendant at the time of filing a petition for a possession
 18 of marijuana diversion agreement as provided in ORS 135.909 shall be ~~[\$233]~~ **\$333** and shall be or-
 19 dered paid as follows if the petition is allowed:

20 (a) \$123 to the Department of Revenue for deposit in the Criminal Fine ~~[and Assessment]~~ Ac-
 21 count; and

22 (b) ~~[\$110]~~ **\$210** to be distributed as provided for the disposition of ~~[costs under ORS 153.630]~~
 23 **fines under sections 47 to 50 of this 2011 Act, except that the payments provided for in**
 24 **sections 47 (2)(a), 48 (1)(a), (2)(a) and (3)(a) and 49 (1)(a), (2)(a) and (3)(a) shall not be made.**

25 (2) If less than the ~~[\$233]~~ full filing fee is paid to the court by the defendant under subsection
 26 (1) of this section, the money ~~[actually]~~ received shall be allocated ~~[in the amounts provided]~~ first to
 27 the ~~[State Treasurer and the remainder as provided for the disposition of costs under ORS 153.630]~~
 28 **Department of Revenue for deposit in the Criminal Fine Account.**

29 (3) In addition to the filing fee under subsection (1) of this section, the court shall order the
 30 defendant to pay \$90 directly to the agency or organization providing the diagnostic assessment.

31 (4) The Chief Justice of the Supreme Court may require that any or all fees distributed by cir-
 32 cuit courts under this section be distributed through the offices of the State Court Administrator.

33 **SECTION 76. The amendments to ORS 135.921 by section 75 of this 2011 Act apply only**
 34 **to petitions for diversion filed on or after January 1, 2012.**

35 **SECTION 77.** ORS 813.240 is amended to read:

36 813.240. (1) The filing fee paid by a defendant at the time of filing a petition for a driving while
 37 under the influence of intoxicants diversion agreement as provided in ORS 813.210 shall be ~~[\$261]~~
 38 **\$361** and shall be ordered paid as follows if the petition is allowed:

39 (a) ~~[\$136]~~ **\$161** to be ~~[credited and distributed under ORS 137.295 as an obligation payable to the~~
 40 ~~state]~~ **paid to the Criminal Fine Account; and**

41 (b) ~~[\$100]~~ **\$200** to be treated as provided for disposition of fines ~~[and costs under ORS 153.630;~~
 42 ~~and]~~ **under sections 47 to 50 of this 2011 Act, except that the payments provided for in**
 43 **sections 47 (2)(a), 48 (1)(a), (2)(a) and (3)(a) and 49 (1)(a), 2)(a) and (3)(a) shall not be made.**

44 ~~[(c) \$25 to be paid to the Director of the Oregon Health Authority for deposit in the Intoxicated~~
 45 ~~Driver Program Fund created under ORS 813.270, to be used for purposes of the fund.]~~

1 (2) In addition to the filing fee under subsection (1) of this section, the court shall order the
2 defendant to pay \$150 directly to the agency or organization providing the diagnostic assessment.

3 **SECTION 78. The amendments to ORS 813.240 by section 77 of this 2011 Act apply only**
4 **to petitions for diversion filed on or after January 1, 2012.**

5 **SECTION 78a.** ORS 813.270 is amended to read:

6 813.270. The Intoxicated Driver Program Fund is created to consist of moneys [*placed in*] **allo-**
7 **cated to** the fund under ORS [*813.030 and 813.240*] **137.300** or as otherwise provided by law and of
8 gifts and grants made to the fund for carrying out the purposes of the fund. The moneys in the fund
9 may be used only for the following purposes:

10 (1) To pay for providing treatment for individuals who enter diversion agreements under ORS
11 813.200 and who are found to be indigent. Payment for treatment under this subsection may include
12 treatment for problem drinking, alcoholism or drug dependency. Payment shall be made as provided
13 by the Director of the Oregon Health Authority by rule to agencies or organizations providing
14 treatment.

15 (2) To pay for evaluation as provided by law of programs used for diversion agreements.

16 (3) To pay the cost of administration of the fund by the Oregon Health Authority.

17 (4) To pay for materials, resources and training supplied by the authority to those persons, or-
18 ganizations or agencies performing the diagnostic assessments or providing education or treatment
19 to persons under diversion agreements.

20 (5) To pay for providing treatment programs required under ORS 813.020 and treatment or in-
21 formation programs required under ORS 471.432 for individuals who are found to be indigent.

22 (6) To pay for special services required to enable a person with a disability, or a person whose
23 proficiency in the use of English is limited because of the person's national origin, to participate in
24 treatment programs that are used for diversion agreements under ORS 813.200 or are required under
25 ORS 813.020. This subsection applies:

26 (a) Whether or not the person is indigent; and

27 (b) Only to special services required solely because of the person's disability or limited profi-
28 ciency in the use of English.

29
30 **SPECIFIC FINE VIOLATIONS**

31
32 **SECTION 79.** ORS 163.575 is amended to read:

33 163.575. (1) A person commits the crime of endangering the welfare of a minor if the person
34 knowingly:

35 (a) Induces, causes or permits an unmarried person under 18 years of age to witness an act of
36 sexual conduct or sadomasochistic abuse as defined by ORS 167.060; or

37 (b) Permits a person under 18 years of age to enter or remain in a place where unlawful activity
38 involving controlled substances is maintained or conducted; or

39 (c) Induces, causes or permits a person under 18 years of age to participate in gambling as de-
40 fined by ORS 167.117; or

41 (d) Distributes, sells, or causes to be sold, tobacco in any form to a person under 18 years of
42 age; or

43 (e) Sells to a person under 18 years of age any device in which tobacco, marijuana, cocaine or
44 any controlled substance, as defined in ORS 475.005, is burned and the principal design and use of
45 which is directly or indirectly to deliver tobacco smoke, marijuana smoke, cocaine smoke or smoke

1 from any controlled substance into the human body including but not limited to:

2 (A) Pipes, water pipes, hookahs, wooden pipes, carburetor pipes, electric pipes, air driven pipes,
3 corncob pipes, meerschaum pipes and ceramic pipes, with or without screens, permanent screens,
4 hashish heads or punctured metal bowls;

5 (B) Carburetion tubes and devices, including carburetion masks;

6 (C) Bongs;

7 (D) Chillums;

8 (E) Ice pipes or chillers;

9 (F) Cigarette rolling papers and rolling machines; and

10 (G) Cocaine free basing kits.

11 (2) Endangering the welfare of a minor by violation of subsection (1)(a), (b), (c) or (e) of this
12 section, involving other than a device for smoking tobacco, is a Class A misdemeanor.

13 (3) Endangering the welfare of a minor by violation of subsection (1)(d) of this section or by vi-
14 olation of subsection (1)(e) of this section, involving a device for smoking tobacco, is a Class A vi-
15 olation [*and the court shall impose a fine of not less than \$100*].

16 **SECTION 80.** ORS 165.107, as amended by section 5, chapter 56, Oregon Laws 2010, is amended
17 to read:

18 165.107. (1) Before completing a transaction, a scrap metal business engaged in business in this
19 state shall:

20 (a) Create a metal property record for the transaction at the time and in the location where the
21 transaction occurs. The record must:

22 (A) Be accurate and written clearly and legibly in English;

23 (B) Be entered onto a standardized printed form or an electronic form that is securely stored
24 and is capable of ready retrieval and printing; and

25 (C) Contain all of the following information:

26 (i) The signature of the individual with whom the scrap metal business conducts the transaction.

27 (ii) The time, date, location and monetary amount or other value of the transaction.

28 (iii) The name of the employee who conducts the transaction on behalf of the scrap metal busi-
29 ness.

30 (iv) The name, street address and telephone number of the individual with whom the scrap metal
31 business conducts the transaction. The metal property record may contain an address other than a
32 street address if the address is listed on the government-issued photo identification described in
33 sub-subparagraph (vi) of this subparagraph.

34 (v) A description of, and the license number and issuing state shown on the license plate affixed
35 to, the motor vehicle, if any, used to transport the individual who conducts, or the nonferrous metal
36 property or private metal property that is the subject of, the transaction.

37 (vi) A photocopy of a current, valid driver license or other government-issued photo identifica-
38 tion belonging to the individual with whom the scrap metal business conducts the transaction.

39 (vii) A photograph of, or video surveillance recording depicting, a recognizable facial image of
40 the individual with whom the scrap metal business conducts the transaction.

41 (viii) A general description of the nonferrous metal property or private metal property that
42 constitutes the predominant part of the transaction. The description must include any identifiable
43 marks on the property, if readily discernible, and must specify the weight, quantity or volume of the
44 nonferrous metal property or private metal property.

45 (b) Require the individual with whom the scrap metal business conducts a transaction to sign

1 and date a declaration printed in conspicuous type, either on the record described in this subsection
2 or on a receipt issued to the individual with whom the scrap metal business conducts the trans-
3 action, that states:

4 _____
5
6 I, _____, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY I AM
7 SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE, STOLEN
8 PROPERTY.
9 _____

10
11 (c) Require the employee of the scrap metal business who conducts the transaction on behalf
12 of the scrap metal business to witness the individual sign the declaration, and also to sign and date
13 the declaration in a space provided for that purpose.

14 (d) For one year following the date of the transaction, keep a copy of the record and the signed
15 and dated declaration described in this subsection. If the scrap metal business uses a video surveil-
16 lance recording as part of the record kept in accordance with this subsection, the scrap metal
17 business need not keep the video surveillance recording for one year, but shall retain the video
18 surveillance recording for a minimum of 30 days following the date of the transaction. The scrap
19 metal business shall at all times keep the copies at the current place of business for the scrap metal
20 business.

21 (2) A scrap metal business engaged in business in this state may not do any of the following:

22 (a) Purchase or receive kegs or similar metallic containers used to store or dispense alcoholic
23 beverages, except from a person that manufactures the kegs or containers or from a person licensed
24 by the Oregon Liquor Control Commission under ORS 471.155.

25 (b) Conduct a transaction with an individual if the individual does not at the time of the trans-
26 action consent to the creation of the record described in subsection (1) of this section and produce
27 for inspection a valid driver license or other government-issued photo identification that belongs to
28 the individual.

29 (c) Conduct a transaction with an individual in which the scrap metal business pays the indi-
30 vidual other than by mailing a nontransferable check for the amount of the transaction to the ad-
31 dress the individual provided under subsection (1)(a)(C)(iv) of this section not earlier than three
32 business days after the date of the transaction. The check must be drawn on an account that the
33 scrap metal business maintains with a financial institution, as defined in ORS 706.008.

34 (d) Cash a check issued in payment for a transaction or release a check issued in payment for
35 a transaction other than as provided in paragraph (c) of this subsection. If a check is returned as
36 undelivered or undeliverable, the scrap metal business shall retain the check until the individual
37 with whom the scrap metal business conducted the transaction provides a valid address in accord-
38 ance with subsection (1)(a)(C)(iv) of this section. If after 30 days following the date of the transaction
39 the individual fails to provide a valid address, the scrap metal business may cancel the check and
40 the individual shall forfeit to the scrap metal business the amount due as payment.

41 (3) Before purchasing or receiving metal property from a commercial seller, a scrap metal busi-
42 ness shall:

43 (a) Create and maintain a commercial account with the commercial seller. As part of the com-
44 mercial account, the scrap metal business shall enter accurately, clearly and legibly in English onto
45 a standardized printed form, or an electronic form that is securely stored and is capable of ready

1 retrieval and printing, the following information:

2 (A) The full name of the commercial seller;

3 (B) The business address and telephone number of the commercial seller; and

4 (C) The full name of each employee, agent or other individual the commercial seller authorizes
5 to deliver metal property to the scrap metal business.

6 (b) Record as part of the commercial account at the time the scrap metal business purchases
7 or receives metal property from a commercial seller the following information:

8 (A) The time, date and location at which the commercial seller delivered the metal property for
9 purchase or receipt;

10 (B) The monetary amount or other value of the metal property;

11 (C) A description of the type of metal property that constitutes the predominant part of the
12 purchase or receipt; and

13 (D) The signature of the individual who delivered the metal property to the scrap metal busi-
14 ness.

15 (4) A scrap metal business may require an individual from whom the business obtains metal
16 property to provide the individual's thumbprint to the scrap metal business.

17 (5) A scrap metal business shall make all records and accounts required to be maintained under
18 this section available to any peace officer on demand.

19 (6)(a) [*A scrap metal business that violates a provision of subsections (1) to (3) of this section shall*
20 *pay a fine of \$1,000.*] **Violation of subsections (1) to (3) of this section is a specific fine vio-**
21 **lation, and the presumptive fine for the violation is \$1,000.**

22 (b) Notwithstanding paragraph (a) of this subsection, [*a scrap metal business that violates*] **the**
23 **presumptive fine for a violation of** a provision of subsections (1) to (3) of this section [*shall pay*
24 *a fine of*] **is** \$5,000 if the scrap metal business has at least three previous convictions for violations
25 of a provision of subsections (1) to (3) of this section.

26 (7) The definitions in ORS 165.116 apply to this section.

27 **SECTION 81.** ORS 167.808 is amended to read:

28 167.808. (1) For the purposes of this section:

29 (a) "Inhalant" means any glue, cement or other substance that is capable of causing intoxication
30 and that contains one or more of the following chemical compounds:

31 (A) Acetone;

32 (B) Amyl acetate;

33 (C) Benzol or benzene;

34 (D) Butane;

35 (E) Butyl acetate;

36 (F) Butyl alcohol;

37 (G) Carbon tetrachloride;

38 (H) Chloroform;

39 (I) Cyclohexanone;

40 (J) Difluoroethane;

41 (K) Ethanol or ethyl alcohol;

42 (L) Ethyl acetate;

43 (M) Hexane;

44 (N) Isopropanol or isopropyl alcohol;

45 (O) Isopropyl acetate;

- 1 (P) Methyl cellosolve acetate;
- 2 (Q) Methyl ethyl ketone;
- 3 (R) Methyl isobutyl ketone;
- 4 (S) Nitrous oxide;
- 5 (T) Toluol or toluene;
- 6 (U) Trichloroethylene;
- 7 (V) Tricresyl phosphate;
- 8 (W) Xylol or xylene; or
- 9 (X) Any other solvent, material, substance, chemical or combination thereof having the property
- 10 of releasing toxic vapors or fumes.

11 (b) "Intoxication" means any mental or physical impairment or incapacity.

12 (2) It is unlawful for a person to possess any inhalant if the person intends to use the inhalant

13 for the purpose of inducing intoxication in the person who possesses the inhalant or for the purpose

14 of inducing intoxication in any other person.

15 (3) A person may not use any inhalant for the purpose of inducing intoxication in the person

16 using the inhalant or for the purpose of inducing intoxication in any other person.

17 (4) The prohibitions of this section do not apply to any substance that:

18 (a) Has been prescribed by a health practitioner, as described in ORS 31.740, and that is used

19 in the manner prescribed by the health practitioner; or

20 (b) Is administered or used under the supervision of a health practitioner, as described in ORS

21 31.740.

22 (5)(a) Any person who violates this section commits a violation. Violation of this section is

23 *[punishable by a fine of not more than \$300]* **a Class C violation**. In addition to or in lieu of a fine,

24 a juvenile court may require that a minor who engages in conduct prohibited by this section be

25 provided with treatment and counseling.

26 (b) Notwithstanding paragraph (a) of this subsection, a second or subsequent violation of this

27 section by a person is a Class B misdemeanor. If a juvenile court finds that a minor has engaged in

28 conduct prohibited by this section on a second or subsequent occasion, the court shall require that

29 the minor receive treatment and counseling.

30 **SECTION 82.** ORS 208.990 is amended to read:

31 208.990. Any county treasurer failing to comply with ORS 208.020 for a period of 10 days com-

32 mits a Class A violation *[and the court shall impose a fine of not less than \$500]*.

33 **SECTION 83.** ORS 308.990 is amended to read:

34 308.990. (1) Violation of ORS 308.320 (3) or of ORS 308.330 is a **Class A** misdemeanor. The

35 judgment of conviction of any assessor for such a violation shall of itself work a forfeiture of the

36 office of the assessor.

37 (2) Any taxpayer or managing officer thereof who fails to furnish, after written demand so to

38 do by the assessor or the county board of property tax appeals having jurisdiction or the Depart-

39 ment of Revenue, any information or, upon like demand, fails to produce any books, records, papers

40 or documents required by ORS 308.285 or 308.335 to be furnished by the taxpayer or managing offi-

41 cer to the county assessor, the county board of property tax appeals or the Department of Revenue,

42 *[is guilty of a]* **commits a Class A** misdemeanor *[and, upon conviction, is punishable by a fine of not*

43 *less than \$25 nor more than \$1,000. Circuit courts shall have jurisdiction in the trial of such*

44 *offenses]*.

45 (3) Any person, firm, association or corporation, or agent or managing officer thereof, who pre-

1 sents or furnishes to the Director of the Department of Revenue any statement, required by ORS
2 308.335 or required by the director under the authority of ORS 308.335, that is willfully false or
3 fraudulent, commits a Class A violation [*and upon conviction the court shall impose a fine of not less*
4 *than \$100*].

5 (4) Any person who willfully presents or furnishes to the director any statement required by
6 ORS 308.505 to 308.665 that is false or fraudulent [*is guilty of*] **commits** perjury and, upon con-
7 viction, shall be punished as otherwise provided by law for such crime.

8 (5) Subject to ORS 153.022, any willful violation of ORS 308.413 or of any rules adopted under
9 ORS 308.413 is [*punishable, upon conviction, by a fine not exceeding \$10,000, or by imprisonment in*
10 *the county jail for not more than one year, or by both*] **a Class A misdemeanor**.

11 **SECTION 84.** ORS 311.990 is amended to read:

12 311.990. (1) Violation of ORS 311.270 is a Class B violation[, *and upon conviction, the court shall*
13 *impose a fine of not less than \$100*].

14 (2) Violation of ORS 311.350 is [*punishable, upon conviction, by a fine not exceeding \$500 or by*
15 *imprisonment in the county jail not exceeding six months*] **a Class B misdemeanor**.

16 (3) Violation of ORS 311.425 (1) is a Class A violation.

17 (4) If a tax collector fails to comply with any of the provisions of law relating to the receiving
18 and receipting of moneys and warrants collected by the tax collector for taxes, the tax collector
19 commits a Class A violation[, *and upon conviction thereof, the court shall impose a fine of not less*
20 *than \$100*]. The court before whom the tax collector is tried shall declare the office of the tax col-
21 lector vacant for the remainder of the term of the tax collector.

22 (5) If a tax collector willfully returns as unpaid any tax which has been paid to the tax collector,
23 the tax collector [*shall be deemed guilty of a misdemeanor and, upon conviction thereof, be punished*
24 *by a fine not exceeding \$500, or by imprisonment not exceeding six months, or both*] **commits a Class**
25 **B misdemeanor**.

26 (6) If a tax collector or sheriff neglects or refuses to pay over all moneys collected by the tax
27 collector or sheriff for taxes to the county treasurer, or neglects or refuses to make a return of
28 delinquent taxes of the county, or any other return or statement, as required by the laws relating
29 to the collection of property taxes, the tax collector or sheriff [*shall be liable to be indicted therefor*
30 *and, upon conviction, be punished by a fine of not less than \$100 nor more than \$1,000, or by*
31 *imprisonment not less than six months nor more than six years, or by both*] **commits a Class C**
32 **felony**.

33 (7) A person who knowingly makes a false oath under ORS 311.666 to 311.701 [*is guilty of*]
34 **commits** perjury and shall be punished as provided by ORS 162.085.

35 **SECTION 84a.** ORS 433.855 is amended to read:

36 433.855. (1) The Oregon Health Authority, in accordance with the provisions of ORS chapter 183:

37 (a) Shall adopt rules necessary to implement the provisions of ORS 433.835 to 433.875 and
38 433.990 (5);

39 (b) Shall be responsible for compliance with such rules; and

40 (c) May impose a civil penalty not to exceed [*the amount specified in ORS 433.990 (5)*] **\$500 per**
41 **day** for each violation of a rule of the authority applicable to ORS 433.845 or 433.850, to be collected
42 in the manner provided in ORS 441.705 to 441.745. All penalties recovered shall be paid into the
43 State Treasury and credited to the Tobacco Use Reduction Account established under ORS 431.832.

44 (2) In carrying out its duties under this section, the authority is not authorized to require any
45 changes in ventilation or barriers in any public place or place of employment. However, nothing in

1 this subsection is intended to limit the power of the authority to impose any requirements under any
2 other provision of law.

3 (3) In public places which the authority regularly inspects, the authority shall check for com-
4 pliance with the provisions of ORS 433.835 to 433.875 and 433.990 (5). In other public places and
5 places of employment, the authority shall respond in writing or orally by telephone to complaints,
6 notifying the proprietor or person in charge of responsibilities of the proprietor or person in charge
7 under ORS 433.835 to 433.875 and 433.990 (5). If repeated complaints are received, the authority may
8 take appropriate action to ensure compliance.

9 (4) When a county has received delegation of the duties and responsibilities under ORS 446.425
10 and 448.100, or contracted with the authority under ORS 190.110, the county shall be responsible for
11 enforcing the provisions of ORS 433.835 to 433.875 and 433.990 (5) and shall have the same enforce-
12 ment power as the authority.

13 **SECTION 85.** ORS 433.990 is amended to read:

14 433.990. (1) Violation of ORS 433.004 or 433.008, 433.255, 433.260 or 433.715 is a Class A
15 misdemeanor.

16 (2) Violation of ORS 433.010 is [*punishable, upon conviction, by imprisonment in the custody of the*
17 *Department of Corrections for not more than three years*] **a Class C felony.**

18 (3) Violation of ORS 433.035 is [*punishable upon conviction by a fine of not less than \$10 nor more*
19 *than \$100, or by imprisonment for not less than 10 days nor more than 30 days, or by both*] **a Class**
20 **C misdemeanor.**

21 (4) Violation of ORS 433.131 is a Class D violation [*punishable by fines totaling not more than*
22 *\$50 per day, not to exceed \$1,000 in any 30-day period*].

23 (5) Violation of ORS 433.850 is a Class A violation [*punishable by a fine of not more than \$500*
24 *per day*]. Fines imposed against a single employer under this subsection may not exceed \$2,000 in
25 any 30-day period.

26 (6) Violation of ORS 433.345 or 433.365 is a Class B violation. Failure to obey any lawful order
27 of the Director of the Oregon Health Authority issued under ORS 433.350 is a Class C misdemeanor.

28 (7) Any organizer, as defined in ORS 433.735, violating ORS 433.745 [*is*] **commits a specific fine**
29 **violation** punishable[, *upon conviction,*] by a fine of not more than \$10,000.

30 **SECTION 86.** ORS 468.936, as amended by section 14, chapter 267, Oregon Laws 2009, is
31 amended to read:

32 468.936. (1) A person commits the crime of unlawful air pollution in the second degree if the
33 person knowingly violates any applicable requirement of ORS chapter 468A or a permit, rule or or-
34 der adopted or issued under ORS chapter 468A.

35 (2) [*Notwithstanding ORS 161.515 and*] Subject to ORS 153.022, unlawful air pollution in the
36 second degree is a [*criminal offense*] **specific fine violation** punishable [*solely*] by a fine of [*up to*]
37 **not more than** \$25,000.

38 **SECTION 87.** ORS 471.410 is amended to read:

39 471.410. (1) A person may not sell, give or otherwise make available any alcoholic liquor to any
40 person who is visibly intoxicated.

41 (2) No one other than the person's parent or guardian may sell, give or otherwise make available
42 any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give or oth-
43 erwise make alcoholic liquor available to a person under the age of 21 years only if the person is
44 in a private residence and is accompanied by the parent or guardian. A person violates this sub-
45 section who sells, gives or otherwise makes available alcoholic liquor to a person with the knowl-

1 edge that the person to whom the liquor is made available will violate this subsection.

2 (3)(a) A person who exercises control over private real property may not knowingly allow any
3 other person under the age of 21 years who is not a child or minor ward of the person to consume
4 alcoholic liquor on the property, or allow any other person under the age of 21 years who is not a
5 child or minor ward of the person to remain on the property if the person under the age of 21 years
6 consumes alcoholic liquor on the property.

7 (b) This subsection:

8 (A) Applies only to a person who is present and in control of the location at the time the con-
9 sumption occurs;

10 (B) Does not apply to the owner of rental property, or the agent of an owner of rental property,
11 unless the consumption occurs in the individual unit in which the owner or agent resides; and

12 (C) Does not apply to a person who exercises control over a private residence if the liquor
13 consumed by the person under the age of 21 years is supplied only by an accompanying parent or
14 guardian.

15 (4) This section does not apply to sacramental wine given or provided as part of a religious rite
16 or service.

17 (5) Except as provided in subsection (6) of this section, a person who violates subsection (1) or
18 (2) of this section commits a Class A misdemeanor. Upon violation of subsection (2) of this section,
19 the court shall impose at least a mandatory minimum sentence as follows:

20 (a) Upon a first conviction, a fine of at least \$500.

21 (b) Upon a second conviction, a fine of at least \$1,000.

22 (c) Upon a third or subsequent conviction, a fine of at least \$1,500 and not less than 30 days
23 of imprisonment.

24 (6)(a) A person who violates subsection (2) of this section is subject to a mandatory minimum
25 penalty under this subsection if the person does not act knowingly or intentionally and:

26 (A) Is licensed or appointed under this chapter; or

27 (B) Is an employee of a person licensed or appointed under this chapter and holds a valid service
28 permit or has attended a program approved by the Oregon Liquor Control Commission that provides
29 training to avoid violations of this section.

30 (b) For a person described in paragraph (a) of this subsection:

31 (A) A first conviction is a Class A violation. [*The court shall impose a mandatory fine of not less*
32 *than \$350.*]

33 (B) A second conviction is a [*Class A*] **specific fine** violation, **and the presumptive fine for**
34 **the violation is \$720.** [*The court shall impose a mandatory fine of not less than \$720.*]

35 (C) A third conviction is a Class A misdemeanor. The court shall impose a mandatory fine of
36 not less than \$1,000.

37 (D) A fourth or subsequent conviction is a Class A misdemeanor. The court shall impose a
38 mandatory fine of not less than \$1,000 and a mandatory sentence of not less than 30 days of
39 imprisonment.

40 (7) The court may waive an amount that is at least \$200 but not more than one-third of the fine
41 imposed under subsection (5) of this section, if the violator performs at least 30 hours of community
42 service.

43 (8) Except as provided in subsection (7) of this section, the court may not waive or suspend
44 imposition or execution of the mandatory minimum sentence required by subsection (5) or (6) of this
45 section. In addition to the mandatory sentence, the court may require the violator to make

1 restitution for any damages to property where the alcoholic liquor was illegally consumed or may
2 require participation in volunteer service to a community service agency.

3 (9)(a) **Except as provided in paragraph (b) of this subsection**, a person who violates sub-
4 section (3) of this section commits a **Class A** violation. [*Upon violation of subsection (3) of this sec-*
5 *tion, the court shall impose at least a mandatory minimum fine as follows:*]

6 [(a) *Upon a first conviction, a fine of \$350.*]

7 [(b) *Upon a second or subsequent conviction, a fine of \$1,000.*]

8 **(b) A second or subsequent violation of subsection (3) of this section is a specific fine**
9 **violation, and the presumptive fine for the violation is \$1,000.**

10 (10) Nothing in this section prohibits any licensee under this chapter from allowing a person
11 who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold
12 or served any alcoholic liquor.

13 **SECTION 88.** ORS 475.860 is amended to read:

14 475.860. (1) It is unlawful for any person to deliver marijuana.

15 (2) Unlawful delivery of marijuana is a:

16 (a) Class B felony if the delivery is for consideration.

17 (b) Class C felony if the delivery is for no consideration.

18 (3) Notwithstanding subsection (2) of this section, unlawful delivery of marijuana is a:

19 (a) Class A misdemeanor, if the delivery is for no consideration and consists of less than one
20 avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae; or

21 (b) Violation, if the delivery is for no consideration and consists of less than five grams of the
22 dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this par-
23 agraph is [*punishable by a fine of not less than \$500 and not more than \$1,000*] **a specific fine vio-**
24 **lation.** [*Fines collected under this paragraph shall be forwarded to the Department of Revenue for*
25 *deposit in the Criminal Fine and Assessment Account established in ORS 137.300.*] **The presumptive**
26 **fine for a violation under this paragraph is \$650.**

27 (4) Notwithstanding subsections (2) and (3) of this section, unlawful delivery of marijuana is a:

28 (a) Class A felony, if the delivery is to a person under 18 years of age and the defendant is at
29 least 18 years of age and is at least three years older than the person to whom the marijuana is
30 delivered; or

31 (b) Class C misdemeanor, if the delivery:

32 (A) Is for no consideration;

33 (B) Consists of less than five grams of the dried leaves, stems and flowers of the plant Cannabis
34 family Moraceae;

35 (C) Takes place in a public place, as defined in ORS 161.015, that is within 1,000 feet of the real
36 property comprising a public or private elementary, secondary or career school attended primarily
37 by minors; and

38 (D) Is to a person who is 18 years of age or older.

39 **SECTION 89.** ORS 475.864 is amended to read:

40 475.864. (1) It is unlawful for any person knowingly or intentionally to possess marijuana.

41 (2) Unlawful possession of marijuana is a Class B felony.

42 (3) Notwithstanding subsection (2) of this section, unlawful possession of marijuana is a violation
43 if the amount possessed is less than one avoirdupois ounce of the dried leaves, stems and flowers
44 of the plant Cannabis family Moraceae. A violation under this subsection is [*punishable by a fine*
45 *of not less than \$500 and not more than \$1,000*] **a specific fine violation.** [*Fines collected under this*

1 subsection shall be forwarded to the Department of Revenue for deposit in the Criminal Fine and As-
2 sessment Account established under ORS 137.300.] **The presumptive fine for a violation under this**
3 **subsection is \$650.**

4 (4) Notwithstanding subsections (2) and (3) of this section, unlawful possession of marijuana is
5 a Class C misdemeanor if the amount possessed is less than one avoirdupois ounce of the dried
6 leaves, stems and flowers of the plant Cannabis family Moraceae and the possession takes place in
7 a public place, as defined in ORS 161.015, that is within 1,000 feet of the real property comprising
8 a public or private elementary, secondary or career school attended primarily by minors.

9 **SECTION 90.** ORS 498.993 is amended to read:

10 498.993. Violation of any provision of ORS 498.029 or 498.400 to 498.464 is a Class A violation,
11 if committed by an individual. If the violation is committed by any person other than an individual,
12 violation of any provision of ORS 498.029 or 498.400 to 498.464 is a **specific fine** violation punishable
13 by a fine not to exceed \$10,000.

14 **SECTION 90a.** ORS 565.630 is amended to read:

15 565.630. The State Parks and Recreation Director, any county fair board and every society
16 mentioned in ORS 565.610 may regulate its prices of admission, licenses and all matters pertaining
17 to the conduct of its annual fairs, exhibitions or other public events or meetings. The penalty for
18 violation of its rules and regulations is *[as provided by ORS 565.990 (2)]* **a Class D violation.**

19 **SECTION 91.** ORS 565.990 is amended to read:

20 565.990. *[(1)]* Violation of ORS 565.610 **or 565.620** is a Class D violation. *[Any person who, after*
21 *conviction and fine for a violation of ORS 565.610, repeats the offense shall, upon conviction, be fined*
22 *double the maximum amount imposed by this subsection for the first violation.]*

23 *[(2) Violation of ORS 565.620 is punishable, upon conviction, by a fine of \$5.]*

24 **SECTION 92.** ORS 686.990 is amended to read:

25 686.990. (1) Violation of ORS 686.020 (1)(a) is a Class A misdemeanor.

26 (2) In addition to any other sanction imposed by law, the Oregon State Veterinary Medical Ex-
27 amining Board may impose a civil penalty not to exceed \$5,000 for each violation of ORS 686.020 (1).

28 (3) Failure to file a report of suspected aggravated animal abuse as required by ORS 686.455 is
29 *[punishable by a fine of not more than \$1,000]* **a Class A violation.**

30 **SECTION 93.** ORS 757.990 is amended to read:

31 757.990. (1) Any person or municipality, or their agents, lessees, trustees or receivers, who omits,
32 fails or refuses to do any act required by ORS 757.035, or fails to comply with any orders, rules or
33 regulations of the Public Utility Commission made in pursuance of ORS 757.035, shall forfeit and pay
34 into the State Treasury a sum of not less than \$100, nor more than \$10,000 for each such offense.

35 (2) Any public utility, **or an officer or agent of a public utility**, violating ORS 757.310 commits
36 a Class A violation *[and upon conviction the court shall impose a fine of not less than \$100]. [Violation*
37 *of ORS 757.310 by an officer or agent of a public utility is punishable, upon conviction, by a fine of*
38 *not less than \$50 nor more than \$100 for each offense.]*

39 *[(3) Any person violating ORS 757.325 shall, upon conviction, forfeit and pay to the State Treas-*
40 *urer not less than \$100 and not more than \$10,000 for each offense. Violation of ORS 757.325 by any*
41 *agent or officer of any public utility or person is punishable, upon conviction, by a fine of not less than*
42 *\$100 and not more than \$1,000 for each offense.]*

43 **(3) Violation of ORS 757.325 is a Class A violation. Notwithstanding ORS 153.018, if a**
44 **person other than an individual commits the violation, the maximum fine for the violation**
45 **is \$10,000.**

1 (4) Violation of ORS 757.330 is a Class A violation.

2 (5) Violation of ORS 757.445 is [*punishable, upon conviction, by a fine of not less than \$500 nor*]
3 **a specific fine violation subject to a fine of not** more than \$20,000 for each offense.

4 (6) Violation of ORS 757.450 is a **Class C** felony [*and is punishable, upon conviction, by a fine*
5 *of not less than \$1,000 nor more than \$20,000, or by imprisonment in the custody of the Department*
6 *of Corrections for not less than one nor more than five years, or both*].

7 **SECTION 94.** ORS 759.990 is amended to read:

8 759.990. (1) Any telecommunications utility violating ORS 759.260 commits a Class A violation[,
9 *and upon conviction the court shall impose a fine of not less than \$100*]. Violation of ORS 759.260 by
10 an officer or agent of a telecommunications utility is a Class D violation.

11 (2) [*Any person violating ORS 759.275 shall, upon conviction, forfeit and pay to the State Treas-*
12 *urer not less than \$100 and not more than \$10,000 for each offense. Violation of ORS 759.275 by any*
13 *agent or officer of any telecommunications utility or person is punishable, upon conviction, by a fine*
14 *of not less than \$100 and not more than \$1,000 for each offense.*] **Violation of ORS 759.275 is a**
15 **specific fine violation punishable by a fine of not more than \$10,000.**

16 (3) Violation of ORS 759.280 is a Class A violation.

17 (4) Violation of ORS 759.355 is a **specific fine violation** punishable[, *upon conviction,*] by a fine
18 of not [*less than \$500 nor*] more than \$20,000 [*for each offense*].

19 (5) Violation of ORS 759.360 is a **Class C** felony [*and is punishable, upon conviction, by a fine*
20 *of not less than \$1,000 nor more than \$20,000, or by imprisonment in the penitentiary for not less than*
21 *one nor more than five years, or both*].

22 (6) A telecommunications carrier, as defined in ORS 759.400, shall forfeit a sum of not less than
23 \$100 nor more than \$50,000 for each time that the carrier:

24 (a) Violates any statute administered by the Public Utility Commission;

25 (b) Commits any prohibited act, or fails to perform any duty enjoined upon the carrier by the
26 commission;

27 (c) Fails to obey any lawful requirement or order made by the commission; or

28 (d) Fails to obey any judgment made by any court upon the application of the commission.

29 (7) In construing and enforcing subsection (6) of this section, the act, omission or failure of any
30 officer, agent or other person acting on behalf of or employed by a telecommunications carrier and
31 acting within the scope of the person's employment shall in every case be deemed to be the act,
32 omission or failure of such telecommunications carrier.

33 (8) Except when provided by law that a penalty, [*fine,*] forfeiture or other sum be paid to the
34 aggrieved party, all penalties, [*finer,*] forfeitures or other sums collected or paid under subsection
35 (6) of this section shall be paid into the General Fund and credited to the Public Utility Commission
36 Account.

37 **SECTION 95.** ORS 777.990 is amended to read:

38 777.990. (1) Failure by a port treasurer, or county treasurer charged with the duties provided
39 by ORS 777.515, to comply with the requirements of that section for a period of 10 days is a Class
40 A violation[, *and upon conviction the court shall impose a fine of not less than \$500*].

41 (2) Subject to ORS 153.022, any person violating a regulation adopted by a port board under ORS
42 777.120 or 777.190 [*shall be guilty of*] **commits** a **Class A** misdemeanor [*and upon conviction shall*
43 *be punished by a fine of not more than \$250*].

44 **SECTION 95a.** ORS 801.557 is amended to read:

45 801.557. "Traffic violation" means a traffic offense that is designated as a traffic violation in the

1 statute defining the offense, or any other offense defined in the Oregon Vehicle Code that is
2 punishable by a fine but that is not punishable by a term of imprisonment. Penalties for traffic vio-
3 lations are as provided for violations generally in ORS [153.018] **chapter 153.**

4 **SECTION 96.** ORS 811.109 is amended to read:

5 811.109. (1) Violation of a specific speed limit imposed under law or of a posted speed limit is
6 punishable as follows:

7 (a) One to 10 miles per hour in excess of the speed limit is a Class D traffic violation.

8 (b) 11 to 20 miles per hour in excess of the speed limit is a Class C traffic violation.

9 (c) 21 to 30 miles per hour in excess of the speed limit is a Class B traffic violation.

10 (d) Over 30 miles per hour in excess of the speed limit is a Class A traffic violation.

11 (2) Notwithstanding subsection (1) of this section, if the speed limit is 65 miles per hour or
12 greater and:

13 (a) The person is exceeding the speed limit by 10 miles per hour or less, the offense is a Class
14 C traffic violation.

15 (b) The person is exceeding the speed limit by more than 10 miles per hour but not more than
16 20 miles per hour, the offense is a Class B traffic violation.

17 (c) The person is exceeding the speed limit by more than 20 miles per hour, the offense is a
18 Class A traffic violation.

19 (3) Violation of the basic speed rule by exceeding a designated speed posted under ORS 810.180
20 is punishable as follows:

21 (a) One to 10 miles per hour in excess of the designated speed is a Class D traffic violation.

22 (b) 11 to 20 miles per hour in excess of the designated speed is a Class C traffic violation.

23 (c) 21 to 30 miles per hour in excess of the designated speed is a Class B traffic violation.

24 (d) Over 30 miles per hour in excess of the designated speed is a Class A traffic violation.

25 (4) In addition to a fine imposed under subsection (1), (2) or (3) of this section, a court may im-
26 pose a suspension of driving privileges for up to 30 days if a person exceeds a speed limit or desig-
27 nated speed by more than 30 miles per hour and the person has received at least one prior
28 conviction under ORS 811.100 or 811.111 within 12 months of the date of the current offense.

29 *[(5) If a person drives 100 miles per hour or greater when the person commits a violation described*
30 *in this section, a court shall impose the following in lieu of a punishment otherwise imposed under this*
31 *section:]*

32 *[(a) A fine of \$1,000; and]*

33 *[(b) A suspension of driving privileges for not less than 30 days nor more than 90 days.]*

34 **(5) If a person violates a specific speed limit imposed under law or a posted speed limit,**
35 **and the person is driving 100 miles per hour or greater when the violation occurs, the person**
36 **commits a specific fine traffic violation. The presumptive fine for a violation under this**
37 **subsection is \$1,150, and upon conviction the court shall order a suspension of driving privi-**
38 **leges for not less than 30 days nor more than 90 days.**

39 (6) When a court imposes a suspension under subsection (4) or (5) of this section, the court shall
40 prepare and send to the Department of Transportation an order of suspension of driving privileges
41 of the person. Upon receipt of an order under this subsection, the department shall take action as
42 directed under ORS 809.280.

43 **SECTION 97.** ORS 811.182 is amended to read:

44 811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the
45 person violates ORS 811.175 and the suspension or revocation is one described in this section, or if

1 the hardship or probationary permit violated is based upon a suspension or revocation described in
2 subsection (3) or (4) of this section.

3 (2) Affirmative defenses to the offense described in this section are established under ORS
4 811.180.

5 (3) The offense described in this section, criminal driving while suspended or revoked, is a Class
6 B felony if the suspension or revocation resulted from any degree of murder, manslaughter,
7 criminally negligent homicide or assault resulting from the operation of a motor vehicle, if the sus-
8 pension or revocation resulted from aggravated vehicular homicide or aggravated driving while
9 suspended or revoked or if the revocation resulted from a conviction for felony driving while under
10 the influence of intoxicants.

11 (4) The offense described in this section, criminal driving while suspended or revoked, is a Class
12 A misdemeanor if the suspension or revocation is any of the following:

13 (a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree
14 of recklessly endangering another person, menacing or criminal mischief, resulting from the opera-
15 tion of a motor vehicle.

16 (b) A revocation under ORS 809.409 (4) resulting from perjury or the making of a false affidavit
17 to the Department of Transportation.

18 (c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS
19 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content
20 of:

21 (A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

22 (B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

23 (C) Any amount if the person was under 21 years of age.

24 (d) A suspension of a commercial driver license under ORS 809.413 (1) resulting from failure to
25 perform the duties of a driver under ORS 811.700 while driving a commercial motor vehicle.

26 (e) A suspension of a commercial driver license under ORS 809.413 (12) where the person's
27 commercial driving privileges have been suspended or revoked by the other jurisdiction for failure
28 of or refusal to take a chemical test to determine the alcoholic content of the person's blood under
29 a statute that is substantially similar to ORS 813.100.

30 (f) A suspension of a commercial driver license under ORS 809.404.

31 (g) A revocation resulting from habitual offender status under ORS 809.640.

32 (h) A suspension resulting from any crime punishable as a felony with proof of a material ele-
33 ment involving the operation of a motor vehicle, other than a crime described in subsection (3) of
34 this section.

35 (i) A suspension for failure to perform the duties of a driver under ORS 811.705.

36 (j) A suspension for reckless driving under ORS 811.140.

37 (k) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

38 (L) A suspension or revocation resulting from misdemeanor driving while under the influence
39 of intoxicants under ORS 813.010.

40 (m) A suspension for use of a commercial motor vehicle in the commission of a crime punishable
41 as a felony.

42 (5) In addition to any other sentence that may be imposed, if a person is convicted of the offense
43 described in this section and the underlying suspension resulted from driving while under the influ-
44 ence of intoxicants, the court shall impose a **minimum** fine of at least \$1,000 if it is the person's
45 first conviction for criminal driving while suspended or revoked and a **minimum fine of** at least

1 \$2,000 if it is the person's second or subsequent conviction.

2 (6) The Oregon Criminal Justice Commission shall classify a violation of this section that is a
3 felony as crime category 6 of the rules of the Oregon Criminal Justice Commission.

4 **SECTION 98.** ORS 811.590 is amended to read:

5 811.590. (1) A person commits the offense of unlawful parking in a winter recreation parking
6 area if the person parks a vehicle in a location designated as a winter recreation parking area under
7 ORS 810.170 at any time from November 1 of any year to April 30 of the next year and the vehicle
8 is not displaying a winter recreation parking permit issued under ORS 811.595.

9 (2) Unless the police officer issuing the citation witnesses the parking of the vehicle, a
10 rebuttable presumption exists that a vehicle parked in violation of this section was parked by the
11 registered owner of the vehicle. If the parking of the vehicle is witnessed by the police officer, the
12 operator of the vehicle is in violation of this section.

13 (3) In addition to those vehicles displaying a winter recreation parking permit, the following
14 vehicles are not subject to the prohibition or penalty under this section:

15 (a) A vehicle owned and operated by the United States, another state or a political subdivision
16 thereof.

17 (b) A vehicle owned and operated by this state or by any city, district or political subdivision
18 thereof.

19 (c) A vehicle owned by a resident of another state if the vehicle displays a winter area parking
20 permit issued in accordance with the laws of the state in which the owner of the vehicle resides and
21 that is similar to the winter recreation parking permit issued under ORS 811.595. The exemption
22 under this paragraph is only granted to the extent that a similar exemption or privilege is granted
23 under the laws of the other state for vehicles displaying a winter recreation parking permit issued
24 under ORS 811.595.

25 (4) The offense described in this section, unlawful parking in a winter recreation parking area,
26 is *[punishable by a fine of \$30]* **a specific fine traffic violation. The presumptive fine for unlawful**
27 **parking in a winter recreation parking area is \$30.**

28 **SECTION 99.** ORS 811.615 is amended to read:

29 811.615. (1) A person commits the offense of unlawful parking in a space reserved for persons
30 with disabilities if:

31 (a) The person parks a vehicle in any parking space that is on private or public property and
32 that is marked or signed to provide parking for persons with disabilities and the vehicle does not
33 conspicuously display a disabled person parking permit described in ORS 811.602 or 811.606 or a
34 disabled parking permit issued by another jurisdiction;

35 (b) The person parks a vehicle in the aisle required by ORS 447.233 regardless of whether or
36 not the vehicle displays a disabled person parking permit; or

37 (c) The person parks a vehicle in a parking space that is on private or public property and that
38 is marked or signed "Wheelchair User Only" as described in ORS 447.233 and the vehicle does not
39 conspicuously display a "Wheelchair User" placard or decal issued under ORS 811.613.

40 (2) This section does not apply to any of the following:

41 (a) Momentarily parking a vehicle in a parking space marked or signed for persons with disa-
42 bilities for the purposes of allowing a person with a disability to enter or leave the vehicle.

43 (b) Any parking space that is marked or signed to provide parking for persons with disabilities
44 and that is subject to different provisions or requirements under city or county ordinance if the
45 different provisions or requirements are clearly posted.

1 (3) Unless the police officer or other authorized person issuing the citation witnesses the park-
2 ing of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section
3 was parked by the registered owner of the vehicle and the citation issued for the violation may be
4 placed upon the vehicle. If the parking of the vehicle is witnessed by the police officer or other
5 person authorized to issue a citation for the offense, the operator of the vehicle is in violation of
6 this section.

7 (4) The penalties provided by this section shall be imposed regardless of the text or symbol
8 displayed on the marking or sign reserving the space or aisle for persons with disabilities. The
9 penalties are in addition to the following:

10 (a) A vehicle parked on private property in violation of this section is subject to removal under
11 ORS 98.810 and to lien and sale under ORS 98.812.

12 (b) A vehicle parked in violation of this section may be removed and sold as provided under ORS
13 811.620.

14 *[(5) The offense described in this section, unlawful parking in a space reserved for persons with*
15 *disabilities, is a Class A traffic violation except that a person in violation of this section shall pay a*
16 *minimum fine of \$190 for the first offense and a minimum fine of \$450 for each subsequent offense.]*

17 **(5)(a) Except as provided in paragraph (b) of this subsection, unlawful parking in a space**
18 **reserved for persons with disabilities is a Class C traffic violation.**

19 **(b) A second or subsequent conviction for unlawful parking in a space reserved for per-**
20 **sons with disabilities is a Class A traffic violation.**

21 *[(6) Notwithstanding any other provision of law and except as otherwise provided in subsection (7)*
22 *of this section:]*

23 *[(a) A court may not suspend imposition or execution of a sentence to pay at least the minimum fine*
24 *required by this section for a person's first offense unless the court finds from clear and convincing*
25 *evidence that compelling circumstances require a suspension of a portion of the fine in the interests of*
26 *justice. In no event shall a court suspend under this paragraph more than \$140 of the minimum \$190*
27 *fine.]*

28 *[(b) A court may not suspend imposition or execution of a sentence to pay a fine for a second or*
29 *subsequent offense.]*

30 *[(7) If the court finds that the person who was issued a citation for the offense described in this*
31 *section lawfully held, but failed to properly display, a valid permit at the time of citation, then the court*
32 *may suspend all but \$20 of the fine.]*

33 **SECTION 99a.** ORS 811.617 is amended to read:

34 811.617. (1) A person commits the offense of blocking a parking space reserved for persons with
35 disabilities if the person:

36 (a) Stops or parks a vehicle in such a way as to block access to a parking space that is on
37 private or public property and that is marked or signed to provide parking for persons with disa-
38 bilities; or

39 (b) Places an object or allows an object to be placed in such a manner that it blocks access to
40 a parking space that is on private or public property and that is marked or signed to provide
41 parking for persons with disabilities.

42 (2)(a) Unless the police officer or other authorized person issuing the citation witnesses the
43 stopping or parking of a vehicle in violation of subsection (1)(a) of this section, there is a rebuttable
44 presumption that the vehicle was stopped or parked by the registered owner of the vehicle and a
45 citation issued for the violation may be placed upon the vehicle. If the stopping or parking of the

1 vehicle is witnessed by the police officer or other person authorized to issue a citation for the of-
2 fense, or if the operator is in the vehicle, the operator of the vehicle is in violation of this section.

3 (b) Unless the police officer or other authorized person issuing the citation witnesses the
4 blocking of a parking space in violation of subsection (1)(b) of this section, there is a rebuttable
5 presumption that the owner or manager of the parking lot placed or allowed placement of the object
6 blocking access to the parking space and a citation may be issued to the owner or manager of the
7 parking lot. If a police officer or other person issuing the citation sees a person placing an object
8 in violation of subsection (1)(b) of this section, the officer or other person may issue the citation to
9 the person seen.

10 (3) For purposes of this section, a parking space includes any adjacent access aisle as described
11 in ORS 447.233.

12 (4) The offense described in this section, blocking a parking space reserved for persons with
13 disabilities, is a Class D traffic violation *[except that a person in violation of this section shall pay a*
14 *minimum fine of \$50]. [Notwithstanding any other provision of law, a court may not suspend imposition*
15 *or execution of a sentence to pay at least the minimum fine required by this section unless the court*
16 *finds that the defendant is indigent.]*

17 **SECTION 100.** ORS 811.625 is amended to read:

18 811.625. (1) A person commits the offense of unlawful use of a disabled person parking permit
19 if the person:

20 (a) Is not a person with a disability and is not transporting the holder of a disabled person
21 parking permit to or from the parking location; and

22 (b) Uses a disabled person parking permit described under ORS 811.602 or 811.606 to exercise
23 any privileges granted under ORS 811.635.

24 *[(2) The offense described in this section, unlawful use of a disabled person parking permit, is a*
25 *Class A traffic violation except that a person in violation of this section shall pay a minimum fine of*
26 *\$450. Notwithstanding any other provision of law, a court may not suspend imposition or execution of*
27 *a sentence to pay at least the minimum fine required by this section.]*

28 **(2) Except as provided in subsection (3) of this section, unlawful use of a disabled person**
29 **parking permit is a Class C traffic violation.**

30 **(3) A second or subsequent conviction for unlawful use of a disabled person parking per-**
31 **mit is a Class A traffic violation.**

32 **SECTION 100a.** ORS 811.627 is amended to read:

33 811.627. (1) A person commits the offense of use of an invalid disabled person parking permit if
34 the person uses a permit that is not a valid permit from another jurisdiction, and that:

35 (a) Has been previously reported as lost or stolen;

36 (b) Has been altered;

37 (c) Was issued to a person who is deceased at the time of the citation;

38 (d) Has not been issued under ORS 811.602;

39 (e) Is a photocopy or other reproduction of a permit, regardless of the permit status; or

40 (f) Is mutilated or illegible.

41 (2) Unless the police officer or other authorized person issuing the citation witnesses the park-
42 ing of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section
43 was parked by the registered owner of the vehicle and the citation issued for the violation may be
44 placed upon the vehicle. If the parking of the vehicle is witnessed by the police officer or other
45 person authorized to issue a citation for the offense, the operator of the vehicle is in violation of

1 this section.

2 (3) The offense described in this section, use of an invalid disabled person parking permit, is a
3 Class A traffic violation *[except that a person in violation of this section shall pay a minimum fine*
4 *of \$450]. [Notwithstanding any other provision of law and except as provided in subsection (5) of this*
5 *section, a court may not suspend imposition or execution of a sentence to pay at least the minimum fine*
6 *required by this section.]*

7 (4) If the court finds that a person committed the offense described in this section, the court
8 shall collect the permit and return it to the Department of Transportation for destruction unless the
9 person claims the permit was lost or destroyed, or the police officer or other person authorized to
10 issue a citation for the offense collected the permit.

11 (5) If the court finds that a person committed the offense described in this section by using a
12 permit that was mutilated or illegible, the court may assess any fine it deems appropriate up to the
13 maximum amount allowable for the offense. If the mutilated or illegible permit has been replaced
14 by the department, the court may dismiss the citation.

15 **SECTION 101.** ORS 811.630 is amended to read:

16 811.630. (1) A person commits the offense of misuse of a program placard if the person:

17 (a) Is the driver of a vehicle that is being used as part of a program for the transportation of
18 persons with disabilities; and

19 (b) Uses a program placard described under ORS 811.607 for any purpose other than exercising
20 privileges granted under ORS 811.637.

21 *[(2) The offense described in this section, misuse of a program placard, is a Class A traffic vio-*
22 *lation except that a person in violation of this section shall pay a minimum fine of \$190 for a first of-*
23 *fense and a minimum fine of \$450 for each subsequent offense. Notwithstanding any other provision*
24 *of law, a court may not suspend imposition or execution of a sentence to pay at least the minimum fine*
25 *required by this section.]*

26 **(2) Except as provided in subsection (3) of this section, misuse of a program placard is**
27 **a Class C traffic violation.**

28 **(3) A second or subsequent conviction for misuse of a program placard is a Class A**
29 **traffic violation.**

30 **SECTION 102.** ORS 813.095 is amended to read:

31 813.095. (1) A person commits the offense of refusal to take a test for intoxicants if the person
32 refuses to:

33 (a) Take a breath test when requested to do so in accordance with the provisions of ORS
34 813.100; or

35 (b) Take a urine test when requested to do so in accordance with the provisions of ORS 813.131
36 and 813.132.

37 (2) The offense described in this section, refusal to take a test for intoxicants, is a **specific fine**
38 **traffic** *[offense punishable by a fine of at least \$500 and not more than \$1,000]* **violation. The**
39 **presumptive fine for refusal to take a test for intoxicants is \$650.** The fine described in this
40 section is in addition to any other consequence prescribed by law for refusal to take a test for
41 intoxicants.

42 **SECTION 103.** ORS 814.485 is amended to read:

43 814.485. (1) A person commits the offense of failure of a bicycle operator or rider to wear pro-
44 tective headgear if the person is under 16 years of age, operates or rides on a bicycle on a highway
45 or on premises open to the public and is not wearing protective headgear of a type approved under

1 ORS 815.052.

2 (2) Exemptions from this section are as provided in ORS 814.487.

3 (3) The offense described in this section, failure of a bicycle operator or rider to wear protective
4 headgear, is a **specific fine** traffic violation [*punishable by a maximum fine of \$25*]. **The**
5 **presumptive fine for failure of a bicycle operator or rider to wear protective headgear is \$25.**

6 **SECTION 104.** ORS 814.486 is amended to read:

7 814.486. (1) A person commits the offense of endangering a bicycle operator or passenger if:

8 (a) The person is operating a bicycle on a highway or on premises open to the public and the
9 person carries another person on the bicycle who is under 16 years of age and is not wearing pro-
10 tective headgear of a type approved under ORS 815.052; or

11 (b) The person is the parent, legal guardian or person with legal responsibility for the safety
12 and welfare of a child under 16 years of age and the child operates or rides on a bicycle on a
13 highway or on premises open to the public without wearing protective headgear of a type approved
14 under ORS 815.052.

15 (2) Exemptions from this section are as provided in ORS 814.487.

16 (3) The offense described in this section, endangering a bicycle operator or passenger, is a
17 **specific fine** traffic violation [*punishable by a maximum fine of \$25*]. **The presumptive fine for**
18 **endangering a bicycle operator or passenger is \$25.**

19 **SECTION 105.** ORS 814.534 is amended to read:

20 814.534. (1) A person commits the offense of failure of a motor assisted scooter operator to wear
21 protective headgear if the person operates a motor assisted scooter on a highway or on premises
22 open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

23 (2) A person is exempt from the protective headgear requirement of subsection (1) of this section
24 if wearing the headgear would violate a religious belief or practice of the person.

25 (3) The first time a person is convicted of an offense under this section, the person may not be
26 required to pay a fine if the person proves to the satisfaction of the court that the person has pro-
27 tective headgear of a type approved under ORS 815.052.

28 (4) The offense described in this section, failure of a motor assisted scooter operator to wear
29 protective headgear, is a **specific fine** traffic violation [*punishable by a maximum fine of \$25*]. **The**
30 **presumptive fine for failure of a motor assisted scooter operator to wear protective headgear**
31 **is \$25.**

32 **SECTION 106.** ORS 814.536 is amended to read:

33 814.536. (1) A person commits the offense of endangering a motor assisted scooter operator if the
34 person is the parent, legal guardian or person with legal responsibility for the safety and welfare
35 of a child under 16 years of age and authorizes or knowingly permits the child to operate a motor
36 assisted scooter in violation of ORS 814.512 (1)(a).

37 (2) The offense described in this section, endangering a motor assisted scooter operator, is a
38 **specific fine** traffic violation [*punishable by a maximum fine of \$25*]. **The presumptive fine for**
39 **endangering a motor assisted scooter operator is \$25.**

40 **SECTION 107.** ORS 814.600 is amended to read:

41 814.600. (1) A person commits the offense of failure of a skateboarder, scooter rider or in-line
42 skater to wear protective headgear if the person is under 16 years of age, rides on a skateboard or
43 scooter or uses in-line skates on a highway or on premises open to the public and is not wearing
44 protective headgear of a type approved under ORS 815.052.

45 (2) The offense described in this section, failure of a skateboarder, scooter rider or in-line skater

1 to wear protective headgear, is a **specific fine** traffic violation punishable by a maximum fine of \$25.
2 **The presumptive fine for failure of a skateboarder, scooter rider or in-line skater to wear**
3 **protective headgear is \$25.**

4 **SECTION 108.** ORS 818.430 is amended to read:

5 818.430. This section establishes schedules of [*penalties*] **presumptive fines** for violations of
6 maximum weight requirements under the vehicle code. The particular schedule applicable is the
7 schedule designated in the section establishing the offense. Upon conviction, a person is punishable
8 by a fine and other penalty established in the schedule. Fines are based upon the excess weight by
9 which any loaded weight exceeds the applicable loaded weight authorized in the provision, permit,
10 order or resolution the person violates. The schedules are as follows:

11 (1) Except as provided in subsection (2) of this section, the [*penalties*] **presumptive fines** under
12 Schedule I are as provided in this subsection. If the excess weight is:

13 (a) One thousand pounds or less, [*by a fine of \$5*] **the presumptive fine is \$_____.**

14 (b) More than 1,000 pounds, but not in excess of 2,000 pounds, [*by a fine of not less than \$30*]
15 **the presumptive fine is \$_____.**

16 (c) More than 2,000 pounds, but not in excess of 3,000 pounds, [*by a fine of not more than*] **the**
17 **presumptive fine is an amount equal to** three cents per pound for each pound of the excess
18 weight.

19 (d) More than 3,000 pounds, but not in excess of 5,000 pounds, [*the fine shall be*] **the**
20 **presumptive fine is an amount equal to** five cents per pound for each pound of the excess weight.

21 (e) More than 5,000 pounds, but not in excess of 7,500 pounds, [*the fine shall be*] **the**
22 **presumptive fine is an amount equal to** 13 cents per pound for each pound of the excess weight.

23 (f) More than 7,500 pounds, but not in excess of 10,000 pounds, [*the fine shall be*] **the**
24 **presumptive fine is an amount equal to** 15 cents per pound for each pound of the excess weight.

25 (g) More than 10,000 pounds, but not in excess of 12,500 pounds, [*the fine shall be*] **the**
26 **presumptive fine is an amount equal to** 19 cents for each pound of the excess weight.

27 (h) More than 12,500 pounds over the allowable weight, **the presumptive fine is an amount**
28 **equal to** 24 cents per pound for each pound of excess weight.

29 (2) The [*penalties*] **presumptive fines** under Schedule I for trucks that are described in this
30 subsection shall be one-half the amount stated in subsection (1) of this section[, *except that the pen-*
31 *alty may not be less than \$5*]. This subsection applies to trucks that are all of the following:

32 (a) Registered as farm vehicles under ORS 805.300;

33 (b) Transporting agricultural products;

34 (c) Loaded in the field without benefit of a scale; and

35 (d) Not more than 3,000 pounds over the maximum weight limit.

36 (3) The [*penalties*] **presumptive fines** under Schedule II are as provided in this subsection. If
37 the excess weight is:

38 (a) One hundred pounds, but not in excess of 5,000 pounds, [*the fine shall be*] **the presumptive**
39 **fine is an amount equal to** \$100 plus 10 cents per pound of the excess weight.

40 (b) More than 5,000 pounds, but not in excess of 10,000 pounds, [*the fine shall be*] **the**
41 **presumptive fine is an amount equal to** \$250 plus 15 cents per pound of the excess weight.

42 (c) More than 10,000 pounds, [*the fine shall be*] **the presumptive fine is an amount equal to**
43 **\$500 plus 30 cents per pound of the excess weight.**

44 (4) [*The per pound penalty in subsection (3) of this section shall be waived by the court and the*
45 *fine*] **Notwithstanding section 4 of this 2011 Act, the fine imposed under subsection (3) of this**

1 **section** shall be not more than \$100 if a person charged with an offense punishable under Schedule
2 II produces in court a second valid variance permit issued under ORS 818.200 authorizing a loaded
3 weight equal to or greater than the actual loaded weight of the vehicle, combination of vehicles,
4 axle, tandem axles or group of axles upon which the citation was based.

5 (5) The penalties under Schedule III are as provided in this subsection and are in addition to
6 any suspension of operator's license under ORS 809.120 or any suspension of vehicle registration
7 under ORS 809.120. If the excess weight is:

8 (a) One hundred pounds, but not in excess of 5,000 pounds, the **presumptive** fine shall be \$100
9 plus 15 cents per pound for each pound of the excess weight.

10 (b) More than 5,000 pounds but not in excess of 10,000 pounds, the **presumptive** fine shall be
11 \$250 plus 20 cents per pound for each pound of excess weight.

12 (c) More than 10,000 pounds, the *[penalty shall be a fine of \$500 plus 30 cents per pound for each*
13 *pound of excess weight or imprisonment in the county or municipal jail for not less than 30 days nor*
14 *more than 60 days, or both]* **operator commits a Class C misdemeanor.**

15 **SECTION 109.** ORS 824.992 is amended to read:

16 824.992. (1) Violation of ORS 824.062 is a Class D violation.

17 (2) Violation of ORS 824.064 is a **Class A** misdemeanor.

18 (3) Violation of ORS 824.082 (1), 824.084 or 824.088 by a railroad is a Class A violation.

19 (4) Violation of ORS 824.082 (2) is a Class A violation.

20 (5) As used in subsection (3) of this section, "railroad" means a railroad as defined by ORS
21 824.020 and 824.022.

22 (6) Subject to ORS 153.022, violation of ORS 824.104 (1), 824.106 or 824.108 or any rule
23 promulgated pursuant thereto is a Class A violation[, *and upon conviction the court shall impose a*
24 *fine of not less than \$100*].

25 (7) A person is subject to the penalties under subsection (8) of this section if the person know-
26 ingly:

27 (a) Transports by railroad any hazardous waste listed under ORS 466.005 or rules adopted
28 thereunder to a facility that does not have appropriate authority to receive the waste under ORS
29 466.005 to 466.385 and 466.992.

30 (b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder
31 without appropriate authority under ORS 466.005 to 466.385 and 466.992.

32 (c) Materially violates any terms of permit or authority issued to the person under ORS 466.005
33 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.

34 (d) Makes any false material statement or representation in any application, label, manifest, re-
35 cord, report, permit or other document filed, maintained or used for purposes of compliance with
36 requirements under ORS 824.050 to 824.110 for the safe transportation of hazardous wastes.

37 (e) Violates any rules adopted by the Department of Transportation concerning the transporta-
38 tion of hazardous wastes.

39 (8) Subject to ORS 153.022, violation of subsection (7) of this section is *[subject to the penalty*
40 *of a fine of not more than \$10,000 for each day of violation, imprisonment of not more than six months,*
41 *or both]* **a Class B misdemeanor. Each day's violation is a separate offense.**

42 (9) Violation of ORS 824.300 or 824.302 is a Class D violation.

43 (10) Violation of ORS 824.304 is *[punishable, upon conviction, by a fine of not less than \$500 nor*
44 *more than \$2,000]* **a Class A violation.**

45 (11) Violation of ORS 824.306 by any railroad company or officer or agent thereof, or any other

1 person is a Class D violation. Each day's violation is a separate offense.

2 **SECTION 110. The amendments to ORS 163.575, 165.107, 167.808, 208.990, 308.990, 311.990,**
3 **433.855, 433.990, 468.936, 471.410, 475.860, 475.864, 498.993, 565.630, 565.990, 686.990, 757.990,**
4 **759.990, 777.990, 801.557, 811.109, 811.182, 811.590, 811.615, 811.617, 811.625, 811.627, 811.630,**
5 **813.095, 814.485, 814.486, 814.534, 814.536, 814.600, 818.430 and 824.992 by sections 79 to 109 of**
6 **this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense**
7 **committed before January 1, 2012, shall continue to be governed by ORS 163.575, 165.107,**
8 **167.808, 208.990, 308.990, 311.990, 433.855, 433.990, 468.936, 471.410, 475.860, 475.864, 498.993,**
9 **565.630, 565.990, 686.990, 757.990, 759.990, 777.990, 811.109, 811.182, 811.590, 811.615, 811.625,**
10 **811.630, 813.095, 814.485, 814.486, 814.534, 814.536, 814.600, 818.430 and 824.992 as in effect im-**
11 **mediately before January 1, 2012.**

12
13 **CONFORMING AMENDMENTS FOR PRESUMPTIVE FINE**

14
15 **SECTION 111.** ORS 153.025 is amended to read:

16 153.025. (1) If a statute provides that violation of the ordinances of a political subdivision of this
17 state constitutes an offense, as described in ORS 161.505, the political subdivision may by ordinance
18 specify that violation of a specific ordinance of the political subdivision is subject to a specific fine,
19 or a specific maximum fine, that is less in amount than the maximum fine for the offense specified
20 by the statute. In addition, the political subdivision may specify that violation of the specific ordi-
21 nance is a Class A, B, C or D violation under the provisions of ORS 153.012 as long as the class
22 specified in the ordinance is lower than the statutory classification for the offense.

23 (2) Nothing in this section requires a political subdivision to use the classifications established
24 by ORS 153.012 or to use the *[base fine amount calculated under ORS 153.125 to 153.145]*
25 **presumptive fines established under sections 2 and 3 of this 2011 Act** for violations of ordi-
26 nances adopted by the political subdivision.

27 **SECTION 112. ORS 801.145 is repealed.**

28 **SECTION 113.** ORS 809.220 is amended to read:

29 809.220. This section establishes procedures that are applicable if a person fails to appear on a
30 citation for a traffic offense or for a violation of ORS 471.430. All of the following apply to this
31 section:

32 (1) If a defendant fails to make any appearance required by the court or by law in a proceeding
33 charging the defendant with a traffic offense or with a violation of ORS 471.430, the court:

34 (a) Shall issue notice to the Department of Transportation to suspend for failure to appear if the
35 defendant is charged with a traffic crime or with a violation of ORS 471.430. If a court issues notice
36 under this paragraph, the department shall suspend the driving privileges of the person as provided
37 under ORS 809.280.

38 (b) Shall issue notice to the department to implement procedures under ORS 809.416 if the de-
39 fendant is charged with a traffic violation. If a court issues notice under this paragraph, the de-
40 partment shall implement procedures under ORS 809.416.

41 (2) In any notice to the department under this section, a court shall certify that the defendant
42 failed to appear in the proceedings in the manner required by the court or by law.

43 (3) At any time within 10 years from the date of a notice to suspend for failure to appear given
44 to the department under this section, a court shall give a second notice to the department to ter-
45minate a suspension resulting from the original notice if any of the following occur:

1 (a) The *[base fine amount or]* fine *[set by the court]* **for the offense** is paid.

2 (b) The court finds the defendant not guilty or orders a dismissal of the case.

3 (c) The court determines that the suspension for failure to pay or appear should be terminated
4 for good cause.

5 (4) Notifications by a court to the department under this section shall be in a form prescribed
6 by the department.

7 (5) A court shall not notify the department under this section for failure to appear on any
8 parking, pedestrian or bicyclist offense.

9 **SECTION 114.** ORS 811.230 is amended to read:

10 811.230. (1) As used in ORS 811.230, 811.231, 811.232 and 811.233:

11 (a) "Flagger" means a person who controls the movement of vehicular traffic through con-
12 struction projects using sign, hand or flag signals.

13 (b) "Highway work zone" means an area identified by advance warning where road construction,
14 repair or maintenance work is being done by highway workers on or adjacent to a highway, re-
15 gardless of whether or not highway workers are actually present. As used in this paragraph, "road
16 construction, repair or maintenance work" includes, but is not limited to, the setting up and dis-
17 mantling of advance warning systems.

18 (c) "Highway worker" means an employee of a government agency, private contractor or utility
19 company working in a highway work zone.

20 (2)(a) *[The base fine amount for a person charged with an offense that is listed in subsection (3)(a)*
21 *or (b) of this section and that is committed in a highway work zone shall be the amount established*
22 *under ORS 153.125 to 153.145 based on the foundation amount calculated under ORS 153.131.]* The
23 *[minimum]* **presumptive** fine for a person convicted of an offense that is listed in subsection (3)(a)
24 or (b) of this section and that is committed in a highway work zone is the *[base fine amount so cal-*
25 *culated]* **presumptive fine for the offense established under section 3 of this 2011 Act.**

26 (b) The minimum fine for a person convicted of a misdemeanor offense that is listed in sub-
27 section (3)(c) to (g) of this section and that is committed in a highway work zone is 20 percent of
28 the maximum fine established for the offense.

29 (c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c)
30 to (g) of this section and that is committed in a highway work zone is two percent of the maximum
31 fine established for the offense.

32 (3) This section applies to the following offenses if committed in a highway work zone:

33 (a) Class A or Class B traffic violations.

34 (b) Class C or Class D traffic violations related to exceeding a legal speed.

35 (c) Reckless driving, as defined in ORS 811.140.

36 (d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

37 (e) Failure to perform the duties of a driver involved in an accident or collision, as described
38 in ORS 811.700 or 811.705.

39 (f) Criminal driving while suspended or revoked, as defined in ORS 811.182.

40 (g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

41 *[(4) A court shall not waive, reduce or suspend the base fine amount or minimum fine required by*
42 *this section.]*

43 *[(5)]* (4) When a highway work zone is created, the agency, contractor or company responsible
44 for the work may post signs designed to give motorists notice of the provisions of this section.

45 **SECTION 115.** ORS 811.235 is amended to read:

1 811.235. (1)(a) If signs authorized by ORS 810.245 are posted, the [base] **presumptive** fine
2 [amount] for a person charged with an offense that is listed in subsection (2)(a) or (b) of this section
3 and that is committed in a school zone shall be the amount established under [ORS 153.125 to
4 153.145 based on the foundation amount calculated under ORS 153.131] **section 3 of this 2011 Act**
5 **for the offense.** [The minimum fine for a person convicted of an offense that is listed in subsection
6 (2)(a) or (b) of this section and that is committed in a school zone is the base fine amount so
7 calculated.]

8 (b) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of
9 a misdemeanor offense that is listed in subsection (2)(c) to (g) of this section and that is committed
10 in a school zone is 20 percent of the maximum fine established for the offense.

11 (c) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of
12 a felony offense that is listed in subsection (2)(c) to (g) of this section and that is committed in a
13 school zone is two percent of the maximum fine established for the offense.

14 (2) This section applies to the following offenses if committed in a school zone:

15 (a) Class A or Class B traffic violations.

16 (b) Class C or Class D traffic violations related to exceeding a legal speed.

17 (c) Reckless driving, as defined in ORS 811.140.

18 (d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

19 (e) Failure to perform the duties of a driver involved in an accident or collision, as described
20 in ORS 811.700 or 811.705.

21 (f) Criminal driving while suspended or revoked, as defined in ORS 811.182.

22 (g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

23 [(3) A court shall not waive, reduce or suspend the base fine amount or minimum fine required by
24 this section.]

25 [(4)] (3) For purposes of this section, a traffic offense occurs in a school zone if the offense oc-
26 curs while the motor vehicle is in a school zone, notice of the school zone is indicated plainly by
27 traffic control devices conforming to the requirements established under ORS 810.200 and posted
28 under authority granted by ORS 810.210 and:

29 (a) Children are present as described in ORS 811.124; or

30 (b) A flashing light used as a traffic control device and operated under ORS 811.106 indicates
31 that children may be arriving at or leaving school.

32 **SECTION 116.** ORS 811.483 is amended to read:

33 811.483. (1) The Department of Transportation shall post signs in safety corridors chosen by the
34 department indicating that fines for traffic offenses committed in those safety corridors will be
35 doubled.

36 (2)(a) The [base] **presumptive** fine [amount] for a person charged with an offense that is listed
37 in subsection (3)(a) or (b) of this section and that is committed in a safety corridor chosen by the
38 department under subsection (1) of this section shall be the amount established under [ORS 153.125
39 to 153.145, based on the foundation amount calculated under ORS 153.131] **section 3 of this 2011**
40 **Act.** [The minimum fine for a person convicted of an offense that is listed in subsection (3)(a) or (b)
41 of this section and that is committed in a safety corridor is the base fine amount so calculated.]

42 (b) The minimum fine for a person convicted of a misdemeanor offense that is listed in sub-
43 section (3)(c) to (g) of this section and that is committed in a safety corridor is 20 percent of the
44 maximum fine established for the offense.

45 (c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c)

1 to (g) of this section and that is committed in a safety corridor is two percent of the maximum fine
2 established for the offense.

3 (3) This section applies to the following offenses if committed in the designated safety corridors:

4 (a) Class A or Class B traffic violations.

5 (b) Class C or Class D traffic violations related to exceeding a legal speed.

6 (c) Reckless driving, as defined in ORS 811.140.

7 (d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

8 (e) Failure to perform the duties of a driver involved in an accident or collision, as described
9 in ORS 811.700 or 811.705.

10 (f) Criminal driving while suspended or revoked, as defined in ORS 811.182.

11 (g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

12 [(4) A court may not waive, reduce or suspend the base fine amount or minimum fine required by
13 this section.]

14 **SECTION 117. The amendments to ORS 811.230, 811.235 and 811.483 by sections 114, 115**
15 **and 116 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any**
16 **offense committed before January 1, 2012, shall continue to be governed by ORS 811.230,**
17 **811.235 and 811.483 as in effect immediately before January 1, 2012.**

18
19 **REPEALS AND CONFORMING AMENDMENTS FOR**
20 **FINE DISTRIBUTION CHANGES**

21
22 **SECTION 118. ORS 30.450, 30.830, 137.290, 137.295, 137.308, 137.309, 153.630, 153.635, 266.470,**
23 **376.385, 448.320, 471.670, 506.630, 530.900, 570.055, 570.365, 678.168 and 830.145 are repealed.**

24 **SECTION 119.** ORS 33.075 is amended to read:

25 33.075. (1) If a person served with an order to appear under ORS 33.055 fails to appear at the
26 time and place specified in the order, the court may issue any order or warrant necessary to compel
27 the appearance of the defendant.

28 (2) A person against whom a complaint has been issued under ORS 33.065 may be cited to ap-
29 pear in lieu of custody as provided in ORS 133.055. If the person fails to appear at the time and
30 place specified in the citation, the court may issue any order or warrant necessary to compel the
31 appearance of the defendant.

32 (3) When the court issues a warrant for contempt, the court shall specify a security amount.
33 Unless the defendant pays the security amount upon arrest, the sheriff shall keep the defendant in
34 custody until either a release decision is made by the court or until disposition of the contempt
35 proceedings.

36 (4) The defendant shall be discharged from the arrest upon executing and delivering to the
37 sheriff, at any time before the return day of the warrant, a security release or a release agreement
38 as provided in ORS 135.230 to 135.290, to the effect that the defendant will appear on the return day
39 and abide by the order or judgment of the court or officer or pay, as may be directed, the sum
40 specified in the warrant.

41 (5) The sheriff shall return the warrant and the security deposit, if any, given to the sheriff by
42 the defendant by the return day specified in the warrant.

43 (6) When a warrant for contempt issued under subsection (2) of this section has been returned
44 after having been served and the defendant does not appear on the return day, the court may do
45 either or both of the following:

1 (a) Issue another warrant.

2 (b) Proceed against the security deposited upon the arrest.

3 (7) If the court proceeds against the security under subsection (6) of this section and the sum
4 specified is recovered, the court may award to any party to the action any or all of the money re-
5 covered as remedial damages.

6 [(8) Security deposited under this section shall not be subject to the assessments provided for in
7 ORS 137.309 (1) to (5).]

8 **SECTION 120.** ORS 51.037 is amended to read:

9 51.037. Any city may enter into an agreement pursuant to ORS 190.010 with the county in which
10 a justice of the peace district is located for the provision of judicial services. A justice of the peace
11 providing services to a city pursuant to such an agreement shall have all judicial jurisdiction, au-
12 thority, powers, functions and duties of the municipal court of the city and the judges thereof with
13 respect to all and any violations of the charter or ordinances of the city. Unless the agreement
14 provides otherwise, and subject to the provisions of [ORS 153.630] **sections 47 to 50 of this 2011**
15 **Act**, all fines, costs and forfeited security deposits collected shall be paid to the prosecuting city,
16 and the city shall reimburse the county providing judicial services for expenses incurred under the
17 agreement. The exercise of jurisdiction under such an agreement by a justice of the peace shall not
18 constitute the holding of more than one office.

19 **SECTION 121.** ORS 131.897 is amended to read:

20 131.897. (1) In addition to any other sentence it may impose as a result of a criminal conviction,
21 the court may order that a defendant reimburse to a person, organization, association or public body
22 or officer, any sum or portion thereof offered and paid by the person, organization, association or
23 public body or officer under ORS 131.885 to 131.895, as a reward for information leading to the ap-
24 prehension of the defendant. Reimbursement under this section shall be ordered paid into the court,
25 for further transfer by the clerk to the person, organization, association or public body or officer
26 entitled to it. [*The monetary obligation described in this section is a category 4 obligation under ORS*
27 *137.295.*]

28 (2) In determining whether to order reimbursement under this section, the court shall take into
29 account:

30 (a) The financial resources of the defendant and the burden that reimbursement will impose,
31 with due regard to the other obligations of the defendant; and

32 (b) The ability of the defendant to make reimbursement on an installment basis or on other
33 conditions to be fixed by the court.

34 **SECTION 122.** ORS 137.017 is amended to read:

35 137.017. Except as otherwise specifically provided by law, all fines, costs and forfeited security
36 deposits ordered paid in criminal actions [*and proceedings, as defined in ORS 131.005,*] in the circuit
37 court shall be accounted for and distributed [*as provided in ORS 137.293 and 137.295,*] as monetary
38 obligations payable to the state.

39 **SECTION 123.** ORS 137.293 is amended to read:

40 137.293. All fines, costs, [*assessments,*] restitution, compensatory fines and other monetary obli-
41 gations imposed upon a convicted person in a circuit, justice or municipal court[, *shall*] constitute
42 a single obligation on the part of the convicted person. The clerk shall [*subdivide*] **divide** the total
43 obligation as provided in [ORS 137.295] **sections 33 to 38 of this 2011 Act**, [*according to the various*
44 *component*] **based on the different** parts of the obligation, and shall credit and distribute [*accord-*
45 *ingly, among those subdivisions,*] all moneys received **in payment of the obligation in the manner**

1 **provided by sections 33 to 38 of this 2011 Act.**

2 **SECTION 124.** ORS 137.533 is amended to read:

3 137.533. (1) Whenever a person pleads guilty to or is found guilty of a misdemeanor other than
4 driving while under the influence of intoxicants or other than a misdemeanor involving domestic
5 violence as defined in ORS 135.230, the court may defer further proceedings and place the person
6 on probation, upon motion of the district attorney and without entering a judgment of guilt, if the
7 person:

8 (a) Consents to the disposition;

9 (b) Has not previously been convicted of any offense in any jurisdiction;

10 (c) Has not been placed on probation under ORS 475.245;

11 (d) Has not completed a diversion under ORS 135.881 to 135.901; and

12 (e) Agrees to pay [*the unitary assessment for which the person would have been liable under ORS*
13 *137.290 if the person had been convicted*] **an amount equal to the minimum fine for a**
14 **misdemeanor established by section 10 of this 2011 Act.** The person must pay the [*unitary as-*
15 *essment*] **amount** within 90 days of imposition unless the court allows payment at a later time. [*The*
16 *person shall pay the unitary assessment to*] The clerk of the court[, *who*] shall account for and dis-
17 tribute the moneys as provided in [*ORS 137.293 and 137.295*] **sections 33 to 38 of this 2011 Act for**
18 **fin.**

19 (2) A district attorney may submit a motion under subsection (1) of this section if, after consid-
20 ering the factors listed in subsection (3) of this section, the district attorney finds that disposition
21 under this section would be in the interests of justice and of benefit to the person and the commu-
22 nity.

23 (3) In determining whether disposition under this section is in the interests of justice and of
24 benefit to the person and the community, the district attorney shall consider at least the following
25 factors:

26 (a) The nature of the offense. However, the offense must not have involved injury to another
27 person.

28 (b) Any special characteristics or difficulties of the person.

29 (c) Whether there is a probability that the person will cooperate with and benefit from alterna-
30 tive treatment.

31 (d) Whether an available program is appropriate to the needs of the person.

32 (e) The impact of the disposition upon the community.

33 (f) Recommendations, if any, of the involved law enforcement agency.

34 (g) Recommendations, if any, of the victim.

35 (h) Provisions for restitution.

36 (i) Any mitigating circumstances.

37 (4) Upon violation of a term or condition of probation, the court may enter an adjudication of
38 guilt and proceed as otherwise provided. Upon the person's fulfillment of the terms and conditions
39 of probation, the court shall discharge the person and dismiss the proceedings against the person.
40 A discharge and dismissal under this section is without adjudication of guilt and is not a conviction
41 for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. A person
42 may be discharged and have proceedings dismissed only once under this section.

43 (5) Subsections (1) to (4) of this section do not affect any domestic violence sentencing programs.

44 **SECTION 125. The amendments to ORS 137.533 by section 124 of this 2011 Act apply only**
45 **to motions filed under ORS 137.533 on or after January 1, 2012.**

1 **SECTION 126.** ORS 147.227 is amended to read:

2 147.227. (1) The Attorney General shall disburse a portion of the moneys that the Criminal In-
3 juries Compensation Account receives from the Criminal Fine [*and Assessment*] Account to counties
4 and cities where prosecuting attorneys maintain victims' assistance programs approved by the At-
5 torney General. Upon receipt of the moneys, the counties and cities shall provide the moneys to the
6 prosecuting attorney therein to be used exclusively for the approved victims' assistance program.

7 (2) To qualify for approval by the Attorney General under this section, a victims' assistance
8 program must:

9 (a) Be administered by the district attorney of the county or city attorney of the city;

10 (b) Provide services to victims of all crimes;

11 (c) Give service priority to victims of serious crimes against persons;

12 (d) Collaborate with community-based and government agencies to benefit victims; and

13 (e) Provide the following core services to victims of crime:

14 (A) Inform victims, as soon as practicable, of the rights granted to victims under Oregon law.

15 (B) Advocate for victims of serious person crimes as they move through the criminal justice
16 system and advocate, when requested, for all other victims of crime.

17 (C) Involve victims, when practicable or legally required, in the decision-making process in the
18 criminal justice system.

19 (D) Ensure that victims are informed, upon request, of the status of the criminal case involving
20 the victim.

21 (E) Assist victims in preparing and submitting crime victims' compensation program claims to
22 the Department of Justice under ORS 147.005 to 147.367.

23 (F) Assist victims in preparing restitution documentation for purposes of obtaining a restitution
24 order.

25 (G) Prepare victims for court hearings by informing them of the procedures involved.

26 (H) Assist victims with the logistics related to court appearances when practicable and re-
27 quested.

28 (I) Accompany victims to court hearings when practicable and requested.

29 (J) Encourage and facilitate victims' testimony.

30 (K) Inform victims of the processes necessary to request the return of property held as evidence.

31 (3) If a victims' assistance program substantially complies with subsection (2) of this section and
32 the Attorney General determines that it would be impracticable for the program to achieve full
33 compliance, the Attorney General may approve the program on a temporary basis, subject to con-
34 ditions the Attorney General deems appropriate.

35 (4) The Attorney General shall adopt administrative rules:

36 (a) Establishing criteria for the equitable distribution of moneys disbursed under subsection (1)
37 of this section among participating cities and counties; and

38 (b) Establishing an advisory committee to provide consultation on the distribution of the moneys.
39 The advisory committee shall consist of at least the following members:

40 (A) A representative of the Department of Justice;

41 (B) A representative of the Oregon District Attorneys Association; and

42 (C) A representative of a prosecuting attorney's victim assistance program.

43 (5) As used in this section, "Attorney General" includes a designee of the Attorney General.

44 **SECTION 127.** ORS 153.624 is amended to read:

45 153.624. In addition to any other costs charged a person convicted of a traffic offense, a court

1 shall charge as costs and collect from any person convicted of a traffic offense any actual costs in-
 2 curred in obtaining any driving records relating to the person. *[All costs collected under this section*
 3 *shall be paid as provided in ORS 153.630 (1).]*

4 **SECTION 128.** ORS 221.315 is amended to read:

5 221.315. (1) Prosecution of violations of the charter or ordinances of a city in circuit or justice
 6 court shall be by the city attorney and in the name of such city. An agreement may be made be-
 7 tween any city and, on behalf of the state, the presiding judge for the judicial district in which all
 8 or part of such city is located, that such violations be prosecuted for such city in the circuit court
 9 by the district attorney in the name of the State of Oregon. An agreement may be made, pursuant
 10 to ORS 190.010, between any city and the county in which all or part of such city is located, that
 11 such violations be prosecuted for such city in the justice court by the district attorney in the name
 12 of the State of Oregon.

13 (2) Except as otherwise provided by an agreement made under subsection (1) of this section in
 14 respect to the court, all fines[, *costs and forfeited security deposits*] collected by the circuit or justice
 15 court having jurisdiction of a violation of a city charter or ordinance shall be paid as follows:

16 (a) One-half of [*all fines and forfeited security deposits*] **the fine** shall be credited and distributed
 17 [*under ORS 137.293 and 137.295*] to the treasurer of the city whose charter or ordinance was vio-
 18 lated, as a monetary obligation payable to the city.

19 (b) If collected by the circuit court, [*the costs and*] one-half of the [*finest and forfeited security*
 20 *deposits*] **fine** shall be credited and distributed [*under ORS 137.293 and 137.295,*] as a monetary ob-
 21 ligation payable to the state.

22 (c) If collected by the justice court, [*the costs and*] one-half of the [*finest and forfeited security*
 23 *deposits*] **fine** shall be credited and distributed [*under ORS 137.293 and 137.295*] to the treasurer of
 24 the county in which the court is located as a monetary obligation payable to the county.

25 **SECTION 129.** ORS 221.355 is amended to read:

26 221.355. Any city may enter into an agreement pursuant to ORS 190.010 with another city for
 27 the provision of judicial services. A municipal judge providing services to another city pursuant to
 28 such an agreement shall have all judicial jurisdiction, authority, powers, functions and duties of the
 29 municipal court of the other city and the judges thereof with respect to all and any violations of the
 30 charter or ordinances of the other city. Unless the agreement provides otherwise, and subject to the
 31 provisions of [*ORS 153.630*] **sections 47 to 50 of this 2011 Act**, all fines, costs and forfeited security
 32 deposits collected shall be paid to the prosecuting city, and that city shall reimburse the city pro-
 33 viding judicial services for expenses incurred under the agreement. The exercise of jurisdiction un-
 34 der such an agreement by a municipal judge shall not constitute the holding of more than one office.

35 **SECTION 130.** ORS 221.357 is amended to read:

36 221.357. (1) A city having a population of 300,000 or less may enter into an agreement with the
 37 State Court Administrator for the provision of judicial services by the circuit court for the county
 38 in which the city is located.

39 (2) A circuit court providing services to a city under an agreement entered into under sub-
 40 section (1) of this section shall have all judicial jurisdiction, authority, powers, functions and duties
 41 of the municipal court of the city and the municipal court judges with respect to any violations of
 42 the charter or ordinances of the city.

43 (3) Unless an agreement entered into under subsection (1) of this section provides otherwise, and
 44 subject to the provisions of [*ORS 153.630*] **sections 47 to 50 of this 2011 Act**, all fines, costs and
 45 forfeited security deposits collected shall be paid to the city, and the city shall reimburse the circuit

1 court providing judicial services for expenses incurred under the agreement.

2 (4) The exercise of jurisdiction under an agreement entered into under subsection (1) of this
3 section by a circuit court judge shall not constitute the holding of more than one office.

4 **SECTION 131.** ORS 305.830 is amended to read:

5 305.830. (1) Amounts transferred to the Department of Revenue by justice and municipal courts
6 under [ORS 137.295] **sections 48 and 49 of this 2011 Act** shall be deposited in a suspense account
7 established under ORS 293.445 for the purpose of receiving criminal fines and assessments.

8 (2) In carrying out its duties under this section, the Department of Revenue shall have access
9 to the records and dockets of those courts charged with the duty to transfer moneys to the depart-
10 ment under [ORS 137.295] **sections 48 and 49 of this 2011 Act**.

11 (3) The Department of Revenue may retain from the funds transferred under [ORS 137.295]
12 **sections 48 and 49 of this 2011 Act** an amount not to exceed two percent annually for its actual
13 costs of collection and disbursement of funds under this section, including the cost of all examina-
14 tions, investigations and searches, and of all traveling and other expenses in connection therewith.
15 The department shall deposit the net amount of moneys in the suspense account described in sub-
16 section (1) of this section into the Criminal Fine *[and Assessment]* Account *[for distribution as pro-*
17 *vided in ORS 137.300]*.

18 (4) All judicial, municipal and county officers shall cooperate with the Department of Revenue
19 with respect to the collections, searches and investigations and shall furnish the Department of
20 Revenue with any information contained in any of the records under their respective custodies re-
21 lating thereto.

22 (5) The Department of State Police shall cooperate in the investigation of fines, penalties and
23 forfeitures.

24 **SECTION 132.** ORS 339.925 is amended to read:

25 339.925. (1) In addition to any other persons permitted to enforce violations, the school district
26 superintendent or education service district superintendent, or any employee specifically designated
27 by either superintendent, may issue citations for violations established under ORS 339.990 in the
28 manner provided by ORS chapter 153.

29 (2) Prior to issuing the citation described in subsection (3) of this section to the parent or
30 guardian of a student not regularly attending full-time school, a school district superintendent or
31 education service district superintendent shall:

32 (a) Provide a parent or guardian of the student and the student with written notification that:

33 (A) States that the student is required to attend regularly a full-time school;

34 (B) Explains that the failure to send the student and maintain the student in regular attendance
35 is a Class C violation;

36 (C) States that the superintendent may issue a citation;

37 (D) Requires the parent or guardian of the student and the student to attend a conference with
38 a designated official; and

39 (E) Is written in the native language of the parent or guardian of the student.

40 (b) Schedule the conference described in paragraph (a)(D) of this subsection.

41 (3) Notwithstanding ORS 1.525 or any provision of ORS chapter 153, the State Board of Educa-
42 tion by rule shall establish the citation form to be used by superintendents in citing violations es-
43 tablished under ORS 339.990. Notwithstanding ORS 153.045, each of the parts of the citation shall
44 contain the information required by the state board.

45 *[(4) All fines and court costs recovered from compulsory school attendance violations shall be paid*

1 *to the clerk of the court involved. After deductions of court costs provided by law for the proceeding,*
2 *the clerk shall pay the remainder of the money to the State Treasurer to be deposited in the Criminal*
3 *Fine and Assessment Account in the General Fund.]*

4 **SECTION 133.** ORS 352.360 is amended to read:

5 352.360. (1) The State Board of Higher Education may enact such regulations as the board deems
6 convenient or necessary to provide for the policing, control and regulation of traffic and parking
7 of vehicles on the property of any institution of higher education under the jurisdiction of the board.
8 The regulations may provide for the registration of vehicles, the designation of parking areas, and
9 the assessment and collection of reasonable fees and charges for parking, and shall be filed in ac-
10 cordance with the provisions of ORS chapter 183. The board may require that before a quarterly
11 or yearly parking privilege for any vehicle is granted to any full-time or part-time student to use
12 board property, the student must show that the vehicle is operated by a student holding a valid
13 driver's license, that the vehicle is currently registered and that the student driving the vehicle is
14 insured under a motor vehicle liability insurance policy that meets the requirements described under
15 ORS 806.080 or that the student or owner of the vehicle has provided the Department of Transpor-
16 tation with other satisfactory proof of compliance with the financial responsibility requirements of
17 this state.

18 (2) The regulations enacted pursuant to subsection (1) of this section shall be enforced admin-
19 istratively under procedures adopted by the board for each institution of higher education under the
20 jurisdiction of the board. Administrative and disciplinary sanctions may be imposed upon students,
21 faculty and staff for violation of the regulations, including but not limited to, a reasonable monetary
22 penalty which may be deducted from student deposits, and faculty or staff salaries or other funds
23 in the possession of the institution. The board shall provide opportunity for hearing for the deter-
24 mination of controversies in connection with imposition of fines or penalties. The board may pre-
25 scribe procedures for such hearings despite the provisions of ORS 183.413 to 183.470. Persons other
26 than students, faculty or staff may voluntarily submit to the hearing procedures prescribed by the
27 board, and shall be bound by the results of the hearing. The powers granted to the board by this
28 section are supplemental to the existing powers of the board with respect to the government of ac-
29 tivities of students, faculty and staff and the control and management of property under its juris-
30 diction.

31 (3) The regulations enacted pursuant to subsection (1) of this section may also be enforced by
32 the impoundment of vehicles, and a reasonable fee may be enacted for the cost of impoundment and
33 storage, if any, prior to the release of the vehicles to their owners.

34 (4) All fees and charges for parking privileges and violations are deposited in a designated ac-
35 count in the Oregon University System Fund established by ORS 351.506 for the purpose of defraying
36 the costs of constructing bicycle racks and bicycle lanes and of traffic control, enforcement of traffic
37 and parking regulations, and maintenance and operation of parking facilities and for the purpose
38 of acquiring and constructing additional parking facilities for vehicles at the various institutions,
39 departments or activities under the control of the board. Fees and charges may also be credited to
40 the account in the Oregon University System Fund designated by ORS 351.460. Parking fees shall
41 be established at levels no greater than those required to finance the construction, operation and
42 maintenance of parking facilities on the same campus of the state institution of higher education
43 on which the parking is provided. Notwithstanding ORS 351.072, parking fees or changes in fees
44 shall be adopted by rule of the state board subject to the procedure for rules adopted in ORS
45 chapter 183.

1 (5) Every peace officer may enforce the regulations made by the board under subsection (1) of
 2 this section. The board, for the purpose of enforcing its rules and regulations governing traffic
 3 control, may appoint peace officers who have the same authority as other peace officers as defined
 4 in ORS 133.005.

5 (6) The board and any municipal corporation or any department, agency or political subdivision
 6 of this state may enter into agreements or contracts with each other for the purpose of providing
 7 a uniform system of enforcement of the rules and regulations of the board enacted pursuant to
 8 subsection (1) of this section.

9 (7) In proceedings brought to enforce regulations enacted pursuant to subsection (1) of this
 10 section, it shall be sufficient to charge the defendant by an unsworn written notice in accordance
 11 with the provisions of ORS 221.333. In any case in which the defendant is not subject to and does
 12 not voluntarily submit to the hearing procedures prescribed under subsection (2) of this section,
 13 proceedings to enforce regulations enacted pursuant to subsection (1) of this section shall be
 14 brought in the name of the board in a circuit court, a justice court or a city court for offenses
 15 committed within the territorial jurisdiction of such court. Such courts shall have concurrent juris-
 16 diction over offenses committed within their respective jurisdictions. All fines, penalties and court
 17 costs recovered shall be paid to the clerk of the court involved and shall be disposed of as provided
 18 in [ORS 153.630] **sections 47 to 50 of this 2011 Act.**

19 **SECTION 134.** ORS 390.050 is amended to read:

20 390.050. [(1)] In addition to any other persons permitted to enforce violations, the State Parks
 21 and Recreation Department and any employee of the State Parks and Recreation Department spe-
 22 cifically designated by the State Parks and Recreation Director may issue citations for park and
 23 recreation violations established under this chapter in the manner provided by ORS chapter 153.

24 [(2) *All fines and court costs recovered from park and recreation violations shall be paid to the*
 25 *clerk of the court involved. Such moneys shall be credited and distributed under ORS 137.290 and*
 26 *137.295 as monetary obligations payable to the state.*]

27 **SECTION 135.** ORS 409.304 is amended to read:

28 409.304. Grants awarded through funding from the Criminal Fine [*and Assessment*] Account for
 29 domestic violence programs shall be used to support direct services, with no more than five percent
 30 of each grant to be spent for administration.

31 **SECTION 136.** ORS 419C.446 is amended to read:

32 419C.446. (1) When a court determines it would be in the best interest and welfare of a youth
 33 offender, the court may place the youth offender on probation. The court may direct that the youth
 34 offender remain in the legal custody of the youth offender's parents or other person with whom the
 35 youth offender is living, or the court may direct that the youth offender be placed in the legal cus-
 36 tody of some relative or some person maintaining a foster home approved by the court, or in a child
 37 care center or a youth care center authorized to accept the youth offender.

38 (2) The court may specify particular requirements to be observed during the probation consist-
 39 ent with recognized juvenile court practice, including but not limited to restrictions on visitation
 40 by the youth offender's parents, restrictions on the youth offender's associates, occupation and ac-
 41 tivities, restrictions on and requirements to be observed by the person having the youth offender's
 42 legal custody, [*requirements that the youth offender pay any assessment under ORS 137.290,*] require-
 43 ments for visitation by and consultation with a juvenile counselor or other suitable counselor, re-
 44 quirements to make restitution under ORS 419C.450, requirements of a period of detention under
 45 ORS 419C.453, requirements to pay a fine under ORS 419C.459, requirements to pay a supervision

1 fee under ORS 419C.449, requirements to perform community service under ORS 419C.462, or service
2 for the victim under ORS 419C.465, or requirements to submit to blood or buccal testing under ORS
3 419C.473.

4 (3) If the youth offender is a sex offender, as defined in ORS 181.594, the juvenile department
5 shall notify the chief of police, if the youth offender is going to reside within a city, and the county
6 sheriff of the county in which the youth offender is going to reside of the youth offender's release
7 on probation and the requirements imposed on the youth offender's probation under subsection (2)
8 of this section.

9 **SECTION 137.** ORS 419C.470 is amended to read:

10 419C.470. The Oregon Youth Authority and county juvenile departments, respectively, and to the
11 extent practicable, shall create opportunities for youth offenders placed in the legal custody of the
12 youth authority or under the supervision of a county juvenile department to pay restitution as or-
13 dered by the court and *[the assessment under ORS 137.290, and]* to perform any community service
14 ordered by the court, as well as to fulfill any other obligation imposed by the court.

15 **SECTION 138.** ORS 477.985 is amended to read:

16 477.985. *[(1)]* In addition to any other persons permitted to enforce violations, the State Forestry
17 Department and the State Forester, or any employee specifically designated by the department or
18 by the State Forester, may issue citations for violations established under ORS 477.993 in the man-
19 ner provided by ORS chapter 153.

20 *[(2) All fines and court costs recovered from violations established under ORS 477.993 shall be*
21 *paid to the clerk of the court involved. Such moneys shall be credited and distributed under ORS*
22 *137.290 and 137.295 as monetary obligations payable to the state.]*

23 **SECTION 139.** ORS 506.306 is amended to read:

24 506.306. *[(1)]* The State Fish and Wildlife Commission shall collect all moneys to be paid to this
25 state for the protection, preservation, propagation and development of the commercial fishing in-
26 dustry and arising under the commercial fishing laws and deposit such moneys in the Commercial
27 Fisheries Fund.

28 *[(2) Except as provided in ORS 506.630, all fines collected for violation of the commercial fishing*
29 *laws shall be credited and distributed under ORS 137.293 and 137.295 as monetary obligations payable*
30 *to the state.]*

31 **SECTION 140.** ORS 675.330 is amended to read:

32 675.330. (1) The Occupational Therapy Licensing Board Account is established in the State
33 Treasury, separate and distinct from the General Fund. All moneys received by the Occupational
34 Therapy Licensing Board under ORS 675.210 to 675.340 shall be deposited into the account and are
35 continuously appropriated to the board to be used only for the administration and enforcement of
36 ORS 675.210 to 675.340 and 675.990 (2). Any interest or other income from moneys in the account
37 shall be credited to the account.

38 (2) All civil penalties collected or received for violations of or in prosecutions under ORS
39 675.210 to 675.340 shall be deposited into the Occupational Therapy Licensing Board Account and
40 shall be used only for the administration and enforcement of ORS 675.210 to 675.340.

41 *[(3) All fines collected or received for violations of or in prosecutions under ORS 675.210 to 675.340*
42 *and 675.990 (2) shall be forwarded to the Department of Revenue for deposit in the Criminal Fine and*
43 *Assessment Account.]*

44 **SECTION 141.** ORS 683.290 is amended to read:

45 683.290. (1) All moneys received by the Oregon Board of Optometry under ORS 683.010 to

1 683.340 shall be deposited into an account established by the board as provided under ORS 182.470.
2 Moneys deposited into the account hereby are appropriated continuously to the board and shall be
3 used only for the administration and enforcement of ORS 182.456 to 182.472 and 683.010 to 683.340.

4 (2) Notwithstanding subsection (1) of this section and ORS 182.470, all civil penalties collected
5 or received for violations of or in prosecutions under ORS 683.010 to 683.340 shall be paid to the
6 account described under subsection (1) of this section.

7 *[(3) All fines collected or received for violations of or in prosecutions under ORS 683.010 to 683.340*
8 *shall be paid to the Criminal Fine and Assessment Account.]*

9 *[(4)]* (3) In addition to making expenditures for the administration and enforcement of ORS
10 683.010 to 683.340, the Oregon Board of Optometry may make expenditures for educational purposes
11 out of funds available.

12 **SECTION 142.** ORS 689.135 is amended to read:

13 689.135. (1) The State Board of Pharmacy shall have such other duties, powers and authority as
14 may be necessary to the enforcement of this chapter and to the enforcement of board rules made
15 pursuant thereto, which shall include, but are not limited to, the following:

16 (a) Cause to have printed and circulated annually copies of any changes in the laws relating to
17 pharmacy, controlled substances, drugs and poisons and the rules adopted to enforce such laws, and
18 set reasonable charges therefor.

19 (b) Appoint advisory committees.

20 (2) The board may join such professional organizations and associations organized exclusively
21 to promote the improvement of the standards of the practice of pharmacy for the protection of the
22 health and welfare of the public and whose activities assist and facilitate the work of the board.

23 (3) In addition to any statutory requirements, the board may require such surety bonds as it
24 deems necessary to guarantee the performance and discharge of the duties of any officer or em-
25 ployee receiving and disbursing funds.

26 (4) The executive director of the board shall keep the seal of the board and shall affix it only
27 in such manner as may be prescribed by the board.

28 (5) The board shall determine within 30 days prior to the beginning of each state fiscal year the
29 fees to be collected for:

30 (a) Examinations and reexaminations, which fee shall not exceed \$400.

31 (b) Pharmacist licenses, which fee shall not exceed \$250.

32 (c) Pharmacist licensing by reciprocity, which fee shall not exceed \$300.

33 (d) Intern license, which fee shall not exceed \$50.

34 (e) Duplicate pharmacist certificate, which fee shall not exceed \$50.

35 (f) Pharmacist license, delinquent renewal fee, which fee shall not exceed \$50.

36 (g) Certification of approved providers of continuing education courses, which fee shall not ex-
37 ceed \$300.

38 (h) Registration of drug outlets other than pharmacies and renewal of registration, which fee
39 shall not exceed \$500.

40 (i) Initial pharmacy or institutional drug outlet, which fee shall not exceed \$300.

41 (j) Annual pharmacy or institutional drug outlet, which fee shall not exceed \$300.

42 (k) Pharmacy or institutional drug outlet delinquent renewal fee, which fee shall not exceed
43 \$200.

44 (L) Nonprescription drug outlets, which fee shall not exceed \$50.

45 (m) Nonprescription drug outlet delinquent renewal fee, which fee shall not exceed \$50.

1 (n) Reinspection fee, which fee shall not exceed \$100.

2 (o) Drug outlets, other than pharmacies or institutional drug outlets, delinquent renewal fee,
3 which fee shall not exceed \$100.

4 [(6) All moneys collected either as costs or fines under ORS 435.010 to 435.130, 453.175, 453.185
5 and 453.990 and this chapter shall be paid by the magistrate or other officer receiving them to the
6 treasurer of the county where the prosecution is conducted. These moneys shall be applied, first, to the
7 payment of the costs of such prosecution. The remainder shall be paid by the county treasurer into the
8 State Treasury and, in the case of:]

9 [(a) All moneys except criminal fines, placed to the credit of the State Board of Pharmacy Account
10 established in ORS 689.139 to be used only for the administration and enforcement of ORS 435.010 to
11 435.130 and this chapter.]

12 [(b) Criminal fines, placed to the credit of the Criminal Fine and Assessment Account.]

13 [(7) (6) [Except as provided in subsection (6) of this section,] All moneys received under ORS
14 435.010 to 435.130[,] and 453.185 [and 453.990] and this chapter shall be paid into the State Treasury
15 and placed to the credit of the State Board of Pharmacy Account to be used only for the adminis-
16 tration and enforcement of ORS 435.010 to 435.130 and this chapter.

17 [(8) (7) The board may receive and expend funds, in addition to its biennial appropriation, from
18 parties other than the state, provided:

19 (a) Such moneys are awarded for the pursuit of a specific objective which the board is author-
20 ized to accomplish by this chapter, or which the board is qualified to accomplish by reason of its
21 jurisdiction or professional expertise;

22 (b) Such moneys are expended for the pursuit of the objective for which they are awarded;

23 (c) Activities connected with or occasioned by the expenditures of such funds do not interfere
24 with or impair the performance of the board's duties and responsibilities and do not conflict with
25 the exercise of the board's powers as specified by this chapter;

26 (d) Such moneys are kept in a separate, special state account; and

27 (e) Periodic reports are made to the Governor concerning the board's receipt and expenditure
28 of such moneys.

29 [(9) (8) The board may assign to each drug outlet under its jurisdiction, a uniform state number,
30 coordinated where possible with all other states which adopt the same uniform numbering system.

31 [(10) (9) The board or its authorized representatives shall also have power to investigate and
32 gather evidence concerning alleged violations of the provisions of this chapter or of the rules of the
33 board.

34 [(11) (10) The president and vice president of the board may administer oaths in connection
35 with the duties of the board.

36 [(12) (11) The books, registers and records of the board as made and kept by the executive di-
37 rector or under the supervision of the executive director, subject to the direction of the board, shall
38 be prima facie evidence of the matter recorded therein, in any court of law.

39 [(13) (12) The board may administer oaths, issue notices and subpoenas in the name of the
40 board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such
41 other acts as are reasonably necessary to carry out its duties under this chapter.

42 [(14)(a) (13)(a) Notwithstanding anything in this chapter to the contrary, whenever a duly au-
43 thorized representative of the board finds or has probable cause to believe that any drug or device
44 is adulterated, misbranded or a new drug, as defined in Section 201(p) of the Federal Food, Drug and
45 Cosmetic Act, for which there is no approval in effect pursuant to Section 505(b) of the federal Act

1 nor an approved notice of claimed investigational exemption pursuant to Section 505(i) of the federal
 2 Act, or otherwise rendered unsafe for use as a result of fire, flood or other natural disaster, the
 3 representative shall affix to such drug or device a tag or other appropriate marking giving notice
 4 that such article is or is suspected of being adulterated, misbranded, or otherwise rendered unsafe
 5 and has been detained or embargoed and warning all persons not to remove or dispose of such ar-
 6 ticle by sale or otherwise until provision for removal or disposal is given by the board, its agent or
 7 the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise
 8 without the permission of the board or its agent or, after summary proceedings have been instituted,
 9 without permission from the court.

10 (b) When a drug or device detained or embargoed under paragraph (a) of this subsection has
 11 been declared by such representative to be adulterated, misbranded or a new drug, or rendered un-
 12 safe, the board shall, as soon as practical thereafter, petition the judge of the circuit court in whose
 13 jurisdiction the article is detained or embargoed for an order for condemnation of such article. If
 14 the judge determines that the drug or device so detained or embargoed is not adulterated or mis-
 15 branded or rendered unsafe, the board shall direct the immediate removal of the tag or other
 16 marking.

17 (c) If the court finds the detained or embargoed drug or device is adulterated or misbranded or
 18 rendered unsafe, such drug or device, after entry of the judgment, shall be destroyed at the expense
 19 of the owner under the supervision of a board representative and all court costs and fees, storage
 20 and other proper expense shall be borne by the owner of such drug or device. When the
 21 adulteration or misbranding can be corrected by proper labeling or processing of the drug or device,
 22 the court, after entry of the judgment and after such costs, fees and expenses have been paid and
 23 a good and sufficient bond has been posted, may direct that such drug or device be delivered to the
 24 owner thereof for such labeling or processing under the supervision of a board representative. Ex-
 25 pense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of
 26 the drug or device on representation to the court by the board that the drug or device is no longer
 27 in violation of the embargo and the expense of supervision has been paid.

28 (d) It is the duty of the Attorney General to whom the board reports any violation of this sub-
 29 section to cause appropriate proceedings to be instituted in the proper court without delay and to
 30 be prosecuted in the manner required by law. Nothing in this subsection shall be construed to re-
 31 quire the board to report violations whenever the board believes the public's interest will be ade-
 32 quately served in the circumstances by a suitable written notice or warning.

33 [(15)] (14) Except as otherwise provided to the contrary, the board shall exercise all of its duties,
 34 powers and authority in accordance with ORS chapter 183.

35 **SECTION 143.** ORS 689.995 is amended to read:

36 689.995. (1) Violation of any provision of this chapter or of any rule of the State Board of
 37 Pharmacy is a misdemeanor.

38 (2) Failure to comply with any notice, citation or subpoena issued by the board under ORS
 39 689.135 [(13)] (12) is a misdemeanor. Each day during which the violation continues is a separate
 40 offense.

41 (3) Refusal to furnish information required under this chapter or willfully furnishing false in-
 42 formation, is a misdemeanor.

43 (4) Any attempt to secure or the securing of registration or licensure for any person under any
 44 certificate, license or permit authorized by this chapter by making or causing to be made any false
 45 representations is a misdemeanor.

1 **SECTION 144.** ORS 802.110 is amended to read:

2 802.110. Any procedures the Department of Transportation establishes for financial adminis-
3 tration of those functions of the department dealing with driver and motor vehicle services and for
4 the disposition and payment of moneys it receives from the provision of driver and motor vehicle
5 services shall comply with all of the following:

6 (1) The department shall deposit all moneys it receives related to driver and motor vehicle ser-
7 vices in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved
8 expenses and disbursements before payment of general administrative expenses of the department related
9 to the provision of driver and motor vehicle services. Notwithstanding this subsection, the depart-
10 ment may return a bank check or money order when received in incorrect or incomplete form or
11 when not accompanied by the proper application.

12 (2) The department shall pay the following approved expenses and disbursements from the Depart-
13 ment of Transportation Driver and Motor Vehicle Suspense Account before payment of the general
14 administrative expenses of the department related to driver and motor vehicle services:

15 (a) Refunds authorized by any statute administered by the department when such refunds are
16 approved by the department.

17 (b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carry-
18 ing out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and
19 Facility Account by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417
20 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.

21 (c) After deduction of expenses of collection, transfer and administration, the department shall
22 pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040,
23 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The
24 moneys deposited in the Student Driver Training Fund under this paragraph are continuously ap-
25 propriated to the department for the following purposes:

26 (A) To the extent of not more than 10 percent of the amount transferred into the Student Driver
27 Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805,
28 336.810 (2) and 336.815.

29 (B) The remaining moneys, for reimbursing school districts and commercial driver training
30 schools as provided under ORS 336.805.

31 (d) After deduction of expenses of collection, transfer and administration, the department shall
32 pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treas-
33 urer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys
34 paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

35 (e) After deduction of expenses for the administration of the issuance of customized registration
36 plates under ORS 805.240, the department shall place moneys received from the sale of customized
37 registration plates in the Passenger Rail Transportation Account. The moneys placed in the account
38 are continuously appropriated to the department and shall be used for the payment of expenses in-
39 curred in administering passenger rail programs.

40 (f) After deduction of expenses of collection, transfer and administration, the department shall
41 pay moneys from any registration fees established by the governing bodies of counties or a district,
42 as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts.
43 The department shall make the payments on at least a monthly basis unless another basis is estab-
44 lished by the intergovernmental agreements required by ORS 801.041 and 801.042 between the de-
45 partment and the governing bodies of a county or a district.

1 (g) After deducting the expenses of the department in collecting and transferring the moneys,
2 the department shall make disbursements and payments of moneys collected for or dedicated to any
3 other purpose or fund except the State Highway Fund, including but not limited to, payments to the
4 Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).

5 (3) The department shall refund from the Department of Transportation Driver and Motor Ve-
6 hicle Suspense Account any excess or erroneous payment to a person who made the payment or to
7 the person's legal representative when the department determines that money has been received by
8 it in excess of the amount legally due and payable or that it has received money in which it has
9 no legal interest. Refunds payable under this subsection are continuously appropriated for such
10 purposes in the manner for payment of refunds under this section. If the department determines that
11 a refund is due, the department may refund the amount of excess or erroneous payment without a
12 claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831, any claim for a
13 refund from the department must be filed within 12 months after the date payment is received by
14 the department.

15 (4) After payment of those expenses and disbursements approved for payment before general admin-
16 istrative expenses related to the provision of driver and motor vehicle services, the department shall
17 pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Ac-
18 count its general administrative expenses incurred in the administration of any law related to driver
19 and motor vehicle services that the department is charged with administering and any other ex-
20 penses the department is permitted by law to pay from moneys held by the department before
21 transfer of the moneys to the State Highway Fund. The following limitations apply to payments of
22 administrative expenses under this subsection:

23 (a) The department shall make payment of the expenses of administering the issuance of winter
24 recreation parking permits under ORS 811.595 from those moneys received from issuing the permits
25 [*or from moneys received under ORS 153.630 from violation of the requirement to have the permit*].

26 (b) The department shall pay its expenses for administering the registration and titling of
27 snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those
28 sections. The department shall also pay its expenses for the administration of the snowmobile driver
29 permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

30 (c) The department shall pay its expenses for determining the amount of money to be withheld
31 under ORS 802.120 from the fees collected for administering the registration and titling of
32 snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary
33 but shall not exceed \$10,000 during each biennium.

34 (d) The department shall retain not more than \$15,000 in any biennium for the expenses of col-
35 lecting and transferring moneys to the Student Driver Training Fund under this section and for the
36 administration of ORS 336.810 (3).

37 (5) Except as otherwise provided in this subsection, the department shall transfer to the State
38 Highway Fund the moneys not used for payment of the general administrative expenses or for ap-
39 proved expenses and disbursements before payment of general administrative expenses. The following
40 apply to this subsection:

41 (a) If the Director of Transportation certifies the amount of principal or interest of highway
42 bonds due on any particular date, the department may make available for the payment of such in-
43 terest or principal any sums that may be necessary to the extent of moneys on hand available for
44 the State Highway Fund regardless of the dates otherwise specified under this section.

45 (b) Notwithstanding paragraph (a) of this subsection the department shall not make available for

1 purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when
2 there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds
3 issued under ORS 367.615.

4 (6) Notwithstanding any other provision of this section, the following moneys shall be trans-
5 ferred to the State Highway Fund at the times described:

6 (a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses
7 of the department shall be transferred before July 31 of each year.

8 (b) Moneys received from the registration of snowmobiles that is not to be used for payment of
9 administrative expenses of the department shall be transferred within 30 days after the end of the
10 quarter.

11 (c) Moneys received from the issuance of winter recreation parking permits [*or under ORS*
12 *153.630 from violation of the requirement to have a winter recreation parking permit and*] that is not
13 used for payment of administrative expenses of the department shall be transferred within 30 days
14 after the end of the quarter.

15 (7) The following moneys transferred to the State Highway Fund under this section may be used
16 only for the purposes described as follows:

17 (a) Moneys collected from the issuance of winter recreation parking permits [*or under ORS*
18 *153.630 for violation of the requirement to have a winter recreation parking permit*], and the interest
19 on such moneys, shall be used to enforce the requirement for winter recreation parking permits and
20 to remove snow from winter recreation parking locations designated under ORS 810.170. Any re-
21 maining moneys shall, upon approval by the Winter Recreation Advisory Committee:

22 (A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170
23 and snowmobile facilities that are parking lots developed with moneys as provided under this sec-
24 tion;

25 (B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

26 (C) Be carried over to be used in subsequent years for the purposes and in the manner described
27 in this paragraph.

28 (b) Moneys received from the registration of snowmobiles or under ORS 802.120 may be used for
29 development and maintenance of multiuse trails within urban growth boundaries described in ORS
30 367.017 or for the development and maintenance of snowmobile facilities, including the acquisition
31 of land therefor by any means other than the exercise of eminent domain. Moneys received under
32 ORS 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140,
33 821.150, 821.190, 821.210 and 821.240 to 821.290.

34 (8) The department shall maintain the Revolving Account for Emergency Cash Advances sepa-
35 rate from other moneys described in this section. From the account, the department may pay for the
36 taking up of dishonored remittances returned by banks or the State Treasurer and for emergency
37 cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund.
38 The department shall at all times be accountable for the amount of the account, either in cash or
39 unreimbursed items and advances. The moneys in the account are continuously appropriated for the
40 purposes of this subsection. The amount of the account under this subsection shall not exceed
41 \$40,000 from moneys received by the department in the performance of its driver and motor vehicle
42 services functions and moneys otherwise appropriated for purposes of this subsection. The account
43 under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is au-
44 thorized to honor and pay all properly signed and indorsed checks or warrants drawn against the
45 account.

1 **SECTION 145.** ORS 802.155 is amended to read:

2 802.155. (1) There is created the Safety Education Fund, separate and distinct from the General
3 Fund. Interest earned by the fund shall be credited to the fund.

4 (2) Moneys deposited in the Safety Education Fund from the Criminal Fine [*and Assessment*]
5 Account are continuously appropriated to the office of the administrator of the Transportation
6 Safety section of the Department of Transportation to be used for safety education programs:

7 (a) That provide injury prevention education on traffic safety issues for each age group in the
8 kindergarten through college ages;

9 (b) That have been recipients of funds under 23 U.S.C. 402 for at least three years;

10 (c) That are found by the Transportation Safety section to be effective, as measured by the
11 three-year reporting cycle funded under 23 U.S.C. 402; and

12 (d) That operate statewide.

13 **SECTION 146.** ORS 810.530 is amended to read:

14 810.530. (1) A weighmaster or motor carrier enforcement officer in whose presence an offense
15 described in this subsection is committed may arrest or issue a citation for the offense in the same
16 manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a
17 police officer. This subsection applies to the following offenses:

18 (a) Violation of maximum weight limits under ORS 818.020.

19 (b) Violation of posted weight limits under ORS 818.040.

20 (c) Violation of administratively imposed weight or size limits under ORS 818.060.

21 (d) Violation of maximum size limits under ORS 818.090.

22 (e) Exceeding maximum number of vehicles in combination under ORS 818.110.

23 (f) Violation of posted limits on use of road under ORS 818.130.

24 (g) Violation of towing safety requirements under ORS 818.160.

25 (h) Operating with sifting or leaking load under ORS 818.300.

26 (i) Dragging objects on highway under ORS 818.320.

27 (j) Unlawful use of devices without wheels under ORS 815.155.

28 (k) Unlawful use of metal objects on tires under ORS 815.160.

29 (L) Operation without pneumatic tires under ORS 815.170.

30 (m) Operation in violation of vehicle variance permit under ORS 818.340.

31 (n) Failure to carry and display permit under ORS 818.350.

32 (o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.

33 (p) Violation of any provision of ORS chapter 825.

34 (q) Operation without proper fenders or mudguards under ORS 815.185.

35 (r) Operating a vehicle without driving privileges in violation of ORS 807.010 if the person is
36 operating a commercial motor vehicle and the person does not have a commercial driver license or
37 does not have an appropriate permit.

38 (s) Violation driving while suspended or revoked in violation of ORS 811.175 if the person is
39 operating a commercial motor vehicle while the person's commercial driver license is suspended or
40 revoked.

41 (t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is
42 operating a motor vehicle subject to ORS chapter 825 or 826.

43 (2) A weighmaster or motor carrier enforcement officer in whose presence an offense described
44 in this subsection is committed by a person operating a commercial motor vehicle may issue a ci-
45 tation for the offense. A weighmaster or motor carrier enforcement officer who finds evidence that

1 an offense described in this subsection has been committed by a person operating a commercial
2 motor vehicle or by a motor carrier for which the person is acting as an agent may issue a citation
3 for the offense. A weighmaster or motor carrier enforcement officer issuing a citation under this
4 subsection has the authority granted a police officer issuing a citation under ORS 810.410. A citation
5 issued under this subsection to the operator of a commercial motor vehicle shall be considered to
6 have been issued to the motor carrier that owns the commercial motor vehicle if the operator is not
7 the owner. This subsection applies to the following offenses, all of which are Class A traffic vio-
8 lations under ORS 825.990 (1):

9 (a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.

10 (b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service
11 authorized by certificate.

12 (c) Refusing or failing to file the annual report as required by ORS 825.320.

13 (d) Refusing or failing to maintain records required by the department or to produce such re-
14 cords for examination as required by the department.

15 (e) Failing to appear for a hearing after notice that the carrier's certificate or permit is under
16 investigation.

17 (f) Filing with the department an application that is false with regard to the ownership, pos-
18 session or control of the equipment being used or the operation being conducted.

19 (g) Delinquency in reporting or paying any fee, tax or penalty due to the department under ORS
20 chapter 825 or 826.

21 (h) Refusing or failing to file a deposit or bond as required under ORS 825.506.

22 (i) Failing to comply with the applicable requirements for attendance at a motor carrier educa-
23 tion program as required by ORS 825.402.

24 (3) A weighmaster or motor carrier enforcement officer who finds evidence that a person oper-
25 ating a commercial motor vehicle has committed the offense of failure to pay the appropriate reg-
26 istration fee under ORS 803.315 may issue a citation for the offense in the same manner as under
27 ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.

28 (4) The authority of a weighmaster or motor carrier enforcement officer to issue citations or
29 arrest under this section is subject to ORS chapter 153.

30 (5)(a) A person is a weighmaster for purposes of this section if the person is a county
31 weighmaster or a police officer.

32 (b) A person is a motor carrier enforcement officer under this section if the person is duly au-
33 thorized as a motor carrier enforcement officer by the Department of Transportation.

34 (6) A weighmaster or motor carrier enforcement officer may accept security in the same manner
35 as a police officer under ORS 810.440 and 810.450 and may take as security for the offenses, in ad-
36 dition to other security permitted under this section, the sum fixed as the [base] **presumptive** fine
37 for the offense.

38 (7) A weighmaster or motor carrier enforcement officer may arrest a person for the offense of
39 failure to appear in a violation proceeding under ORS 153.992 if the violation is based upon a cita-
40 tion for any offense described in subsection (1) or (3) of this section except those described in sub-
41 section (1)(p) of this section.

42 (8) A weighmaster or motor carrier enforcement officer may exercise the same authority as a
43 police officer under ORS 810.490 to enforce vehicle requirements and detain vehicles. A person who
44 fails to comply with the authority of a weighmaster or motor carrier enforcement officer under this
45 subsection is subject to penalty under ORS 818.400.

1 **SECTION 147.** ORS 813.030 is amended to read:

2 813.030. The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of \$130, except
3 that the court may waive all or part of the fee in cases involving indigent defendants. The court
4 may make provision for payment of the fee on an installment basis. **The court shall deposit the**
5 **fee in the Criminal Fine Account.** [*The fee shall be ordered paid as follows:*]

6 [(1) \$105 to be credited and distributed under ORS 137.295 as an obligation payable to the state;
7 and]

8 [(2) \$25 to be paid to the Director of the Oregon Health Authority for deposit in the Intoxicated
9 Driver Program Fund created by ORS 813.270.]

10 **SECTION 148.** ORS 837.100 is amended to read:

11 837.100. [(1)] In addition to any other persons permitted to enforce violations, the Director of the
12 Oregon Department of Aviation and any employee specifically designated by the director may issue
13 citations for violations established under ORS 837.990 in the manner provided by ORS chapter 153.

14 [(2) All fines and court costs recovered from violations established under ORS 837.990 shall be
15 paid to the clerk of the court involved. The clerk, after deductions of court costs provided by law for
16 the proceeding, shall pay the remainder of the money to the State Treasurer to be deposited in the
17 Criminal Fine and Assessment Account in the General Fund.]

18
19 **STATEWIDE FINE SCHEDULE FOR CIRCUIT COURTS**

20
21 **SECTION 149.** ORS 153.800 is amended to read:

22 153.800. (1) Any court of this state may establish a Violations Bureau and designate the clerk
23 or deputy clerk of the court or any other appropriate person to act as a violations clerk for the
24 Violations Bureau. [*A Violations Bureau shall be established by each circuit court unless the Chief*
25 *Justice of the Supreme Court issues a written exemption to the presiding judge for the court.*] The vi-
26 olations clerk shall serve under the direction and control of the court appointing the clerk.

27 (2) A violations clerk may exercise authority over any violation. A court establishing a Vio-
28 lations Bureau shall by order specify the violations that are subject to the authority of the vio-
29 lations clerk.

30 (3) Except as provided in subsection (6) of this section, the violations clerk shall accept:

31 (a) Written appearance, waiver of trial, plea of guilty and payment of fine, costs and assessments
32 for violations that are subject to the authority of the violations clerk; or

33 (b) Payment of [*base*] **presumptive** fine amounts for violations that are subject to the authority
34 of the violations clerk.

35 (4)(a) [*The court*] **Courts other than circuit courts** shall establish schedules, within the limits
36 prescribed by law, of the amounts of penalties to be imposed for first, second and subsequent vio-
37 lations, designating each violation specifically or by class. The order of the court establishing the
38 schedules shall be prominently posted in the place where penalties established under the schedule
39 are paid.

40 **(b) The Chief Justice of the Supreme Court shall establish a uniform fine schedule for**
41 **circuit courts.**

42 (c) All amounts must be paid to, received by and accounted for by the violations clerk in the
43 same manner as other payments on money judgments are received by the court.

44 (5) Any person charged with a violation within the authority of the violations clerk may:

45 (a) Upon signing an appearance, plea of guilty and waiver of trial, pay the clerk the penalty

1 established for the violation charged, including any costs and assessments authorized by law.

2 (b) Pay the clerk the [base] **presumptive** fine amount established for the violation. Payment of
3 the [base] **presumptive** fine amount under this paragraph constitutes consent to forfeiture of the
4 [base] **presumptive** fine amount and disposition of the violation by the clerk as provided by the
5 rules of the court. Payment of [base] **presumptive** fine amount under this paragraph is not consent
6 to forfeiture of the [base] **presumptive** fine amount if the payment is accompanied by a plea of not
7 guilty or a request for hearing.

8 (6) A person who has been found guilty of, or who has signed a plea of [guilty or] no contest to,
9 one or more previous offenses in the preceding 12 months within the jurisdiction of the court shall
10 not be permitted to appear before the violations clerk unless the court, by general order applying
11 to certain specified offenses, permits such appearance.

12
13 **ELIMINATION OF OFFENSE SURCHARGE**

14
15 **SECTION 150.** Section 2, chapter 659, Oregon Laws 2009, as amended by section 20, chapter
16 107, Oregon Laws 2010, is amended to read:

17 **Sec. 2.** (1) In all cases of conviction for the commission of a crime or violation, excluding
18 parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon
19 the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense sur-
20 charge under this section. Except when the person successfully asserts the defense set forth in ORS
21 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in ju-
22 venile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a
23 fine and shall be in an amount as follows:

- 24 (a) \$35 in the case of a felony.
25 (b) \$35 in the case of a misdemeanor.
26 (c) \$45 in the case of a violation as described in ORS 153.008.

27 (2) A court may waive all or part of the offense surcharge required by this section only if the
28 court imposes no fine on the defendant.

29 (3) The offense surcharge required by this section shall be imposed only for offenses that are
30 committed on or after October 1, 2009, and before [July 1, 2011] **January 1, 2012.**

31 (4)(a) Offense surcharges imposed under this section are part of the base fine for the purposes
32 of ORS chapter 153.

33 (b) The provisions of ORS 153.093 do not affect the amount of the offense surcharge imposed and
34 collected under this section, and the amount calculated under ORS 153.093 (1) includes the full
35 amount of the offense surcharge.

36 (5) Offense surcharges imposed in a circuit court under this section are category 3 monetary
37 obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Of-
38 fense surcharges imposed in a justice court, county court or municipal court under this section are
39 category 4 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided
40 in ORS 137.295. Amounts collected as offense surcharges under this section [may not be deposited in
41 the Criminal Fine and Assessment Account, or transferred to the Department of Revenue, under ORS
42 137.295 (5), but] must be deposited or paid as follows:

43 (a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Re-
44 venue in the [Judicial System Surcharge] **Criminal Fine and Assessment** Account.

45 (b) Offense surcharges imposed in a justice court or county court shall be paid to the county

1 treasurer.

2 (c) Offense surcharges imposed in a municipal court shall be paid to the city treasurer.

3 (6) The collections and revenue management program established under ORS 1.204 may [not] be
4 reimbursed under ORS 1.204 from amounts imposed as offense surcharges under this section.

5 **SECTION 150a.** Section 2, chapter 659, Oregon Laws 2009, as amended by section 20, chapter
6 107, Oregon Laws 2010, and section 150 of this 2011 Act, is amended to read:

7 **Sec. 2.** (1) In all cases of conviction for the commission of a crime or violation, excluding
8 parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon
9 the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense sur-
10 charge under this section. Except when the person successfully asserts the defense set forth in ORS
11 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in ju-
12 venile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a
13 fine and shall be in an amount as follows:

14 (a) \$35 in the case of a felony.

15 (b) \$35 in the case of a misdemeanor.

16 (c) \$45 in the case of a violation as described in ORS 153.008.

17 (2) A court may waive all or part of the offense surcharge required by this section only if the
18 court imposes no fine on the defendant.

19 (3) The offense surcharge required by this section shall be imposed only for offenses that are
20 committed on or after October 1, 2009, and before January 1, 2012.

21 (4)(a) Offense surcharges imposed under this section are part of the base fine for the purposes
22 of ORS chapter 153.

23 (b) The provisions of ORS 153.093 do not affect the amount of the offense surcharge imposed and
24 collected under this section, and the amount calculated under ORS 153.093 (1) includes the full
25 amount of the offense surcharge.

26 (5) Offense surcharges imposed in a circuit court under this section are category 3 monetary
27 obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Of-
28 fense surcharges imposed in a justice court, county court or municipal court under this section are
29 category 4 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided
30 in ORS 137.295. Amounts collected as offense surcharges under this section must be deposited or
31 paid as follows:

32 (a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Re-
33 venue in the Criminal Fine [*and Assessment*] Account.

34 (b) Offense surcharges imposed in a justice court or county court shall be paid to the county
35 treasurer.

36 (c) Offense surcharges imposed in a municipal court shall be paid to the city treasurer.

37 (6) The collections and revenue management program established under ORS 1.204 may be re-
38 imbursed under ORS 1.204 from amounts imposed as offense surcharges under this section.

39 **SECTION 150b.** Section 1, chapter 659, Oregon Laws 2009, is repealed.

40 **SECTION 150c.** Any funds in the Judicial System Surcharge Account on the effective date
41 of this 2011 Act shall be transferred by the State Treasurer to the Criminal Fine and As-
42 sessment Account.

43
44 **NONSTANDARD OFFENSE PROVISIONS**
45

1 **SECTION 151.** ORS 25.990 is amended to read:

2 25.990. (1) Violation of ORS 25.720 (3) is a Class A violation.

3 (2) Violation of ORS 25.260 is [*punishable, upon conviction, by a fine of not more than \$1,000 or*
4 *by imprisonment in the county jail for not more than 60 days, or by both*] **a Class C misdemeanor.**

5 (3) Violation of ORS 25.785 (3) is a Class A misdemeanor.

6 **SECTION 152.** ORS 45.900 is amended to read:

7 45.900. Violation of ORS 45.135 or 45.138 is a **Class B** violation. [*A person violating ORS 45.135*
8 *or 45.138 is subject to a fine of up to \$500.*]

9 **SECTION 153.** ORS 83.990 is amended to read:

10 83.990. (1) Any person who violates any provision of ORS 83.510 to 83.680 commits a Class A
11 violation.

12 (2) A willful violation of ORS 83.520 to 83.600 or 83.650 to 83.670 by any person shall bar re-
13 covery of any finance charge, delinquency or collection charge or refinancing charge on the retail
14 installment contract involved.

15 (3) Notwithstanding the provisions of subsections (1) to (3) of this section, any failure to comply
16 with any provision of ORS 83.510 to 83.680 may be corrected within 10 days after the holder is no-
17 tified thereof in writing by the buyer, and, if so corrected, neither the seller nor the holder shall
18 be subject to any penalty.

19 (4) Any person who willfully and intentionally violates any provision of ORS 83.010 to 83.190
20 [*shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more*
21 *than six months, or both*] **commits a Class B misdemeanor.** Violation of any order or injunction
22 issued pursuant to ORS 83.010 to 83.190 shall constitute prima facie proof of a violation of this
23 subsection.

24 **SECTION 154.** ORS 86.990 is amended to read:

25 86.990. Violation of ORS 86.040 is [*punishable, upon conviction, by a fine not exceeding \$500 or*
26 *imprisonment in the county jail not exceeding six months, or both*] **a Class B misdemeanor.**

27 **SECTION 155.** ORS 92.990 is amended to read:

28 92.990. (1) Violation of any provision of ORS 92.010 to 92.090, 92.100 and 92.120 to 92.170 or of
29 any regulation or ordinance adopted thereunder, is [*punishable, upon conviction, by a fine of not less*
30 *than \$50 nor more than \$500 or imprisonment in the county jail for not less than 25 days nor more*
31 *than 50 days, or both*] **a Class C misdemeanor.**

32 (2) Any person who violates any of the provisions of ORS 92.325 (1), 92.345 to 92.365, 92.405 (1),
33 (2) and (3), 92.425, 92.433, 92.460 to 92.475 and any alternative requirements of the Real Estate
34 Commissioner prescribed pursuant to ORS 92.425 (3), not waived by the commissioner pursuant to
35 ORS 92.395, or who provides false information or omits to state material facts pursuant to ORS
36 92.337, [*shall be punished by a fine not exceeding \$10,000, or by imprisonment in the custody of the*
37 *Department of Corrections for a period not exceeding three years, or in the county jail not exceeding*
38 *one year, or by both such fine and imprisonment*] **commits a Class C felony.**

39 **SECTION 156.** ORS 97.990 is amended to read:

40 97.990. (1) Violation of ORS 97.160 is a **Class A** misdemeanor [*and upon conviction is punishable*
41 *by a fine not exceeding \$100*].

42 (2) Every officer, agent or employee of this state or of any county, city or any other municipal
43 subdivision thereof who willfully neglects to notify the Demonstrator of Anatomy of the existence
44 of a body as required by ORS 97.170 to 97.210 or who refuses to deliver possession of such body
45 according to the provisions of ORS 97.170 to 97.210 or who mutilates or permits any such body to

1 be mutilated so that it is not valuable for anatomical purposes or who refuses or neglects to perform
2 any of the duties enjoined upon the officer, agent or employee by ORS 97.170 to 97.210, [*is guilty of*
3 *a misdemeanor and upon conviction is punishable by a fine of not more than \$50 for each offense*]
4 **commits a Class A misdemeanor.**

5 (3) Violation of ORS 97.520, 97.530 or 97.540 is a **Class A** misdemeanor.

6 (4) Any person, association or corporation who operates a cemetery, mausoleum or columbarium
7 contrary to the provisions of ORS 97.020 to 97.040, 97.110 to 97.130, 97.145, 97.150, 97.220, 97.310 to
8 97.360 (1), 97.440, 97.510 to 97.560, 97.710, 97.720, 97.810, 97.820, 97.830 and 97.840 to 97.860 [*is guilty*
9 *of maintaining a nuisance and, upon conviction, is punishable by a fine not exceeding \$500 or by*
10 *imprisonment in the county jail for not more than six months, or both*] **commits a Class B**
11 **misdemeanor.**

12 (5)(a) Violation of ORS 97.745 is a Class C felony.

13 (b) In addition to any other sentence provided by law for criminal violations of ORS 97.745, the
14 judge shall impose a penalty not to exceed \$10,000 on any person convicted of a criminal violation
15 of ORS 97.745.

16 (6) In addition to the penalty of subsection (5) of this section, any native Indian artifacts or
17 human remains taken by, or in possession of, any person sentenced under subsection (5) of this
18 section and all equipment used in the violation may be ordered forfeited by the court in which
19 conviction occurs, and may be disposed of as the court directs.

20 **SECTION 157.** ORS 97.992 is amended to read:

21 97.992. Violation of any of the provisions of ORS 97.937 is [*punishable, upon conviction, by a fine*
22 *not exceeding \$1,000, or imprisonment in the county jail not exceeding one year, or both*] **a Class A**
23 **misdemeanor.**

24 **SECTION 158.** ORS 100.990 is amended to read:

25 100.990. Subject to ORS 153.022, any person who violates any of the provisions of ORS 100.015,
26 100.635 to 100.730 and 100.740 to 100.780 or any rules adopted thereunder or any alternative re-
27 quirements of the Real Estate Commissioner prescribed pursuant to ORS 100.720 (3), [*shall be pun-*
28 *ished by a fine not exceeding \$10,000, or by imprisonment in the custody of the Department of*
29 *Corrections for a period not exceeding three years, or in the county jail not exceeding one year, or by*
30 *both such fine and imprisonment*] **commits a Class C felony.**

31 **SECTION 159.** ORS 105.590 is amended to read:

32 105.590. An intentional violation of a restraining order, preliminary injunction or order of
33 abatement under ORS 105.550 to 105.600 is [*punishable as a contempt of court by a fine of not more*
34 *than \$1,000 which may not be waived, or by imprisonment for not more than six months or by both*]
35 **a Class B misdemeanor.**

36 **SECTION 160.** ORS 106.990 is amended to read:

37 106.990. (1) Violation of ORS 106.041 (5) is [*punishable, upon conviction, by a fine of not more than*
38 *\$100 or by imprisonment in the county jail for not more than 30 days, or both*] **a Class C**
39 **misdemeanor.**

40 (2) Violation of ORS 106.110 or 106.140 is [*punishable upon conviction by imprisonment in the*
41 *custody of the Department of Corrections or county jail for not more than one year, or by a fine of not*
42 *more than \$500 nor less than \$100*] **a Class A misdemeanor.**

43 (3) Refusal or neglect to comply with ORS 106.170 shall result in the forfeiture of a penalty of
44 not less than \$10 nor more than \$50 to be recovered by action for every five days of such refusal
45 or neglect.

1 **SECTION 161.** ORS 165.990 is amended to read:

2 165.990. [(1) Any officer, agent, operator or employee of any telegraph company who refuses or
3 willfully omits to transmit communications in accordance with ORS 165.480, or designedly alters or
4 falsifies such communications, is liable to indictment and, upon conviction, may be punished by fine
5 or imprisonment, at the discretion of the court.]

6 [(2) Violation of ORS 165.485 or 165.490 is punishable, upon conviction, by a fine of not exceeding
7 \$1,000 or imprisonment in the county jail for not exceeding one year, or both.]

8 [(3) Violation of ORS 165.495 is punishable, upon conviction, by a fine of not exceeding \$500 or
9 imprisonment in the county jail for not exceeding six months, or both.]

10 [(4)(a)] Violation of ORS 165.692 is a Class C felony [punishable as provided in ORS chapter
11 161].

12 [(b)] Criminal prosecution of violators of ORS 165.692 [shall] **must** be commenced within five
13 years after the commission of the crime.

14 **SECTION 162.** ORS 166.180 is amended to read:

15 166.180. Any person who, as a result of failure to use ordinary care under the circumstances,
16 wounds any other person with a bullet or shot from any firearm, or with an arrow from any bow,
17 [shall be punished by imprisonment in the county jail for a period not to exceed six months, or by a
18 fine not to exceed \$500, or both] **commits a Class B misdemeanor.** In addition, any person so con-
19 victed shall forfeit any license to hunt, obtained under the laws of this state, and shall be ineligible
20 to obtain a license to hunt for a period of 10 years following the date of conviction.

21 **SECTION 163.** ORS 166.300 is amended to read:

22 166.300. (1) Any person who has committed, with firearms of any kind or description, murder in
23 any degree, or manslaughter, either voluntary or involuntary, or who in a careless or reckless
24 manner, kills or injures another with firearms, and who, at any time after committing murder or
25 manslaughter or after said careless or reckless killing or injury of another, carries or bears firearms
26 of any kind or description within this state, [shall be punished upon conviction by a fine of not more
27 than \$500, or by imprisonment in the county jail not to exceed one year, or both] **commits a Class**
28 **A misdemeanor.**

29 (2) Subsection (1) of this section does not deprive the people of this state of the right to bear
30 arms for the defense of themselves and the state, and does not apply to any peace officer in the
31 discharge of official duties or to a member of any regularly constituted military organization while
32 on duty with such military organization.

33 [(3) Justice courts, county courts and all other courts having jurisdiction as justice courts, shall
34 have concurrent jurisdiction with the circuit courts of all prosecutions under subsection (1) of this
35 section.]

36 **SECTION 164.** ORS 166.320 is amended to read:

37 166.320. (1) Any person who places or sets any loaded springgun, setgun, or any gun, firearm
38 or other device of any kind designed for containing or firing explosives, in any place where it may
39 be fired, exploded or discharged by the contact of any person or animal with any string, wire, rod,
40 stick, spring or other contrivance affixed to or connected with it, or with its trigger, [shall be pun-
41 ished upon conviction by a fine of not less than \$100 nor more than \$500, or by imprisonment in the
42 county jail for not less than 30 days nor more than six months, or both] **commits a Class B**
43 **misdemeanor.**

44 (2) Subsection (1) of this section does not apply to any loaded springgun, setgun, firearm or other
45 device placed for the purpose of destroying gophers, moles or other burrowing rodents, and does not

1 prevent the use of a coyote getter by employees of county, state or federal governments engaged in
2 cooperative predatory animal control work.

3 **SECTION 165.** ORS 166.330 is amended to read:

4 166.330. Any person who uses in any firearms discharged on lands within this state, not owned
5 by the person, anything other than incombustible gun wadding, [*shall be punished upon conviction*
6 *by a fine of not less than \$5 nor more than \$100, or by imprisonment in the county jail for not less than*
7 *two days nor more than 60 days*] **commits a Class C misdemeanor.**

8 **SECTION 166.** ORS 166.715 is amended to read:

9 166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

10 (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart,
11 photograph, phonograph record, magnetic tape, computer printout, other data compilation from
12 which information can be obtained or from which information can be translated into usable form,
13 or other tangible item.

14 (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business
15 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-
16 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-
17 ernmental and nongovernmental entities.

18 (3) "Investigative agency" means the Department of Justice or any district attorney.

19 (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering
20 activity that have the same or similar intents, results, accomplices, victims or methods of commis-
21 sion or otherwise are interrelated by distinguishing characteristics, including a nexus to the same
22 enterprise, and are not isolated incidents, provided at least one of such incidents occurred after
23 November 1, 1981, and that the last of such incidents occurred within five years after a prior inci-
24 dent of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other
25 provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct
26 that constitutes an incident of racketeering activity may be used to establish a pattern of
27 racketeering activity without regard to whether the conduct previously has been the subject of a
28 criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted
29 in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within
30 the jurisdiction of the juvenile court.

31 (5) "Person" means any individual or entity capable of holding a legal or beneficial interest in
32 real or personal property.

33 (6) "Racketeering activity" includes conduct of a person committed both before and after the
34 person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to
35 commit, or to solicit, coerce or intimidate another person to commit:

36 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following
37 provisions of the Oregon Revised Statutes:

38 (A) ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995, relating to securities;

39 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

40 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing
41 governmental administration;

42 (D) ORS 162.405 to 162.425, relating to abuse of public office;

43 (E) ORS 162.455, relating to interference with legislative operation;

44 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

45 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

- 1 (H) ORS 163.225 and 163.235, relating to kidnapping;
- 2 (I) ORS 163.275, relating to coercion;
- 3 (J) ORS 163.670 to 163.693, relating to sexual conduct of children;
- 4 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135,
5 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and
6 related offenses;
- 7 (L) ORS 164.315 to 164.335, relating to arson and related offenses;
- 8 (M) ORS 164.345 to 164.365, relating to criminal mischief;
- 9 (N) ORS 164.395 to 164.415, relating to robbery;
- 10 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a
11 recording;
- 12 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and
13 related offenses;
- 14 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;
- 15 (R) ORS [165.485 to 165.515,] 165.540 and 165.555, relating to communication crimes;
- 16 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating
17 to firearms and other weapons;
- 18 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.054,
19 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355,
20 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexually explicit
21 material, sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal
22 fighting, forcible recovery of a fighting bird and related offenses;
- 23 (U) ORS 171.990, relating to legislative witnesses;
- 24 (V) ORS 260.575 and 260.665, relating to election offenses;
- 25 (W) ORS 314.075, relating to income tax;
- 26 (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco
27 products taxes and the directories developed under ORS 180.425 and 180.477;
- 28 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS
29 411.990 (2) and (3);
- 30 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;
- 31 (AA) ORS 463.995, relating to boxing, mixed martial arts and entertainment wrestling, as defined
32 in ORS 463.015;
- 33 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,
34 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS
35 chapter 471 relating to licenses issued under the Liquor Control Act;
- 36 (CC) ORS 475.005 to 475.285 and 475.840 to 475.980, relating to controlled substances;
- 37 (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;
- 38 (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;
- 39 (FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;
- 40 (GG) ORS chapter 706, relating to banking law administration;
- 41 (HH) ORS chapter 714, relating to branch banking;
- 42 (II) ORS chapter 716, relating to mutual savings banks;
- 43 (JJ) ORS chapter 723, relating to credit unions;
- 44 (KK) ORS chapter 726, relating to pawnbrokers;
- 45 (LL) ORS 166.382 and 166.384, relating to destructive devices;

- 1 (MM) ORS 165.074;
- 2 (NN) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;
- 3 (OO) ORS chapter 496, 497 or 498, relating to wildlife;
- 4 (PP) ORS 163.355 to 163.427, relating to sexual offenses;
- 5 (QQ) ORS 166.015, relating to riot;
- 6 (RR) ORS 166.155 and 166.165, relating to intimidation;
- 7 (SS) ORS chapter 696, relating to real estate and escrow;
- 8 (TT) ORS chapter 704, relating to outfitters and guides;
- 9 (UU) ORS 165.692, relating to making a false claim for health care payment;
- 10 (VV) ORS 162.117, relating to public investment fraud;
- 11 (WW) ORS 164.170 or 164.172;
- 12 (XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;
- 13 (YY) ORS 164.886;
- 14 (ZZ) ORS 167.312 and 167.388;
- 15 (AAA) ORS 164.889;
- 16 (BBB) ORS 165.800; or
- 17 (CCC) ORS 163.263, 163.264 or 163.266.
- 18 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).
- 19 (7) “Unlawful debt” means any money or other thing of value constituting principal or interest
- 20 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred
- 21 or contracted:
- 22 (a) In violation of any one of the following:
- 23 (A) ORS chapter 462, relating to racing;
- 24 (B) ORS 167.108 to 167.164, relating to gambling; or
- 25 (C) ORS 82.010 to 82.170, relating to interest and usury.
- 26 (b) In gambling activity in violation of federal law or in the business of lending money at a rate
- 27 usurious under federal or state law.
- 28 (8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute
- 29 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions
- 30 from what the statute was when this section was enacted, the reference shall extend to and include
- 31 amendments to the statute.
- 32 **SECTION 167.** ORS 167.337 is amended to read:
- 33 167.337. (1) A person commits the crime of interfering with a law enforcement animal if the
- 34 person intentionally or knowingly injures or attempts to injure an animal the person knows or rea-
- 35 sonably should know is a law enforcement animal while the law enforcement animal is being used
- 36 in the lawful discharge of its duty.
- 37 (2) Interfering with a law enforcement animal is a Class A misdemeanor.
- 38 *[(3) When a person is convicted of interfering with a law enforcement animal, in addition to any*
- 39 *other sentence the court may impose, the court shall impose a fine in the amount of \$500.]*
- 40 **SECTION 168.** ORS 167.339 is amended to read:
- 41 167.339. (1) A person commits the crime of assaulting a law enforcement animal if:
- 42 (a) The person knowingly causes serious physical injury to or the death of a law enforcement
- 43 animal, knowing that the animal is a law enforcement animal; and
- 44 (b) The injury or death occurs while the law enforcement animal is being used in the lawful
- 45 discharge of the animal’s duties.

1 (2) Assaulting a law enforcement animal is a Class C felony.

2 (3) *When a person is convicted of assaulting a law enforcement animal, in addition to any other*
3 *sentence the court may impose, the court shall impose a fine in the amount of \$1,000.]*

4 **SECTION 169.** ORS 192.990 is amended to read:

5 192.990. Violation of ORS 192.710 (1) is a **Class D** violation [*punishable by a fine of \$10*].

6 **SECTION 170.** ORS 198.600 is amended to read:

7 198.600. (1) If a penalty for a violation is not otherwise provided, violation of any regulation
8 adopted by a district board under ORS 198.510 to 198.600 is [*punishable, upon conviction, by a fine*
9 *of not more than \$250 or imprisonment of not more than 30 days, or both*] **a Class C misdemeanor.**

10 (2) Actions to impose punishment shall be brought in the name of the district or county, as the
11 case may be, in any court having jurisdiction of misdemeanors under state laws. The action shall
12 be brought in the county in which the district, or the greater portion of the area of the district, is
13 located. [*Fines recovered shall be paid to the clerk of the court who, after first deducting the court costs*
14 *in such proceedings, shall pay the remainder thereof to the treasurer of the district or county initiating*
15 *the action to go to and form a part of its general fund.*]

16 (3) Any peace officer may enforce an ordinance adopted under ORS 198.510 to 198.600. ORS
17 221.333 is applicable to the enforcement of such ordinances.

18 **SECTION 171.** ORS 221.916 is amended to read:

19 221.916. (1) The mayor and alderpersons shall compose the common council of any city organized
20 under sections 1 to 6, pages 119 to 123, Oregon Laws 1893. At any regular council meeting, the
21 common council may:

22 (a) Provide for lighting the streets and furnishing such city and its inhabitants with gas or other
23 lights, and with pure and wholesome water. For such purpose it may construct such water, gas or
24 other works, within or without the city limits, as may be necessary or convenient therefor. It may
25 allow the use of the city streets and alleys to any person, company or corporation who may desire
26 to establish works for supplying the city and inhabitants thereof with such water or lights upon such
27 reasonable terms and conditions as the common council may prescribe.

28 (b) Permit, allow and regulate the laying down of tracks for streetcars and other railroads upon
29 such streets as the common council may designate, and upon such terms and conditions as the
30 common council may prescribe.

31 (c) Allow and regulate the erection and maintenance of poles, or poles and wires, for telegraph,
32 telephone, electric light or other purposes, upon or through the streets, alleys or public grounds of
33 such city.

34 (d) Permit and regulate the use of alleys, streets and public grounds of the city for laying down
35 or repairing gas and water mains, for building and repairing sewers and for erecting gas or other
36 lights.

37 (e) Preserve the streets, lights, side and crosswalks, bridges and public grounds from injury,
38 prevent the unlawful use of the same and regulate their use.

39 (f) Fix the maximum rate of wharfage, rates for gas or other lights, rates for carrying passengers
40 on street railways and water rates. No city shall ever deprive itself of the right through its common
41 council of regulating and adjusting any such rates, so that the same shall be reasonable for the
42 service rendered, at least once in any period of two years.

43 (g) License, tax, regulate, restrain and prohibit barrooms and tipping houses, and all places
44 where spirituous, vinous or malt liquors are sold, or in any manner disposed of contrary to law. No
45 license shall be issued for a lesser sum than that provided by law.

1 (h) Prevent and suppress gaming and gambling houses, and all games of chance, including lot-
2 teries and pool selling.

3 (i) Prevent and suppress bawdyhouses, lewd and lascivious cohabitation, opium-smoking houses
4 and places occupied or kept therefor.

5 (j) License, regulate and control any lawful business, trade, occupation, profession or calling,
6 carried on or conducted within the corporate limits of any such city.

7 (k) Suppress and prohibit anything that is injurious to the public morals, public safety or public
8 health of the inhabitants of any such city. The common council may define, suppress and prohibit
9 nuisances of every kind, including those arising out of the receipt, sale or disposal of intoxicating
10 liquor in violation of law.

11 (L) Regulate, suppress and prohibit the running at large within the corporate limits of any and
12 all domestic animals, including fowls, and provide for the impoundment and sale, after notice, of
13 such animals.

14 (m) Exercise any and all police regulations concerning the public morals, public safety, public
15 health and public convenience of the inhabitants of any such city.

16 (n) Provide for the surveying of blocks and streets of the city and for marking the boundary
17 lines of such blocks and streets, and the establishing of grades of the streets, sidewalks and cross-
18 walks.

19 (o) Prevent and punish trespass on real and personal property within the corporate limits of
20 such city.

21 (p) Make bylaws and ordinances not inconsistent with the laws of the United States or of this
22 state to carry into effect the provisions of ORS 221.901 to 221.928.

23 (q) Provide, in addition to such action as may be appropriate to carry into full effect the object
24 to be achieved, for the punishment of persons violating any bylaws or ordinances by fine or
25 imprisonment, or both, and the working of such persons on the city streets or at any other work.
26 *[No fine shall exceed the sum of \$50, nor shall any imprisonment exceed 20 days.]*

27 (2) Nothing contained in ORS 221.901 to 221.928 shall be so construed as to oust the state courts
28 of jurisdiction to indict or punish persons for offenses against any law of the state committed within
29 the limits of any such city.

30 **SECTION 172.** ORS 240.990 is amended to read:

31 240.990. (1) Subject to ORS 153.022, any person who willfully violates any provision of this
32 chapter or of the rules thereunder *[is guilty of a]* **commits a Class A** misdemeanor *[and is*
33 *punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for*
34 *a term not exceeding one year, or both].*

35 (2) Any person who fails to appear in response to a subpoena or to answer any question or
36 produce any books or papers pertinent to any investigation or hearing authorized by this chapter
37 *[is guilty of a]* **commits a Class A** misdemeanor.

38 (3) A state officer or employee who fails to comply with any provision of this chapter or of any
39 rule, regulation or order thereunder is subject to all penalties and remedies provided by law for
40 failure of a public officer or employee to do an act required of a public officer or employee by law.

41 (4) Any person who is convicted of a **Class A** misdemeanor under this chapter shall, for a period
42 of five years, be ineligible for appointment to or employment in a position in the state service, and
43 if the person is an officer or employee of the state, shall be deemed guilty of malfeasance in office
44 and shall be subject to forfeit of the office or position.

45 **SECTION 173.** ORS 241.990 is amended to read:

1 241.990. (1) Except as otherwise provided in this section, willful violation of any of the pro-
2 visions of ORS 241.016 to 241.990 is a **Class A** misdemeanor [*and, upon conviction, is punishable by*
3 *a fine of not less than \$25 nor more than \$1,000, or by imprisonment in the county jail for not longer*
4 *than one year, or both*].

5 (2) Willful false swearing in any hearing or investigation before the commission, or designated
6 commissioner, is perjury and punishable as such.

7 (3) Violation of ORS 241.525 is [*punishable, upon conviction, by a fine of not less than \$50 nor*
8 *more than \$1,000 or imprisonment of not less than 10 days nor more than two years, or both*] a **Class**
9 **A misdemeanor**. In addition, if the person convicted is a public officer of the state or any civil
10 division thereof, including counties and cities, the person shall be deprived of office.

11 [(4) *The circuit court shall have jurisdiction of all offenses defined by ORS 241.016 to 241.990.*]

12 **SECTION 174.** ORS 267.990 is amended to read:

13 267.990. Any person violating a police ordinance of a mass transit district [*is guilty of a*] **com-**
14 **mits a Class A** misdemeanor [*and upon conviction shall be punished by a fine of not more than*
15 *\$250*].

16 **SECTION 175.** ORS 268.990 is amended to read:

17 268.990. [(1)] Violation of any ordinance, rule or regulation adopted by a district [*shall be*
18 *punishable by a fine of not more than \$500 or by imprisonment in a county jail for not more than 30*
19 *days or by both*] **is a Class C misdemeanor**.

20 [(2) *Any penalty for such a violation may be imposed or enforced by the district in the circuit court*
21 *of the state for the county where the violation takes place.*]

22 **SECTION 176.** ORS 279A.990 is amended to read:

23 279A.990. (1) The provisions of ORS 291.990 apply to ORS 279A.140, 279A.280 and 279B.270. Any
24 violation of ORS 279A.140, 279A.280 or 279B.270 shall be punished as described in ORS 291.990.

25 (2) Any contractor, subcontractor, agent or person in authority or in charge who violates any
26 provision of ORS 279C.520 or 279C.540 as to hours of labor [*shall be fined not less than \$50 nor more*
27 *than \$1,000 or imprisoned in the county jail for not less than five days nor more than one year, or*
28 *both*] **commits a Class A misdemeanor**.

29 (3) Any contractor or subcontractor subject to ORS 279C.840 who fails to pay the prevailing rate
30 of wage as required by ORS 279C.840 [*shall be punished by a fine of not more than \$1,000 or by*
31 *imprisonment in the county jail for not more than six months, or both*] **commits a Class B**
32 **misdemeanor**.

33 **SECTION 177.** ORS 291.990 is amended to read:

34 291.990. [(1) *A person who makes or orders or votes to make an expenditure in violation of a*
35 *provision of the statutes listed in subsection (5) of this section, or who makes or authorizes or causes*
36 *to be made a disbursement of funds from the State Treasury in violation of a provision of the statutes*
37 *listed in subsection (5) of this section, commits a violation and shall, upon conviction, be punished by*
38 *a fine of not less than \$500 nor more than \$3,000.*]

39 [(2)] (1) If a person incurs or orders or votes to incur an obligation in violation of a provision
40 of the statutes listed in subsection [(5)] (4) of this section, the person and the sureties on the
41 person's bond are jointly and severally liable for the violation to the person in whose favor the ob-
42 ligation was incurred.

43 [(3)] (2) Upon certification by the Oregon Department of Administrative Services that a state
44 officer or employee of a state agency has failed or refused to comply with an order, rule or regu-
45 lation the department made in accordance with the statutes listed in subsection [(5)] (4) of this

1 section, the salary of the officer or employee may not be paid until the order, rule or regulation is
2 complied with.

3 [(4)] (3) A violation of a provision of a statute listed in subsection [(5)] (4) of this section [*for*
4 *which no other penalty is provided in this section*] is a Class A violation.

5 [(5)] (4) Subsections (1) to [(4)] (3) of this section apply to ORS 279A.140, 279A.280, 279B.270,
6 283.020, 283.110, 283.140, 283.143, 283.305 to 283.390, 291.001 to 291.034, 291.201 to 291.222, 291.232
7 to 291.260, 291.307, 292.220 and 292.230.

8 **SECTION 178.** ORS 293.990 is amended to read:

9 293.990. (1) Any person, official or state agent violating ORS 293.265 to 293.280 or failing to
10 comply with any of the requirements of those sections within the time provided shall be liable on
11 the official bond of the person, officer or state agent and [*shall, upon conviction thereof, be punished*
12 *by a fine not exceeding \$1,000 or by imprisonment in the county jail for a period not exceeding one*
13 *year, or both*] **commits a Class A misdemeanor.**

14 (2) In addition to civil liability, violation of ORS 293.620 is a Class A violation. [*Upon conviction,*
15 *the defendant is liable for all costs of the prosecution in accordance with ORS 151.505 or 161.665.*]

16 **SECTION 179.** ORS 305.990 is amended to read:

17 305.990. (1) Any person who willfully presents or furnishes to the Department of Revenue any
18 statement required under ORS 305.160, which statement is false or fraudulent, [*is guilty of*] **commits**
19 perjury and upon conviction shall be punished as provided by law therefor.

20 (2) Any person who gives testimony before the Director of the Department of Revenue which is
21 false or fraudulent, [*is guilty of*] **commits** perjury and upon conviction shall be punished as provided
22 by law therefor.

23 (3) Any public officer who neglects or refuses to perform any of the duties imposed on the public
24 officer by law as to the assessment, levying or collection of taxes [*shall be punished, upon conviction,*
25 *by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding one year*] **commits**
26 **a Class A misdemeanor.**

27 (4) Violation of ORS 305.815 is [*punishable, upon conviction, by a fine of not more than \$1,000 or*
28 *by imprisonment for not more than one year in the county jail, or both*] **a Class A misdemeanor.**

29 (5) Violation of ORS 305.260 is [*punishable, upon conviction, as*] a Class A misdemeanor[, *as*
30 *provided in ORS chapter 161*]. If the offender is an officer or employee of the state the offender shall
31 be dismissed from office and shall be incapable of holding any public office in this state for a period
32 of five years thereafter.

33 **SECTION 180.** ORS 307.990 is amended to read:

34 307.990. If any person shall willfully deliver any statement to the officer charged with assess-
35 ment of property for tax purposes in the county of the person containing a false statement of a
36 material fact, whether it be an owner, shipper, the agent of the person, or a storageman or
37 warehouseman of the agent of the person, the person [*shall be guilty of a*] **commits a Class B**
38 **misdemeanor**[, *and upon conviction shall be punished by a fine of not more than \$500 or by*
39 *imprisonment in the county jail for not more than six months*].

40 **SECTION 181.** ORS 319.990 is amended to read:

41 319.990. (1) Any person who violates any of the provisions of ORS 319.010 to 319.430, or any
42 person who makes any false statement in any statement required by ORS 319.010 to 319.430 for the
43 refund of any money or tax as provided in ORS 319.010 to 319.430, or who collects or causes to be
44 repaid to the person or any person any tax, without being entitled to it under the provisions of ORS
45 319.010 to 319.430, [*shall, upon conviction, be punished by a fine of not more than \$1,000, or by*

1 *imprisonment in the county jail not more than six months, or both*] **commits a Class B**
2 **misdemeanor.**

3 (2) Violation of ORS 319.180 (6) or 319.694 (4) is theft of public money and, upon conviction, is
4 punishable as provided in ORS 164.043 to 164.057.

5 (3) Violation of any provision of ORS 319.240 (4) and (5) is [*punishable, upon conviction, by a fine*
6 *of not more than \$5,000, or by imprisonment in the county jail not exceeding six months, or both*] **a**
7 **Class B misdemeanor.**

8 (4) Violation of any provision of ORS 319.510 to 319.880 is a **Class A** misdemeanor.

9 [(5) *Justice courts have concurrent jurisdiction with the circuit court of all violations under the*
10 *provisions of ORS 319.010 to 319.125 and 319.190 to 319.430, 319.510 to 319.880 or this section.*]

11 **SECTION 182.** ORS 320.990 is amended to read:

12 320.990. Violation of any provision of ORS 320.005 to 320.150 [*by any person is punishable, upon*
13 *conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than*
14 *six months, or by both*] **is a Class B misdemeanor.** [*Justice courts have concurrent jurisdiction with*
15 *the circuit courts of any prosecution provided for in this subsection.*]

16 **SECTION 183.** ORS 321.991 is amended to read:

17 321.991. Violation of any provision of ORS 321.005 to 321.185 and 321.560 to 321.600 is
18 [*punishable, upon conviction, by a fine not exceeding \$1,000 or by imprisonment in the county jail for*
19 *not exceeding one year, or by both*] **a Class A misdemeanor.**

20 **SECTION 184.** ORS 341.300 is amended to read:

21 341.300. (1) The board may adopt such regulations as it considers necessary to provide for the
22 policing, control and regulations of traffic and parking of vehicles on property under the jurisdiction
23 of the board. Such regulations may provide for the registration of vehicles, the designation and
24 posting of parking areas, and the assessment and collection of reasonable fees and charges for
25 parking and shall be filed in the board business office on the campus and shall be available for
26 public inspection. The board may require that before a quarterly or yearly parking privilege for any
27 vehicle is granted to any full-time or part-time student to use board property, the student must show
28 that the vehicle is operated by a student holding a valid driver license, that the vehicle is currently
29 registered and that the student driving the vehicle is insured under a motor vehicle liability insur-
30 ance policy that meets the requirements described under ORS 806.080 or that the student or owner
31 of the vehicle has provided the Department of Transportation with other satisfactory proof of com-
32 pliance with the financial responsibility requirements of this state.

33 (2) The regulations adopted pursuant to subsection (1) of this section may be enforced adminis-
34 tratively under procedures adopted by the board. Administrative and disciplinary sanctions may be
35 imposed upon students, faculty, and staff for violation of the regulations. The board may establish
36 hearing procedures for the determination of controversies in connection with imposition of [*fin*
37 *es*
38 *or*] penalties.

39 (3) Upon agreement between the board and a city or county in which all or part of the com-
40 munity college campus is located, proceedings to enforce regulations adopted pursuant to subsection
41 (1) of this section shall be brought in the name of the city or county enforcing the regulation in the
42 circuit, justice or municipal court in the county in which the violation occurred. [*The fines, penal-*
43 *ties and costs recovered shall be paid to the clerk of the court involved in accordance with the agree-*
44 *ment between the board and the city or county with which the agreement is made.*]

45 (4) The regulations adopted pursuant to subsection (1) of this section may also be enforced by
the impoundment of vehicles, and a reasonable fee may be enacted for the cost of impoundment and

1 storage, if any, prior to the release of the vehicles to their owners.

2 (5) Every peace officer acting within the jurisdictional authority of a governmental unit of the
3 place where the violation occurs shall enforce the regulations adopted by the board under sub-
4 section (1) of this section if an agreement has been entered into pursuant to subsection (3) of this
5 section. The board, for the purpose of enforcing its regulations governing traffic control, may ap-
6 point peace officers who shall have the same authority as other peace officers as defined in ORS
7 133.005.

8 (6) Issuance of traffic citations to enforce the regulations adopted by the board under subsection
9 (1) of this section shall conform to the requirements of ORS chapter 153. However, in proceedings
10 brought to enforce parking regulations, it shall be sufficient to charge the defendant by an unsworn
11 written notice in accordance with the provisions of ORS 221.333.

12 (7) Violation of any regulation adopted by the board pursuant to subsection (1) of this section
13 and enforced pursuant to subsection (3) of this section is a **Class A** misdemeanor.

14 **SECTION 185.** ORS 346.991 is amended to read:

15 346.991. [(1)] Violation of ORS 346.167, **346.620 (1) or (2), 346.650 or 346.660 or any of the**
16 **provisions of ORS 346.680 to 346.690** is [punishable, upon conviction, by a fine of not more than
17 \$1,000 or by imprisonment in the county jail for not more than 60 days, or both] **a Class C**
18 **misdemeanor.**

19 [(2) Violation of ORS 346.620 (1) or (2) is a Class C misdemeanor.]

20 [(3) Violation of ORS 346.650 or 346.660 is a Class C misdemeanor.]

21 [(4) Violations of ORS 346.680 to 346.690 are subject to the penalties provided in subsections (1)
22 to (3) of this section.]

23 **SECTION 186.** ORS 368.990 is amended to read:

24 368.990. [(1)] Violation of ORS 368.251 [or], 368.256 **or 368.942** is [punishable, upon conviction,
25 by a fine not exceeding \$100 or by imprisonment in the county jail not exceeding 60 days, or both] **a**
26 **Class C misdemeanor.** [Justice courts shall have concurrent jurisdiction with the circuit courts of
27 such offenses.]

28 [(2) Violation of ORS 368.942 is punishable, upon conviction, for each violation by a fine of not
29 more than \$100 or imprisonment in the county jail for not more than 30 days or both.]

30 **SECTION 187.** ORS 376.990 is amended to read:

31 376.990. (1) Operation of a motor vehicle by any person over a contract forest road in violation
32 of the contract provisions as to equipment, weight, width, length or height, is [punishable, upon
33 conviction, by a fine not exceeding \$400 or by imprisonment in the county jail not exceeding one year,
34 or both] **a Class A misdemeanor.** The definitions in ORS 376.310 apply to this section.

35 (2) Violation by any person of any of the provisions of ORS 376.305 to 376.390 is [punishable,
36 upon conviction, by a fine not exceeding \$400 or by imprisonment in the county jail not exceeding one
37 year, or both] **a Class A misdemeanor.**

38 **SECTION 188.** ORS 390.995 is amended to read:

39 390.995. (1) Violation of ORS 390.640 is a misdemeanor.

40 (2) Subject to ORS 153.022, any person who violates a rule adopted under ORS 390.950 to 390.989
41 [is guilty of a misdemeanor, and may be punished by a fine of not more than \$500, or by imprisonment
42 not exceeding six months, or both] **commits a Class B misdemeanor.**

43 (3) Subject to ORS 153.022, violation of any provision of ORS 390.640 or 390.705, or any rule
44 adopted to carry out the purposes of ORS 390.640 or 390.705, [may be punished by a fine of not more
45 than \$500, or by imprisonment not exceeding six months, or both] **is a Class B misdemeanor.** Each

1 day that a person violates ORS 390.640 or 390.705 shall be considered a separate offense.

2 **SECTION 189.** ORS 398.224 is amended to read:

3 398.224. (1) Any person not subject to this chapter *[is guilty of an offense against the state*
4 *when]* **commits a Class B misdemeanor** if the person:

5 (a) Has been duly subpoenaed to appear as a witness before a court-martial, court of inquiry or
6 any other military court or board, or before any military or civil officer designated to take a depo-
7 sition to be read in evidence before such a court, commission or board;

8 (b) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to
9 witnesses attending the circuit court of the state in ORS 44.415 (2); and

10 (c) Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to
11 produce any evidence which that person may have been legally subpoenaed to produce.

12 *[(2) Any person who commits an offense described in subsection (1) of this section shall be tried*
13 *before the circuit court or judge thereof of the county where the offense occurred, and exclusive juris-*
14 *isdiction is conferred upon those courts for such purpose. Upon conviction, such a person shall be pun-*
15 *ished by a fine of not more than \$2,500, or imprisonment for not more than six months, or both.]*

16 *[(3)]* **(2)** The district attorney of the county in which the offense occurred, upon certification of
17 the facts by the military court, court of inquiry or board, shall prosecute any person who commits
18 the offense described in subsection (1) of this section. *[The fine shall be deposited in the General*
19 *Fund of the State Treasury, to be available for general governmental expenses.]*

20 **SECTION 190.** ORS 399.990 is amended to read:

21 399.990. Any person violating ORS 399.125 *[is guilty of a misdemeanor punishable by*
22 *imprisonment in the county jail not to exceed six months and a fine not to exceed \$500]* **commits a**
23 **Class B misdemeanor.** *[The fine shall be recovered by an action brought by the district attorney in*
24 *the name of the state and shall be deposited in the General Fund in the State Treasury, to be available*
25 *for general governmental expenses.]*

26 **SECTION 191.** ORS 411.990 is amended to read:

27 411.990. (1) Violation of ORS 411.320 or 411.335 is *[punishable, upon conviction, by a fine of not*
28 *more than \$1,000 or by imprisonment in the county jail for not more than 60 days, or by both]* **a Class**
29 **C misdemeanor.**

30 (2) Violation of any provision of ORS 411.630 or 411.840 is a Class C felony which may be re-
31 duced to a Class A misdemeanor in accordance with ORS 161.705.

32 (3) Violation of ORS 411.675 is a Class C felony.

33 (4) Criminal prosecution of violators of ORS 411.675 shall be commenced in accordance with
34 ORS 131.125 (6) and (7).

35 **SECTION 192.** ORS 418.215 is amended to read:

36 418.215. *[(1)]* No private child-caring agency shall provide or engage in any care or service de-
37 scribed in ORS 418.205 unless the agency is at the time:

38 *[(a)]* **(1)** Duly incorporated under the corporation laws of any state; and

39 *[(b)]* **(2)** Licensed to provide or engage in the care or service by the Department of Human
40 Services under the provisions of ORS 418.205 to 418.325.

41 *[(2) The fine which may be imposed for violation of the provisions of this section, as provided in*
42 *ORS 412.991 and 418.990, may be assessed by any court of competent jurisdiction upon presentation*
43 *of evidence of such action.]*

44 **SECTION 193.** ORS 421.990 is amended to read:

45 421.990. (1) Violation of ORS 421.340 is *[punishable upon conviction by a fine not exceeding \$1,000*

1 or by imprisonment in the county jail for a term not exceeding one year, or both] a **Class A**
2 **misdemeanor.**

3 (2) Violation of ORS 421.105 (2) is punishable in the same manner as if the individual injured
4 unlawfully was not convicted or sentenced.

5 **SECTION 194.** ORS 431.210 is amended to read:

6 431.210. (1) There is established in the General Fund the Public Health Account, classified sep-
7 arately as to federal and other moneys.

8 (2) All [*fin*es,] fees, penalties, federal apportionments or contributions and other moneys received
9 by the Oregon Health Authority relating to public health shall be turned over to the State Treasurer
10 not later than the 10th day of the calendar month next succeeding their receipt by the authority
11 and shall be credited to the Public Health Account.

12 (3) All moneys credited to the Public Health Account are continuously appropriated to the au-
13 thority for the payment of expenses of the authority.

14 **SECTION 195.** ORS 432.900 is amended to read:

15 432.900. (1) In addition to any other liability or penalty provided by law, the Director of the
16 Oregon Health Authority may impose a civil penalty on any person for willful failure to comply with
17 any part of ORS 432.520. A civil penalty may be imposed against a health care facility for each day
18 compliance is refused. The penalty shall be \$50 per day for the first 30 days and \$500 per day
19 thereafter. A civil penalty of \$50 may be imposed against a practitioner for each day compliance is
20 refused.

21 (2) Any [*fin*es] **amounts** collected pursuant to subsection (1) of this section shall be paid into
22 the State Treasury and deposited in the General Fund.

23 (3) Civil penalties described in subsection (1) of this section shall be imposed in the manner
24 provided in ORS 183.745.

25 **SECTION 196.** ORS 435.990 is amended to read:

26 435.990. (1) Violation of any of the provisions of ORS 435.010 to 435.130 is [*punishable, upon*
27 *conviction, by a fine not to exceed \$200 or imprisonment in a county jail for not exceeding 60 days, or*
28 *both*] a **Class C misdemeanor.**

29 (2) Sale at wholesale or retail of any goods of the class specified in ORS 435.010 that do not
30 comply with standards promulgated under ORS 435.100 (1) is a Class C misdemeanor.

31 **SECTION 197.** ORS 441.990 is amended to read:

32 441.990. (1) Violation of ORS 441.015 (1) is a **Class B** violation [*punishable, upon conviction, by*
33 *a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent*
34 *violation*]. Each day of continuing violation after a first conviction shall be considered a subsequent
35 violation.

36 (2) Any person who willfully prevents, interferes with, or attempts to impede in any way the
37 work of any duly authorized representative of the Department of Human Services in the lawful
38 carrying out of the provisions of ORS 441.087 (1) [*is guilty of*] **commits** a Class C misdemeanor.

39 (3) The removal of the notice required by ORS 441.030 (4) by any person other than an official
40 of the department is a Class C misdemeanor.

41 (4) Any person who, after being excluded by a trustee pursuant to ORS 441.289 (16), remains
42 upon the premises of a facility or returns to a facility violates ORS 164.245.

43 (5) In addition to the penalties under this section, the Oregon Health Authority, the Department
44 of Human Services or the Department of Consumer and Business Services may assess civil penalties
45 against any health care facility or health maintenance organization under ORS 441.030 or for a vi-

1 olation of ORS 441.015 (1). A civil penalty imposed under this section may not exceed \$5,000.

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

3 (7) Civil penalties recovered under this section shall be paid into the State Treasury and cred-
4 ited to the General Fund for general governmental purposes.

5 **SECTION 198.** ORS 448.305 is amended to read:

6 448.305. (1) Subject to subsection (2) of this section, by ordinance a city may prohibit or restrict
7 access for purposes of fishing, hunting, camping, hiking, picnicking, trapping of wild animals or
8 birds, harvesting of timber or mining or removal of minerals or carrying on any other activity in its
9 watershed area, or by ordinance may permit any such activity in its watershed area upon conditions
10 specified in the ordinance. However, no ordinance passed under authority of this section shall pro-
11 hibit the hunting or trapping of fur-bearing or predatory mammals doing damage to public or private
12 property or prohibit the hunting or trapping of any bird or mammal for scientific purposes, as de-
13 fined in ORS 497.298 (3).

14 (2) Subsection (1) of this section applies only to cities with respect to watershed areas which
15 are the subject of an agreement between the city and the United States or any department or agency
16 thereof, which agreement authorizes such action by the city.

17 (3) **Violation of** an ordinance adopted by any city pursuant to this section [*shall include a pen-*
18 *alty clause providing for a penalty upon conviction of a fine of not more than \$100 or imprisonment for*
19 *not more than 30 days, or both such fine and imprisonment*] **is a Class C misdemeanor.**

20 (4) After adoption of an ordinance pursuant to subsection (1) of this section, a city shall post
21 the area with suitable signs setting forth the prohibition of access or the conditions of limited access
22 imposed by the ordinance. Failure to post the area as required in this subsection shall be a defense
23 in any prosecution under an ordinance adopted by any city under authority of this section.

24 **SECTION 199.** ORS 448.990 is amended to read:

25 448.990. (1) Violation of ORS 448.005 to 448.090 by any person, firm or corporation, whether
26 acting as principal or agent, employer or employee, is [*punishable, upon conviction, by a fine of not*
27 *less than \$25 nor more than \$500 or by imprisonment in the county jail not exceeding six months, or*
28 *by both*] **a Class B misdemeanor.** Each day that the violation continues is a separate offense.

29 (2) Subject to ORS 153.022, violation of any of the following is [*punishable as*] a Class A
30 misdemeanor:

31 (a) Any rule of the Oregon Health Authority adopted pursuant to ORS 448.115 to 448.330.

32 (b) Any order issued by the authority pursuant to ORS 448.175.

33 (c) ORS 448.265 or 448.315 (2)(a).

34 **SECTION 200.** ORS 448.992 is amended to read:

35 448.992. (1) [*Except as provided in subsection (2) of this section,*] Any person who knowingly and
36 willfully violates ORS 448.415 (2) [*shall upon conviction be punished by a fine of not more than \$500*
37 *per day of violation or imprisonment for not more than six months, or both*] **commits a Class B**
38 **misdemeanor.**

39 (2) Any person who knowingly makes any false statement, representation, or certification in any
40 application, record, report, plan or other document filed or required to be maintained under ORS
41 448.410 to 448.430, or by any rule adopted under ORS 448.410 to 448.430, [*shall upon conviction, be*
42 *punished by a fine of not more than \$500 or by imprisonment for not more than six months, or both*]
43 **commits a Class B misdemeanor.**

44 **SECTION 201.** ORS 448.994 is amended to read:

45 448.994. (1) [*Except as provided in subsection (2) of this section,*] Any person who knowingly and

1 willfully violates ORS 448.455 (2) [*shall upon conviction be punished by a fine of not more than \$500*
2 *per day of violation or imprisonment for not more than six months, or both*] **commits a Class B**
3 **misdemeanor.**

4 (2) Subject to ORS 153.022, any person who knowingly makes any false statement, represen-
5 tation, or certification in any application, record, report, plan or other document filed or required
6 to be maintained under ORS 448.450 to 448.465 and 448.992, or by any rule adopted under ORS
7 448.450 to 448.465 and 448.992, [*shall upon conviction, be punished by a fine of not more than \$500*
8 *or by imprisonment for not more than six months, or both*] **commits a Class B misdemeanor.**

9 **SECTION 202.** ORS 450.990 is amended to read:

10 450.990. Violation of any regulation or ordinance under ORS 450.085 is [*punishable, upon con-*
11 *vicition, by a fine of not more than \$100 or imprisonment of not more than one month, or both*] **a Class**
12 **C misdemeanor.**

13 **SECTION 203.** ORS 460.370 is amended to read:

14 460.370. All moneys from fees collected by the Department of Consumer and Business Services
15 under ORS 460.310 to 460.370 [*and 460.990 (2)*] shall be paid into the Consumer and Business Ser-
16 vices Fund created by ORS 705.145 and are continuously appropriated to the department for use as
17 provided in ORS 455.022.

18 **SECTION 204.** ORS 460.990 is amended to read:

19 460.990. (1) Violation of any of the provisions of ORS 460.005 to 460.175 is [*punishable, upon*
20 *conviction, by a fine not to exceed \$100 or by imprisonment in the county jail for not more than 60*
21 *days, or both*] **a Class C misdemeanor.**

22 (2) Violation of any provisions of ORS 460.310 to 460.370 is a Class B misdemeanor.

23 **SECTION 205.** ORS 462.405 is amended to read:

24 462.405. (1) The board of stewards appointed by the Oregon Racing Commission for a race meet
25 may, after an inquiry and hearing, impose appropriate sanctions for failure to comply with the laws
26 and rules of racing and with the authorized commission or board directives applicable to said race
27 meet, subject to the following limitations:

28 (a) [*No fine shall*] **A civil penalty may not** exceed \$500 per offense.

29 (b) [*No*] **A license suspension** [*shall*] **may not** be for a period longer than 365 calendar days from
30 the date of issuance of the order of the board of stewards.

31 (2) Any sanction imposed by the board of stewards shall take effect on the date so indicated in
32 the board's ruling unless the effective date is stayed for good cause shown by specific order of the
33 executive director of the commission, or a member of the commission, pending commission review.

34 (3) In lieu of the board of stewards conducting any inquiry and hearing provided for by sub-
35 section (1) of this section, the board of stewards may request the commission to appoint and desig-
36 nate a person to conduct such inquiry and hearing who shall be known as a hearings master. The
37 hearings master shall have the same authority and power as the board of stewards in conducting
38 the inquiry and hearing. Any person adversely affected by any hearings master ruling has the right
39 to appeal to the commission as provided for in subsection (4) of this section. The hearings master
40 need not be an administrative law judge assigned from the Office of Administrative Hearings es-
41 tablished under ORS 183.605.

42 (4) The board of stewards may refer any matter before it to the commission for appropriate re-
43 view or action either before or after a board hearing or ruling. A person adversely affected by any
44 board ruling has the right to appeal to the commission for a review and hearing as provided in ORS
45 chapter 183. Such review shall be perfected by filing a written notice of appeal with the executive

1 director within 10 days after the board ruling is issued. Hearings conducted by the commission un-
 2 der this subsection shall be heard by an administrative law judge assigned from the Office of Ad-
 3 ministrative Hearings established under ORS 183.605. The commission is not limited in its actions
 4 or in the sanctions it may impose by any ruling of the board or by any limitation imposed upon the
 5 board by commission rule or regulation or by subsection (2) of this section.

6 **SECTION 206.** ORS 462.990 is amended to read:

7 462.990. (1) Except as [*hereinafter*] provided in this section, violations of any provision of this
 8 chapter is a **Class A** misdemeanor.

9 (2) Any person violating the provisions of ORS 462.420, 462.430, 462.450, 462.460, 462.470 or
 10 462.415 (2) [*shall, upon conviction, be guilty of a felony and punished by imprisonment in the custody*
 11 *of the Department of Corrections for not more than two years or by a fine of not more than \$5,000, or*
 12 *by both*] **commits a Class C felony.**

13 (3) Any person who conspires or attempts to commit or commits any act of touting as defined
 14 in ORS 462.510 [*shall, upon conviction, be fined not more than \$500 or be imprisoned for not more than*
 15 *six months, or both*] **commits a Class B misdemeanor.**

16 (4) Any person violating the provisions of ORS 462.140 (1) [*shall be punished upon conviction by*
 17 *imprisonment in the county jail for not more than one year or by imprisonment in the custody of the*
 18 *Department of Corrections for not more than five years or by a fine of not more than \$5,000, or both*
 19 *such fine and imprisonment*] **commits a Class A misdemeanor.**

20 **SECTION 207.** ORS 466.913 is amended to read:

21 466.913. (1) The Fuel Tank Compliance and Corrective Action Fund is established separate and
 22 distinct from the General Fund in the State Treasury.

23 (2) The following moneys, as they pertain to a fuel tank facility, shall be deposited into the State
 24 Treasury and credited to the Fuel Tank Compliance and Corrective Action Fund:

25 (a) Moneys recovered or otherwise received from responsible parties for corrective action re-
 26 lated to a fuel tank facility;

27 (b) Moneys allocated to the fund from the Administrative Services Economic Development Fund;

28 (c) Any penalty[, *fine*] or damages recovered under ORS 466.770 pertaining to a fuel tank facility;
 29 and

30 (d) Any moneys received pursuant to ORS 466.910.

31 (3) The State Treasurer may invest and reinvest moneys in the fund in the manner provided by
 32 law.

33 (4) The moneys in the fund are appropriated continuously to the Department of Environmental
 34 Quality to be used as provided in subsection (5) of this section.

35 (5) Moneys in the fund may be used by the department for administration and funding of the
 36 essential services grant program established under ORS 466.903 and 466.905.

37 **SECTION 208.** ORS 466.995, as amended by section 7, chapter 267, Oregon Laws 2009, is
 38 amended to read:

39 466.995. (1) Penalties provided in this section are in addition to and not in lieu of any other
 40 remedy specified in ORS 459.005 to 459.105, 459.205 to 459.385, 466.005 to 466.385 or 466.992.

41 (2) Subject to ORS 153.022, violation by any person of a provision of ORS 466.605 to 466.680 or
 42 of any rule or order entered or adopted under ORS 466.605 to 466.680 is [*punishable, upon conviction,*
 43 *by a fine of not more than \$25,000 or by imprisonment in the county jail for not more than one year*
 44 *or both*] **Class A misdemeanor. Notwithstanding ORS 161.635, the maximum fine for a violation**
 45 **is \$25,000.** Each day of violation shall be considered a separate offense.

1 (3) Subject to ORS 153.022, any person who knowingly violates any provision of ORS 466.706 to
2 466.882 and 466.994 or the rules adopted under ORS 466.706 to 466.882 and 466.994 [*shall be subject*
3 *to a criminal penalty not to exceed \$25,000 or imprisonment for not more than one year or both*]
4 **commits a Class A misdemeanor. Notwithstanding ORS 161.635, the maximum fine for a vi-**
5 **olation is \$25,000.** Each day of violation shall be deemed a separate offense.

6 (4) Subject to ORS 153.022, any person who knowingly violates any provision of ORS 465.200 to
7 465.545 or any rule or order adopted or issued under ORS 465.200 to 465.545 [*shall, upon conviction,*
8 *be subject to a criminal penalty not to exceed \$25,000 or imprisonment for not more than one year, or*
9 *both.*] **commits a Class A misdemeanor. Notwithstanding ORS 161.635, the maximum fine for**
10 **a violation is \$25,000.** Each day of violation shall be deemed a separate offense.

11 (5) Notwithstanding ORS 161.655, if a person incurring a fine under this section is a corporation,
12 the corporation shall pay the fine provided for under this section.

13 **SECTION 209.** ORS 468.140, as amended by section 9, chapter 267, Oregon Laws 2009, is
14 amended to read:

15 468.140. (1) In addition to any other penalty provided by law, any person who violates any of the
16 following shall incur a civil penalty for each day of violation in the amount prescribed by the
17 schedule adopted under ORS 468.130:

18 (a) The terms or conditions of any permit required or authorized by law and issued by the De-
19 partment of Environmental Quality or a regional air quality control authority.

20 (b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to
21 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A
22 and 468B.

23 (c) Any rule or standard or order of the Environmental Quality Commission adopted or issued
24 pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755
25 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

26 (d) Any term or condition of a variance granted by the commission or department pursuant to
27 ORS 467.060.

28 (e) Any rule or standard or order of a regional authority adopted or issued under authority of
29 ORS 468A.135.

30 (f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related
31 to the financial assurance requirement under ORS 468B.390.

32 (2) Each day of violation under subsection (1) of this section constitutes a separate offense.

33 (3)(a) In addition to any other penalty provided by law, any person who intentionally or
34 negligently causes or permits the discharge of oil or hazardous material into the waters of the state
35 or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into
36 the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the
37 amount of \$100,000 for each violation.

38 (b) In addition to any other penalty provided by law, the following persons shall incur a civil
39 penalty not to exceed the amount of \$25,000 for each day of violation:

40 (A) Any person who violates the terms or conditions of a permit authorizing waste discharge
41 into the air or waters of the state.

42 (B) Any person who violates any law, rule, order or standard in ORS 448.305, 454.010 to 454.040,
43 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapters
44 468, 468A and 468B relating to air or water pollution.

45 (C) Any person who violates the provisions of a rule adopted or an order issued under ORS

1 459A.590.

2 (4) In addition to any other penalty provided by law, any person who violates the provisions of
3 ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of vio-
4 lation.

5 (5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission
6 standards which are not violations of standards for control of noise emissions.

7 (6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided
8 by law, any person who intentionally or negligently causes or permits open field burning contrary
9 to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed
10 by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned.
11 Any [*fin*es] **amounts** collected by the department pursuant to this subsection shall be deposited with
12 the State Treasurer to the credit of the General Fund and shall be available for general govern-
13 mental expense. As used in this subsection, "open field burning" does not include propane flaming
14 of mint stubble.

15 **SECTION 210.** ORS 468.943 is amended to read:

16 468.943. (1) A person commits the offense of unlawful water pollution in the second degree if the
17 person with criminal negligence violates ORS chapter 468B or any rule, standard, license, permit
18 or order adopted or issued under ORS chapter 468B.

19 (2) Subject to ORS 153.022, unlawful water pollution in the second degree is [*punishable by a fine*
20 *of up to \$25,000 or imprisonment for not more than one year, or both*] **a Class A misdemeanor.**
21 **Notwithstanding ORS 161.635, the maximum fine for a violation is \$25,000.**

22 **SECTION 211.** ORS 468A.580 is amended to read:

23 468A.580. (1) Permits under ORS 468A.575 for open field burning of cereal grain crops shall be
24 issued in the counties listed in ORS 468A.560 only if the person seeking the permit submits to the
25 issuing authority a signed statement under oath or affirmation that the acreage to be burned will
26 be planted to seed crops other than cereal grains which require flame sanitation for proper culti-
27 vation.

28 (2) The Department of Environmental Quality shall inspect cereal grain crop acreage burned
29 under subsection (1) of this section after planting in the following spring to determine compliance
30 with subsection (1) of this section.

31 (3) Any person planting contrary to the restrictions of subsection (1) of this section shall be
32 assessed by the department a civil penalty of \$25 for each acre planted contrary to the restrictions.
33 Any [*fin*es] **amounts** collected by the department under this subsection shall be deposited by the
34 State Treasurer in the Department of Agriculture Service Fund to be used in carrying out the smoke
35 management program in cooperation with the Oregon Seed Council and for administration of this
36 section.

37 (4) Any person planting seed crops after burning cereal grain crops under subsection (1) of this
38 section may apply to the department for permission to plant contrary to the restrictions of sub-
39 section (1) of this section if the seed crop fails to grow. The department may allow planting contrary
40 to the restrictions of subsection (1) of this section if the crop failure occurred by reasons other than
41 the negligence or intentional act of the person planting the crop or one under the control of the
42 person planting the crop.

43 **SECTION 212.** ORS 469.990 is amended to read:

44 469.990. (1) In addition to any penalties under subsection (2) of this section, a person who dis-
45 closes confidential information in violation of ORS 469.090, willfully or with criminal negligence, as

1 defined by ORS 161.085, may be subject to removal from office or immediate dismissal from public
2 employment.

3 (2)(a) Willful disclosure of confidential information in violation of ORS 469.090 is [*punishable*
4 *upon conviction, by a fine of not more than \$10,000 or imprisonment for up to one year, or both, for*
5 *each offense*] **a Class A misdemeanor. Notwithstanding ORS 161.635, the maximum fine for a**
6 **violation is \$10,000.**

7 (b) Disclosure of confidential information in violation of ORS 469.090 with criminal negligence,
8 as defined by ORS 161.085, is a Class A violation.

9 (3) Any person who violates ORS 469.825 commits a Class A misdemeanor.

10 **SECTION 213.** ORS 471.559 is amended to read:

11 471.559. (1) If no warning sign is posted:

12 (a) The Oregon Liquor Control Commission shall furnish a warning sign.

13 (b) The retailer shall have five days from the receipt of the warning sign to post it appropriately.

14 (2) If there is a violation of this section or of ORS 471.551, the violator shall be subject to:

15 (a) A written warning from the commission for the first violation accompanied by a copy of the
16 sign.

17 (b) A [*fine*] **civil penalty** of not to exceed \$25 payable to the commission for a second violation.

18 (c) A [*fine*] **civil penalty** of not to exceed \$25 for the third and subsequent violations for each
19 day the sign is not posted.

20 (3) The [*fine*] **civil penalty** imposed under subsection (2) of this section shall be separate from
21 any other sanction or penalty imposed by the commission and shall not be used in any progressive
22 violation schedule.

23 (4) The penalty provided by this section shall be the sole penalty for violation of this section
24 or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991.

25 (5) Violation of this section or ORS 471.551 or the rules adopted under section 1, chapter 324,
26 Oregon Laws 1991, shall not be grounds for refusal to issue a license, cancellation of a license or
27 suspension of a license issued under this chapter.

28 (6) Nothing in this section or ORS 471.551 or the rules adopted under section 1, chapter 324,
29 Oregon Laws 1991, creates any new cause of action or any private right of any person.

30 **SECTION 214.** ORS 471.990 is amended to read:

31 471.990. (1) Except where other punishment is specifically provided for, violation of any pro-
32 vision of this chapter and ORS 474.105 and 474.115 is a **Class A** misdemeanor.

33 [*(2) Except as otherwise specifically provided, municipal, justice and circuit courts have concurrent*
34 *jurisdiction of all violations of this chapter and ORS 474.105 and 474.115 committed within their re-*
35 *spective jurisdictions.*]

36 [(3)] (2) A second or subsequent violation of ORS 471.440 is [*punishable upon conviction by*
37 *imprisonment in the custody of the Department of Corrections for not more than three years and by a*
38 *fine of not more than \$3,000*] **a Class C felony.**

39 (4) Subject to ORS 153.022, violation of any regulation promulgated under ORS 471.730 (5) is a
40 Class C violation.

41 **SECTION 215.** ORS 473.990 is amended to read:

42 473.990. (1) Violation of ORS 473.170 (1) is [*punishable upon conviction by a fine not exceeding*
43 *\$500 or by imprisonment in the county jail not exceeding six months, or both*] **a Class B**
44 **misdemeanor.**

45 (2) Violation of ORS 473.170 (2) is [*punishable upon conviction by a fine not exceeding \$1,000 or*

1 by imprisonment in the county jail not exceeding one year, or both] a **Class A misdemeanor**.

2 **SECTION 216.** ORS 473.992 is amended to read:

3 473.992. Failure to pay a tax under ORS 473.045 (5) is [punishable, upon conviction, by a fine of
4 not more than \$500, or by imprisonment in the county jail for not more than 90 days, or both] a **Class**
5 **C misdemeanor**.

6 **SECTION 217.** ORS 475.495 is amended to read:

7 475.495. (1) The Illegal Drug Cleanup Fund is established separate and distinct from the General
8 Fund in the State Treasury.

9 (2) The following moneys shall be deposited into the State Treasury and credited to the Illegal
10 Drug Cleanup Fund:

11 (a) Moneys recovered or otherwise received from responsible parties for cleanup costs;

12 (b) Moneys received from a state agency, local government unit or any agency of a local gov-
13 ernment unit for cleanup of illegal drug manufacturing sites, including moneys received from forfei-
14 ture proceeds under the provisions of ORS 131A.360 and 131A.365;

15 (c) Moneys received from the federal government for cleanup of illegal drug manufacturing sites;
16 and

17 (d) Any penalty[, *fine*] or punitive damages recovered under ORS 475.435, 475.455 or 475.485.

18 (3) The State Treasurer may invest and reinvest moneys in the Illegal Drug Cleanup Fund in the
19 manner provided by law. Interest earned by the fund shall be credited to the fund.

20 (4) The moneys in the Illegal Drug Cleanup Fund are appropriated continuously to the Depart-
21 ment of Environmental Quality to be used as provided for in subsection (5) of this section.

22 (5) Moneys in the Illegal Drug Cleanup Fund may be used for the following purposes:

23 (a) Payment of the state's cleanup costs; and

24 (b) Funding any action or activity authorized by ORS 475.415 to 475.455, 475.475 and 475.485.

25 (6) In addition to the purposes provided for in subsection (5) of this section, moneys in the Illegal
26 Drug Cleanup Fund received from forfeiture proceeds under the provisions of ORS 131A.360 and
27 131A.365 may be transferred to the Department of Human Services to support the administration
28 of the illegal drug manufacturing cleanup program provided for in ORS 453.855 to 453.912.

29 (7) The department may not expend more than \$250,000 in each biennium of the forfeiture pro-
30 ceeds that are paid into the Illegal Drug Cleanup Fund by political subdivisions under the provisions
31 of ORS 131A.360. If at the end of a biennium more than \$250,000 has been paid into the Illegal Drug
32 Cleanup Fund under the provisions of ORS 131A.360, the department shall refund to each political
33 subdivision that made payments into the fund a pro rata share of the excess amount, based on the
34 amount of forfeiture proceeds paid into the fund by the political subdivision.

35 **SECTION 218.** ORS 475.565 is amended to read:

36 475.565. (1) In addition to any other penalty provided by law:

37 (a) A person who violates ORS 475.525 shall incur a civil penalty in an amount of at least \$2,000
38 and not more than \$10,000; and

39 (b) The court may order other equitable remedies including but not limited to injunctive relief.

40 (2) Any [*fin*es] **amounts** collected under this section shall be forwarded to the State Treasurer
41 for deposit in the General Fund to the credit of the Oregon Health Authority. The moneys shall be
42 used for the development and implementation of drug abuse prevention activities and adolescent
43 treatment.

44 **SECTION 219.** ORS 476.990 is amended to read:

45 476.990. (1) Violation of ORS 476.150 (2) is a **Class A** misdemeanor. [*All penalties, fees or forfei-*

1 tures collected under the provisions of this subsection, ORS 476.010 to 476.090, 476.155 to 476.170 and
2 476.210 to 476.270 shall be paid into the State Treasury.]

3 (2) Violation of ORS 476.380 (1) is a **Class A** misdemeanor.

4 (3) Violation of ORS 476.410 to 476.440 is [*punishable, upon conviction, by a fine of not less than*
5 *\$25 nor more than \$250, or by imprisonment in the county jail for not less than 10 or more than 60*
6 *days, or both*] a **Class C misdemeanor**. [*Justices of the peace and district judges shall have concu-*
7 *rent jurisdiction with the circuit courts over prosecutions for such violations.*]

8 (4) Violation of any provision of ORS 476.510 to 476.610 is a **Class A** misdemeanor.

9 (5) Subject to ORS 153.022, violation of ORS 476.710 or 476.715 or of any rule or regulation of
10 the State Parks and Recreation Department promulgated thereunder is [*punishable, upon conviction,*
11 *by a fine not exceeding \$500 or imprisonment in the county jail not exceeding six months, or both*] a
12 **Class B misdemeanor**.

13 **SECTION 220.** ORS 479.520 is amended to read:

14 479.520. The purpose of the Electrical Safety Law is to protect the health and safety of the
15 people of Oregon from the danger of electrically caused shocks, fires and explosions and to protect
16 property situated in Oregon from the hazard of electrically caused fires and explosions. To accom-
17 plish this purpose the Legislative Assembly intends to provide a procedure:

18 (1) For determining where and by whom electrical installations are being made and where
19 electrical products are sold in this state.

20 (2) To assure the public that persons making electrical installations in this state are qualified
21 by experience and training.

22 (3) To assure the public that electrical installations meet minimum safety standards and that
23 electrical products meet electrical product safety standards.

24 (4) For the administration and enforcement of the Electrical Safety Law by the Department of
25 Consumer and Business Services and the Electrical and Elevator Board.

26 (5) By which the cost of administering and enforcing the Electrical Safety Law is defrayed by
27 the collection of fees in connection with the issuing of permits and electrical licenses and the col-
28 lection of [*fines and*] civil penalties.

29 **SECTION 221.** ORS 520.991 is amended to read:

30 520.991. Subject to ORS 153.022, violation of any provision of this chapter, any rule adopted by
31 the governing board of the State Department of Geology and Mineral Industries under this chapter
32 or any order issued by the board or the State Department of Geology and Mineral Industries under
33 this chapter is [*punishable, upon conviction, by a fine not exceeding \$2,500 or imprisonment in the*
34 *county jail for a term not exceeding six months, or both*] a **Class B misdemeanor**.

35 **SECTION 222.** ORS 522.990 is amended to read:

36 522.990. Subject to ORS 153.022, violation of any provision of this chapter or of any rule or order
37 of the governing board of the State Department of Geology and Mineral Industries made thereunder,
38 excluding ORS 522.405 to 522.545 and any rule promulgated thereunder, is [*punishable, upon con-*
39 *viction, by a fine of not more than \$2,500 or by imprisonment in the county jail for not more than six*
40 *months, or both*] a **Class B misdemeanor**.

41 **SECTION 223.** ORS 527.990 is amended to read:

42 527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.676, 527.740, 527.750 or 527.755,
43 or any rule promulgated under ORS 527.710 is [*punishable, upon conviction, as*] a **Class A**
44 misdemeanor. Each day of operation in violation of an order issued under ORS 527.680 (3) shall be
45 deemed to be a separate offense.

1 (2) Violation of ORS 527.260 (1) is a **Class A** misdemeanor. Violation of ORS 527.260 [is
2 *punishable, upon conviction, by a fine of not more than \$250 or by imprisonment in the county jail for*
3 *not more than 60 days, or both*] (3) is a **Class C misdemeanor**.

4 **SECTION 224.** ORS 532.990 is amended to read:

5 532.990. (1) Violation of any of the provisions of ORS 532.130 is [*punishable, upon conviction, by*
6 *a fine of not less than \$500 nor more than \$1,000 or by imprisonment in the county jail for not less than*
7 *60 days nor more than 180 days, or both*] a **Class B misdemeanor**.

8 (2) Violation of any of the provisions of ORS 532.140 is a **Class C** felony [*and is punishable, upon*
9 *conviction, by a fine of not less than \$1,000 nor more than \$5,000 or by imprisonment in the custody*
10 *of the Department of Corrections for a period not to exceed two years, or both*].

11 **SECTION 225.** ORS 537.990 is amended to read:

12 537.990. (1) Violation of ORS 537.130 (2) is [*punishable, upon conviction, by a fine of not less than*
13 *\$10 nor more than \$250, or by imprisonment in the county jail for not more than six months, or both*]
14 a **Class B misdemeanor**.

15 (2) Any person who willfully diverts or uses water to the detriment of others without compliance
16 with law shall be punished as provided in subsection (1) of this section. The possession or use of
17 water, except when a right of use is acquired in accordance with law, shall be prima facie evidence
18 of the guilt of the person using it.

19 (3) Violation of ORS 537.535 (1) [*is punishable, upon conviction, by a fine of not less than \$10 nor*
20 *more than \$250, or by imprisonment in the county jail for not more than six months, or both. Violation*
21 *of ORS*] or 537.747 is a **Class B** misdemeanor.

22 [(4) *Justice courts shall have concurrent jurisdiction with the circuit courts in the trial of all vio-*
23 *lations under this section.*]

24 **SECTION 226.** ORS 540.990 is amended to read:

25 540.990. (1) Violation of any provision of ORS 540.440 is [*punishable, upon conviction, by a fine*
26 *of not less than \$25 nor more than \$150, together with the costs and disbursements of the action, and*
27 *in default of the payment of the fine and costs, by confinement in the county jail one day for each \$2*
28 *thereof*] a **Class C misdemeanor**. [*Justice courts shall have concurrent jurisdiction with the circuit*
29 *courts in the trial of all proceedings under this subsection.*]

30 (2) Violation of any provision of ORS 540.370 (2), 540.570 (5), 540.710, 540.720 or 540.730 is
31 [*punishable, upon conviction, by a fine of not less than \$10 nor more than \$250, or by imprisonment*
32 *in the county jail for not more than six months, or both*] a **Class B misdemeanor**. [*Justice courts shall*
33 *have concurrent jurisdiction with the circuit courts in the trial of all violations under this subsection.*]

34 **SECTION 227.** ORS 541.990 is amended to read:

35 541.990. (1) Any person, or any officer of any firm or corporation who [*shall be*] is found guilty
36 of constructing any splash dam for the floating of logs or other lumber products on any stream or
37 other body of water in the State of Oregon [*after August 20, 1957, shall be fined not more than \$1,000,*
38 *or shall be imprisoned not more than one year in the county jail in the county in which such conviction*
39 *is entered, or by both fine and imprisonment*] **commits a Class A misdemeanor**.

40 (2) Violation of ORS 541.510 is a **Class A** misdemeanor.

41 (3) Violation of ORS 541.545 (1) is a **Class A** misdemeanor.

42 **SECTION 228.** ORS 543.990 is amended to read:

43 543.990. (1) Violation of ORS 543.530 (3) is [*punishable, upon conviction, by a fine of not more than*
44 *\$5,000, or by imprisonment for not more than one year, or both*] a **Class A misdemeanor**.

45 (2) Violation of any of the provisions of ORS 543.010 to 543.610, or any of the conditions made

1 a part of any license issued under ORS 543.010 to 543.610, or any subpoena of the Water Resources
 2 Commission or of an administrative law judge or any person designated by the commission to take
 3 testimony, any lawful order or rule of the commission is a Class B misdemeanor.

4 (3) Any person who willfully and knowingly gives false testimony concerning a material matter
 5 in any hearing before the commission, an administrative law judge or any person designated by the
 6 commission to take testimony, or in any deposition or affidavit to be used in a matter pending before
 7 the commission or administrative law judge, or willfully and knowingly verifies a false statement or
 8 report filed with the commission, *[shall be guilty of]* **commits** perjury and may be prosecuted and
 9 punished as otherwise provided by law for the prosecution and punishment of perjury.

10 **SECTION 229.** ORS 547.990 is amended to read:

11 547.990. Violation of ORS 547.425 is *[punishable, upon conviction, by a fine of not less than \$25*
 12 *nor more than \$500, or by imprisonment in the county jail for not more than 100 days, or both]* **a Class**
 13 **C misdemeanor.**

14 **SECTION 230.** ORS 549.990 is amended to read:

15 549.990. (1) Subject to ORS 153.022, violation of ORS 549.180 is a Class D violation, and the vi-
 16 olator shall be compelled to restore the drainage to the condition previously existing.

17 (2) Violation of ORS 549.400 is *[punishable, upon conviction, by a fine of not less than \$10 nor*
 18 *more than \$25, or by imprisonment in the county jail for not more than 10 days, or both]* **a Class C**
 19 **misdemeanor.** *[Justice courts shall have concurrent jurisdiction with the circuit court over violations*
 20 *of ORS 549.400.]*

21 **SECTION 231.** ORS 561.150 is amended to read:

22 561.150. (1) All unexpended funds that are available to the State Department of Agriculture for
 23 its use in carrying out its duties as prescribed by law and for any other purpose shall be a part of
 24 the General Fund of the state and shall be credited to a fund to be known as the Department of
 25 Agriculture Account except for:

26 (a) Funds to be expended for the extermination of predatory animals under the provisions of
 27 ORS chapter 610;

28 (b) Moneys received by the department from the sale of skins of predatory animals as provided
 29 in ORS 610.040; and

30 (c) Moneys received by the department that are subject to ORS 561.144.

31 (2) All appropriations, *[fines,]* fees, penalties and other moneys received by the department or
 32 credited to its use from the State Treasury, except the funds named in subsection (1)(a) and (b) of
 33 this section and money required by law to be placed therein, shall be placed in the General Fund
 34 and credited to the Department of Agriculture Account.

35 (3) All *[fines,]* fees, penalties and other moneys received by the department shall be turned over
 36 to the State Treasurer not later than the 10th day of the calendar month next succeeding their re-
 37 ceipt by the department.

38 (4) All moneys without respect to their sources, credited to either the Department of Agriculture
 39 Account or the Department of Agriculture Service Fund shall be available for the payment of any
 40 and all the expenses of the department, excepting those incurred in connection with the extermi-
 41 nation of predatory animals.

42 (5) The Director of Agriculture shall keep a record of all moneys deposited in the Department
 43 of Agriculture Account and the Department of Agriculture Service Fund. Such record shall indicate
 44 the source from which the moneys are derived and name the individual departmental activity against
 45 which each withdrawal is charged.

1 **SECTION 232.** ORS 561.990 is amended to read:

2 561.990. (1) Violation of ORS 561.170 is a Class C violation.

3 (2) Violation of ORS 561.200 is *[punishable, upon conviction, by a fine of not to exceed \$100 or*
4 *by imprisonment for not more than 30 days, or both]* **a Class C misdemeanor.**

5 (3) Violation of ORS 561.220 or 561.230 is a **Class A** misdemeanor.

6 (4) Violation of ORS 561.590 is **a specific fine violation** punishable~~], upon conviction,~~ by a fine
7 of not *[less than \$500 nor]* more than \$5,000.

8 **SECTION 233.** ORS 569.390 is amended to read:

9 569.390. *[(1)]* Each person, firm or corporation owning or occupying land within the district shall
10 destroy or prevent the seeding on such land of any noxious weed within the meaning of ORS 569.360
11 to 569.495 in accordance with the declaration of the county court and by the use of the best means
12 at hand and within a time declared reasonable and set by the court, except that no weed declared
13 noxious shall be permitted to produce seed.

14 *[(2) All moneys collected as fines for violation of ORS 569.360 to 569.495 in any county shall be*
15 *paid into the county treasury and shall become a part of the weed control fund.]*

16 **SECTION 234.** ORS 571.365 is amended to read:

17 571.365. (1) The State Department of Agriculture may revoke, suspend, deny or refuse to renew
18 any grower or dealer a license if the department finds the person has violated any provision of ORS
19 571.355 or 571.360 or any rule adopted pursuant thereto.

20 (2) In addition to any other liability or penalty provided by law, the Director of Agriculture may
21 impose a civil penalty on a person for violation of any provision of ORS 571.355 or 571.360 or any
22 rule adopted pursuant thereto. The civil penalty for a first violation shall be *[a fine of]* not more
23 than \$1,000. Upon a second violation, the department may impose a *[fine]* **civil penalty** of not more
24 than \$2,000.

25 (3) The department shall adopt by rule a schedule establishing the amount of civil penalty that
26 may be imposed for a particular violation.

27 (4) All penalties recovered under this section shall be deposited by the State Treasurer in the
28 Department of Agriculture Service Fund. The moneys are continuously appropriated to the depart-
29 ment for the purpose of carrying out ORS 571.355 and 571.360.

30 **SECTION 235.** ORS 576.053 is amended to read:

31 576.053. ORS 576.051 to 576.455 and 576.991 (2) *[and (3)]* may be known and cited as the Com-
32 modity Commission Act.

33 **SECTION 236.** ORS 576.595 is amended to read:

34 576.595. Any sale of a commodity by a grower or producer is a sale in commercial channels for
35 the purposes of ORS 576.051 to 576.455 and 576.991 (2) *[and (3)]*.

36 **SECTION 237.** ORS 576.991 is amended to read:

37 576.991. (1) Violation of the provisions of ORS 576.024 is a Class B violation.

38 (2) Violation of any provision of ORS 576.051 to 576.455 is *[punishable, upon conviction, by a fine*
39 *of not more than \$500, or by imprisonment in the county jail for not more than 90 days, or both]* **a**
40 **Class C misdemeanor.**

41 *[(3) Justice courts shall have concurrent jurisdiction with circuit courts in all prosecutions under*
42 *ORS 576.051 to 576.455.]*

43 **SECTION 238.** ORS 577.990 is amended to read:

44 577.990. *[(1)]* Violation of ORS 577.520 is *[punishable, upon conviction, by a fine of not more than*
45 *\$500, or by imprisonment in the county jail for not more than 90 days, or both]* **a Class C**

1 **misdemeanor.**

2 [(2) *Justice courts have concurrent jurisdiction with circuit courts in all prosecutions under this*
3 *section.*]

4 **SECTION 239.** ORS 578.990 is amended to read:

5 578.990. Violation of any of the provisions of this chapter is [*punishable, upon conviction, by a*
6 *fine of not less than \$25 nor more than \$500, or by imprisonment in the county jail for not less than*
7 *30 nor more than 90 days, or by both*] **a Class C misdemeanor.** [*Justice courts have concurrent ju-*
8 *risdiction with circuit courts in all prosecutions under this chapter.*]

9 **SECTION 240.** ORS 585.190 is amended to read:

10 585.190. [(1)] Except for fees paid under ORS 585.050, all fees received by the State Department
11 of Agriculture pursuant to the provisions of this chapter shall be paid to the State Treasurer, who
12 shall place the moneys in the General Fund of the state to the credit of the Department of Agri-
13 culture Account. All such funds paid to the State Treasurer, or so much thereof as is necessary,
14 shall be a continuing appropriation from the Department of Agriculture Account and shall be used
15 for the purpose of carrying out the provisions of this chapter. The fees paid to the department under
16 ORS 585.050 shall be deposited into the Department of Agriculture Service Fund, and such funds are
17 continuously appropriated to the department for the purpose of administering and enforcing this
18 chapter.

19 [(2) *All fines collected pursuant to ORS 585.990 shall go into the fruit inspection fund of the county*
20 *where collected if that county has a fruit inspection fund, otherwise the fines shall go into the general*
21 *fund of the county.*]

22 **SECTION 241.** ORS 585.990 is amended to read:

23 585.990. Violation of any provision of ORS 585.010 to 585.220 is [*punishable, upon conviction, by*
24 *a fine of not more than \$1,000, or by confinement in the county jail for not more than one year, or*
25 *both*] **a Class A misdemeanor.**

26 **SECTION 242.** ORS 586.990 is amended to read:

27 586.990. (1) Violation of ORS 586.250 is [*punishable, upon conviction, by a fine of not less than*
28 *\$1,000 nor more than \$3,000, or by imprisonment in the county jail for not less than six months nor*
29 *more than one year, or by both*] **a Class B misdemeanor.**

30 (2) Violation of ORS 586.730 is [*punishable, upon conviction, by a fine not exceeding \$3,000, or*
31 *by imprisonment in the county jail for not more than one year, or by both*] **a Class A misdemeanor.**

32 (3) Violation of any of the provisions of ORS 586.210 to 586.300, 586.315 to 586.380, 586.400,
33 586.410, 586.520, 586.525, 586.530, 586.550, 586.570 to 586.630 and 586.650 to 586.720, or failure to
34 comply with any order, rule, direction, demand or requirement of the State Department of Agricul-
35 ture made pursuant to those sections, is **a specific fine violation** punishable[*upon conviction,*] by
36 a fine not exceeding \$3,000 for each offense. Each violation is a separate and continuing offense[;
37 *and*]. In case of a continuing violation, every day's continuance of the violation is a separate and
38 distinct offense.

39 (4) Violation of ORS 586.382, 586.385 and 586.395 is a **Class A misdemeanor.**

40 **SECTION 243.** ORS 596.990 is amended to read:

41 596.990. (1) Violation of any of the provisions of ORS 596.075, 596.321, 596.331 (1) or (3), 596.351,
42 596.388, 596.392 (1) to (3) or (6), 596.404 to 596.416 or 596.460, or of any lawful order of the State
43 Department of Agriculture issued pursuant to this chapter, is a Class A violation.

44 (2) Violation of any of the quarantine provisions of ORS 596.331 (2), 596.355, 596.392 (4) or (5)
45 or 596.394 to 596.402 is **a specific fine violation** punishable[*upon conviction,*] by a fine of not [*less*

1 *than \$500 nor] more than \$5,000.*

2 (3) Violation of any of the provisions of ORS 596.100 or 596.105 or rules adopted thereunder is
3 a **Class A** misdemeanor.

4 **SECTION 244.** ORS 600.990 is amended to read:

5 600.990. Subject to ORS 153.022, notwithstanding ORS 596.990, violation of ORS 600.095, a
6 quarantine imposed under ORS 600.105 or a rule or regulation of the State Department of Agricul-
7 ture relating to the feeding of swine is [*punishable, upon conviction, by a fine of not less than \$500*
8 *nor more than \$5,000 or by imprisonment in the county jail not exceeding one year, or both]* a **Class**
9 **A misdemeanor.**

10 **SECTION 245.** ORS 602.990 is amended to read:

11 602.990. Subject to ORS 153.022, violation of any of the provisions of ORS 602.090 or 602.190,
12 or any rule adopted pursuant thereto, is [*punishable, upon conviction, by a fine not exceeding \$500*
13 *or imprisonment in the county jail not exceeding six months, or both]* a **Class B misdemeanor.**

14 **SECTION 246.** ORS 607.365 is amended to read:

15 607.365. (1) No person, who is not the owner of such animal, shall take or drive, cause to be
16 taken or driven, or assist in driving or taking away any horse, gelding, mare, foal, mule, ass, jenny,
17 bull, cow, heifer, steer, calf, sheep, hog or any other domestic animal from the range or place where
18 it is lawfully grazing, pasturing or ranging, or in the habit of ranging, or where it has been herded
19 or placed by the owner thereof, for a distance of more than 10 miles from such place.

20 (2) Persons violating this section shall be liable to the owner of such animal for all damages
21 sustained by reason of such driving or taking away of such domestic animal.

22 [*(3) All fines collected for violations of this section shall be paid over to the county treasurer of the*
23 *county in which the offense was committed, and used for the support of common schools within such*
24 *county.*]

25 **SECTION 247.** ORS 608.990 is amended to read:

26 608.990. (1) Violation of ORS 608.330 is [*punishable, upon conviction, by a fine not exceeding \$50*
27 *or by imprisonment in the county jail not exceeding 10 days, or both]* a **Class C misdemeanor.**

28 (2) Violation of ORS 608.380 is a Class A violation.

29 (3) Violation of ORS 608.510 is a Class D violation.

30 **SECTION 248.** ORS 609.060 is amended to read:

31 609.060. (1) If a majority of all votes cast in the election provided for by ORS 609.040 is against
32 permitting dogs to run at large, or if the governing body of the county by ordinance prohibits dogs
33 from running at large, the county shall give notice, by publication in some newspaper having a
34 general circulation in the county, and in the election precinct if the prohibition of dogs running at
35 large affects any one precinct only, for three consecutive weeks.

36 (2) After 60 days from the date of the notice, every person keeping a dog shall prevent the dog
37 from running at large in any county, city or precinct where prohibited. A person who is the keeper
38 of a dog [*is guilty of]* **commits** a **Class B** violation if the dog runs at large in a county, city or
39 precinct where prohibited.

40 [*(3) County license fees and the penalty for violation of subsection (2) of this section or ORS*
41 *609.100, when collected, shall be paid into the county treasury, and kept in a special fund.*]

42 **SECTION 249.** ORS 609.990 is amended to read:

43 609.990. (1) Violation of ORS 609.060 (2), 609.100 or 609.169 is a Class B violation.

44 (2) Maintaining a public nuisance in violation of ORS 609.095 (2) or (3) is [*punishable by a fine*
45 *of not more than \$250]* a **Class B violation.**

1 (3)(a) Except as provided in paragraph (b) of this subsection, violation of ORS 609.098 is a Class
2 A misdemeanor.

3 (b) If a dog kills a person, violation of ORS 609.098 is a Class C felony.

4 (c) If a keeper violates ORS 609.098, the court shall order the dangerous dog killed in a humane
5 manner.

6 (4) Violation of ORS 609.405 constitutes a Class C misdemeanor.

7 (5) In addition to any fine or sentence imposed under this section, a court may order a person
8 who violates ORS 609.060 (2), 609.095, 609.098, 609.100, 609.169 or 609.405 to pay restitution for any
9 physical injury, death or property damage caused by the dog as a result of the keeper's violation
10 of ORS 609.060 (2), 609.095, 609.098, 609.100, 609.169 or 609.405. The court may also order the person
11 to pay the cost of keeping the dog in impoundment.

12 (6) In addition to any fine imposed or restitution ordered of a keeper for a violation of ORS
13 609.060 (2), 609.095, 609.100, 609.169 or 609.405, the court may impose reasonable restrictions on the
14 keeping of the dog to ensure the safety or health of the public. The keeper must pay the cost of
15 complying with reasonable restrictions. As used in this subsection, "reasonable restrictions" may
16 include, but is not limited to, sterilization. If the dog is a potentially dangerous dog, the court may
17 order the dog killed in a humane manner. In determining whether to have the dog killed, the court
18 shall give consideration to the factors described in ORS 609.093 and issue written findings on those
19 factors.

20 (7) Notwithstanding ORS 19.270 and 19.330, subject to periodic advance payment of the cost of
21 keeping the dog in impoundment, the killing of a dog pursuant to an order under subsection (3) or
22 (6) of this section may not be carried out during the period that the order is subject to the appeal
23 process. Unless otherwise ordered by the Court of Appeals, the dog may be killed during the appeal
24 period if the keeper fails to maintain advance payment of the cost of keeping the dog impounded.

25 (8) If a court orders a dog killed under subsection (6) of this section and the keeper does not
26 make the dog available for that purpose, the court may issue a search warrant for a property upon
27 probable cause to believe that the dog is located at that property.

28 **SECTION 250.** ORS 609.994 is amended to read:

29 609.994. (1) Violation of ORS 609.510, 609.515 or 609.520 is **a specific fine violation** punishable
30 by a fine of not [*less than \$500, nor*] more than \$50,000.

31 (2) A person has a cause of action for the recovery of compensatory damages from any person
32 violating ORS 164.055 (1)(e), 164.085, 609.510, 609.515 or 609.520. In the action, the minimum
33 pecuniary value of any companion animal is \$250.

34 (3) The circuit court for each county has the authority to enjoin any violation of ORS 609.510,
35 609.515 or 609.520, to issue warrants and to take such other actions as equity or justice may require.

36 **SECTION 251.** ORS 610.990 is amended to read:

37 610.990. (1) Violation of ORS 610.045 is a Class A violation.

38 (2) Violation of ORS 610.050 is [*punishable upon conviction by a fine of not more than \$500, or*
39 *by imprisonment in the county jail not more than one year, or both*] **a Class A misdemeanor.**

40 **SECTION 252.** ORS 618.991 is amended to read:

41 618.991. (1) Violation of ORS 618.086, 618.096, 618.121 or 618.201 is **a Class B misdemeanor.**
42 [*punishable as follows:*]

43 [*(a) If the violator is an individual, by imprisonment for not more than six months, or a fine not*
44 *to exceed \$500, or both.*]

45 [*(b) If the violator is a person other than an individual, by a fine of not more than \$2,500.*]

1 (2) For the purposes of this section, each day of violation of ORS 618.086, 618.096, 618.121 or
2 618.201 is a separate offense and the penalties provided in subsection (1) of this section apply to
3 each such offense.

4 **SECTION 253.** ORS 621.991 is amended to read:

5 621.991. Violation of any provision of ORS 621.056, 621.057, 621.062, 621.070, 621.072, 621.076,
6 621.084, 621.088, 621.117, 621.122, 621.124, 621.161, 621.166, 621.183, 621.198, 621.207, 621.226, 621.259,
7 621.335, 621.340, 621.345, 621.418, 621.445 or 621.730 or any rule or standard adopted under ORS
8 621.060, 621.083, 621.096, 621.224 or 621.261, or failure to pay a fee assessed under ORS 621.166, is
9 [an unclassified misdemeanor punishable by a fine of not more than \$1,000, imprisonment for not more
10 than one year, or both] **a Class A misdemeanor.**

11 **SECTION 254.** ORS 628.990 is amended to read:

12 628.990. Violation of ORS 628.210 to 628.370 is [punishable, upon conviction, by a fine of not less
13 than \$10 nor more than \$1,000 or by imprisonment in the county jail for not more than one year, or
14 both] **a Class A misdemeanor.**

15 **SECTION 255.** ORS 632.990 is amended to read:

16 632.990. (1) Violation of ORS 632.216 or 632.226 is [punishable, upon conviction, by a fine of not
17 less than \$10 or more than \$100, or by imprisonment in the county jail for not less than 10 days or
18 more than 30 days, or both] **a Class C misdemeanor.**

19 (2) Violation of any provision of ORS 632.275 to 632.290 or of any rule adopted under ORS
20 632.275 to 632.290 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a
21 second or subsequent offense.

22 (3) Violation of any provision of ORS 632.410 to 632.430 is a Class D violation.

23 (4) Violation of any provision of ORS 632.450 to 632.490 or of any rule adopted under ORS
24 632.450 to 632.490 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a
25 second or subsequent offense.

26 (5) Violation of ORS 632.625 is [punishable, upon conviction, by a fine of not less than \$10 or more
27 than \$100, or by imprisonment in the county jail for not less than 10 days or more than 30 days, or
28 both] **a Class C misdemeanor.**

29 (6) Violation of any provision of ORS 632.705 to 632.815 is [punishable, upon conviction, by a fine
30 of not less than \$10 or more than \$100] **a Class D violation** for a first offense, and [by a fine of not
31 less than \$25 or more than \$200] **a Class B violation** for a second or subsequent offense.

32 (7) Violation of any provision of ORS 632.900 to 632.985 or of any rule adopted under ORS
33 632.900 to 632.985 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a
34 second or subsequent offense.

35 **SECTION 256.** ORS 634.992 is amended to read:

36 634.992. Violation of any of the provisions of this chapter is [an unclassified] **a Class A**
37 **misdemeanor** [and is punishable, upon the first conviction, by a fine of not more than \$1,000, or by
38 imprisonment in the county jail for not more than one year, or both, and upon a second or additional
39 conviction, by a fine of not more than \$2,000, or by imprisonment in the county jail for not more than
40 one year, or both].

41 **SECTION 257.** ORS 635.991 is amended to read:

42 635.991. Violation of any provision of this chapter is [punishable, upon conviction, by a fine not
43 exceeding \$500 or by imprisonment in the county jail not exceeding six months, or both] **a Class B**
44 **misdemeanor.**

45 **SECTION 258.** ORS 646.990 is amended to read:

1 646.990. (1) Each violation of any of the provisions of ORS 646.010 to 646.180 by any person, firm
2 or corporation, whether as principal, agent, officer or director, is [*punishable, upon conviction, by a*
3 *fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail not exceeding six*
4 *months, or by both*] **a Class B misdemeanor.**

5 (2) Violation of ORS 646.725 or 646.730 is a Class A misdemeanor.

6 (3) Any person who willfully and intentionally violates any provision of ORS 646A.220 to
7 646A.230 [*shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than*
8 *six months or both*] **commits a Class B misdemeanor.** Violation of any order or injunction issued
9 pursuant to ORS 646A.230 (1) shall constitute prima facie proof of a violation of this subsection.

10 (4) Violation of ORS 646.910 is a Class D violation.

11 (5) Violation of ORS 646.915 is a Class D violation.

12 (6) Violation of ORS 646.920 is a Class D violation.

13 (7) A person violating ORS 646.930 commits a Class C misdemeanor.

14 **SECTION 259.** ORS 646A.508 is amended to read:

15 646A.508. (1) A commercial user who willfully and knowingly sells, leases or otherwise places
16 in the stream of commerce an unsafe baby crib as described in ORS 646A.506 (1) to (3) commits a
17 **Class A** violation [*punishable by a fine not exceeding \$1,000*].

18 (2) An individual who willfully and knowingly sells, leases or otherwise places in the stream of
19 commerce an unsafe baby crib as described in ORS 646A.506 (1) to (3) commits a **Class B** violation
20 [*punishable by a fine not exceeding \$200*].

21 **SECTION 260.** ORS 646A.765 is amended to read:

22 646A.765. Violation of a provision of ORS 646A.702 to 646A.720 or 646A.725 to 646A.750 is a
23 **Class A** misdemeanor [*punishable by not more than one year's imprisonment, a fine of not more than*
24 *\$10,000, or both*].

25 **SECTION 261.** ORS 649.990 is amended to read:

26 649.990. (1) Violation of ORS 649.030 is a Class D violation. [*Default in the payment of a fine*
27 *shall be dealt with as provided in ORS 161.675.*]

28 (2) Intentional violation of ORS 649.070 is [*punishable, upon conviction, by a fine not to exceed*
29 *\$500 or imprisonment not to exceed six months*] **a Class B misdemeanor.**

30 (3) Violation of ORS 649.080 is [*punishable:*] **a Class C misdemeanor.**

31 [(a) *Upon conviction, by a fine of not more than \$100 or by imprisonment for not more than 10*
32 *days.*]

33 [(b) *Upon a second such conviction within one year after the first conviction, by a fine of not more*
34 *than \$200 or by imprisonment for not more than 20 days, or both.*]

35 [(c) *Upon a third or subsequent conviction within one year after the first conviction, by a fine of*
36 *not more than \$500 or by imprisonment for not more than six months, or both.*]

37 **SECTION 262.** ORS 651.990 is amended to read:

38 651.990. (1) Willful neglect or refusal by any person subpoenaed under ORS 651.060 to attend
39 or testify at the time and place named in the subpoena is [*punishable, upon conviction, by a fine of*
40 *not less than \$25 nor more than \$100, or by imprisonment in the county jail not exceeding 30 days*] **a**
41 **Class C misdemeanor.**

42 (2) Violation of ORS 651.120 (2) is [*punishable, upon conviction, by a fine of not less than \$25 nor*
43 *more than \$100, or by imprisonment in the county jail not exceeding 90 days*] **a Class C**
44 **misdemeanor.**

45 **SECTION 263.** ORS 652.400 is amended to read:

1 652.400. Subject to ORS 652.390, all moneys collected on judgments pursuant to ORS 652.330, or
 2 as a result of administrative proceedings pursuant to ORS 652.332, [*including fines,*] shall be paid to
 3 the Commissioner of the Bureau of Labor and Industries and, together with all other sums collected
 4 under ORS 652.310 to 652.414, be deposited in the State Treasury to become part of a special trust
 5 account to be known as the Wage Collection Account, which account is established in the State
 6 Treasury, separate and distinct from the General Fund. Interest earned by the account shall be
 7 credited to the account. All moneys in the Wage Collection Account are appropriated continuously
 8 for the purpose of payment to the persons entitled thereto.

9 **SECTION 264.** ORS 652.445 is amended to read:

10 652.445. Except as provided in ORS 652.440, all moneys collected pursuant to ORS 652.420 to
 11 652.445, including [*fines and*] costs, shall be paid to the Commissioner of the Bureau of Labor and
 12 Industries and be deposited in the State Treasury in the Wage Collection Account established by
 13 ORS 652.400.

14 **SECTION 265.** ORS 652.990 is amended to read:

15 652.990. (1) Violation of ORS 652.020 (2) is a Class A violation. Every day's violation is deemed
 16 a separate offense.

17 (2) Any person, body corporate, general manager or employer who violates ORS 652.040 or
 18 causes ORS 652.040 to be violated [*is punishable, upon conviction, by a fine of not less than \$50, nor*
 19 *more than \$300, or by imprisonment in the county jail for not less than 30 days, nor more than three*
 20 *months, or both*] **commits a Class C misdemeanor.**

21 (3) Violation of ORS 652.110 or 652.120 is a Class A violation.

22 (4) Violation of ORS 652.130 by any employer is [*punishable, upon conviction, by a fine of not*
 23 *more than \$500 or by imprisonment in the county jail for not more than 60 days, or by both*] **a Class**
 24 **C misdemeanor.** [*Justice courts and circuit courts shall have concurrent jurisdiction in all cases*
 25 *arising under this subsection.*]

26 (5) In addition to the civil damages recoverable under ORS 652.230, violation of ORS 652.210 to
 27 652.230 is a **Class A** misdemeanor.

28 (6) The violation of ORS 652.240 is a **Class A** misdemeanor.

29 (7) Violation of ORS 652.355 is a Class C misdemeanor.

30 (8) Violation of ORS 652.610 or 652.620 is a Class D violation.

31 (9) Willful violation of ORS 652.635 or 652.640 by a producer or agent of the producer is a **Class**
 32 **A** misdemeanor.

33 (10) Violation of any of the provisions of ORS 652.710 or 652.720 by any employer is a Class A
 34 violation.

35 **SECTION 266.** ORS 654.991 is amended to read:

36 654.991. (1) Subject to ORS 153.022, any employer who willfully violates any provision of, or any
 37 regulation, rule, standard or order promulgated pursuant to, ORS 654.001 to 654.295, 654.412 to
 38 654.423 and 654.750 to 654.780, and that violation is found to have caused or materially contributed
 39 to the death of any employee, [*shall, upon conviction, be punished by a fine of not more than \$10,000*
 40 *or by imprisonment for not more than six months, or by both;*] **commits a Class B misdemeanor.**
 41 [*Except that*] If the conviction is for a violation committed after a first conviction of [*such person,*
 42 *punishment shall be by a fine of not more than \$20,000 or by imprisonment for not more than one year,*
 43 *or by both*] **the employer, the violation is a Class A misdemeanor.** For the purposes of this sub-
 44 section, a violation is willful if it is committed knowingly by an employer or supervisory employee
 45 who, having a free will or choice, intentionally or knowingly disobeys or recklessly disregards the

1 requirements of a regulation, rule, standard or order. ORS 161.085 shall apply to terms used in this
2 section.

3 (2) Any person who gives advance notice of any inspection to be conducted under ORS 654.001
4 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, without authority from the Director of the
5 Department of Consumer and Business Services or the designees of the director, *[shall, upon con-*
6 *viction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six*
7 *months, or by both]* **commits a Class B misdemeanor.**

8 (3) Whoever knowingly makes a false statement, representation, or certification in any applica-
9 tion, record, report, plan, or other document filed or required to be maintained pursuant to ORS
10 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780 *[shall, upon conviction, be punished by*
11 *a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both]* **commits**
12 **a Class B misdemeanor.**

13 *[(4) Punishment under this section does not affect or lessen the civil liability of the offender.]*

14 **SECTION 267.** ORS 656.605 is amended to read:

15 656.605. (1) The Workers' Benefit Fund is created in the State Treasury, separate and distinct
16 from the General Fund. Moneys in the fund shall be invested in the same manner as other state
17 moneys and investment earnings shall be credited to the fund. The fund shall consist of the follow-
18 ing:

19 (a) Moneys received pursuant to ORS 656.506.

20 (b) Moneys recovered under ORS 656.054.

21 (c) *[Fines and]* Penalties recovered under ORS 656.735.

22 (d) All moneys received by the Director of the Department of Consumer and Business Services
23 pursuant to law or from any other source for purposes for which the fund may be expended.

24 (2) Moneys in the Workers' Benefit Fund may be expended for the following purposes:

25 (a) Expenses of programs under ORS 656.445, 656.506, 656.622, 656.625, 656.628 and 656.630.

26 (b) Proceedings against noncomplying employers pursuant to ORS 656.054 and 656.735.

27 (c) Expenses of vocational assistance on claims, the cost of which was imposed pursuant to
28 section 15, chapter 600, Oregon Laws 1985.

29 (d) Payment of supplemental temporary disability benefits for workers employed in more than
30 one job at the time of injury and reimbursement of the costs of administering payments resulting
31 from elections by insurers and self-insured employers as provided by ORS 656.210 (5).

32 (e) Payments made to injured workers pursuant to section 6a, chapter 865, Oregon Laws 2001.

33 (f) Expenses of the Bureau of Labor and Industries for enforcing ORS 659A.040, 659A.043,
34 659A.046, 659A.049 and 659A.052, subject to an agreement between the Director of the Department
35 of Consumer and Business Services and the Commissioner of the Bureau of Labor and Industries.
36 The agreement must include, but is not limited to, the amount of funds to be transferred to the bu-
37 reau for enforcing ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052 and the information
38 relating to the enforcement of ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052 that the
39 bureau must report to the director.

40 (g) Reimbursement to the insurer or self-insured employer for the amount of permanent total
41 disability benefits paid after the date of the notice of closure that was upheld pursuant to ORS
42 656.206.

43 (h) Reimbursement of vocational benefit expenses as provided in ORS 656.313.

44 (3) Subject to the following provisions, all moneys in the fund are appropriated continuously to
45 the Director of the Department of Consumer and Business Services to carry out the activities for

1 which the fund may be expended:

2 (a) Moneys received pursuant to ORS 656.054 and 656.735 and transfers made pursuant to ORS
3 705.148 may be expended only to carry out the provisions of ORS 656.054 and 656.735 and section
4 15, chapter 600, Oregon Laws 1985.

5 (b) Moneys received pursuant to ORS 656.506 and the transfers of unexpended and unobligated
6 moneys in the Retroactive Reserve, Reemployment Assistance Reserve, Reopened Claims Reserve
7 and Handicapped Workers Reserve referred to in ORS 656.506, 656.622, 656.625 and 656.628 (All 1993
8 Edition) may be expended only to carry out the programs referred to in ORS 656.506, 656.622,
9 656.625, 656.628 and 656.630.

10 (4) Notwithstanding any other provision of this chapter, if the director determines at any time
11 that there are insufficient moneys in the Workers' Benefit Fund to pay the expenses of programs for
12 which expenditure of the fund is authorized, the director may reduce the level of benefits payable
13 accordingly.

14 **SECTION 268.** ORS 656.990 is amended to read:

15 656.990. (1) Any person who knowingly makes any false statement or representation to the
16 Workers' Compensation Board or its employees, the Workers' Compensation Board chairperson, the
17 Director of the Department of Consumer and Business Services or employees of the director, the
18 insurer or self-insured employer for the purpose of obtaining any benefit or payment under this
19 chapter, either for self or any other person, or who knowingly misrepresents to the board, the board
20 chairperson, the director or the corporation or any of their representatives the amount of a payroll,
21 or who knowingly submits a false payroll report to the board, the board chairperson, the director
22 or the corporation, [*is punishable, upon conviction, by imprisonment for a term of not more than one*
23 *year or by a fine of not more than \$1,000, or by both*] **commits a Class A misdemeanor.**

24 (2) Violation of ORS 656.052 is a Class D violation. Each day during which an employer engages
25 in any subject occupation in violation of ORS 656.052 constitutes a separate offense.

26 (3) Violation of ORS 656.056 is a Class D violation.

27 (4) The individual refusing to keep the payroll in accordance with ORS 656.726 or 656.758 when
28 demanded by the director or corporation[, *is punishable, upon conviction, by a fine of not more than*
29 *\$100 or by imprisonment in the county jail for not more than 90 days, or by both*] **commits a Class**
30 **C misdemeanor.** [*Circuit courts and justice courts shall have concurrent jurisdiction of this offense.*]

31 (5) Failure on the part of an employer to send the signed payroll statement required by ORS
32 656.504 within 30 days after receipt of notice by the director or corporation is a **Class A**
33 **misdemeanor.**

34 (6) Violation of ORS 656.560 (4) is a Class D violation.

35 **SECTION 269.** ORS 657.515 is amended to read:

36 657.515. (1) If an employer defaults with respect to any payment required to be made by the
37 employer to the Unemployment Compensation Trust Fund, the taxes at any time due, together with
38 interest thereon and penalties, shall be collected by the Director of the Employment Department in
39 a civil action against such employer brought in the name of the director and judgment rendered
40 thereon shall bear interest at the rate provided in subsection (2) of this section. Such employer's
41 compliance with this chapter, requiring payments to be made to the Unemployment Compensation
42 Trust Fund, shall date from the time said money was collected. The amount of taxes collected shall
43 be paid into the Unemployment Compensation Trust Fund. The amount of interest[,] **and** penalties
44 [*and fines*] collected pursuant to this subsection shall be paid to the Employment Department Special
45 Administrative Fund in accordance with the provisions of ORS 657.830 (3).

1 (2) Interest upon the amount due from an employer shall be paid and shall be collected, at the
2 same time payment of taxes is required to be made by such employer to the Unemployment Com-
3 pensation Trust Fund at the rate of one and one-half percent per month from the date prescribed for
4 the payment to the Unemployment Compensation Trust Fund. In computing such interest, a fraction
5 of a month shall be counted as a full month.

6 (3) If any employer fails to make payment of taxes required by this chapter at the time pre-
7 scribed by the director for the payment thereof, such employer shall be in default.

8 (4) If any employer who is in default with respect to payment of any taxes fails to make payment
9 thereof within 10 days after written demand therefor has been made by the director, such employer
10 shall be subject, in the discretion of the director, to a penalty of 10 percent of the amount of such
11 taxes. A demand for payment shall be deemed to have been made when deposited in the mail ad-
12 dressed to such employer at the employer's last-known address as shown by the records of the di-
13 rector.

14 (5) If any part of any deficiency is due to fraud with intent to avoid payment of taxes to the
15 Unemployment Compensation Trust Fund, then 50 percent of the total amount of the deficiency, in
16 addition to such deficiency, shall be assessed, collected and paid in the same manner as if it were
17 a deficiency and shall be paid into the Employment Department Special Administrative Fund pur-
18 suant to this section and ORS 657.822.

19 (6) Civil actions brought in the name of the director under this section to collect taxes, interest
20 or penalties from an employer, shall be entitled to preference upon the calendar over all civil cases
21 which involve only private parties.

22 (7) Notwithstanding the provisions of this section, if the director finds that the total interest
23 collectible on any delinquent account is in excess of 25 percent of the principal and that an em-
24 ployer or former employer, who no longer conducts an active business, has insufficient net assets
25 to pay the full amount of all taxes, interest or penalties that may be due and where such employer
26 or former employer can pay some but not all of such amount, the director may agree to accept any
27 amount the director finds reasonable under the circumstances, as consideration for the settlement
28 of the full amount of taxes, interest or penalties due. Whenever such an agreement is made a written
29 record signed by the director shall be maintained in the files of the director. Such records shall set
30 forth:

31 (a) The name of the taxpayer against whom the liability was assessed;

32 (b) The amount of the assessed liability;

33 (c) The amount of the liability paid;

34 (d) The amount of the liability canceled or waived;

35 (e) A sworn statement of the taxpayer or personal representative setting forth the complete fi-
36 nancial responsibility of the taxpayer or the taxpayer's estate, and containing a full disclosure of
37 all matters bearing upon the ability of the taxpayer or estate to pay the full amount of the liability
38 assessed; and

39 (f) The written recommendation of an assistant to the Attorney General assigned to the director
40 that the liability be reduced in the amount shown by the record.

41 (8) A full and true copy of the record of each such agreement and settlement as provided in
42 subsection (7) of this section shall be filed by the director with the Secretary of State as a public
43 record.

44 (9) The amount of any settlement reached pursuant to this section shall be first credited to the
45 taxes due from such employer until the principal amount of taxes due has been satisfied and shall

1 be deposited in the Unemployment Compensation Trust Fund.

2 **SECTION 270.** ORS 657.822 is amended to read:

3 657.822. (1) There is established in the State Treasury, separate and distinct from the General
4 Fund, the Employment Department Special Administrative Fund. The Employment Department Spe-
5 cial Administrative Fund shall consist of moneys collected or received by the Employment Depart-
6 ment as follows:

7 (a) All interest collected under ORS 657.515.

8 (b) All [*finest and*] penalties collected pursuant to this chapter, except as provided in ORS
9 657.400.

10 (c) All gifts to or interest on or profits earned by the Employment Department Special Admin-
11 istrative Fund.

12 (2) The moneys in the Employment Department Special Administrative Fund are continuously
13 appropriated to the department, and may not be transferred or otherwise made available to any
14 other state agency, to pay the expenses of the Secretary of State incurred in performing the audit
15 of the department and such other expenses as may be included in the biennial budget of the de-
16 partment and approved by the Legislative Assembly for payment from the fund. On July 1 of every
17 odd-numbered year, any amounts in the Employment Department Special Administrative Fund that
18 have not been appropriated in the biennial budget of the department approved by the Legislative
19 Assembly shall be transferred to the Unemployment Compensation Trust Fund.

20 **SECTION 271.** ORS 657.990 is amended to read:

21 657.990. (1) Violation of ORS 657.295 is [*punishable for each offense by a fine of not less than \$50*
22 *nor more than \$500, or by imprisonment for not more than six months, or both*] **a Class B**
23 **misdemeanor.**

24 (2) Violation of ORS 657.300 is a **Class A** misdemeanor.

25 (3) Violation of ORS 657.480 (3)(a) or (b) is a Class C felony.

26 (4) In addition to any penalties otherwise prescribed in this chapter, violation of ORS 657.495,
27 657.565, 657.660 (2) or any other provision of this chapter is a **Class C** misdemeanor [*and is*
28 *punishable by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than*
29 *90 days, or both*]. If an offending employer or the employer of an offending agent is a corporation,
30 the president, secretary and the treasurer, or officers exercising corresponding functions, are subject
31 to the penalties in this subsection in respect to any duties of which they respectively had or, in the
32 proper exercise of their duties, ought to have had knowledge.

33 (5) Subject to ORS 153.022, willful violation of this chapter or of any order issued or rule
34 adopted under this chapter, the violation of which is made unlawful or the observance of which is
35 required under this chapter, and for which a penalty neither is prescribed in this section nor pro-
36 vided by any other applicable statute, is [*punishable by a fine of not less than \$20 nor more than \$200,*
37 *or by imprisonment for not more than 60 days, or both*] **a Class C misdemeanor.** Each day the vio-
38 lation continues is considered a separate offense.

39 [(6) *Circuit courts and justice courts have concurrent jurisdiction of any offense under this*
40 *section.*]

41 **SECTION 272.** ORS 658.991 is amended to read:

42 658.991. (1) Violation of ORS 658.005 to 658.245 or 658.250 is [*punishable, upon conviction, by a*
43 *fine of not more than \$250 or by imprisonment in the county jail for not more than 60 days, or by*
44 *both*] **a Class C misdemeanor.**

45 (2) Violation of ORS 658.452 is a Class A misdemeanor.

1 (3) Any person who intentionally defaces, alters or changes a license or permit to act as a farm
2 labor contractor, or who uses the license or permit of another or knowingly permits that person's
3 license or permit to be used by another, or who acts as a farm labor contractor without a valid li-
4 cense or permit under ORS 658.405 to 658.503, *[is guilty of]* **commits** a Class A misdemeanor.

5 (4) Any person who willfully swears or affirms falsely under ORS 658.415 (1), (2) or (3) in regard
6 to any matter concerning which an oath or affirmation is required, or who solicits or induces an-
7 other person to do so, whether or not the matter sworn to or affirmed is material, *[is guilty of]*
8 **commits** a Class A misdemeanor.

9 (5) Violation of ORS 658.440 (1)(f), (g) or (h), (2)(c) or (3)(a), (b), (c), (e), (f) or (g) is a Class C
10 misdemeanor.

11 (6) Any person who violates the provisions of ORS 658.410 (1) or 658.417 (1) *[is guilty of]* **com-**
12 **mits** a Class C felony if:

13 (a) The person has previously been convicted of violating the provisions of ORS 658.410 (1) or
14 658.417 (1);

15 (b) The person's license to act as a farm labor contractor has been suspended, revoked or de-
16 nied; or

17 (c) The person is acting in violation of an outstanding order of any court of competent juris-
18 diction arising out of the enforcement of ORS 658.405 to 658.503.

19 **SECTION 273.** ORS 659.990 is amended to read:

20 659.990. (1) Violation of ORS 659.815 is *[punishable, upon conviction, by a fine of not more than*
21 *\$1,000 or imprisonment in the county jail for not more than one year, or both]* **a Class A**
22 **misdemeanor.**

23 (2) Violation of ORS 659.805 by any officer or agent of a corporation or any other person is
24 *[punishable, upon conviction, by a fine of not less than \$50 nor more than \$250, or by imprisonment*
25 *in the county jail not less than 30 nor more than 90 days, or both]* **a Class C misdemeanor.**

26 (3) Violation of ORS 659.800 is *[punishable, upon conviction, by a fine of not less than \$10 nor*
27 *more than \$200 or by imprisonment in the county jail for not less than one month nor more than six*
28 *months]* **a Class B misdemeanor.**

29 (4) Violation of ORS 659.810 or 659.845 is *[punishable, upon conviction, by a fine of not more than*
30 *\$100 or imprisonment in the county jail for not more than 60 days, or both]* **a Class C**
31 **misdemeanor.**

32 (5) Any person who violates ORS 659.825, **commits a Class A misdemeanor and**, upon con-
33 viction, shall be required to make immediate restitution of delinquent payments to the fund or funds
34 mentioned in ORS 659.825 *[and shall be punished by a fine of not more than \$1,000 or imprisonment*
35 *in the county jail for not more than one year, or both].*

36 (6) Violation of ORS 659.840 is *[punishable, upon conviction, by a fine of not more than \$500 or*
37 *by imprisonment in the county jail for not more than one year, or by both]* **a Class A misdemeanor.**

38 **SECTION 274.** ORS 659A.990 is amended to read:

39 659A.990. Violation of ORS 659A.810 is *[punishable, upon conviction, by imprisonment in the*
40 *county jail for not more than one year or by a fine of not more than \$500, or by both]* **a Class A**
41 **misdemeanor.**

42 **SECTION 275.** ORS 661.990 is amended to read:

43 661.990. (1) Violation of ORS 661.040 is a **Class A** misdemeanor.

44 (2) Violation of ORS 661.210, **661.220** or 661.260 is *[punishable, upon conviction, by a fine of not*
45 *more than \$500 or by imprisonment for not more than three months, or by both]* **a Class C**

1 **misdemeanor.**

2 [(3) *Violation of ORS 661.220 is punishable, upon conviction, by a fine of not more than \$500 or*
3 *by imprisonment in the county jail for not more than three months.*]

4 **SECTION 276.** ORS 671.992 is amended to read:

5 671.992. [A person who violates] **Violation of** any provision of ORS 671.310 to 671.459, or any
6 rule of the State Landscape Architect Board adopted thereunder, is [guilty of] a **Class A**
7 misdemeanor. [Subject to ORS 161.655, a court may impose on the person a fine of not less than \$250
8 or more than \$5,000, a term of imprisonment of not more than six months, or both.]

9 **SECTION 277.** ORS 675.337 is amended to read:

10 675.337. (1) After public hearing, the Occupational Therapy Licensing Board by rule shall adopt
11 a schedule establishing the civil penalty that may be imposed under ORS 675.336. For a first vio-
12 lation of the provisions of ORS 675.210 to 675.340, the board shall issue a warning notice. The board
13 may impose a [fine] **civil penalty** of not to exceed \$200 on a second violation and may impose a
14 [fine] **civil penalty** of not to exceed \$1,000 upon third and subsequent violations.

15 (2) In imposing a **civil** penalty pursuant to the schedule adopted pursuant to subsection (1) of
16 this section, the board shall consider the following factors:

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

19 (b) Any prior violations of the statute or rule.

20 (c) The economic or financial conditions of the person incurring the penalty.

21 (d) The immediacy and extent to which the violation threatens the public health or safety.

22 (3) A civil penalty imposed under ORS 675.336 may be remitted or reduced upon such terms or
23 conditions as the board considers proper and consistent with the public health and safety.

24 **SECTION 278.** ORS 676.990 is amended to read:

25 676.990. Violation of any of the provisions of ORS 676.110 to 676.130 is [punishable, upon con-
26 viction, by a fine of not more than \$250, or by imprisonment in the county jail for not more than 30
27 days, or by both] a **Class C misdemeanor**.

28 **SECTION 279.** ORS 679.260 is amended to read:

29 679.260. (1) The Oregon Board of Dentistry Account is established in the State Treasury sepa-
30 rate and distinct from the General Fund.

31 (2) All moneys received by the Oregon Board of Dentistry under this chapter shall be paid to
32 the State Treasury and credited to the Oregon Board of Dentistry Account. Any interest or other
33 income derived from moneys paid into the account shall be credited monthly to the account.

34 (3) Moneys in the Oregon Board of Dentistry Account are appropriated continuously and shall
35 be used only for the administration and enforcement of ORS 680.010 to 680.205 and this chapter.

36 [(4) *All fines imposed and collected under this chapter shall be paid into the treasury of the county*
37 *in which the suits, actions or proceedings were commenced. All money thus paid into the treasury, over*
38 *and above the amount necessary to reimburse the county for any expense incurred by the county, in*
39 *any suit, action or proceeding brought under this chapter, shall be paid before January 1 of each year,*
40 *into the State Treasury and placed to the credit of the Oregon Board of Dentistry Account and such*
41 *moneys hereby are continuously appropriated and shall be used only for the administration and*
42 *enforcement of ORS 680.010 to 680.205 and this chapter.*]

43 [(5)] (4) Ten percent of the annual license fee to be paid by each licensee of the Oregon Board
44 of Dentistry shall be used by the board to ensure the continued professional competence of licensees.
45 Such activities shall include the development of performance standards and professional peer review.

1 **SECTION 280.** ORS 679.991 is amended to read:

2 679.991. (1) Violation of any provision of ORS 679.020 or 679.025 (1), is a Class A misdemeanor.

3 (2) Violation of ORS 679.170 or 679.176 is a Class B misdemeanor.

4 (3) In the event of a second or subsequent conviction under subsection (1) of this section, [*it is*
5 *mandatory upon the part of the court to sentence the convicted person to imprisonment in the county*
6 *jail for not less than 10 days in addition to the maximum fine or imprisonment permitted]* **the court**
7 **must impose a minimum sentence of 10 days of imprisonment.**

8 (4) In any prosecution for violation of subsection (1) or (2) of this section, it shall be sufficient
9 to sustain a conviction to show a single act of conduct in violation of any of the provisions of this
10 chapter and it shall not be necessary to show a general course of such conduct.

11 **SECTION 281.** ORS 688.715 is amended to read:

12 688.715. The Oregon Health Licensing Agency is granted authority to carry out the following
13 duties:

14 (1) Adopt rules that are necessary to conduct business, carry out duties and administer the
15 provisions of ORS 688.701 to 688.734.

16 (2) Issue registrations, including temporary registrations, permits, waivers and other authori-
17 zations to practice athletic training as determined by the Board of Athletic Trainers.

18 (3) Establish and collect fees and charges to carry out its legal responsibilities.

19 (4) Authorize all necessary disbursements to carry out the provisions of ORS 688.701 to 688.734,
20 including but not limited to payment for necessary supplies, office equipment, books and expenses
21 for the conduct of examinations, payment for legal and investigative services rendered to the agency
22 and such other expenditures as are provided for in ORS 688.701 to 688.734.

23 (5) Employ inspectors, examiners, special agents, investigators, clerical assistants and account-
24 ants as are necessary for the investigation and prosecution of alleged violations and the enforcement
25 of ORS 688.701 to 688.734, and for such other purposes as the agency may require. Nothing in ORS
26 688.701 to 688.734 shall be construed to prevent assistance being rendered by an employee of the
27 agency in any hearing called by it. However, all obligations for salaries and expenses incurred
28 under ORS 688.701 to 688.734 shall be paid only from the fees accruing to the agency under ORS
29 688.701 to 688.734.

30 (6) The agency shall provide the board with such administrative services and employees as the
31 board requires to carry out its duties.

32 (7) Maintain an accurate record of all proceedings of the board and of all its meetings, receipts
33 and disbursements, [*fines*] **civil penalties** and orders for violation of ORS 688.701 to 688.734, records
34 for registration to practice athletic training together with the addresses of those registered, and the
35 names of all persons whose registration has been subject to disciplinary action.

36 (8) Investigate complaints, take disciplinary action, including assessment of civil [*fines*] **penal-**
37 **ties**, and provide opportunity for hearing according to ORS 183.745.

38 (9) Administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas
39 in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are rea-
40 sonably necessary to carry out duties of the board granted under ORS 688.701 to 688.734.

41 **SECTION 282.** ORS 688.160 is amended to read:

42 688.160. (1) The Physical Therapist Licensing Board operates as a semi-independent state agency
43 subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 688.010 to
44 688.201 and 688.990 [(1)]. The Physical Therapist Licensing Board consists of eight members ap-
45 pointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS

1 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the
2 board:

3 (a) Five must be physical therapists who are Oregon residents, possess unrestricted licenses to
4 practice physical therapy in this state, have been practicing in this state for at least two years im-
5 mediately preceding their appointments and have been practicing in the field of physical therapy for
6 at least five years.

7 (b) One must be a licensed physical therapist assistant.

8 (c) Two must be public members who have an interest in consumer rights and who are not:

9 (A) Otherwise eligible for appointment to the board; or

10 (B) The spouse, domestic partner, child, parent or sibling of a physical therapist or physical
11 therapist assistant.

12 (2)(a) Board members required to be physical therapists or physical therapist assistants may be
13 selected by the Governor from a list of three to five nominees for each vacancy, submitted by the
14 Oregon Physical Therapy Association.

15 (b) In selecting the members of the board, the Governor shall strive to balance the represen-
16 tation on the board according to:

17 (A) Geographic areas of this state; and

18 (B) Ethnic group.

19 (3)(a) The term of office of each member is four years, but a member serves at the pleasure of
20 the Governor. The terms must be staggered so that no more than three terms end each year. A
21 member is eligible for reappointment.

22 (b) In the event of a vacancy in the office of a member of the board other than by reason of the
23 expiration of a term, the Governor, not later than 90 days after the occurrence of the vacancy, shall
24 appoint a person to fill the vacancy for the unexpired term.

25 (c) A board member shall be removed immediately from the board if, during the member's term,
26 the member:

27 (A) Is not a resident of this state;

28 (B) Has been absent from three consecutive board meetings, unless at least one absence is ex-
29 cused;

30 (C) Is not a licensed physical therapist or a retired physical therapist who was a licensed
31 physical therapist in good standing at the time of retirement, if the board member was appointed to
32 serve on the board as a physical therapist; or

33 (D) Is not a licensed physical therapist assistant or a retired physical therapist assistant who
34 was a licensed physical therapist assistant in good standing at the time of retirement, if the board
35 member was appointed to serve on the board as a retired physical therapist assistant.

36 (4) Each member of the board is entitled to compensation and expenses as provided in ORS
37 292.495. The board may provide by rule for compensation to board members for the performance of
38 official duties at a rate that is greater than the rate provided in ORS 292.495.

39 (5) A board member who acts within the scope of board duties, without malice and in reasonable
40 belief that the member's action is warranted by law, is immune from civil liability.

41 (6) The board shall have power to:

42 (a) Establish matters of policy affecting administration of ORS 688.010 to 688.201;

43 (b) Provide for examinations for physical therapists and physical therapist assistants and adopt
44 passing scores for the examinations;

45 (c) Adopt rules necessary to carry out and enforce the provisions of ORS 688.010 to 688.201;

1 (d) Establish standards and tests to determine the qualifications of applicants for licenses to
2 practice physical therapy in this state;

3 (e) Issue licenses to persons who meet the requirements of ORS 688.010 to 688.201;

4 (f) Adopt rules relating to the supervision and the duties of physical therapist aides who assist
5 in performing routine work under supervision;

6 (g) Adopt rules establishing minimum continuing education requirements for all licensees;

7 (h) Exercise general supervision over the practice of physical therapy within this state;

8 (i) Establish and collect fees for the application or examination for, or the renewal, rein-
9 statement or duplication of, a license under ORS 688.040, 688.080 or 688.100 or for the issuance of
10 a temporary permit under ORS 688.110; and

11 (j) Establish and collect fees to carry out and enforce the provisions of ORS 688.010 to 688.201.

12 (7) The board shall meet as determined by the board and at any other time at the call of the
13 board chairperson, who shall be elected by the members of the board. All members have equal voting
14 privileges.

15 (8) The board may appoint and fix the compensation of staff as necessary to carry out the op-
16 erations of the board.

17 (9) The board shall:

18 (a) Maintain a current list of all persons regulated under ORS 688.010 to 688.201, including the
19 persons' names, current business and residential addresses, telephone numbers, electronic mail ad-
20 dresses and license numbers.

21 (b) Provide information to the public regarding the procedure for filing a complaint against a
22 physical therapist or physical therapist assistant.

23 (c) Publish at least annually, and in a format or place determined by the board, final disciplinary
24 actions taken against physical therapists and physical therapist assistants and other information,
25 including rules, in order to guide physical therapists and physical therapist assistants regulated
26 pursuant to ORS 688.010 to 688.201.

27 **SECTION 283.** ORS 688.990 is amended to read:

28 688.990. [(1)] Violation of any provision of ORS 688.020 [or], 688.120, **688.415 or 688.425** is a
29 **Class A** misdemeanor.

30 [(2)] *Violation of ORS 688.415 or 688.425 is punishable by a fine of not more than \$500, or*
31 *imprisonment for not more than one year, or both.*

32 **SECTION 284.** ORS 691.565 is amended to read:

33 691.565. [(1)] The Board of Examiners of Licensed Dietitians Account is established in the State
34 Treasury, separate and distinct from the General Fund. All moneys received by the Board of Ex-
35 aminers of Licensed Dietitians under ORS 691.405 to 691.585 shall be deposited into the account and
36 are continuously appropriated to the board to be used only for the administration and enforcement
37 of ORS 691.405 to 691.585. Any interest or other income from moneys in the account shall be cred-
38 ited to the account.

39 [(2)] *All fines collected or received for violations of or prosecutions under ORS 691.405 to 691.585*
40 *shall be paid into the account and used only for the administration and enforcement of ORS 691.405*
41 *to 691.585.*

42 **SECTION 285.** ORS 695.990 is amended to read:

43 695.990. Violation of any of the provisions of ORS 695.210 to 695.240 is [*punishable, upon con-*
44 *viction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than one*
45 *year*] **a Class A misdemeanor.**

1 **SECTION 286.** ORS 705.165 is amended to read:

2 705.165. (1) Except as provided in ORS 59.255, 59.995, 86A.130, 86A.992 and 645.950, the net
3 amount accruing to the Department of Consumer and Business Services from all fees, charges, in-
4 terest, [*fin*es,] penalties and miscellaneous revenues from all sources under ORS chapter 645 and
5 ORS 59.005 to 59.451, 59.710 to 59.830, 59.991, 86A.095 to 86A.198, 650.005 to 650.100 and 705.350
6 shall, after deduction of refunds, be paid over to the State Treasurer and deposited in a separate
7 subaccount in the Consumer and Business Services Fund created under ORS 705.145 at least
8 monthly and may be used only for the expenses of the department in carrying out its functions and
9 duties under ORS chapter 645 and ORS 59.005 to 59.451, 59.710 to 59.830, 59.991, 59.995, 86A.095 to
10 86A.198, 650.005 to 650.100 and 705.350.

11 (2) Any amount deposited in the separate subaccount in the Consumer and Business Services
12 Fund as provided in subsection (1) of this section that at the end of each quarter is determined by
13 the Director of the Department of Consumer and Business Services to be in excess of the amount
14 needed to administer ORS chapter 645 and ORS 59.005 to 59.451, 59.710 to 59.830, 59.991, 59.995,
15 86A.095 to 86A.198 and 650.005 to 650.100 shall be transferred to the General Fund and shall become
16 available for general governmental expenses.

17 **SECTION 287.** ORS 705.642 is amended to read:

18 705.642. (1) Whenever the Director of the Department of Consumer and Business Services de-
19 termines that a person has engaged, is engaging or is about to engage in an act or practice consti-
20 tuting a violation of a provision of ORS 705.638, 707.005 or 707.010 or any rule or order of the
21 director, the director may bring suit in the name of or on behalf of the State of Oregon in the circuit
22 court of any county of this state to enjoin the acts or practices and to enforce compliance with the
23 provisions of ORS 705.638, 707.005 or 707.010 or the rule or order. Upon a proper showing, the court
24 shall grant a permanent or temporary injunction, restraining order or writ of mandamus. The court
25 may [*fine*] **impose a penalty against** the person [*against whom the order is entered*] **of** not more than
26 \$20,000 for each violation, which shall be entered as a judgment and paid to the General Fund of
27 the State Treasury. Each violation is a separate offense. In the case of a continuing violation, each
28 day's continuance is a separate violation, but the maximum penalty for a continuing violation may
29 not exceed \$100,000. If the court finds that the defendant has violated a provision of ORS 705.638,
30 707.005 or 707.010 or a rule or order, the court may appoint a receiver, who may be the director,
31 for the defendant or the defendant's assets. The court may not require the director to post a bond.
32 The court may award reasonable attorney fees to the director if the director prevails in an action
33 under this section. The court may award reasonable attorney fees to a defendant who prevails in
34 an action under this section if the court determines that the director had no objectively reasonable
35 basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial
36 court.

37 (2) The director may include either of the following in any action authorized by subsection (1)
38 of this section:

39 (a) A claim for restitution or damages on behalf of the persons injured by the act or practice
40 constituting the subject matter of the action. The court shall have jurisdiction to award appropriate
41 relief to such persons, if the court finds that enforcement of the rights of such persons by private
42 civil action, whether by class action or otherwise, would be so burdensome or expensive as to be
43 impractical.

44 (b) A claim for disgorgement of illegal gains or profits derived. Any recovery under this para-
45 graph must be turned over to the General Fund of the State Treasury unless the court requires

1 another disposition.

2 **SECTION 288.** ORS 707.145 is amended to read:

3 707.145. The Director of the Department of Consumer and Business Services may disapprove an
4 application for a permit to organize or refuse to approve the articles of incorporation or to grant
5 a charter upon a finding that any person named in the application to organize or in other documents
6 submitted for filing:

7 (1) Is insolvent, either in the sense that the person's liabilities exceed the person's assets or that
8 the person cannot meet the person's obligations as they mature, or is in such financial condition
9 that the person cannot continue in business with safety to the person's customers;

10 (2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or pro-
11 fession;

12 (3) Has willfully or repeatedly violated or failed to comply with any provisions of the Bank Act
13 or any rule or order of the director;

14 (4) Has been convicted of a crime, an essential element of which is fraud;

15 (5) Is not qualified to conduct a banking business on the basis of such factors as training, ex-
16 perience and knowledge of the business;

17 (6) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging
18 in or continuing any conduct or practice involving any aspect of the banking business or other
19 business that may lawfully be conducted by an insured institution;

20 (7) Is the subject of an order of the director subjecting the person to [*a fine or*] a civil penalty,
21 or removing the person from an office in any entity regulated by the director; or

22 (8) Is the subject of an order entered within the past five years, directing the person to cease
23 and desist from any fraudulent or unlawful business or banking practice, subjecting the person to
24 a [*fine or other*] civil penalty, or removing the person from an office in a financial institution or a
25 consumer finance company issued by the banking supervisor of another state or by the Comptroller
26 of the Currency, the Board of Governors of the Federal Reserve System or by any other agency of
27 the federal government or another state with regulatory authority over such financial institutions
28 or consumer finance companies.

29 **SECTION 289.** ORS 717.235 is amended to read:

30 717.235. (1) Upon the filing of a complete application, the Director of the Department of Con-
31 sumer and Business Services shall review the application and may investigate the financial condition
32 and responsibility, financial and business experience, character and general fitness of the applicant.
33 The director may conduct an on-site investigation of the applicant, the reasonable cost of which
34 shall be paid by the applicant. The director may disapprove an application if the director finds that
35 the applicant:

36 (a) Is insolvent, either in the sense that the person's liabilities exceed the person's assets or that
37 the person cannot meet obligations as they mature, or that the person is in such financial condition
38 that the person cannot continue in business with safety to the person's customers;

39 (b) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or pro-
40 fession;

41 (c) Has willfully or repeatedly violated or failed to comply with a provision of the Oregon Bank
42 Act, Oregon Securities Law, Oregon Credit Union Act, Oregon Consumer Finance Act or
43 Pawnbrokers Act or any rule or order of the director adopted under those laws;

44 (d) Has been convicted of a crime, an essential element of which is fraud;

45 (e) Is not qualified to engage in the business of money transmission on the basis of such factors

1 as training, experience and knowledge of the business;

2 (f) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging
3 in or continuing any conduct or practice involving an aspect of the banking business or of the
4 money transmission business;

5 (g) Is the subject of an order of the director subjecting the person to a [*fine or other*] civil pen-
6 alty or removing the person from an office in any entity regulated by the director; or

7 (h) Is the subject of an order entered within the past five years, subjecting the person to a [*fine*
8 *or other*] civil penalty or removing the person from an office in a state or federally chartered, li-
9 censed or regulated financial services company.

10 (2) The director may also disapprove an application if the director finds that a controlling per-
11 son is subject to a provision of subsection (1) of this section except subsection (1)(a) or (e) of this
12 section. If a controlling person is the sole owner of the applicant, then the director may disapprove
13 an application if the director finds that the controlling person is subject to a provision of subsection
14 (1) of this section.

15 (3) If the director finds that the applicant's business will be conducted honestly, fairly and in a
16 manner commanding the confidence and trust of the community, and that the applicant has fulfilled
17 the requirements imposed by ORS 717.200 to 717.320, 717.900 and 717.905 and has paid the required
18 license fee, the director shall issue a license to the applicant authorizing the applicant to conduct
19 money transmission business in this state for a term of one year. If these requirements have not
20 been met, the director shall deny the application in writing and shall describe the reasons for the
21 denial.

22 (4) An order of the director denying an application under ORS 717.200 to 717.320, 717.900 and
23 717.905 shall state the grounds upon which the order is based and shall not become effective for at
24 least 20 days after written notice of the order has been sent by registered or certified mail to the
25 applicant at the principal place of business of the applicant.

26 (5) Appeals from an order of the director denying an application may be taken to the courts of
27 this state as provided by ORS chapter 183.

28 **SECTION 290.** ORS 717.315 is amended to read:

29 717.315. All fees, charges, costs and [*fin*es] **civil penalties** collected by the Director of the De-
30 partment of Consumer and Business Services under ORS 717.200 to 717.320, 717.900 and 717.905 shall
31 be paid to the State Treasurer and credited as provided in ORS 705.145.

32 **SECTION 291.** ORS 723.014 is amended to read:

33 723.014. The Director of the Department of Consumer and Business Services may not issue a
34 certificate of approval under ORS 723.012 if a person named in the articles of incorporation sub-
35 mitted for approval:

36 (1) Is insolvent or bankrupt;

37 (2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or pro-
38 fession;

39 (3) Has willfully or repeatedly violated or failed to comply with a provision of the Oregon Bank
40 Act, the Oregon Credit Union Act, the Oregon Consumer Finance Act, the Oregon Securities Law,
41 the Oregon Mortgage Lender Law or the Pawnbrokers Act, or an administrative rule or order
42 adopted under an Act identified in this subsection;

43 (4) Has been convicted of a crime, an essential element of which is fraud;

44 (5) Is not qualified to conduct a credit union business on the basis of such factors as training,
45 experience and knowledge of the business;

1 (6) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging
2 in or continuing any conduct or practice involving any aspect of the credit union business;

3 (7) Is the subject of an order of the director subjecting the person to a [*fine or other*] civil pen-
4 alty, or removing the person from an office in any entity regulated by the director; or

5 (8) Is the subject of an order that was issued by the regulatory authority of another state, or
6 of the federal government, with authority over banking institutions, credit unions, consumer finance
7 companies, savings associations, securities firms or mortgage lenders, that was entered within the
8 past five years and that subjects the person to a [*fine or other*] civil penalty or removes the person
9 from an office in a state banking institution, a national bank, a state or federal credit union, a state
10 or federal savings association or a consumer finance company, or from a position as a securities
11 broker or dealer, a state or federal investment adviser or a mortgage lender.

12 **SECTION 292.** ORS 723.106 is amended to read:

13 723.106. (1) Credit unions shall report to the Director of the Department of Consumer and
14 Business Services annually by a date established by the director on forms supplied and in the man-
15 ner specified by the director for that purpose. Additional reports may be required.

16 (2) A [*fine*] **civil penalty** in an amount to be established by rule of the director, but not to ex-
17 ceed \$1,000 for each day a report is in arrears shall be levied against the offending credit union
18 unless it is excused for cause by the director.

19 **SECTION 293.** ORS 725.145 is amended to read:

20 725.145. The Director of the Department of Consumer and Business Services may disapprove an
21 application for a license if a person named in the application submitted pursuant to ORS 725.120:

22 (1) Is insolvent, either in the sense that the person's liabilities exceed the person's assets or that
23 the person cannot meet the person's obligations as they mature, or is in such financial condition
24 that the person cannot continue in business with safety to the person's customers;

25 (2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or pro-
26 fession;

27 (3) Has knowingly or repeatedly violated or failed to comply with any provision of the Oregon
28 Bank Act, the Oregon Credit Union Act, the Oregon Consumer Finance Act or the Pawnbrokers
29 Act, or any administrative rule or order adopted under an Act identified in this subsection;

30 (4) Has been convicted of a crime, an essential element of which is fraud;

31 (5) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging
32 in or continuing any conduct or practice involving an aspect of the consumer finance business;

33 (6) Is the subject of an order of the director subjecting the person to a [*fine or other*] civil pen-
34 alty under the Bank Act or ORS chapter 723 or this chapter, or removing the person from an office
35 in any entity regulated under the Bank Act or ORS chapter 723 or this chapter; or

36 (7) Is the subject of an order that was issued by the regulatory authority of another state or
37 of the federal government with authority over banking institutions, savings associations, credit un-
38 ions or consumer finance companies, that was entered within the past five years and that subjects
39 the person to a [*fine or other*] civil penalty or removes the person from an office in a state banking
40 institution, a national bank, a state or federal savings association, a state or federal credit union
41 or a consumer finance company.

42 **SECTION 294.** ORS 726.075 is amended to read:

43 726.075. The Director of the Department of Consumer and Business Services may not grant a
44 license to engage in the business of pawnbroker to any person if any person named in the applica-
45 tion submitted pursuant to ORS 726.060:

1 (1) Is insolvent, either in the sense that the person's liabilities exceed the person's assets or that
2 the person cannot meet obligations as they mature, or is in such financial condition that the person
3 cannot continue in business with safety to the person's customers;

4 (2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or pro-
5 fession;

6 (3) Has willfully or repeatedly violated or failed to comply with a provision of the Oregon Bank
7 Act, the Oregon Credit Union Act, the Oregon Consumer Finance Act or the Pawnbrokers Act, or
8 any administrative rule or order adopted under an Act identified in this subsection;

9 (4) Has been convicted of a crime, an essential element of which is fraud;

10 (5) Is not qualified to conduct a pawnbroker business on the basis of such factors as training,
11 experience and knowledge of the business;

12 (6) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging
13 in or continuing any conduct or practice involving an aspect of the pawnbroker business;

14 (7) Is the subject of an order of the director, subjecting the person to a [*fine or other*] civil
15 penalty, or removing the person from an office in an entity regulated by either director; or

16 (8) Is the subject of an order that was issued by the regulatory authority of another state or
17 of the federal government with authority over such banking institutions, credit unions, consumer
18 finance companies or savings associations, that was entered within the past five years and that
19 subjects the person to a [*fine or other*] civil penalty or removes the person from an office in a state
20 banking institution, a national bank, a state or federal savings association, a state or federal credit
21 union or a consumer finance company.

22 **SECTION 295.** ORS 726.990 is amended to read:

23 726.990. (1) Violation, or participation in the violation, of any provision of this chapter by any
24 pawnbroker or any agent, member, officer or employee thereof, or any other person is [*punishable,*
25 *upon conviction, by a fine of not less than \$100 nor more than \$500 or by imprisonment in the county*
26 *jail for not less than one month and not more than six months, or both*] **a Class B misdemeanor.**

27 (2) Upon conviction under subsection (1) of this section, no license shall be granted to such
28 person, nor to the husband or wife of such person, nor to any partnership, association or corporation
29 of which the person is an agent or member, until two years after the date of the conviction.

30 **SECTION 296.** ORS 731.292 is amended to read:

31 731.292. (1) Except as provided in subsections (2), (3) and (4) of this section, all fees, charges and
32 other moneys received by the Department of Consumer and Business Services or the Director of the
33 Department of Consumer and Business Services under the Insurance Code shall be deposited in the
34 fund created by ORS 705.145 and are continuously appropriated to the department for the payment
35 of the expenses of the department in carrying out the Insurance Code.

36 (2) All taxes[, *fin*es] and penalties paid pursuant to the Insurance Code shall be paid to the di-
37 rector and after deductions of refunds shall be paid by the director to the State Treasurer, at the
38 end of every calendar month or more often in the director's discretion, for deposit in the General
39 Fund to become available for general governmental expenses.

40 (3) All premium taxes received by the director pursuant to ORS 731.820 shall be paid by the
41 director to the State Treasurer for deposit in the State Fire Marshal Fund.

42 (4) Assessments received by the department under ORS 743.951 and 743.961 and penalties re-
43 ceived by the department under ORS 743.990 and section 10, chapter 867, Oregon Laws 2009, shall
44 be paid into the State Treasury and credited to the Health System Fund established in section 1,
45 chapter 867, Oregon Laws 2009, after deducting the following amounts:

1 (a) Amounts needed to reimburse the department for expenses in administering ORS 743.951 to
2 743.965 and 743.990; and

3 (b) Amounts needed to reimburse the General Fund for reductions in revenue caused by the ef-
4 fect of ORS 743.961 on the retaliatory tax imposed under ORS 731.854 and 731.859.

5 **SECTION 297.** ORS 731.992 is amended to read:

6 731.992. (1) Violation of ORS 731.260 is [*punishable upon conviction, in the case of an individual,*
7 *by imprisonment in the county jail for not more than one year or by a fine not exceeding \$1,000; or,*
8 *in the case of a corporation, by a fine not exceeding \$10,000*] **a Class A misdemeanor.**

9 (2) Violation of any provision of the Insurance Code for which a greater penalty is not otherwise
10 provided by the Insurance Code or by other applicable laws of this state, in addition to any appli-
11 cable prescribed denial, suspension or revocation of any certificate or license or any civil forfeiture,
12 [*shall be punishable upon conviction as for a*] **is a Class A misdemeanor.**

13 **SECTION 298.** ORS 756.360 is amended to read:

14 756.360. All fees, [*finer,*] penalties and other moneys collected by the Public Utility Commission
15 under ORS 756.310, 756.320, 756.350, 758.015, 758.400 to 758.475 and ORS chapter 759 shall be paid
16 by the commission into the State Treasury within 30 days after the collection thereof, and shall be
17 placed by the State Treasurer to the credit of the Public Utility Commission Account and the fees,
18 [*finer,*] penalties and other moneys collected from:

19 (1) Public utilities shall be used only for the purpose of paying the expenses of the commission
20 in performing the duties imposed by law upon the commission in respect to utilities, and for the
21 purpose of paying the expenses of the Office of the Governor for its responsibilities in administering
22 energy conservation and allocation programs.

23 (2) Telecommunications providers shall be used only for the purpose of paying the expenses of
24 the commission in performing the duties imposed by law upon the commission in respect to tele-
25 communications providers, and for the purpose of paying the expenses of the Office of the Governor
26 for its responsibilities in administering energy conservation and allocation programs.

27 **SECTION 299.** ORS 756.990 is amended to read:

28 756.990. (1) Any public utility or telecommunications utility that fails to comply with an order
29 or subpoena issued pursuant to ORS 756.090 shall forfeit, for each day it so fails, a sum of not less
30 than \$50 nor more than \$500.

31 (2) Except where a penalty is otherwise provided by law, any public utility, telecommunications
32 utility or other person subject to the jurisdiction of the Public Utility Commission shall forfeit a sum
33 of not less than \$100 nor more than \$10,000 for each time that the person:

34 (a) Violates any statute administered by the commission;

35 (b) Does any act prohibited, or fails to perform any duty enjoined upon the person;

36 (c) Fails to obey any lawful requirement or order made by the commission; or

37 (d) Fails to obey any judgment made by any court upon the application of the commission.

38 (3) Violation of ORS 756.115 is a Class A violation. [*A penalty of not less than \$500 nor more than*
39 *\$1,000 shall be recovered from the public utility or telecommunications utility for each such offense*
40 *when such officer, agent or employee acted in obedience to the direction, instruction or request of the*
41 *public utility, telecommunications utility or any general officer thereof.*]

42 (4) Violation of ORS 756.125 is [*punishable, upon conviction, by a fine of not more than \$100 or*
43 *imprisonment for not more than 30 days, or both*] **a Class C misdemeanor.** [*Any public utility or*
44 *telecommunications utility that knowingly permits the violation of ORS 756.125 shall forfeit, upon con-*
45 *viction, not more than \$1,000 for each offense.*]

1 (5) Violation of ORS 756.543 (1) is *[punishable, upon conviction, by a fine of not less than \$100*
 2 *nor more than \$1,000, or by imprisonment in the county jail for not more than one year, or both]* a
 3 **Class A misdemeanor.**

4 (6) In construing and enforcing this section, the act, omission or failure of any officer, agent or
 5 other person acting for or employed by any public utility, telecommunications utility or other person
 6 subject to the jurisdiction of the commission acting within the scope of the person's employment
 7 shall in every case be deemed to be the act, omission or failure of such public utility, telecommu-
 8 nications utility or other person subject to the jurisdiction of the commission. With respect to any
 9 violation of any statute administered by the commission, any penalty provision applying to such a
 10 violation by a public utility or telecommunications utility shall apply to such a violation by any
 11 other person.

12 (7) Except when provided by law that a penalty, *[fine,]* forfeiture or other sum be paid to the
 13 aggrieved party, or as provided in ORS 757.994 (1), all penalties~~], fines]~~ or forfeitures or other sums
 14 collected or paid under the provisions of any law administered by the commission shall be paid into
 15 the General Fund and credited to the Public Utility Commission Account.

16 **SECTION 300.** ORS 776.991 is amended to read:

17 776.991. *[(1) Except as provided in subsection (2) of this section, any person violating]* **Violation**
 18 **of** any of the provisions of this chapter is *[punishable, upon conviction, by a fine not to exceed \$500,*
 19 *or by imprisonment in the county jail not to exceed six months, or both]* a **Class B misdemeanor.**
 20 **Notwithstanding ORS 161.635 and section 10 of this 2011 Act, the minimum fine for a violation**
 21 **of ORS 776.405 (1)(a) is \$5,000 and the maximum fine is \$50,000.**

22 *[(2) Any person violating the provisions of ORS 776.405 (1)(a) is punishable, upon conviction, by*
 23 *a fine of not less than \$5,000 nor more than \$50,000, or by imprisonment in the county jail not to exceed*
 24 *six months, or both.]*

25 **SECTION 301.** ORS 778.085 is amended to read:

26 778.085. (1) To the full extent the State of Oregon might exercise control, or grant to the Port
 27 of Portland the right to exercise control, the port has full control of the rivers, harbors and
 28 waterways within its boundaries and between its boundaries and the sea.

29 (2) The port may make, change or abolish wharf lines of, in and for the rivers, harbors and
 30 waterways within its boundaries.

31 (3) As it considers convenient, requisite or necessary, or in the best interests of the maritime
 32 shipping or commercial interests of the port, the board may by ordinance make, modify or abolish
 33 regulations:

34 (a) For the use or navigation of the rivers, harbors and waterways mentioned in subsection (1)
 35 of this section; or

36 (b) For the placing of obstructions therein, or the removal of obstructions therefrom.

37 (4) The port may enforce the regulations by *[fines and]* penalties or seek other appropriate
 38 remedies as the port considers necessary. *[Fines and]* Penalties are recoverable in the name of the
 39 port in any court of this state *[having jurisdiction of actions for the recovery of fines or penalties*
 40 *imposed by state laws. Fines recovered shall be paid to the clerk of the court who, after deducting court*
 41 *costs in the proceedings, shall pay the remainder thereof to the treasurer of the port, to go to its general*
 42 *fund].*

43 (5) This section does not authorize the port to cause the removal of bridges or other ob-
 44 structions existing under a grant by this state. This section does not authorize the port to exclude
 45 cities other than the City of Portland from free access to the channel of either the Willamette or

1 Columbia Rivers or the Oregon and the Columbia Sloughs, or the free use of the rivers or sloughs
2 for navigation.

3 **SECTION 302.** ORS 778.990 is amended to read:

4 778.990. Any person who violates an ordinance adopted by the board of the Port of Portland
5 under ORS 778.085 or 778.260 [*shall be guilty of a misdemeanor and, upon conviction, shall be pun-*
6 *ished by a fine of not more than \$250*] **commits a Class A misdemeanor.**

7 **SECTION 303.** ORS 783.610 is amended to read:

8 783.610. [(1)] No person shall moor any vessel of any kind or any name, or any boat, skiff, barge,
9 scow, raft, or part of a raft, to any buoy or beacon placed in the navigable waters of this state, or
10 in any bay, river or arm of the sea bordering upon this state, by the authority of the United States
11 Coast Guard or shall in any manner hang on with any vessel, boat, barge, scow, raft, or part of a
12 raft, to any such buoy or beacon, or shall willfully remove, damage or destroy any such buoy or
13 beacon, or shall cut down, remove, damage or destroy any beacon or beacons erected on land in this
14 state by authority of the United States Coast Guard.

15 [(2) *All fines for violation of this section shall be paid into the county school fund of the county*
16 *in which the action is tried.*]

17 **SECTION 304.** ORS 783.990 is amended to read:

18 783.990. (1) Violation of ORS 783.510, **783.520 or 793.610** is [*punishable, upon conviction, in a*
19 *justice or circuit court, by a fine of not less than \$50 nor more than \$200, or by imprisonment in the*
20 *county jail for not less than one nor more than six months, or both*] **a Class B misdemeanor.**

21 [(2) *Violation of ORS 783.520 is punishable, upon conviction, in a justice or circuit court, by a fine*
22 *of not less than \$50 nor more than \$250, or by imprisonment in the county jail for not less than 60 days*
23 *nor more than six months.*]

24 [(3)] (2) Violation of ORS 783.530, **793.550 or 783.560** is [*punishable, upon conviction, in a justice*
25 *or circuit court, by a fine of not less than \$20 nor more than \$200, or by imprisonment in the county*
26 *jail for not less than 10 nor more than 100 days*] **a Class C misdemeanor.**

27 [(4) *Violation of ORS 783.550 is punishable, upon conviction, in a justice or circuit court, by a fine*
28 *of not less than \$20 nor more than \$100 or by imprisonment in the county jail for not less than 10 nor*
29 *more than 100 days, or both.*]

30 [(5)] (3) Violation of ORS 783.560 by any officer is a Class D violation.

31 [(6) *Violation of ORS 783.580 is punishable, upon conviction, by a fine of not less than \$100 nor*
32 *more than \$250, and by imprisonment in the county jail not less than 10 nor more than 25 days. Jus-*
33 *tices of the peace have jurisdiction of violations of ORS 783.580.*]

34 [(7)] (4) Violation of ORS 783.590 and injury or damage of any bridge across the Willamette
35 River for want of the appliances described in ORS 783.590 is a Class A violation.

36 [(8)] (5) Violation of ORS 783.620 is [*punishable, upon conviction, by a fine of not less than \$100*
37 *nor more than \$500, or by imprisonment in the county jail for not less than three months nor more than*
38 *one year*] **a Class A misdemeanor.**

39 [(9) *Violation of ORS 783.610 is punishable, upon conviction, by a fine of not less than \$100 nor*
40 *more than \$200, or by imprisonment in the county jail not less than one nor more than six months, or*
41 *both.*]

42 **SECTION 305.** ORS 811.172 is amended to read:

43 811.172. (1) A person commits the offense of improperly disposing of human waste if the person
44 is operating or riding in a motor vehicle and the person throws, puts or otherwise leaves a container
45 of urine or other human waste on or beside the highway.

1 (2) The offense described in this section, improperly disposing of human waste, is a **Class A**
2 misdemeanor [*and is punishable by a maximum fine of \$250*].

3 **SECTION 306.** ORS 823.991 is amended to read:

4 823.991. (1) Any motor carrier or railroad that fails to comply with an order or subpoena issued
5 pursuant to ORS 823.025 shall pay a civil penalty, for each day it so fails, of not less than \$50 nor
6 more than \$500.

7 (2) Except where a penalty is otherwise provided by law, any motor carrier or railroad shall pay
8 a civil penalty of not less than \$100 nor more than \$10,000 for each time that the motor carrier or
9 railroad:

10 (a) Violates any statute regarding motor carriers or railroads, as appropriate, administered by
11 the Department of Transportation;

12 (b) Does any act prohibited, or fails to perform any duty enjoined upon the motor carrier or
13 railroad;

14 (c) Fails to obey any lawful requirement or order made by the department; or

15 (d) Fails to obey any judgment made by any court upon the application of the department.

16 (3) Violation of ORS 823.029 is punishable after issuance of a final order by the department, by
17 a civil penalty of not less than \$1,000 for each offense. A penalty of not less than \$500 nor more than
18 \$1,000 shall be recovered from the motor carrier or railroad for each such offense when such officer,
19 agent or employee acted in obedience to the direction, instruction or request of the motor carrier
20 or railroad, or any general officer thereof.

21 (4) Violation of ORS 823.029 is a Class A violation.

22 (5) Violation of ORS 823.051 is [*punishable, upon conviction, by a fine of not more than \$100 or*
23 *imprisonment for not more than 30 days, or both*] a **Class C misdemeanor**. Any motor carrier or
24 railroad that knowingly permits the violation of ORS 823.051 shall forfeit, upon conviction, not more
25 than \$1,000 for each offense.

26 (6) In construing and enforcing this section, the act, omission or failure of any officer, agent or
27 other person acting for or employed by any motor carrier or railroad shall in every case be deemed
28 to be the act, omission or failure of such motor carrier or railroad. With respect to any violation
29 of any statute administered by the department regarding motor carriers or railroads, any penalty
30 provision applying to such a violation by a motor carrier or railroad shall apply to such a violation
31 by any other person.

32 (7) Except as provided in ORS 824.019 and 825.326, and except when provided by law that a
33 penalty, [*fine,*] forfeiture or other sum be paid to the aggrieved party, all penalties[, *fin*es] or forfei-
34 tures collected from persons subject to the regulatory authority of the department under ORS
35 chapters 823, 824, 825 and 826 shall be paid into the General Fund and credited to the Motor Carrier
36 Account if collected from a motor carrier and to the Railroad Fund created under ORS 824.014 (1)
37 if collected from a railroad.

38 (8) Violation of ORS 823.105 is punishable, after issuance of a final order by the department, by
39 a civil penalty of not more than \$5,000 for each offense.

40 (9) Violation of ORS 823.105 is a **specific fine** violation punishable by a fine of not more than
41 \$5,000 for each offense.

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

43 **SECTION 307.** ORS 824.014 is amended to read:

44 824.014. (1) The Railroad Fund is established separate and distinct from the General Fund. In-
45 terest earned, if any, shall inure to the benefit of the Railroad Fund.

1 (2) All fees, [*fin*es,] penalties and other moneys collected by the Department of Transportation
2 under ORS 824.010 and 824.012 shall be paid by the department into the State Treasury within 30
3 days after the collection thereof, and shall be placed by the State Treasurer to the credit of the
4 Railroad Fund created by subsection (1) of this section. The fees, [*fin*es,] penalties and other moneys
5 collected from railroads shall be used only for the purpose of paying the expenses of the department
6 in performing the duties imposed by law upon the department in respect to railroads.

7 **SECTION 308.** ORS 825.990 is amended to read:

8 825.990. (1) Except as otherwise provided in subsection (2) of this section, every person who vi-
9 olates or procures, aids or abets violation of this chapter and any person who refuses or fails to
10 obey any order, decision or rule, made under or pursuant to this chapter commits a Class A traffic
11 violation.

12 (2) Knowingly violating an out-of-service notice issued under authority of the Department of
13 Transportation is a Class A misdemeanor.

14 (3) A person is subject to the penalties under subsection (4) of this section if the person know-
15 ingly:

16 (a) Transports any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a
17 facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385
18 and 466.992.

19 (b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder
20 without appropriate authority under ORS 466.005 to 466.385 and 466.992.

21 (c) Materially violates terms of any permit or authority issued to the person under this chapter
22 or ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.

23 (d) Makes any false material statement or representation in any application, label, manifest, re-
24 cord, report, permit or other document filed, maintained or used for purposes of compliance with
25 requirements under this chapter for the safe transportation of hazardous wastes.

26 (e) Fails to include material information required under rules of the Department of Transporta-
27 tion in any application for any permit or authority to transport hazardous waste under this chapter.

28 (f) Violates any rules adopted by the Department of Transportation concerning the transporta-
29 tion of hazardous wastes.

30 (4) Subject to ORS 153.022, violation of subsection (3) of this section is [*subject to the penalty*
31 *of a fine of not more than \$10,000 for each day of violation, imprisonment of not more than six months,*
32 *or both*] **a Class B misdemeanor.**

33 **SECTION 309.** ORS 165.475, 165.480, 165.485, 165.490, 165.495, 165.505, 165.510, 165.515,
34 165.520, 221.923 and 632.620 are repealed.

35 **SECTION 310.** The amendments to statutes by sections 151 to 308 of this 2011 Act and
36 the repeal of statutes by section 309 of this 2011 Act apply only to offenses committed on or
37 after January 1, 2012.

38
39 **CAPTIONS**

40
41 **SECTION 311.** The unit and section captions used in this 2011 Act are provided only for
42 the convenience of the reader and do not become part of the statutory law of this state or
43 express any legislative intent in the enactment of this 2011 Act.

44
45 **OPERATIVE DATES**

1 **SECTION 311a. (1) Except as provided in subsection (2) of this section, the provisions of**
2 **this 2011 Act become operative January 1, 2012.**

3 **(2) Sections 150c and 311 of this 2011 Act, the amendments to ORS 137.540 and sections**
4 **2, 10, 12, 22, 24 and 26, chapter 659, Oregon Laws 2009, by sections 68a, 68b, 70a, 70b, 70c, 72a**
5 **and 150 of this 2011 Act and the repeal of section 1, chapter 659, Oregon Laws 2009, by section**
6 **150b of this 2011 Act become operative on the effective date of this 2011 Act.**

7
8 **EFFECTIVE DATE**
9

10 **SECTION 312. This 2011 Act being necessary for the immediate preservation of the public**
11 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
12 **July 1, 2011.**
13
