

Enrolled
House Bill 2712

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)

CHAPTER

AN ACT

Relating to offenses; creating new provisions; amending ORS 1.178, 1.182, 25.715, 25.990, 31.735, 33.075, 41.905, 45.900, 51.037, 83.990, 86.990, 92.990, 97.990, 97.992, 100.990, 105.590, 106.990, 131.897, 133.865, 135.280, 137.017, 137.293, 137.300, 137.301, 137.533, 147.227, 151.225, 151.487, 151.505, 153.015, 153.018, 153.025, 153.030, 153.051, 153.061, 153.090, 153.099, 153.108, 153.624, 153.800, 161.566, 161.568, 161.570, 161.665, 161.715, 163.575, 165.107, 165.990, 166.180, 166.300, 166.320, 166.330, 166.715, 167.337, 167.339, 167.401, 167.808, 192.990, 198.600, 208.990, 221.315, 221.355, 221.357, 221.916, 240.990, 241.990, 267.990, 268.990, 279A.990, 291.990, 293.990, 305.830, 305.990, 307.990, 308.990, 311.990, 319.990, 320.990, 321.991, 339.925, 341.300, 346.991, 352.360, 368.990, 376.990, 390.050, 390.995, 398.224, 399.990, 409.304, 411.990, 414.815, 418.215, 419C.446, 419C.459, 419C.470, 421.990, 431.210, 432.900, 433.855, 433.990, 435.990, 441.990, 448.305, 448.990, 448.992, 448.994, 450.990, 460.370, 460.990, 462.405, 462.990, 466.913, 466.995, 468.140, 468.936, 468.943, 468A.580, 469.990, 471.410, 471.559, 471.990, 473.990, 473.992, 475.495, 475.565, 475.860, 475.864, 475.886, 475.888, 475.890, 475.892, 476.990, 477.985, 479.520, 496.992, 497.415, 498.153, 498.154, 498.222, 498.993, 506.306, 520.991, 522.990, 527.990, 532.990, 537.990, 540.990, 541.990, 543.990, 547.990, 549.990, 561.150, 561.990, 565.630, 565.990, 569.390, 571.365, 576.053, 576.595, 576.991, 577.990, 578.990, 585.190, 585.990, 586.990, 596.990, 600.990, 602.990, 607.365, 608.990, 609.060, 609.990, 609.994, 610.990, 618.991, 621.991, 628.990, 632.990, 634.992, 635.991, 646.990, 646A.508, 646A.765, 649.990, 651.990, 652.400, 652.445, 652.990, 656.605, 656.990, 657.515, 657.822, 657.990, 658.991, 659.990, 659A.990, 661.990, 671.992, 675.330, 676.990, 679.260, 679.991, 683.290, 686.990, 688.160, 688.715, 688.990, 689.135, 689.995, 691.565, 695.990, 705.165, 705.642, 707.145, 717.235, 717.315, 723.014, 723.106, 725.145, 726.075, 726.990, 731.292, 731.992, 756.360, 756.990, 757.990, 759.990, 776.991, 777.990, 778.085, 778.990, 783.610, 783.990, 801.557, 802.110, 802.155, 809.220, 810.530, 811.109, 811.172, 811.182, 811.230, 811.235, 811.483, 811.590, 811.615, 811.617, 811.625, 811.627, 811.630, 813.030, 813.095, 814.485, 814.486, 814.534, 814.536, 814.600, 818.430, 823.991, 824.014, 824.992, 825.990, 830.990 and 837.100 and sections 2, 2b and 2d, chapter 659, Oregon Laws 2009, section 24, chapter 107, Oregon Laws 2010, section 3, chapter 423, Oregon Laws 2011 (Enrolled Senate Bill 415), section 5, chapter 517, Oregon Laws 2011 (Enrolled Senate Bill 924), section 3, chapter ____, Oregon Laws 2011 (Enrolled House Bill 2104), section 19, chapter ____, Oregon Laws 2011 (Enrolled House Bill 2256), section 5, chapter ____, Oregon Laws 2011 (Enrolled House Bill 3075), and section 2, chapter ____, Oregon Laws 2011 (Enrolled House Bill 3525); repealing ORS 30.450, 30.830, 137.290, 137.295, 137.308, 137.309, 153.093, 153.125, 153.128, 153.131, 153.134, 153.138, 153.142, 153.145, 153.630, 153.635, 165.475, 165.480, 165.485, 165.490, 165.495, 165.505, 165.510, 165.515, 165.520, 221.923, 266.470, 376.385, 448.320, 471.670, 496.715, 496.951, 506.630, 530.900, 570.055, 570.365, 632.620, 678.168, 801.145 and 830.145 and section 1, chapter 659, Oregon Laws 2009, section 10, chapter 355, Oregon Laws 2011 (Enrolled

House Bill 2137), section 2, chapter 423, Oregon Laws 2011 (Enrolled Senate Bill 415), sections 1 and 4, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2104), section 15, chapter ___, Oregon Laws 2011 (Enrolled House Bill 2256), and section 3, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3075); and declaring an emergency.

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

PRESUMPTIVE FINES FOR VIOLATIONS

SECTION 1. Sections 2 to 4 and 6b of this 2011 Act are added to and made a part of ORS chapter 153.

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

- (a) \$435 for a Class A violation.
- (b) \$260 for a Class B violation.
- (c) \$160 for a Class C violation.
- (d) \$110 for a Class D violation.

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

- (a) The amount specified by statute as the presumptive fine for the violation; or
- (b) An amount equal to the greater of 20 percent of the maximum fine prescribed for the violation, or the minimum fine prescribed by statute for the violation.

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

(1) If an individual is charged with a traffic violation, as defined in ORS 801.557, and the enforcement officer issuing the citation notes on the citation that the offense occurred in a highway work zone and is subject to the provisions of ORS 811.230, occurred in a posted school zone and is subject to the provisions of ORS 811.235, or occurred in a safety corridor and is subject to the provisions of ORS 811.483, the presumptive fine for the violation is:

- (a) \$870 for a Class A violation.
- (b) \$520 for a Class B violation.
- (c) \$320 for a Class C violation.
- (d) \$220 for a Class D violation.

(2) The presumptive fine for a specific fine violation that is subject to this section is an amount equal to twice the presumptive fine determined for the violation under section 2 (2) of this 2011 Act.

SECTION 4. Minimum fine for violations. (1) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise reduce the fine for a violation that is subject to the presumptive fines established by section 2 (1) or 3 (1) of this 2011 Act to an amount that is less than:

- (a) \$220 for a Class A violation.
- (b) \$130 for a Class B violation.
- (c) \$80 for a Class C violation.
- (d) \$60 for a Class D violation.

(2) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise reduce the fine for a specific fine violation to an amount that is less than 20 percent of the presumptive fine for the violation.

(3) This section does not affect the manner in which a court imposes or reduces monetary obligations other than fines.

(4) The Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of this section. In addition, the Department of Revenue or Secretary of State may audit any court to determine whether the court is complying with the requirements of sections 33 to 38 and 47 to 50 of this 2011 Act.

The Department of Revenue or Secretary of State may file an action under ORS 34.105 to 34.240 to enforce the requirements of this section and of sections 33 to 38 and 47 to 50 of this 2011 Act.

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

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

SECTION 6a. ORS 153.015 is amended to read:

153.015. (1) An offense described in the Oregon Revised Statutes that is designated as a violation but does not specify the classification of the violation is an unclassified violation. An unclassified violation is a Class B violation.

(2) A specific fine violation is any offense described in the Oregon Revised Statutes that is **designated as a specific fine violation or:**

- (a) Is not designated as a crime or as a class A, B, C or D violation;
- (b) Is not punishable by a term of imprisonment as a penalty for committing the offense; and
- (c) Is punishable by a specific fine as the penalty for committing the offense.

REPLACEMENT FINE AMOUNT FOR UNITARY ASSESSMENT

SECTION 6b. (1) In any criminal action in which a fine is imposed, the lesser of the following amounts is payable to the state before any other distribution of the fine is made:

- (a) \$60; or
- (b) The amount of the fine if the fine is less than \$60.

(2) A justice or municipal court shall forward the amount prescribed under subsection (1) of this section to the Department of Revenue for deposit in the Criminal Fine Account.

MAXIMUM FINES FOR VIOLATIONS

SECTION 7. ORS 153.018 is amended to read:

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

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

- (a) *[\$720]* **\$2,000** for a Class A violation.
- (b) *[\$360]* **\$1,000** for a Class B violation.
- (c) *[\$180]* **\$500** for a Class C violation.
- (d) *[\$90]* **\$250** for a Class D violation.
- (e) **\$2,000 for a specific fine violation, or the maximum** amount otherwise established by law for *[any]* **the** specific fine violation.

(3) *[If no special corporate fine is specified in the law creating the violation, a sentence to pay a fine for a violation committed by a corporation shall be in an amount not to exceed twice the fine established under this section for a violation by an individual.]* If a special corporate fine is specified in the law creating the violation, the sentence to pay a fine shall be governed by the law creating the violation. **Except as otherwise provided by law, if a special corporate fine is not specified in the law creating the violation, the maximum fine for a violation committed by a corporation is:**

- (a) **\$4,000 for a Class A violation.**
- (b) **\$2,000 for a Class B violation.**

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

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

[(4) If a person or corporation has gained money or property through the commission of a violation, instead of sentencing the defendant to pay the fine provided for in subsection (2) or (3) of this section, the court may sentence the defendant to pay an amount fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the violation. For the purposes of this subsection, the defendant's gain is the amount of money or the value of property, as determined under ORS 164.115, derived from the commission of the violation, less the amount of money or the value of property, as determined under ORS 164.115, returned to the victim of the violation or seized by or surrendered to lawful authority before the time sentence is imposed.]

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

MINIMUM FINES FOR CRIMES

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

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

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

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

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

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

(4) This section does not affect the manner in which a court imposes or reduces monetary obligations other than fines.

SECTION 11. ORS 475.886 is amended to read:

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

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

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

SECTION 12. ORS 475.888 is amended to read:

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

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

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

SECTION 13. ORS 475.890 is amended to read:

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

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

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

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

SECTION 14. ORS 475.892 is amended to read:

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

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

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

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

**FINES FOR CRIMES TREATED AS CLASS A VIOLATIONS
AND FELONIES TREATED AS CLASS A MISDEMEANORS**

SECTION 16. ORS 161.566 is amended to read:

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

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

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

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

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

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

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

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

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

[(6) Notwithstanding ORS 137.290 (1)(d), the unitary assessment imposed upon conviction of a violation under this section is the amount provided in ORS 137.290 for the misdemeanor receiving violation treatment.]

SECTION 17. ORS 161.568 is amended to read:

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

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

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

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

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

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

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

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

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

[(5) Notwithstanding ORS 137.290 (1)(d), the unitary assessment imposed upon conviction of a violation under this section is the amount provided in ORS 137.290 for the misdemeanor receiving violation treatment.]

SECTION 18. ORS 161.570 is amended to read:

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

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

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

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

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

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

(7) Notwithstanding ORS 161.635, the *[maximum]* fine that a court may impose upon conviction of a misdemeanor under this section may not:

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

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

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

SENTENCE OF DISCHARGE

SECTION 20. ORS 161.715 is amended to read:

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

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

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

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

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

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

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

FINES IN JUVENILE PROCEEDINGS

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

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

SECTION 22. The amendments to ORS 419C.459 by section 21 of this 2011 Act apply only to acts committed on or after January 1, 2012. Any act committed before January 1, 2012, shall continue to be governed by ORS 419C.459 as in effect immediately before January 1, 2012.

CITATIONS

SECTION 23. ORS 153.051 is amended to read:

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

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

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

(3) A notice to the person cited that a complaint will be filed with the court based on the violation.

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

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

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

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

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

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

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

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

SECTION 25. ORS 153.061 is amended to read:

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

(a) Make a first appearance by personally appearing in court at the time indicated in the summons; or

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

(2) If a defendant [has been] **is** issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that **the offense contributed to an accident and that** a vulnerable user of a public way suffered serious physical injury or death **by reason of the offense, the officer may not enter the amount of the presumptive fine on the summons and** the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

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

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

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

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

[(c) *The defendant may execute the appearance, waiver of trial and plea of guilty that appears on the summons and deliver the summons and a check or money order in the amount of the base fine set*

forth in the summons to the court. The defendant may attach a statement of matters in explanation or mitigation of the violation.]

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

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

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

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

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

SECTION 25a. ORS 153.099 is amended to read:

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

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

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

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

JUDGMENTS

SECTION 27. ORS 153.090 is amended to read:

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

- (a) Imposition of a sentence to pay a fine;
- (b) Costs[, assessments] and restitution authorized by law;

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

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

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

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

(e) Any other provision authorized by law.

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

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

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

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

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

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

(a) Not expired or if expired, expired less than one year; or

(b) Suspended, but not canceled or revoked.

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

SECTION 29. ORS 153.108 is amended to read:

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

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

SECTION 30. ORS 41.905 is amended to read:

41.905. *[(1)] A plea to a charge of a traffic crime, as defined in ORS 801.545, and any judgment of conviction or acquittal of a person charged with a traffic [offense] crime, as defined by ORS 801.545, [is] are* not admissible in the trial of a subsequent civil action arising out of the same accident or occurrence to prove or negate the facts upon which such judgment was rendered.

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

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

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

DISTRIBUTION OF PAYMENTS UNDER JUDGMENT IN CRIMINAL ACTION

(Priorities for Application of Payments)

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

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

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

SECTION 34. Level I obligations. Compensatory fines under ORS 137.101 are Level I obligations.

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

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

(b) Type 2 obligations include all fines and other monetary obligations payable to the state for which the law does not expressly provide other disposition, including fines payable to the state by justice and municipal courts under sections 6b, 48 and 49 of this 2011 Act.

(2) If a judgment contains both types of Level II obligations, the court shall apply 50 percent of amounts creditable to Level II obligations to Type 1 obligations and 50 percent of the amounts to Type 2 obligations, until all obligations in one of the two types have been paid

in full. All subsequent amounts creditable to Level II obligations shall be applied against the other type of obligations until those obligations have been paid in full.

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

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

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

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

SECTION 36. Level III obligations. Level III obligations are fines payable to a county or city.

SECTION 37. Level IV obligations. Level IV obligations are amounts that the law expressly directs be paid to a specific account or public body as defined in ORS 174.109.

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

SECTION 39. Sections 33 to 38 of this 2011 Act and the repeal of ORS 137.295 by section 118 of this 2011 Act apply to all payments on judgments of conviction of an offense, without regard to whether the offense was committed before, on or after January 1, 2012.

(Application of Security Deposits Against Child Support Obligation)

SECTION 40. ORS 25.715 is amended to read:

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

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

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

- (a) The defendant is an obligor who owes child support;
- (b) The administrator has filed a motion requesting the court to make such an order;
- (c) The motion specifies the amount to be applied to the child support judgment under ORS 135.280; and
- (d) The court has determined that such an order is appropriate.

SECTION 41. ORS 135.280 is amended to read:

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

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

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

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

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

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

(c) Does not reduce the money award in the judgment entered under subsection (3) of this section that is owed to the state.

(5) When judgment is entered in favor of the state, or any political subdivision of the state, on any security given for a release, the judgment may be enforced as a judgment in a civil action. If entered in circuit court, the judgment shall be entered in the register, and the clerk of the court shall note in the register that the judgment creates a judgment lien. The district attorney, county counsel or city attorney may have execution issued on the judgment and deliver same to the sheriff to be executed by levy on the deposit or security amount made in accordance with ORS 135.265, or may collect the judgment as otherwise provided by law. The proceeds of any execution or collection shall be used to satisfy the judgment and costs and paid into the treasury of the municipal corporation wherein the security was taken if the offense was defined by an ordinance of a political subdivision of this state, or paid into the treasury of the county wherein the security was taken if the offense was defined by a statute of this state and the judgment was entered by a justice court, or paid over as directed by the State Court Administrator for deposit in the Criminal Fine [and Assessment] Account [created under ORS 137.300], if the offense was defined by a statute of this state and the judgment was entered by a circuit court. The provisions of this section shall not apply to [base fine] amounts deposited upon appearance under ORS 153.061.

(6) When the judgment of forfeiture is entered, the security deposit or deposit with the clerk is, by virtue of the judgment alone and without requiring further execution, forfeited to and may be kept by the state or its appropriate political subdivision. Except as provided in subsection (4) of this section, the clerk shall reduce, by the value of the deposit so forfeited, the debt remaining on the

judgment and shall cause the amount on deposit to be transferred to the revenue account of the state or political subdivision thereof entitled to receive the proceeds of execution under this section.

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

(Recovery of Costs)

SECTION 42. ORS 151.487 is amended to read:

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

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

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

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

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

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

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

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

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

SECTION 43. ORS 151.505 is amended to read:

151.505. (1) At the conclusion of a case or matter in which the first accusatory instrument or petition in the trial court was filed after January 1, 1998, and in which the court appointed counsel to represent a person, a trial, appellate or post-conviction court may include in its judgment *[an order]* **a money award requiring** that the person repay in full or in part the administrative costs of determining the eligibility of the person for appointed counsel, and the costs of the legal and other services that are related to the provision of appointed counsel, **that have not previously**

been required to be paid under a limited judgment entered under ORS 151.487. An award under this section is a monetary obligation payable to the state.

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

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

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

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

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

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

SECTION 43a. ORS 151.225 is amended to read:

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

(2) All moneys appropriated to the commission to pay compensation of counsel and other expenses in connection with the legal representation of persons for which the commission is responsible by law shall be deposited in the Public Defense Services Account.

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

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

(5) As used in this section, "other expenses in connection with the legal representation of persons for which the commission is responsible by law" includes expenses incurred in the administration of the public defense system.

SECTION 44. ORS 161.665 is amended to read:

161.665. (1) Except as provided in ORS 151.505, the court, only in the case of a defendant for whom it enters a judgment of conviction, may include in its sentence thereunder a [*provision that the convicted defendant pay as costs expenses*] **money award for all costs** specially incurred by the

state in prosecuting the defendant. Costs include a reasonable attorney fee for counsel appointed pursuant to ORS 135.045 or 135.050 and a reasonable amount for fees and expenses incurred pursuant to preauthorization under ORS 135.055. A reasonable attorney fee is presumed to be a reasonable number of hours at the hourly rate authorized by the Public Defense Services Commission under ORS 151.216. Costs do not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law.

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

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

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

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

(6) *[Except as provided in subsection (7) of this section,]* All moneys collected or paid under this section shall be paid into *[the General Fund and credited to]* the Criminal Fine *[and Assessment]* Account.

(7) Any amounts awarded to the state under a judgment of conviction for the costs of extraditing the defendant to this state must be listed separately in the money award portion of the judgment.

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

SECTION 45. ORS 133.865 is amended to read:

133.865. (1) The Arrest and Return Account is established separate and distinct from the General Fund. The account consists of moneys deposited into the account under ORS *[161.665]* **144.605, moneys allocated to the account under ORS 137.300** and *[such]* other moneys *[as may be appropriated to the account by law]* **received by the Governor for the purpose of paying the costs of extraditing defendants.**

(2) Except as provided in subsection *[(2)]* (3) of this section, moneys in the account are continuously appropriated to the Governor for the purpose of paying costs incurred in carrying out the provisions of ORS 133.743 to 133.857.

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

(Disposition of Fines for Traffic Offenses)

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

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

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

(a) The amount prescribed by section 6b (1) of this 2011 Act is payable to the state and must be deposited in the Criminal Fine Account;

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

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

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

(a) The amount prescribed by section 6b (1) of this 2011 Act is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

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

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

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

(a) The amount prescribed by section 6b (1) of this 2011 Act is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account; and

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

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

(a) The amount prescribed by section 6b (1) of this 2011 Act is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

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

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

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

(a) The amount prescribed by section 6b (1) of this 2011 Act is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

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

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

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

(a) The amount prescribed by section 6b (1) of this 2011 Act is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account; and

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

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

(a) The amount prescribed by section 6b (1) of this 2011 Act is payable to the state and must be forwarded to the Department of Revenue for deposit in the Criminal Fine Account;

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

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

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

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

(2) Justice and municipal courts must make the transfer required by subsection (1) of this section under sections 6b, 48 and 49 of this 2011 Act not later than the last day of the month immediately following the month in which a payment on a judgment is received by the court.

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

(Transition Provisions)

SECTION 51a. (1) The repeal of ORS 137.308 and 137.309 by section 118 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Except as provided in this section, any offense committed before January 1, 2012, shall continue to be governed by ORS 137.308 and 137.309 as in effect immediately before January 1, 2012.

(2) Any amounts received on or after January 1, 2012, on judgments of conviction of an offense committed before January 1, 2012, that would have been deposited in the Law Enforcement Medical Liability Account under ORS 137.309, as in effect immediately before January 1, 2012, shall be deposited in the Criminal Fine Account.

(3) Any amounts received on or after January 1, 2012, on judgments of conviction of an offense committed before January 1, 2012, that would have been deposited in the State Court Facilities Security Account under ORS 137.309, as in effect immediately before January 1, 2012, shall be deposited in the Criminal Fine Account.

(4) Any amounts received on or after January 1, 2012, on judgments of conviction of an offense committed before January 1, 2012, that would have been deposited in a county's court

facilities security account under the provisions of ORS 137.308 (2), as in effect immediately before January 1, 2012, shall be deposited in the Criminal Fine Account.

(5) A justice or municipal court shall forward the amounts described in subsections (2) to (4) of this section to the Department of Revenue for deposit in the Criminal Fine Account.

SECTION 51b. (1) Any amounts received on or after January 1, 2012, on judgments of conviction for violations of ORS 813.095 that were committed before January 1, 2012, that would have been deposited in the State Police Account under ORS 153.630 (6), as in effect immediately before January 1, 2012, shall be disposed as provided in sections 47 to 50 of this 2011 Act.

(2) A justice or municipal court shall forward the amounts described in subsection (1) of this section to the Department of Revenue for deposit in the Criminal Fine Account.

SECTION 51c. (1) Any amounts received by a circuit court on or after January 1, 2012, on judgments of conviction of an offense committed before January 1, 2012, that would have been deposited in the general fund of a county under ORS 137.308 (1), as in effect immediately before January 1, 2012, shall be deposited in the Criminal Fine Account.

(2) Any amounts received by a justice or municipal court on or after January 1, 2012, on judgments of conviction of an offense committed before January 1, 2012, that would have been deposited in the general fund of a county under ORS 137.308 (1), as in effect immediately before January 1, 2012, shall continue to be deposited in the general fund of the county.

SECTION 51d. Any amounts received by a circuit court on or after January 1, 2012, on judgments of conviction for offenses that were committed before January 1, 2012, that would have been deposited into the Arrest and Return Account under ORS 161.665 (7), as in effect immediately before January 1, 2012, shall be deposited in the Criminal Fine Account.

(Criminal Fine Account)

SECTION 52. ORS 137.300 is amended to read:

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

[(2) The Legislative Assembly shall allocate moneys in the account according to the following priority:]

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

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

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

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

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

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

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

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

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

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

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

actions shall be deposited by the courts in the account. All moneys in the account are continuously appropriated to the Department of Revenue to be distributed by the Department of Revenue as provided in this section. The Department of Revenue shall keep a record of moneys transferred into and out of the account.

(2) The Legislative Assembly shall first allocate moneys from the Criminal Fine Account for the following purposes, in the following order of priority:

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

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

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

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

(3) After making allocations under subsection (2) of this section, the Legislative Assembly shall allocate moneys from the Criminal Fine Account for the following purposes:

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

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

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

(d) Allocations to the Oregon Health Authority for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

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

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

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

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

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

(6) The Department of Revenue shall deposit in the General Fund all moneys remaining in the Criminal Fine Account after the distributions listed in subsections (2) and (3) of this section have been made.

(7) The Department of Revenue shall establish by rule a process for distributing moneys in the Criminal Fine Account.

SECTION 52a. Any funds in the Criminal Fine and Assessment Account on January 1, 2012, shall be transferred by the State Treasurer to the Criminal Fine Account.

SECTION 52b. ORS 137.301 is amended to read:

137.301. The Legislative Assembly finds that:

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

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

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

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

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

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

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

SECTION 53. Notwithstanding ORS 137.300, for the period beginning July 1, 2011, and ending June 30, 2013, the Department of Revenue shall distribute the moneys in the Criminal Fine and Assessment Account and the Criminal Fine Account as specified in sections 54 to 59 of this 2011 Act.

SECTION 54. There is allocated \$21,424,867 to the Department of Public Safety Standards and Training for the period beginning July 1, 2011, and ending June 30, 2013, from the Criminal Fine and Assessment Account and the Criminal Fine Account, for the purpose of criminal justice training and standards operations.

SECTION 55. There are allocated to the Department of Human Services for the period beginning July 1, 2011, and ending June 30, 2013, from the Criminal Fine and Assessment Account and the Criminal Fine Account, the following amounts for the following purposes:

- (1) Domestic Violence Fund
for the purpose of
ORS 409.292 (1)(a) to (c)..... \$ 2,224,675
- (2) Sexual Assault Victims Fund.... \$ 533,332

SECTION 56. There is allocated \$331,824 to the Oregon Health Authority for the period beginning July 1, 2011, and ending June 30, 2013, from the Criminal Fine and Assessment Account and the Criminal Fine Account, for the Emergency Medical Services and Trauma Systems Program created under ORS 431.623.

SECTION 57. There are allocated to the Department of Justice for the period beginning July 1, 2011, and ending June 30, 2013, from the Criminal Fine and Assessment Account and the Criminal Fine Account, the following amounts for the following purposes:

- (1) Criminal Injuries Compensation
Account..... \$ 7,099,827
- (2) Services to children eligible for
compensation under ORS 147.390
and costs to administer provision
of these services, which costs
may not exceed five percent.... \$ 631,551
- (3) Child Abuse Multidisciplinary
Intervention Account..... \$ 7,812,599
- (4) Creation and operation of a
statewide system of regional
assessment centers as provided
under ORS 418.746 to 418.796 \$ 746,798

SECTION 58. (1) There is allocated \$506,244 from the Criminal Fine Account to the Law Enforcement Medical Liability Account established under ORS 414.815 for the period beginning January 1, 2012, and ending June 30, 2013.

(2) There is allocated \$3,223,179 from the Criminal Fine Account to the Department of Corrections for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities. The grant to each county shall be based on amounts deposited in the Criminal Fine and Assessment Account by the circuit court for the county in the 2009-2011 biennium.

(3) There is allocated \$42,884 from the Criminal Fine Account to the Oregon Health Authority for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(4) There is allocated \$190,004 from the Criminal Fine Account to the Oregon State Police for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(5) There is allocated \$22,500 from the Criminal Fine Account to the Arrest and Return Account established under ORS 133.865 for the period beginning January 1, 2012, and ending June 30, 2013.

(6) There is allocated \$699,000 from the Criminal Fine Account to the Intoxicated Driver Program Fund created under ORS 813.270 for the period beginning January 1, 2012, and ending June 30, 2013.

SECTION 58a. There is allocated \$9,843,214 from the Criminal Fine and Assessment Account and the Criminal Fine Account to the State Court Facilities and Security Account established under ORS 1.178 for the period beginning July 1, 2011, and ending June 30, 2013.

SECTION 59. After distributing the amounts specified in sections 54 to 58a of this 2011 Act, the Department of Revenue shall distribute funds remaining in the Criminal Fine Account to the General Fund.

AMOUNTS FORMERLY COLLECTED AS COUNTY ASSESSMENT

(Court Facility Accounts)

SECTION 60. ORS 1.182 is amended to read:

1.182. (1) The county treasurer shall deposit moneys received [*under ORS 137.308 (2)*] **from distributions under ORS 1.178** into a court facilities security account maintained by the county treasurer. The following apply to the account:

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

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

(c) Moneys deposited in the account [*under ORS 137.308 (2)*] **from distributions under ORS 1.178** and expended under the provisions of this section shall be in addition to any other moneys expended by the county on court facilities security programs and personnel. A county shall not reduce other expenditures on court facilities security programs and personnel by reason of the additional moneys provided [*under ORS 137.308 (2)*] **from distributions under ORS 1.178**.

(d) The county treasurer may charge against the court facilities security account an administrative fee for the actual costs associated with maintaining the account. The total administrative fees charged each year may not exceed five percent of the moneys received [*under ORS 137.308 (2)*] **from distributions under ORS 1.178** for that year.

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

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

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

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

SECTION 61. ORS 1.178 is amended to read:

1.178. (1) The State Court Facilities **and** Security Account is established separate and distinct from the General Fund. The account consists of moneys [*deposited to the credit of the account under ORS 137.309 (7)*] **allocated to the account under the provisions of ORS 137.300.** Interest earned by the State Court Facilities **and** Security Account shall be credited to the account. Moneys in the account are continuously appropriated to the State Court Administrator for the [*purpose of providing security in buildings that contain or are utilized by the Supreme Court, Court of Appeals, Oregon Tax Court or office of the State Court Administrator as described under ORS 1.177*] **purposes described in subsection (2) of this section.**

(2) Expenditures by the State Court Administrator from the State Court Facilities **and** Security Account shall be made only for **the following purposes:**

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

(b) Statewide training on state court security.

(c) **Distributions to court facilities security accounts maintained under ORS 1.182.**

(d) **Capital improvements for courthouses and other state court facilities.**

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

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

SECTION 61a. (1) **During the biennium beginning July 1, 2011, the State Court Administrator may expend not more than \$2,862,376 from the State Court Facilities and Security Account for the purposes of:**

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

(b) **Statewide training on state court security.**

(2) **During the biennium beginning July 1, 2011, the State Court Administrator may distribute not more than \$4,701,919 from the State Court Facilities and Security Account to court facilities security accounts maintained under ORS 1.182. The distribution to each county shall be based on amounts deposited in the Criminal Fine and Assessment Account by the circuit court for the county in the 2009-2011 biennium.**

(3) **Notwithstanding ORS 1.178 (2)(d), during the biennium beginning July 1, 2011, the State Court Administrator may not expend any funds from the State Court Facilities and Security Account for the purpose of capital improvements for courthouses and other state court facilities.**

(Law Enforcement Medical Liability Account)

SECTION 62. ORS 414.815 is amended to read:

414.815. (1) The Law Enforcement Medical Liability Account is established separate and distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the account. The moneys in the Law Enforcement Medical Liability Account are appropriated continuously to the Oregon Health Authority to pay expenses in administering the account and paying claims out of the account as provided in ORS 414.807.

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

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

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

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

NOTE: Section 63 was deleted by amendment. Subsequent sections were not renumbered.

WILDLIFE LAWS

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

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

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

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

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

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

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

(4) For purposes of the Wildlife Violator Compact:

(a) The commission shall suspend a violator's license as defined in ORS 496.750 for failure to comply with the terms of a citation from a party state. A copy of a report of failure to comply from the licensing authority of the issuing state shall be conclusive evidence. Suspension under this par-

agraph commences on the date the commission issues a final order pursuant to the provisions of ORS chapter 183 to suspend the license in this state. The period of suspension under this paragraph is the period provided by Oregon law or such longer period as provided by commission rule based on the period of suspension imposed by the party state.

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

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

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

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

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

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

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

SECTION 65. ORS 498.153 is amended to read:

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

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

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

SECTION 65a. ORS 498.154 is amended to read:

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

- (a) The date, place and nature of the charge.
- (b) The time and place for defendant's appearance in court.
- (c) The name of the issuing officer.
- (d) The license number of the vehicle.

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

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

SECTION 66. ORS 498.222 is amended to read:

498.222. (1) No person shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 67. ORS 496.715 and 496.951 are repealed.

SECTION 67a. Section 24, chapter 107, Oregon Laws 2010, is amended to read:

Sec. 24. The amendments to ORS 496.951 by section 23 [of this 2010 Act], chapter 107, Oregon Laws 2010, become operative [July 1, 2011] **January 1, 2012.**

SECTION 68. The amendments to ORS 496.992, 497.415, 498.153, 498.154 and 498.222 by sections 64 to 66, 315 and 316 of this 2011 Act and the repeal of ORS 496.715 and 496.951 by section 67 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense committed before January 1, 2012, shall continue to be governed by ORS 496.715, 496.951, 496.992, 497.415, 498.153, 498.154 and 498.222 as in effect immediately before January 1, 2012.

NOTE: Sections 68a to 78a were deleted by amendment. Subsequent sections were not renumbered.

SPECIFIC FINE VIOLATIONS

SECTION 79. ORS 163.575 is amended to read:

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

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

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

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

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

(e) Sells to a person under 18 years of age any device in which tobacco, marijuana, cocaine or any controlled substance, as defined in ORS 475.005, is burned and the principal design and use of which is directly or indirectly to deliver tobacco smoke, marijuana smoke, cocaine smoke or smoke from any controlled substance into the human body including but not limited to:

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

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

(C) Bonges;

(D) Chillums;

(E) Ice pipes or chillers;

(F) Cigarette rolling papers and rolling machines; and

(G) Cocaine free basing kits.

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

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

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

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

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

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

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

(C) Contain all of the following information:

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

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

(iii) The name of the employee who conducts the transaction on behalf of the scrap metal business.

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

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

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

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

(viii) A general description of the nonferrous metal property or private metal property that constitutes the predominant part of the transaction. The description must include any identifiable

marks on the property, if readily discernible, and must specify the weight, quantity or volume of the nonferrous metal property or private metal property.

(b) Require the individual with whom the scrap metal business conducts a transaction to sign and date a declaration printed in conspicuous type, either on the record described in this subsection or on a receipt issued to the individual with whom the scrap metal business conducts the transaction, that states:

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

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

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

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

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

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

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

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

(3) Before purchasing or receiving metal property from a commercial seller, a scrap metal business shall:

(a) Create and maintain a commercial account with the commercial seller. As part of the commercial account, the scrap metal business shall enter accurately, clearly and legibly in English onto a standardized printed form, or an electronic form that is securely stored and is capable of ready retrieval and printing, the following information:

(A) The full name of the commercial seller;

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

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

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

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

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

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

(D) The signature of the individual who delivered the metal property to the scrap metal business.

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

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

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

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

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

SECTION 81. ORS 167.808 is amended to read:

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

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

(A) Acetone;

(B) Amyl acetate;

(C) Benzol or benzene;

(D) Butane;

(E) Butyl acetate;

(F) Butyl alcohol;

(G) Carbon tetrachloride;

(H) Chloroform;

(I) Cyclohexanone;

(J) Difluoroethane;

(K) Ethanol or ethyl alcohol;

(L) Ethyl acetate;

(M) Hexane;

(N) Isopropanol or isopropyl alcohol;

(O) Isopropyl acetate;

(P) Methyl cellosolve acetate;

(Q) Methyl ethyl ketone;

(R) Methyl isobutyl ketone;

(S) Nitrous oxide;

(T) Toluol or toluene;

(U) Trichloroethylene;

(V) Tricresyl phosphate;

(W) Xylol or xylene; or

(X) Any other solvent, material, substance, chemical or combination thereof having the property of releasing toxic vapors or fumes.

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

(2) It is unlawful for a person to possess any inhalant if the person intends to use the inhalant for the purpose of inducing intoxication in the person who possesses the inhalant or for the purpose of inducing intoxication in any other person.

(3) A person may not use any inhalant for the purpose of inducing intoxication in the person using the inhalant or for the purpose of inducing intoxication in any other person.

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

(a) Has been prescribed by a health practitioner, as described in ORS 31.740, and that is used in the manner prescribed by the health practitioner; or

(b) Is administered or used under the supervision of a health practitioner, as described in ORS 31.740.

(5)(a) Any person who violates this section commits a violation. Violation of this section is [*punishable by a fine of not more than \$300*] **a Class C violation**. In addition to or in lieu of a fine, a juvenile court may require that a minor who engages in conduct prohibited by this section be provided with treatment and counseling.

(b) Notwithstanding paragraph (a) of this subsection, a second or subsequent violation of this section by a person is a Class B misdemeanor. If a juvenile court finds that a minor has engaged in conduct prohibited by this section on a second or subsequent occasion, the court shall require that the minor receive treatment and counseling.

SECTION 82. ORS 208.990 is amended to read:

208.990. Any county treasurer failing to comply with ORS 208.020 for a period of 10 days commits a Class A violation [*and the court shall impose a fine of not less than \$500*].

SECTION 83. ORS 308.990 is amended to read:

308.990. (1) Violation of ORS 308.320 (3) or of ORS 308.330 is a **Class A** misdemeanor. The judgment of conviction of any assessor for such a violation shall of itself work a forfeiture of the office of the assessor.

(2) Any taxpayer or managing officer thereof who fails to furnish, after written demand so to do by the assessor or the county board of property tax appeals having jurisdiction or the Department of Revenue, any information or, upon like demand, fails to produce any books, records, papers or documents required by ORS 308.285 or 308.335 to be furnished by the taxpayer or managing officer to the county assessor, the county board of property tax appeals or the Department of Revenue, [*is guilty of a*] **commits a Class A** misdemeanor [*and, upon conviction, is punishable by a fine of not less than \$25 nor more than \$1,000. Circuit courts shall have jurisdiction in the trial of such offenses*].

(3) Any person, firm, association or corporation, or agent or managing officer thereof, who presents or furnishes to the Director of the Department of Revenue any statement, required by ORS 308.335 or required by the director under the authority of ORS 308.335, that is willfully false or fraudulent, commits a Class A violation [*and upon conviction the court shall impose a fine of not less than \$100*].

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

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

SECTION 84. ORS 311.990 is amended to read:

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

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

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

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

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

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

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

SECTION 84a. ORS 433.855 is amended to read:

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

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

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

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

(2) In carrying out its duties under this section, the authority is not authorized to require any changes in ventilation or barriers in any public place or place of employment. However, nothing in this subsection is intended to limit the power of the authority to impose any requirements under any other provision of law.

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

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

SECTION 85. ORS 433.990 is amended to read:

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

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

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

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

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

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

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

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

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

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

SECTION 87. ORS 471.410 is amended to read:

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

(2) No one other than the person's parent or guardian may sell, give or otherwise make available any alcoholic liquor to a person under the age of 21 years. A parent or guardian may give or otherwise make alcoholic liquor available to a person under the age of 21 years only if the person is in a private residence and is accompanied by the parent or guardian. A person violates this subsection who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this subsection.

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

(b) This subsection:

(A) Applies only to a person who is present and in control of the location at the time the consumption occurs;

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

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

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

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

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

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

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

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

(6)(a) A person who violates subsection (2) of this section is subject to the provisions of this subsection if the person does not act knowingly or intentionally and:

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

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

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

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

(B) A second conviction is a [Class A] **specific fine violation, and the presumptive fine for the violation is \$860.** [*The court shall impose a mandatory fine of not less than \$720.*]

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

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

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

(8) Except as provided in subsection (7) of this section, the court may not waive or suspend imposition or execution of the mandatory minimum sentence required by subsection (5) or (6) of this section. In addition to the mandatory sentence, the court may require the violator to make restitution for any damages to property where the alcoholic liquor was illegally consumed or may require participation in volunteer service to a community service agency.

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

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

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

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

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

SECTION 88. ORS 475.860 is amended to read:

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

(2) Unlawful delivery of marijuana is a:

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

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

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

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

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

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

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

(b) Class C misdemeanor, if the delivery:

(A) Is for no consideration;

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

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

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

SECTION 89. ORS 475.864 is amended to read:

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

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

(3) Notwithstanding subsection (2) of this section, unlawful possession of marijuana is a violation if the amount possessed is less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae. A violation under this subsection is [*punishable by a fine of not less than \$500 and not more than \$1,000*] **a specific fine violation.** [*Fines collected under this subsection shall be forwarded to the Department of Revenue for deposit in the Criminal Fine and Assessment Account established under ORS 137.300.*] **The presumptive fine for a violation under this subsection is \$650.**

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

SECTION 90. ORS 498.993 is amended to read:

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

SECTION 90a. ORS 565.630 is amended to read:

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

SECTION 91. ORS 565.990 is amended to read:

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

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

SECTION 92. ORS 686.990 is amended to read:

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

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

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

SECTION 93. ORS 757.990 is amended to read:

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

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

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

(3) Violation of ORS 757.325 is a Class A violation if committed by an individual. Violation of ORS 757.325 is a specific fine violation if committed by a person other than an individual and is subject to a fine of not more than \$10,000.

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

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

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

SECTION 94. ORS 759.990 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 95. ORS 777.990 is amended to read:

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

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

SECTION 95a. ORS 801.557 is amended to read:

801.557. "Traffic violation" means a traffic offense that is designated as a traffic violation in the statute defining the offense, or any other offense defined in the Oregon Vehicle Code that is punishable by a fine but that is not punishable by a term of imprisonment. Penalties for traffic violations are as provided for violations generally in ORS [153.018] **chapter 153.**

SECTION 96. ORS 811.109 is amended to read:

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

- (a) One to 10 miles per hour in excess of the speed limit is a Class D traffic violation.
- (b) 11 to 20 miles per hour in excess of the speed limit is a Class C traffic violation.
- (c) 21 to 30 miles per hour in excess of the speed limit is a Class B traffic violation.
- (d) Over 30 miles per hour in excess of the speed limit is a Class A traffic violation.

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

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

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

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

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

- (a) One to 10 miles per hour in excess of the designated speed is a Class D traffic violation.
- (b) 11 to 20 miles per hour in excess of the designated speed is a Class C traffic violation.
- (c) 21 to 30 miles per hour in excess of the designated speed is a Class B traffic violation.
- (d) Over 30 miles per hour in excess of the designated speed is a Class A traffic violation.

(4) In addition to a fine imposed under subsection (1), (2) or (3) of this section, a court may impose a suspension of driving privileges for up to 30 days if a person exceeds a speed limit or designated speed by more than 30 miles per hour and the person has received at least one prior conviction under ORS 811.100 or 811.111 within 12 months of the date of the current offense.

[(5) If a person drives 100 miles per hour or greater when the person commits a violation described in this section, a court shall impose the following in lieu of a punishment otherwise imposed under this section:]

[(a) A fine of \$1,000; and]

[(b) A suspension of driving privileges for not less than 30 days nor more than 90 days.]

(5) Notwithstanding subsections (1) to (3) of this section, if a person drives 100 miles per hour or greater when the person commits a violation described in this section, the person commits a specific fine traffic violation. The presumptive fine for a violation under this subsection is \$1,150, and upon conviction the court shall order a suspension of driving privileges for not less than 30 days nor more than 90 days.

(6) When a court imposes a suspension under subsection (4) or (5) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.

SECTION 97. ORS 811.182 is amended to read:

811.182. (1) A person commits the offense of criminal driving while suspended or revoked if the person violates ORS 811.175 and the suspension or revocation is one described in this section, or if the hardship or probationary permit violated is based upon a suspension or revocation described in subsection (3) or (4) of this section.

(2) Affirmative defenses to the offense described in this section are established under ORS 811.180.

(3) The offense described in this section, criminal driving while suspended or revoked, is a Class B felony if the suspension or revocation resulted from any degree of murder, manslaughter,

criminally negligent homicide or assault resulting from the operation of a motor vehicle, if the suspension or revocation resulted from aggravated vehicular homicide or aggravated driving while suspended or revoked or if the revocation resulted from a conviction for felony driving while under the influence of intoxicants.

(4) The offense described in this section, criminal driving while suspended or revoked, is a Class A misdemeanor if the suspension or revocation is any of the following:

(a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree of recklessly endangering another person, menacing or criminal mischief, resulting from the operation of a motor vehicle.

(b) A revocation under ORS 809.409 (4) resulting from perjury or the making of a false affidavit to the Department of Transportation.

(c) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content of:

(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(d) A suspension of a commercial driver license under ORS 809.413 (1) resulting from failure to perform the duties of a driver under ORS 811.700 while driving a commercial motor vehicle.

(e) A suspension of a commercial driver license under ORS 809.413 (12) where the person's commercial driving privileges have been suspended or revoked by the other jurisdiction for failure of or refusal to take a chemical test to determine the alcoholic content of the person's blood under a statute that is substantially similar to ORS 813.100.

(f) A suspension of a commercial driver license under ORS 809.404.

(g) A revocation resulting from habitual offender status under ORS 809.640.

(h) A suspension resulting from any crime punishable as a felony with proof of a material element involving the operation of a motor vehicle, other than a crime described in subsection (3) of this section.

(i) A suspension for failure to perform the duties of a driver under ORS 811.705.

(j) A suspension for reckless driving under ORS 811.140.

(k) A suspension for fleeing or attempting to elude a police officer under ORS 811.540.

(L) A suspension or revocation resulting from misdemeanor driving while under the influence of intoxicants under ORS 813.010.

(m) A suspension for use of a commercial motor vehicle in the commission of a crime punishable as a felony.

(5) In addition to any other sentence that may be imposed, if a person is convicted of the offense described in this section and the underlying suspension resulted from driving while under the influence of intoxicants, the court shall impose a **minimum** fine of at least \$1,000 if it is the person's first conviction for criminal driving while suspended or revoked and a **minimum fine of** at least \$2,000 if it is the person's second or subsequent conviction.

(6) The Oregon Criminal Justice Commission shall classify a violation of this section that is a felony as crime category 6 of the rules of the Oregon Criminal Justice Commission.

SECTION 98. ORS 811.590 is amended to read:

811.590. (1) A person commits the offense of unlawful parking in a winter recreation parking area if the person parks a vehicle in a location designated as a winter recreation parking area under ORS 810.170 at any time from November 1 of any year to April 30 of the next year and the vehicle is not displaying a winter recreation parking permit issued under ORS 811.595.

(2) Unless the police officer issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle. If the parking of the vehicle is witnessed by the police officer, the operator of the vehicle is in violation of this section.

(3) In addition to those vehicles displaying a winter recreation parking permit, the following vehicles are not subject to the prohibition or penalty under this section:

(a) A vehicle owned and operated by the United States, another state or a political subdivision thereof.

(b) A vehicle owned and operated by this state or by any city, district or political subdivision thereof.

(c) A vehicle owned by a resident of another state if the vehicle displays a winter area parking permit issued in accordance with the laws of the state in which the owner of the vehicle resides and that is similar to the winter recreation parking permit issued under ORS 811.595. The exemption under this paragraph is only granted to the extent that a similar exemption or privilege is granted under the laws of the other state for vehicles displaying a winter recreation parking permit issued under ORS 811.595.

(4) The offense described in this section, unlawful parking in a winter recreation parking area, is *[punishable by a fine of \$30]* **a specific fine traffic violation. The presumptive fine for unlawful parking in a winter recreation parking area is \$30.**

SECTION 99. ORS 811.615 is amended to read:

811.615. (1) A person commits the offense of unlawful parking in a space reserved for persons with disabilities if:

(a) The person parks a vehicle in any parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities and the vehicle does not conspicuously display a disabled person parking permit described in ORS 811.602 or 811.606 or a disabled parking permit issued by another jurisdiction;

(b) The person parks a vehicle in the aisle required by ORS 447.233 regardless of whether or not the vehicle displays a disabled person parking permit; or

(c) The person parks a vehicle in a parking space that is on private or public property and that is marked or signed "Wheelchair User Only" as described in ORS 447.233 and the vehicle does not conspicuously display a "Wheelchair User" placard or decal issued under ORS 811.613.

(2) This section does not apply to any of the following:

(a) Momentarily parking a vehicle in a parking space marked or signed for persons with disabilities for the purposes of allowing a person with a disability to enter or leave the vehicle.

(b) Any parking space that is marked or signed to provide parking for persons with disabilities and that is subject to different provisions or requirements under city or county ordinance if the different provisions or requirements are clearly posted.

(3) Unless the police officer or other authorized person issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle and the citation issued for the violation may be placed upon the vehicle. If the parking of the vehicle is witnessed by the police officer or other person authorized to issue a citation for the offense, the operator of the vehicle is in violation of this section.

(4) The penalties provided by this section shall be imposed regardless of the text or symbol displayed on the marking or sign reserving the space or aisle for persons with disabilities. The penalties are in addition to the following:

(a) A vehicle parked on private property in violation of this section is subject to removal under ORS 98.810 and to lien and sale under ORS 98.812.

(b) A vehicle parked in violation of this section may be removed and sold as provided under ORS 811.620.

[(5) The offense described in this section, unlawful parking in a space reserved for persons with disabilities, is a Class A traffic violation except that a person in violation of this section shall pay a minimum fine of \$190 for the first offense and a minimum fine of \$450 for each subsequent offense.]

(5)(a) Except as provided in paragraph (b) of this subsection, unlawful parking in a space reserved for persons with disabilities is a Class C traffic violation.

(b) A second or subsequent conviction for unlawful parking in a space reserved for persons with disabilities is a Class A traffic violation.

[(6) Notwithstanding any other provision of law and except as otherwise provided in subsection (7) of this section:]

[(a) A court may not suspend imposition or execution of a sentence to pay at least the minimum fine required by this section for a person's first offense unless the court finds from clear and convincing evidence that compelling circumstances require a suspension of a portion of the fine in the interests of justice. In no event shall a court suspend under this paragraph more than \$140 of the minimum \$190 fine.]

[(b) A court may not suspend imposition or execution of a sentence to pay a fine for a second or subsequent offense.]

[(7) If the court finds that the person who was issued a citation for the offense described in this section lawfully held, but failed to properly display, a valid permit at the time of citation, then the court may suspend all but \$20 of the fine.]

SECTION 99a. ORS 811.617 is amended to read:

811.617. (1) A person commits the offense of blocking a parking space reserved for persons with disabilities if the person:

(a) Stops or parks a vehicle in such a way as to block access to a parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities; or

(b) Places an object or allows an object to be placed in such a manner that it blocks access to a parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities.

(2)(a) Unless the police officer or other authorized person issuing the citation witnesses the stopping or parking of a vehicle in violation of subsection (1)(a) of this section, there is a rebuttable presumption that the vehicle was stopped or parked by the registered owner of the vehicle and a citation issued for the violation may be placed upon the vehicle. If the stopping or parking of the vehicle is witnessed by the police officer or other person authorized to issue a citation for the offense, or if the operator is in the vehicle, the operator of the vehicle is in violation of this section.

(b) Unless the police officer or other authorized person issuing the citation witnesses the blocking of a parking space in violation of subsection (1)(b) of this section, there is a rebuttable presumption that the owner or manager of the parking lot placed or allowed placement of the object blocking access to the parking space and a citation may be issued to the owner or manager of the parking lot. If a police officer or other person issuing the citation sees a person placing an object in violation of subsection (1)(b) of this section, the officer or other person may issue the citation to the person seen.

(3) For purposes of this section, a parking space includes any adjacent access aisle as described in ORS 447.233.

(4) The offense described in this section, blocking a parking space reserved for persons with disabilities, is a Class D traffic violation *[except that a person in violation of this section shall pay a minimum fine of \$50]. [Notwithstanding any other provision of law, a court may not suspend imposition or execution of a sentence to pay at least the minimum fine required by this section unless the court finds that the defendant is indigent.]*

SECTION 100. ORS 811.625 is amended to read:

811.625. (1) A person commits the offense of unlawful use of a disabled person parking permit if the person:

(a) Is not a person with a disability and is not transporting the holder of a disabled person parking permit to or from the parking location; and

(b) Uses a disabled person parking permit described under ORS 811.602 or 811.606 to exercise any privileges granted under ORS 811.635.

[(2) The offense described in this section, unlawful use of a disabled person parking permit, is a Class A traffic violation except that a person in violation of this section shall pay a minimum fine of

\$450. Notwithstanding any other provision of law, a court may not suspend imposition or execution of a sentence to pay at least the minimum fine required by this section.]

(2) Except as provided in subsection (3) of this section, unlawful use of a disabled person parking permit is a Class C traffic violation.

(3) A second or subsequent conviction for unlawful use of a disabled person parking permit is a Class A traffic violation.

SECTION 100a. ORS 811.627 is amended to read:

811.627. (1) A person commits the offense of use of an invalid disabled person parking permit if the person uses a permit that is not a valid permit from another jurisdiction, and that:

- (a) Has been previously reported as lost or stolen;
- (b) Has been altered;
- (c) Was issued to a person who is deceased at the time of the citation;
- (d) Has not been issued under ORS 811.602;
- (e) Is a photocopy or other reproduction of a permit, regardless of the permit status; or
- (f) Is mutilated or illegible.

(2) Unless the police officer or other authorized person issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle and the citation issued for the violation may be placed upon the vehicle. If the parking of the vehicle is witnessed by the police officer or other person authorized to issue a citation for the offense, the operator of the vehicle is in violation of this section.

(3) The offense described in this section, use of an invalid disabled person parking permit, is a Class A traffic violation *[except that a person in violation of this section shall pay a minimum fine of \$450]. [Notwithstanding any other provision of law and except as provided in subsection (5) of this section, a court may not suspend imposition or execution of a sentence to pay at least the minimum fine required by this section.]*

(4) If the court finds that a person committed the offense described in this section, the court shall collect the permit and return it to the Department of Transportation for destruction unless the person claims the permit was lost or destroyed, or the police officer or other person authorized to issue a citation for the offense collected the permit.

(5) If the court finds that a person committed the offense described in this section by using a permit that was mutilated or illegible, the court may assess any fine it deems appropriate up to the maximum amount allowable for the offense. If the mutilated or illegible permit has been replaced by the department, the court may dismiss the citation.

SECTION 101. ORS 811.630 is amended to read:

811.630. (1) A person commits the offense of misuse of a program placard if the person:

- (a) Is the driver of a vehicle that is being used as part of a program for the transportation of persons with disabilities; and
- (b) Uses a program placard described under ORS 811.607 for any purpose other than exercising privileges granted under ORS 811.637.

[(2) The offense described in this section, misuse of a program placard, is a Class A traffic violation except that a person in violation of this section shall pay a minimum fine of \$190 for a first offense and a minimum fine of \$450 for each subsequent offense. Notwithstanding any other provision of law, a court may not suspend imposition or execution of a sentence to pay at least the minimum fine required by this section.]

(2) Except as provided in subsection (3) of this section, misuse of a program placard is a Class C traffic violation.

(3) A second or subsequent conviction for misuse of a program placard is a Class A traffic violation.

SECTION 102. ORS 813.095 is amended to read:

813.095. (1) A person commits the offense of refusal to take a test for intoxicants if the person refuses to:

(a) Take a breath test when requested to do so in accordance with the provisions of ORS 813.100; or

(b) Take a urine test when requested to do so in accordance with the provisions of ORS 813.131 and 813.132.

(2) The offense described in this section, refusal to take a test for intoxicants, is a **specific fine** traffic [offense punishable by a fine of at least \$500 and not more than \$1,000] violation. **The presumptive fine for refusal to take a test for intoxicants is \$650.** The fine described in this section is in addition to any other consequence prescribed by law for refusal to take a test for intoxicants.

SECTION 103. ORS 814.485 is amended to read:

814.485. (1) A person commits the offense of failure of a bicycle operator or rider to wear protective headgear if the person is under 16 years of age, operates or rides on a bicycle on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) Exemptions from this section are as provided in ORS 814.487.

(3) The offense described in this section, failure of a bicycle operator or rider to wear protective headgear, is a **specific fine** traffic violation [punishable by a maximum fine of \$25]. **The presumptive fine for failure of a bicycle operator or rider to wear protective headgear is \$25.**

SECTION 104. ORS 814.486 is amended to read:

814.486. (1) A person commits the offense of endangering a bicycle operator or passenger if:

(a) The person is operating a bicycle on a highway or on premises open to the public and the person carries another person on the bicycle who is under 16 years of age and is not wearing protective headgear of a type approved under ORS 815.052; or

(b) The person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and the child operates or rides on a bicycle on a highway or on premises open to the public without wearing protective headgear of a type approved under ORS 815.052.

(2) Exemptions from this section are as provided in ORS 814.487.

(3) The offense described in this section, endangering a bicycle operator or passenger, is a **specific fine** traffic violation [punishable by a maximum fine of \$25]. **The presumptive fine for endangering a bicycle operator or passenger is \$25.**

SECTION 105. ORS 814.534 is amended to read:

814.534. (1) A person commits the offense of failure of a motor assisted scooter operator to wear protective headgear if the person operates a motor assisted scooter on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) A person is exempt from the protective headgear requirement of subsection (1) of this section if wearing the headgear would violate a religious belief or practice of the person.

(3) The first time a person is convicted of an offense under this section, the person may not be required to pay a fine if the person proves to the satisfaction of the court that the person has protective headgear of a type approved under ORS 815.052.

(4) The offense described in this section, failure of a motor assisted scooter operator to wear protective headgear, is a **specific fine** traffic violation [punishable by a maximum fine of \$25]. **The presumptive fine for failure of a motor assisted scooter operator to wear protective headgear is \$25.**

SECTION 106. ORS 814.536 is amended to read:

814.536. (1) A person commits the offense of endangering a motor assisted scooter operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age and authorizes or knowingly permits the child to operate a motor assisted scooter in violation of ORS 814.512 (1)(a).

(2) The offense described in this section, endangering a motor assisted scooter operator, is a **specific fine** traffic violation [punishable by a maximum fine of \$25]. **The presumptive fine for endangering a motor assisted scooter operator is \$25.**

SECTION 107. ORS 814.600 is amended to read:

814.600. (1) A person commits the offense of failure of a skateboarder, scooter rider or in-line skater to wear protective headgear if the person is under 16 years of age, rides on a skateboard or scooter or uses in-line skates on a highway or on premises open to the public and is not wearing protective headgear of a type approved under ORS 815.052.

(2) The offense described in this section, failure of a skateboarder, scooter rider or in-line skater to wear protective headgear, is a **specific fine** traffic violation punishable by a maximum fine of \$25. **The presumptive fine for failure of a skateboarder, scooter rider or in-line skater to wear protective headgear is \$25.**

SECTION 108. ORS 818.430 is amended to read:

818.430. This section establishes schedules of [*penalties*] **presumptive fines** for violations of maximum weight requirements under the vehicle code. The particular schedule applicable is the schedule designated in the section establishing the offense. Upon conviction, a person is punishable by a fine and other penalty established in the schedule. Fines are based upon the excess weight by which any loaded weight exceeds the applicable loaded weight authorized in the provision, permit, order or resolution the person violates. The schedules are as follows:

(1) [*Except as provided in subsection (2) of this section,*] The [*penalties*] **presumptive fines** under Schedule I are as provided in this subsection. If the excess weight is:

(a) One thousand pounds or less, [*by a fine of \$5*] **the presumptive fine is \$100.**

(b) More than 1,000 pounds, but not in excess of 2,000 pounds, [*by a fine of not less than \$30*] **the presumptive fine is \$150.**

(c) More than 2,000 pounds, but not in excess of 3,000 pounds, [*by a fine of not more than three cents per pound for each pound of the excess weight*] **the presumptive fine is \$200.**

(d) More than 3,000 pounds, but not in excess of 5,000 pounds, [*the fine shall be five cents per pound for each pound of the excess weight*] **the presumptive fine is \$300.**

(e) More than 5,000 pounds, but not in excess of 7,500 pounds, [*the fine shall be 13*] **the presumptive fine is an amount equal to 15 cents per pound for each pound of the excess weight.**

(f) More than 7,500 pounds, but not in excess of 10,000 pounds, [*the fine shall be 15*] **the presumptive fine is an amount equal to 16 cents per pound for each pound of the excess weight.**

(g) More than 10,000 pounds, but not in excess of 12,500 pounds, [*the fine shall be 19*] **the presumptive fine is an amount equal to 20 cents for each pound of the excess weight.**

(h) More than 12,500 pounds over the allowable weight, **the presumptive fine is an amount equal to 24 cents per pound for each pound of excess weight.**

(2) *The penalties under Schedule I for trucks that are described in this subsection shall be one-half the amount stated in subsection (1) of this section, except that the penalty may not be less than \$5. This subsection applies to trucks that are all of the following:*

[*(a) Registered as farm vehicles under ORS 805.300;*]

[*(b) Transporting agricultural products;*]

[*(c) Loaded in the field without benefit of a scale; and*]

[*(d) Not more than 3,000 pounds over the maximum weight limit.*]

(3) (2) The [*penalties*] **presumptive fines** under Schedule II are as provided in this subsection. If the excess weight is:

(a) One hundred pounds, but not in excess of 5,000 pounds, [*the fine shall be*] **the presumptive fine is an amount equal to [\$100] \$200 plus 10 cents per pound of the excess weight.**

(b) More than 5,000 pounds, but not in excess of 10,000 pounds, [*the fine shall be \$250*] **the presumptive fine is an amount equal to \$350 plus 15 cents per pound of the excess weight.**

(c) More than 10,000 pounds, [*the fine shall be \$500*] **the presumptive fine is an amount equal to \$600 plus 30 cents per pound of the excess weight.**

(4) (3) [*The per pound penalty in subsection (3) of this section shall be waived by the court and the fine*] **Notwithstanding section 4 of this 2011 Act, the fine imposed under subsection (2) of this section shall be not more than \$100 if a person charged with an offense punishable under Schedule II produces in court a second valid variance permit issued under ORS 818.200 authorizing**

a loaded weight equal to or greater than the actual loaded weight of the vehicle, combination of vehicles, axle, tandem axles or group of axles upon which the citation was based.

[5] (4) The penalties under Schedule III are as provided in this subsection and are in addition to any suspension of operator's license under ORS 809.120 or any suspension of vehicle registration under ORS 809.120. If the excess weight is:

(a) One hundred pounds, but not in excess of 5,000 pounds, the **presumptive** fine shall be [~~\$100~~] **\$200** plus 15 cents per pound for each pound of the excess weight.

(b) More than 5,000 pounds but not in excess of 10,000 pounds, the **presumptive** fine shall be [~~\$250~~] **\$350** plus 20 cents per pound for each pound of excess weight.

(c) More than 10,000 pounds, the [~~penalty shall be a fine of \$500 plus 30 cents per pound for each pound of excess weight or imprisonment in the county or municipal jail for not less than 30 days nor more than 60 days, or both~~] **operator commits a Class C misdemeanor.**

SECTION 109. ORS 824.992 is amended to read:

824.992. (1) Violation of ORS 824.062 is a Class D violation.

(2) Violation of ORS 824.064 is a **Class A** misdemeanor.

(3) Violation of ORS 824.082 (1), 824.084 or 824.088 by a railroad is a Class A violation.

(4) Violation of ORS 824.082 (2) is a Class A violation.

(5) As used in subsection (3) of this section, "railroad" means a railroad as defined by ORS 824.020 and 824.022.

(6) Subject to ORS 153.022, violation of ORS 824.104 (1), 824.106 or 824.108 or any rule promulgated pursuant thereto is a Class A violation[, *and upon conviction the court shall impose a fine of not less than \$100*].

(7) A person is subject to the penalties under subsection (8) of this section if the person knowingly:

(a) Transports by railroad any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.992.

(b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.

(c) Materially violates any terms of permit or authority issued to the person under ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.

(d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under ORS 824.050 to 824.110 for the safe transportation of hazardous wastes.

(e) Violates any rules adopted by the Department of Transportation concerning the transportation of hazardous wastes.

(8) Subject to ORS 153.022, violation of subsection (7) of this section is [*subject to the penalty of a fine of not more than \$10,000 for each day of violation, imprisonment of not more than six months, or both*] **a Class B misdemeanor. Each day's violation is a separate offense.**

(9) Violation of ORS 824.300 or 824.302 is a Class D violation.

(10) Violation of ORS 824.304 is [*punishable, upon conviction, by a fine of not less than \$500 nor more than \$2,000*] **a Class A violation.**

(11) Violation of ORS 824.306 by any railroad company or officer or agent thereof, or any other person is a Class D violation. Each day's violation is a separate offense.

SECTION 110. The amendments to ORS 163.575, 165.107, 167.808, 208.990, 308.990, 311.990, 433.855, 433.990, 468.936, 471.410, 475.860, 475.864, 498.993, 565.630, 565.990, 686.990, 757.990, 759.990, 777.990, 801.557, 811.109, 811.182, 811.590, 811.615, 811.617, 811.625, 811.627, 811.630, 813.095, 814.485, 814.486, 814.534, 814.536, 814.600, 818.430 and 824.992 by sections 79 to 109 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense committed before January 1, 2012, shall continue to be governed by ORS 163.575, 165.107, 167.808, 208.990, 308.990, 311.990, 433.855, 433.990, 468.936, 471.410, 475.860, 475.864, 498.993, 565.630, 565.990, 686.990, 757.990, 759.990, 777.990, 811.109, 811.182, 811.590, 811.615, 811.625,

811.630, 813.095, 814.485, 814.486, 814.534, 814.536, 814.600, 818.430 and 824.992 as in effect immediately before January 1, 2012.

CONFORMING AMENDMENTS FOR PRESUMPTIVE FINE

SECTION 111. ORS 153.025 is amended to read:

153.025. (1) If a statute provides that violation of the ordinances of a political subdivision of this state constitutes an offense, as described in ORS 161.505, the political subdivision may by ordinance specify that violation of a specific ordinance of the political subdivision is subject to a specific fine, or a specific maximum fine, that is less in amount than the maximum fine for the offense specified by the statute. In addition, the political subdivision may specify that violation of the specific ordinance is a Class A, B, C or D violation under the provisions of ORS 153.012 as long as the class specified in the ordinance is lower than the statutory classification for the offense.

(2) Nothing in this section requires a political subdivision to use the classifications established by ORS 153.012 or to use the [*base fine amount calculated under ORS 153.125 to 153.145*] **presumptive fines established under sections 2 and 3 of this 2011 Act** for violations of ordinances adopted by the political subdivision.

SECTION 111a. ORS 153.030 is amended to read:

153.030. (1) The procedures provided for in this chapter apply to violations described in ORS 153.008. Except as specifically provided in this chapter, the criminal procedure laws of this state applicable to crimes also apply to violations.

(2) Notwithstanding subsection (1) of this section, the [*procedures described in*] **provisions of** this chapter and [*in*] **of** the criminal procedure laws of this state do not apply to violations that govern the parking of vehicles and that are created by ordinance or by agency rule.

(3) The statute of limitations for proceedings under this chapter is as provided in ORS 131.125.

(4) This chapter does not affect the ability of a city described in ORS 3.136 (1) to engage in the activities described in ORS 3.136 (3). Nothing in this chapter affects the ability of any other political subdivision of this state to provide for the administrative enforcement of the charter, ordinances, rules and regulations of the political subdivision, including enforcement through imposition of monetary penalties. Except for ordinances governing the parking of vehicles, administrative enforcement as described in this subsection may not be used for any prohibition designated as an offense.

(5) Nothing in this chapter affects the ability of any political subdivision of this state to establish rules relating to administrative enforcement as described in subsection (4) of this section, including rules providing for the use of citations or other procedures for initiating administrative enforcement proceedings.

(6) Nothing in this chapter affects the ability of any political subdivision of this state to conduct hearings for administrative enforcement as described in subsection (4) of this section, either before a hearing officer or before the governing body of the political subdivision.

(7) Nothing in this chapter affects the ability of any political subdivision to bring a civil action to enforce the charter, ordinances, rules and regulations of the political subdivision, or to bring a civil action to enforce any order for administrative enforcement as described in subsection (4) of this section.

(8) Nothing in ORS 153.042 affects the authority of any political subdivision of this state to provide for issuance of citations for violation of offenses created by ordinance on the same basis as the political subdivision could under the law in effect immediately before January 1, 2000.

SECTION 112. ORS 801.145 is repealed.

SECTION 113. ORS 809.220 is amended to read:

809.220. This section establishes procedures that are applicable if a person fails to appear on a citation for a traffic offense or for a violation of ORS 471.430. All of the following apply to this section:

(1) If a defendant fails to make any appearance required by the court or by law in a proceeding charging the defendant with a traffic offense or with a violation of ORS 471.430, the court:

(a) Shall issue notice to the Department of Transportation to suspend for failure to appear if the defendant is charged with a traffic crime or with a violation of ORS 471.430. If a court issues notice under this paragraph, the department shall suspend the driving privileges of the person as provided under ORS 809.280.

(b) Shall issue notice to the department to implement procedures under ORS 809.416 if the defendant is charged with a traffic violation. If a court issues notice under this paragraph, the department shall implement procedures under ORS 809.416.

(2) In any notice to the department under this section, a court shall certify that the defendant failed to appear in the proceedings in the manner required by the court or by law.

(3) At any time within 10 years from the date of a notice to suspend for failure to appear given to the department under this section, a court shall give a second notice to the department to terminate a suspension resulting from the original notice if any of the following occur:

(a) The [base fine amount or] fine [set by the court] **for the offense** is paid.

(b) The court finds the defendant not guilty or orders a dismissal of the case.

(c) The court determines that the suspension for failure to pay or appear should be terminated for good cause.

(4) Notifications by a court to the department under this section shall be in a form prescribed by the department.

(5) A court shall not notify the department under this section for failure to appear on any parking, pedestrian or bicyclist offense.

SECTION 114. ORS 811.230 is amended to read:

811.230. (1) As used in ORS 811.230, 811.231, 811.232 and 811.233:

(a) “Flagger” means a person who controls the movement of vehicular traffic through construction projects using sign, hand or flag signals.

(b) “Highway work zone” means an area identified by advance warning where road construction, repair or maintenance work is being done by highway workers on or adjacent to a highway, regardless of whether or not highway workers are actually present. As used in this paragraph, “road construction, repair or maintenance work” includes, but is not limited to, the setting up and dismantling of advance warning systems.

(c) “Highway worker” means an employee of a government agency, private contractor or utility company working in a highway work zone.

(2)(a) [The base fine amount for a person charged with an offense that is listed in subsection (3)(a) or (b) of this section and that is committed in a highway work zone shall be the amount established under ORS 153.125 to 153.145 based on the foundation amount calculated under ORS 153.131.] The [minimum] **presumptive** fine for a person convicted of an offense that is listed in subsection (3)(a) or (b) of this section and that is committed in a highway work zone is the [base fine amount so calculated] **presumptive fine for the offense established under section 3 of this 2011 Act.**

(b) The minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a highway work zone is 20 percent of the maximum fine established for the offense.

(c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a highway work zone is two percent of the maximum fine established for the offense.

(3) This section applies to the following offenses if committed in a highway work zone:

(a) Class A or Class B traffic violations.

(b) Class C or Class D traffic violations related to exceeding a legal speed.

(c) Reckless driving, as defined in ORS 811.140.

(d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(e) Failure to perform the duties of a driver involved in an accident or collision, as described in ORS 811.700 or 811.705.

(f) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

[(4) A court shall not waive, reduce or suspend the base fine amount or minimum fine required by this section.]

[(5)] (4) When a highway work zone is created, the agency, contractor or company responsible for the work may post signs designed to give motorists notice of the provisions of this section.

SECTION 115. ORS 811.235 is amended to read:

811.235. (1)(a) If signs authorized by ORS 810.245 are posted, the *[base]* **presumptive** fine *[amount]* for a person charged with an offense that is listed in subsection (2)(a) or (b) of this section and that is committed in a school zone shall be the amount established under *[ORS 153.125 to 153.145 based on the foundation amount calculated under ORS 153.131]* **section 3 of this 2011 Act for the offense.** *[The minimum fine for a person convicted of an offense that is listed in subsection (2)(a) or (b) of this section and that is committed in a school zone is the base fine amount so calculated.]*

(b) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (2)(c) to (g) of this section and that is committed in a school zone is 20 percent of the maximum fine established for the offense.

(c) If signs authorized by ORS 810.245 are posted, the minimum fine for a person convicted of a felony offense that is listed in subsection (2)(c) to (g) of this section and that is committed in a school zone is two percent of the maximum fine established for the offense.

(2) This section applies to the following offenses if committed in a school zone:

(a) Class A or Class B traffic violations.

(b) Class C or Class D traffic violations related to exceeding a legal speed.

(c) Reckless driving, as defined in ORS 811.140.

(d) Driving while under the influence of intoxicants, as defined in ORS 813.010.

(e) Failure to perform the duties of a driver involved in an accident or collision, as described in ORS 811.700 or 811.705.

(f) Criminal driving while suspended or revoked, as defined in ORS 811.182.

(g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.

[(3) A court shall not waive, reduce or suspend the base fine amount or minimum fine required by this section.]

[(4)] (3) For purposes of this section, a traffic offense occurs in a school zone if the offense occurs while the motor vehicle is in a school zone, notice of the school zone is indicated plainly by traffic control devices conforming to the requirements established under ORS 810.200 and posted under authority granted by ORS 810.210 and:

(a) Children are present as described in ORS 811.124; or

(b) A flashing light used as a traffic control device and operated under ORS 811.106 indicates that children may be arriving at or leaving school.

SECTION 116. ORS 811.483 is amended to read:

811.483. (1) The Department of Transportation shall post signs in safety corridors chosen by the department indicating that fines for traffic offenses committed in those safety corridors will be doubled.

(2)(a) The *[base]* **presumptive** fine *[amount]* for a person charged with an offense that is listed in subsection (3)(a) or (b) of this section and that is committed in a safety corridor chosen by the department under subsection (1) of this section shall be the amount established under *[ORS 153.125 to 153.145, based on the foundation amount calculated under ORS 153.131]* **section 3 of this 2011 Act.** *[The minimum fine for a person convicted of an offense that is listed in subsection (3)(a) or (b) of this section and that is committed in a safety corridor is the base fine amount so calculated.]*

(b) The minimum fine for a person convicted of a misdemeanor offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a safety corridor is 20 percent of the maximum fine established for the offense.

(c) The minimum fine for a person convicted of a felony offense that is listed in subsection (3)(c) to (g) of this section and that is committed in a safety corridor is two percent of the maximum fine established for the offense.

- (3) This section applies to the following offenses if committed in the designated safety corridors:
- (a) Class A or Class B traffic violations.
 - (b) Class C or Class D traffic violations related to exceeding a legal speed.
 - (c) Reckless driving, as defined in ORS 811.140.
 - (d) Driving while under the influence of intoxicants, as defined in ORS 813.010.
 - (e) Failure to perform the duties of a driver involved in an accident or collision, as described in ORS 811.700 or 811.705.
 - (f) Criminal driving while suspended or revoked, as defined in ORS 811.182.
 - (g) Fleeing or attempting to elude a police officer, as defined in ORS 811.540.
- [*(4) A court may not waive, reduce or suspend the base fine amount or minimum fine required by this section.*]

SECTION 117. The amendments to ORS 811.230, 811.235 and 811.483 by sections 114, 115 and 116 of this 2011 Act apply only to offenses committed on or after January 1, 2012. Any offense committed before January 1, 2012, shall continue to be governed by ORS 811.230, 811.235 and 811.483 as in effect immediately before January 1, 2012.

REPEALS AND CONFORMING AMENDMENTS FOR FINE DISTRIBUTION CHANGES

SECTION 118. ORS 30.450, 30.830, 137.290, 137.295, 137.308, 137.309, 153.630, 153.635, 266.470, 376.385, 448.320, 471.670, 506.630, 530.900, 570.055, 570.365, 678.168 and 830.145 are repealed.

SECTION 119. ORS 33.075 is amended to read:

33.075. (1) If a person served with an order to appear under ORS 33.055 fails to appear at the time and place specified in the order, the court may issue any order or warrant necessary to compel the appearance of the defendant.

(2) A person against whom a complaint has been issued under ORS 33.065 may be cited to appear in lieu of custody as provided in ORS 133.055. If the person fails to appear at the time and place specified in the citation, the court may issue any order or warrant necessary to compel the appearance of the defendant.

(3) When the court issues a warrant for contempt, the court shall specify a security amount. Unless the defendant pays the security amount upon arrest, the sheriff shall keep the defendant in custody until either a release decision is made by the court or until disposition of the contempt proceedings.

(4) The defendant shall be discharged from the arrest upon executing and delivering to the sheriff, at any time before the return day of the warrant, a security release or a release agreement as provided in ORS 135.230 to 135.290, to the effect that the defendant will appear on the return day and abide by the order or judgment of the court or officer or pay, as may be directed, the sum specified in the warrant.

(5) The sheriff shall return the warrant and the security deposit, if any, given to the sheriff by the defendant by the return day specified in the warrant.

(6) When a warrant for contempt issued under subsection (2) of this section has been returned after having been served and the defendant does not appear on the return day, the court may do either or both of the following:

- (a) Issue another warrant.
- (b) Proceed against the security deposited upon the arrest.

(7) If the court proceeds against the security under subsection (6) of this section and the sum specified is recovered, the court may award to any party to the action any or all of the money recovered as remedial damages.

[*(8) Security deposited under this section shall not be subject to the assessments provided for in ORS 137.309 (1) to (5).*]

SECTION 120. ORS 51.037 is amended to read:

51.037. Any city may enter into an agreement pursuant to ORS 190.010 with the county in which a justice of the peace district is located for the provision of judicial services. A justice of the peace providing services to a city pursuant to such an agreement shall have all judicial jurisdiction, authority, powers, functions and duties of the municipal court of the city and the judges thereof with respect to all and any violations of the charter or ordinances of the city. Unless the agreement provides otherwise, and subject to the provisions of [ORS 153.630] **sections 47 to 50 of this 2011 Act**, all fines, costs and forfeited security deposits collected shall be paid to the prosecuting city, and the city shall reimburse the county providing judicial services for expenses incurred under the agreement. The exercise of jurisdiction under such an agreement by a justice of the peace shall not constitute the holding of more than one office.

SECTION 121. ORS 131.897 is amended to read:

131.897. (1) In addition to any other sentence it may impose as a result of a criminal conviction, the court may order that a defendant reimburse to a person, organization, association or public body or officer, any sum or portion thereof offered and paid by the person, organization, association or public body or officer under ORS 131.885 to 131.895, as a reward for information leading to the apprehension of the defendant. Reimbursement under this section shall be ordered paid into the court, for further transfer by the clerk to the person, organization, association or public body or officer entitled to it. [*The monetary obligation described in this section is a category 4 obligation under ORS 137.295.*]

(2) In determining whether to order reimbursement under this section, the court shall take into account:

(a) The financial resources of the defendant and the burden that reimbursement will impose, with due regard to the other obligations of the defendant; and

(b) The ability of the defendant to make reimbursement on an installment basis or on other conditions to be fixed by the court.

SECTION 122. ORS 137.017 is amended to read:

137.017. Except as otherwise specifically provided by law, all fines, costs [*and forfeited*], security deposits **and other amounts** ordered **or required to be** paid in criminal actions [*and proceedings, as defined in ORS 131.005, in the circuit court shall be accounted for and distributed as provided in ORS 137.293 and 137.295, as*] **are** monetary obligations payable to the state **and shall be deposited in the Criminal Fine Account**.

SECTION 123. ORS 137.293 is amended to read:

137.293. All fines, costs, [*assessments,*] restitution, compensatory fines and other monetary obligations imposed upon a convicted person in a circuit, justice or municipal court[, *shall*] constitute a single obligation on the part of the convicted person. The clerk shall [*subdivide*] **divide** the total obligation as provided in [ORS 137.295] **sections 33 to 38 of this 2011 Act**, [*according to the various component*] **based on the different** parts of the obligation, and shall credit and distribute [*accordingly, among those subdivisions,*] all moneys received **in payment of the obligation in the manner provided by sections 33 to 38 of this 2011 Act**.

SECTION 124. ORS 137.533 is amended to read:

137.533. (1) Whenever a person pleads guilty to or is found guilty of a misdemeanor other than driving while under the influence of intoxicants or other than a misdemeanor involving domestic violence as defined in ORS 135.230, the court may defer further proceedings and place the person on probation, upon motion of the district attorney and without entering a judgment of guilt, if the person:

(a) Consents to the disposition;

(b) Has not previously been convicted of any offense in any jurisdiction;

(c) Has not been placed on probation under ORS 475.245;

(d) Has not completed a diversion under ORS 135.881 to 135.901; and

[*e*] **Agrees to pay the unitary assessment for which the person would have been liable under ORS 137.290 if the person had been convicted. The person must pay the unitary assessment within 90 days of imposition unless the court allows payment at a later time. The person shall pay the unitary as-**

assessment to the clerk of the court, who shall account for and distribute the moneys as provided in ORS 137.293 and 137.295.]

(e) Agrees to pay a fee equal to \$100. The person must pay the amount within 90 days of imposition unless the court allows payment at a later time.

(2) A district attorney may submit a motion under subsection (1) of this section if, after considering the factors listed in subsection (3) of this section, the district attorney finds that disposition under this section would be in the interests of justice and of benefit to the person and the community.

(3) In determining whether disposition under this section is in the interests of justice and of benefit to the person and the community, the district attorney shall consider at least the following factors:

(a) The nature of the offense. However, the offense must not have involved injury to another person.

(b) Any special characteristics or difficulties of the person.

(c) Whether there is a probability that the person will cooperate with and benefit from alternative treatment.

(d) Whether an available program is appropriate to the needs of the person.

(e) The impact of the disposition upon the community.

(f) Recommendations, if any, of the involved law enforcement agency.

(g) Recommendations, if any, of the victim.

(h) Provisions for restitution.

(i) Any mitigating circumstances.

(4) Upon violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon the person's fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against the person. A discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. A person may be discharged and have proceedings dismissed only once under this section.

(5) Subsections (1) to (4) of this section do not affect any domestic violence sentencing programs.

SECTION 125. The amendments to ORS 137.533 by section 124 of this 2011 Act apply only to motions filed under ORS 137.533 on or after January 1, 2012.

SECTION 126. ORS 147.227 is amended to read:

147.227. (1) The Attorney General shall disburse a portion of the moneys that the Criminal Injuries Compensation Account receives from the Criminal Fine [*and Assessment*] Account to counties and cities where prosecuting attorneys maintain victims' assistance programs approved by the Attorney General. Upon receipt of the moneys, the counties and cities shall provide the moneys to the prosecuting attorney therein to be used exclusively for the approved victims' assistance program.

(2) To qualify for approval by the Attorney General under this section, a victims' assistance program must:

(a) Be administered by the district attorney of the county or city attorney of the city;

(b) Provide services to victims of all crimes;

(c) Give service priority to victims of serious crimes against persons;

(d) Collaborate with community-based and government agencies to benefit victims; and

(e) Provide the following core services to victims of crime:

(A) Inform victims, as soon as practicable, of the rights granted to victims under Oregon law.

(B) Advocate for victims of serious person crimes as they move through the criminal justice system and advocate, when requested, for all other victims of crime.

(C) Involve victims, when practicable or legally required, in the decision-making process in the criminal justice system.

(D) Ensure that victims are informed, upon request, of the status of the criminal case involving the victim.

(E) Assist victims in preparing and submitting crime victims' compensation program claims to the Department of Justice under ORS 147.005 to 147.367.

(F) Assist victims in preparing restitution documentation for purposes of obtaining a restitution order.

(G) Prepare victims for court hearings by informing them of the procedures involved.

(H) Assist victims with the logistics related to court appearances when practicable and requested.

(I) Accompany victims to court hearings when practicable and requested.

(J) Encourage and facilitate victims' testimony.

(K) Inform victims of the processes necessary to request the return of property held as evidence.

(3) If a victims' assistance program substantially complies with subsection (2) of this section and the Attorney General determines that it would be impracticable for the program to achieve full compliance, the Attorney General may approve the program on a temporary basis, subject to conditions the Attorney General deems appropriate.

(4) The Attorney General shall adopt administrative rules:

(a) Establishing criteria for the equitable distribution of moneys disbursed under subsection (1) of this section among participating cities and counties; and

(b) Establishing an advisory committee to provide consultation on the distribution of the moneys. The advisory committee shall consist of at least the following members:

(A) A representative of the Department of Justice;

(B) A representative of the Oregon District Attorneys Association; and

(C) A representative of a prosecuting attorney's victim assistance program.

(5) As used in this section, "Attorney General" includes a designee of the Attorney General.

SECTION 127. ORS 153.624 is amended to read:

153.624. In addition to any other costs charged a person convicted of a traffic offense, a court *[shall]* **may** charge as costs and collect from any person convicted of a traffic offense any actual costs incurred in obtaining any driving records relating to the person. *[All costs collected under this section shall be paid as provided in ORS 153.630 (1).]*

SECTION 128. ORS 221.315 is amended to read:

221.315. (1) Prosecution of violations of the charter or ordinances of a city in circuit or justice court shall be by the city attorney and in the name of such city. An agreement may be made between any city and, on behalf of the state, the presiding judge for the judicial district in which all or part of such city is located, that such violations be prosecuted for such city in the circuit court by the district attorney in the name of the State of Oregon. An agreement may be made, pursuant to ORS 190.010, between any city and the county in which all or part of such city is located, that such violations be prosecuted for such city in the justice court by the district attorney in the name of the State of Oregon.

(2) Except as otherwise provided by an agreement made under subsection (1) of this section in respect to the court, all fines, *costs and forfeited security deposits* collected by the circuit or justice court having jurisdiction of a violation of a city charter or ordinance shall be paid as follows:

(a) One-half of *[all fines and forfeited security deposits]* **the fine** shall be credited and distributed *[under ORS 137.293 and 137.295]* to the treasurer of the city whose charter or ordinance was violated, as a monetary obligation payable to the city.

(b) If collected by the circuit court, *[the costs and]* one-half of the *[fines and forfeited security deposits]* **fine** shall be credited and distributed *[under ORS 137.293 and 137.295,]* as a monetary obligation payable to the state.

(c) If collected by the justice court, *[the costs and]* one-half of the *[fines and forfeited security deposits]* **fine** shall be credited and distributed *[under ORS 137.293 and 137.295]* to the treasurer of the county in which the court is located as a monetary obligation payable to the county.

SECTION 129. ORS 221.355 is amended to read:

221.355. Any city may enter into an agreement pursuant to ORS 190.010 with another city for the provision of judicial services. A municipal judge providing services to another city pursuant to

such an agreement shall have all judicial jurisdiction, authority, powers, functions and duties of the municipal court of the other city and the judges thereof with respect to all and any violations of the charter or ordinances of the other city. Unless the agreement provides otherwise, and subject to the provisions of [ORS 153.630] **sections 47 to 50 of this 2011 Act**, all fines, costs and forfeited security deposits collected shall be paid to the prosecuting city, and that city shall reimburse the city providing judicial services for expenses incurred under the agreement. The exercise of jurisdiction under such an agreement by a municipal judge shall not constitute the holding of more than one office.

SECTION 130. ORS 221.357 is amended to read:

221.357. (1) A city having a population of 300,000 or less may enter into an agreement with the State Court Administrator for the provision of judicial services by the circuit court for the county in which the city is located.

(2) A circuit court providing services to a city under an agreement entered into under subsection (1) of this section shall have all judicial jurisdiction, authority, powers, functions and duties of the municipal court of the city and the municipal court judges with respect to any violations of the charter or ordinances of the city.

(3) Unless an agreement entered into under subsection (1) of this section provides otherwise, and subject to the provisions of [ORS 153.630] **sections 47 to 50 of this 2011 Act**, all fines, costs and forfeited security deposits collected shall be paid to the city, and the city shall reimburse the circuit court providing judicial services for expenses incurred under the agreement.

(4) The exercise of jurisdiction under an agreement entered into under subsection (1) of this section by a circuit court judge shall not constitute the holding of more than one office.

SECTION 131. ORS 305.830 is amended to read:

305.830. (1) Amounts transferred to the Department of Revenue by justice and municipal courts under [ORS 137.295] **sections 6b, 48 and 49 of this 2011 Act** shall be deposited in a suspense account established under ORS 293.445 for the purpose of receiving criminal fines and assessments.

(2) In carrying out its duties under this section, the Department of Revenue shall have access to the records and dockets of those courts charged with the duty to transfer moneys to the department under [ORS 137.295] **sections 6b, 48 and 49 of this 2011 Act**.

(3) The Department of Revenue may retain from the funds transferred under [ORS 137.295] **sections 6b, 48 and 49 of this 2011 Act** an amount not to exceed two percent annually for its actual costs of collection and disbursement of funds under this section, including the cost of all examinations, investigations and searches, and of all traveling and other expenses in connection therewith. The department shall deposit the net amount of moneys in the suspense account described in subsection (1) of this section into the Criminal Fine [*and Assessment*] Account [*for distribution as provided in ORS 137.300*].

(4) All judicial, municipal and county officers shall cooperate with the Department of Revenue with respect to the collections, searches and investigations and shall furnish the Department of Revenue with any information contained in any of the records under their respective custodies relating thereto.

(5) The Department of State Police shall cooperate in the investigation of fines, penalties and forfeitures.

SECTION 132. ORS 339.925 is amended to read:

339.925. (1) In addition to any other persons permitted to enforce violations, the school district superintendent or education service district superintendent, or any employee specifically designated by either superintendent, may issue citations for violations established under ORS 339.990 in the manner provided by ORS chapter 153.

(2) Prior to issuing the citation described in subsection (3) of this section to the parent or guardian of a student not regularly attending full-time school, a school district superintendent or education service district superintendent shall:

(a) Provide a parent or guardian of the student and the student with written notification that:

(A) States that the student is required to attend regularly a full-time school;

(B) Explains that the failure to send the student and maintain the student in regular attendance is a Class C violation;

(C) States that the superintendent may issue a citation;

(D) Requires the parent or guardian of the student and the student to attend a conference with a designated official; and

(E) Is written in the native language of the parent or guardian of the student.

(b) Schedule the conference described in paragraph (a)(D) of this subsection.

(3) Notwithstanding ORS 1.525 or any provision of ORS chapter 153, the State Board of Education by rule shall establish the citation form to be used by superintendents in citing violations established under ORS 339.990. Notwithstanding ORS 153.045, each of the parts of the citation shall contain the information required by the state board.

[(4) All fines and court costs recovered from compulsory school attendance violations shall be paid to the clerk of the court involved. After deductions of court costs provided by law for the proceeding, the clerk shall pay the remainder of the money to the State Treasurer to be deposited in the Criminal Fine and Assessment Account in the General Fund.]

SECTION 133. ORS 352.360 is amended to read:

352.360. (1) The State Board of Higher Education may enact such regulations as the board deems convenient or necessary to provide for the policing, control and regulation of traffic and parking of vehicles on the property of any institution of higher education under the jurisdiction of the board. The regulations may provide for the registration of vehicles, the designation of parking areas, and the assessment and collection of reasonable fees and charges for parking, and shall be filed in accordance with the provisions of ORS chapter 183. The board may require that before a quarterly or yearly parking privilege for any vehicle is granted to any full-time or part-time student to use board property, the student must show that the vehicle is operated by a student holding a valid driver's license, that the vehicle is currently registered and that the student driving the vehicle is insured under a motor vehicle liability insurance policy that meets the requirements described under ORS 806.080 or that the student or owner of the vehicle has provided the Department of Transportation with other satisfactory proof of compliance with the financial responsibility requirements of this state.

(2) The regulations enacted pursuant to subsection (1) of this section shall be enforced administratively under procedures adopted by the board for each institution of higher education under the jurisdiction of the board. Administrative and disciplinary sanctions may be imposed upon students, faculty and staff for violation of the regulations, including but not limited to, a reasonable monetary penalty which may be deducted from student deposits, and faculty or staff salaries or other funds in the possession of the institution. The board shall provide opportunity for hearing for the determination of controversies in connection with imposition of fines or penalties. The board may prescribe procedures for such hearings despite the provisions of ORS 183.413 to 183.470. Persons other than students, faculty or staff may voluntarily submit to the hearing procedures prescribed by the board, and shall be bound by the results of the hearing. The powers granted to the board by this section are supplemental to the existing powers of the board with respect to the government of activities of students, faculty and staff and the control and management of property under its jurisdiction.

(3) The regulations enacted 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 storage, if any, prior to the release of the vehicles to their owners.

(4) All fees and charges for parking privileges and violations are deposited in a designated account in the Oregon University System Fund established by ORS 351.506 for the purpose of defraying the costs of constructing bicycle racks and bicycle lanes and of traffic control, enforcement of traffic and parking regulations, and maintenance and operation of parking facilities and for the purpose of acquiring and constructing additional parking facilities for vehicles at the various institutions, departments or activities under the control of the board. Fees and charges may also be credited to the account in the Oregon University System Fund designated by ORS 351.460. Parking

fees shall be established at levels no greater than those required to finance the construction, operation and maintenance of parking facilities on the same campus of the state institution of higher education on which the parking is provided. Notwithstanding ORS 351.072, parking fees or changes in fees shall be adopted by rule of the state board subject to the procedure for rules adopted in ORS chapter 183.

(5) Every peace officer may enforce the regulations made by the board under subsection (1) of this section. The board, for the purpose of enforcing its rules and regulations governing traffic control, may appoint peace officers who have the same authority as other peace officers as defined in ORS 133.005.

(6) The board and any municipal corporation or any department, agency or political subdivision of this state may enter into agreements or contracts with each other for the purpose of providing a uniform system of enforcement of the rules and regulations of the board enacted pursuant to subsection (1) of this section.

(7) In proceedings brought to enforce regulations enacted pursuant to subsection (1) of this section, it shall be sufficient to charge the defendant by an unsworn written notice in accordance with the provisions of ORS 221.333. In any case in which the defendant is not subject to and does not voluntarily submit to the hearing procedures prescribed under subsection (2) of this section, proceedings to enforce regulations enacted pursuant to subsection (1) of this section shall be brought in the name of the board in a circuit court, a justice court or a city court for offenses committed within the territorial jurisdiction of such court. Such courts shall have concurrent jurisdiction over offenses committed within their respective jurisdictions. All fines, penalties and court costs recovered shall be paid to the clerk of the court involved and shall be disposed of as provided in *[ORS 153.630]* **sections 47 to 50 of this 2011 Act.**

SECTION 134. ORS 390.050 is amended to read:

390.050. *[(1)]* In addition to any other persons permitted to enforce violations, the State Parks and Recreation Department and any employee of the State Parks and Recreation Department specifically designated by the State Parks and Recreation Director may issue citations for park and recreation violations established under this chapter in the manner provided by ORS chapter 153.

[(2) All fines and court costs recovered from park and recreation violations shall be paid to the clerk of the court involved. Such moneys shall be credited and distributed under ORS 137.290 and 137.295 as monetary obligations payable to the state.]

SECTION 135. ORS 409.304 is amended to read:

409.304. Grants awarded through funding from the Criminal Fine *[and Assessment]* Account for domestic violence programs shall be used to support direct services, with no more than five percent of each grant to be spent for administration.

SECTION 136. ORS 419C.446 is amended to read:

419C.446. (1) When a court determines it would be in the best interest and welfare of a youth offender, the court may place the youth offender on probation. The court may direct that the youth offender remain in the legal custody of the youth offender's parents or other person with whom the youth offender is living, or the court may direct that the youth offender be placed in the legal custody of some relative or some person maintaining a foster home approved by the court, or in a child care center or a youth care center authorized to accept the youth offender.

(2) The court may specify particular requirements to be observed during the probation consistent with recognized juvenile court practice, including but not limited to restrictions on visitation by the youth offender's parents, restrictions on the youth offender's associates, occupation and activities, restrictions on and requirements to be observed by the person having the youth offender's legal custody, *[requirements that the youth offender pay any assessment under ORS 137.290,]* requirements for visitation by and consultation with a juvenile counselor or other suitable counselor, requirements to make restitution under ORS 419C.450, requirements of a period of detention under ORS 419C.453, requirements to pay a fine under ORS 419C.459, requirements to pay a supervision fee under ORS 419C.449, requirements to perform community service under ORS 419C.462, or service

for the victim under ORS 419C.465, or requirements to submit to blood or buccal testing under ORS 419C.473.

(3) If the youth offender is a sex offender, as defined in ORS 181.594, the juvenile department shall notify the chief of police, if the youth offender is going to reside within a city, and the county sheriff of the county in which the youth offender is going to reside of the youth offender's release on probation and the requirements imposed on the youth offender's probation under subsection (2) of this section.

SECTION 137. ORS 419C.470 is amended to read:

419C.470. The Oregon Youth Authority and county juvenile departments, respectively, and to the extent practicable, shall create opportunities for youth offenders placed in the legal custody of the youth authority or under the supervision of a county juvenile department to pay restitution as ordered by the court and [*the assessment under ORS 137.290, and*] to perform any community service ordered by the court, as well as to fulfill any other obligation imposed by the court.

SECTION 138. ORS 477.985 is amended to read:

477.985. [(1)] In addition to any other persons permitted to enforce violations, the State Forestry Department and the State Forester, or any employee specifically designated by the department or by the State Forester, may issue citations for violations established under ORS 477.993 in the manner provided by ORS chapter 153.

[(2)] *All fines and court costs recovered from violations established under ORS 477.993 shall be paid to the clerk of the court involved. Such moneys shall be credited and distributed under ORS 137.290 and 137.295 as monetary obligations payable to the state.*

SECTION 139. ORS 506.306 is amended to read:

506.306. [(1)] The State Fish and Wildlife Commission shall collect all moneys to be paid to this state for the protection, preservation, propagation and development of the commercial fishing industry and arising under the commercial fishing laws and deposit such moneys in the Commercial Fisheries Fund.

[(2)] *Except as provided in ORS 506.630, all fines collected for violation of the commercial fishing laws shall be credited and distributed under ORS 137.293 and 137.295 as monetary obligations payable to the state.*

SECTION 140. ORS 675.330 is amended to read:

675.330. (1) The Occupational Therapy Licensing Board Account is established in the State Treasury, separate and distinct from the General Fund. All moneys received by the Occupational Therapy Licensing Board under ORS 675.210 to 675.340 shall be deposited into the account and are continuously appropriated to the board to be used only for the administration and enforcement of ORS 675.210 to 675.340 and 675.990 (2). Any interest or other income from moneys in the account shall be credited to the account.

(2) All civil penalties collected or received for violations of or in prosecutions under ORS 675.210 to 675.340 shall be deposited into the Occupational Therapy Licensing Board Account and shall be used only for the administration and enforcement of ORS 675.210 to 675.340.

[(3)] *All fines collected or received for violations of or in prosecutions under ORS 675.210 to 675.340 and 675.990 (2) shall be forwarded to the Department of Revenue for deposit in the Criminal Fine and Assessment Account.*

SECTION 141. ORS 683.290 is amended to read:

683.290. (1) All moneys received by the Oregon Board of Optometry under ORS 683.010 to 683.340 shall be deposited into an account established by the board as provided under ORS 182.470. Moneys deposited into the account hereby are appropriated continuously to the board and shall be used only for the administration and enforcement of ORS 182.456 to 182.472 and 683.010 to 683.340.

(2) Notwithstanding subsection (1) of this section and ORS 182.470, all civil penalties collected or received for violations of or in prosecutions under ORS 683.010 to 683.340 shall be paid to the account described under subsection (1) of this section.

[(3)] *All fines collected or received for violations of or in prosecutions under ORS 683.010 to 683.340 shall be paid to the Criminal Fine and Assessment Account.*

[(4)] (3) In addition to making expenditures for the administration and enforcement of ORS 683.010 to 683.340, the Oregon Board of Optometry may make expenditures for educational purposes out of funds available.

SECTION 142. ORS 689.135 is amended to read:

689.135. (1) The State Board of Pharmacy shall have such other duties, powers and authority as may be necessary to the enforcement of this chapter and to the enforcement of board rules made pursuant thereto, which shall include, but are not limited to, the following:

(a) Cause to have printed and circulated annually copies of any changes in the laws relating to pharmacy, controlled substances, drugs and poisons and the rules adopted to enforce such laws, and set reasonable charges therefor.

(b) Appoint advisory committees.

(2) The board may join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

(3) In addition to any statutory requirements, the board may require such surety bonds as it deems necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

(4) The executive director of the board shall keep the seal of the board and shall affix it only in such manner as may be prescribed by the board.

(5) The board shall determine within 30 days prior to the beginning of each state fiscal year the fees to be collected for:

(a) Examinations and reexaminations, which fee shall not exceed \$400.

(b) Pharmacist licenses, which fee shall not exceed \$250.

(c) Pharmacist licensing by reciprocity, which fee shall not exceed \$300.

(d) Intern license, which fee shall not exceed \$50.

(e) Duplicate pharmacist certificate, which fee shall not exceed \$50.

(f) Pharmacist license, delinquent renewal fee, which fee shall not exceed \$50.

(g) Certification of approved providers of continuing education courses, which fee shall not exceed \$300.

(h) Registration of drug outlets other than pharmacies and renewal of registration, which fee shall not exceed \$500.

(i) Initial pharmacy or institutional drug outlet, which fee shall not exceed \$300.

(j) Annual pharmacy or institutional drug outlet, which fee shall not exceed \$300.

(k) Pharmacy or institutional drug outlet delinquent renewal fee, which fee shall not exceed \$200.

(L) Nonprescription drug outlets, which fee shall not exceed \$50.

(m) Nonprescription drug outlet delinquent renewal fee, which fee shall not exceed \$50.

(n) Reinspection fee, which fee shall not exceed \$100.

(o) Drug outlets, other than pharmacies or institutional drug outlets, delinquent renewal fee, which fee shall not exceed \$100.

[(6)] *All moneys collected either as costs or fines under ORS 435.010 to 435.130, 453.175, 453.185 and 453.990 and this chapter shall be paid by the magistrate or other officer receiving them to the treasurer of the county where the prosecution is conducted. These moneys shall be applied, first, to the payment of the costs of such prosecution. The remainder shall be paid by the county treasurer into the State Treasury and, in the case of:*

[(a)] All moneys except criminal fines, placed to the credit of the State Board of Pharmacy Account established in ORS 689.139 to be used only for the administration and enforcement of ORS 435.010 to 435.130 and this chapter.]

[(b)] Criminal fines, placed to the credit of the Criminal Fine and Assessment Account.]

[(7)] (6) *[Except as provided in subsection (6) of this section,]* All moneys received under ORS 435.010 to 435.130[,] **and** 453.185 *[and 453.990]* and this chapter shall be paid into the State Treasury

and placed to the credit of the State Board of Pharmacy Account to be used only for the administration and enforcement of ORS 435.010 to 435.130 and this chapter.

~~[(8)]~~ **(7)** The board may receive and expend funds, in addition to its biennial appropriation, from parties other than the state, provided:

(a) Such moneys are awarded for the pursuit of a specific objective which the board is authorized to accomplish by this chapter, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

(b) Such moneys are expended for the pursuit of the objective for which they are awarded;

(c) Activities connected with or occasioned by the expenditures of such funds do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this chapter;

(d) Such moneys are kept in a separate, special state account; and

(e) Periodic reports are made to the Governor concerning the board's receipt and expenditure of such moneys.

~~[(9)]~~ **(8)** The board may assign to each drug outlet under its jurisdiction, a uniform state number, coordinated where possible with all other states which adopt the same uniform numbering system.

~~[(10)]~~ **(9)** The board or its authorized representatives shall also have power to investigate and gather evidence concerning alleged violations of the provisions of this chapter or of the rules of the board.

~~[(11)]~~ **(10)** The president and vice president of the board may administer oaths in connection with the duties of the board.

~~[(12)]~~ **(11)** The books, registers and records of the board as made and kept by the executive director or under the supervision of the executive director, subject to the direction of the board, shall be prima facie evidence of the matter recorded therein, in any court of law.

~~[(13)]~~ **(12)** The board may administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are reasonably necessary to carry out its duties under this chapter.

~~[(14)(a)]~~ **(13)(a)** Notwithstanding anything in this chapter to the contrary, whenever a duly authorized representative of the board finds or has probable cause to believe that any drug or device is adulterated, misbranded or a new drug, as defined in Section 201(p) of the Federal Food, Drug and Cosmetic Act, for which there is no approval in effect pursuant to Section 505(b) of the federal Act nor an approved notice of claimed investigational exemption pursuant to Section 505(i) of the federal Act, or otherwise rendered unsafe for use as a result of fire, flood or other natural disaster, the representative shall affix to such drug or device a tag or other appropriate marking giving notice that such article is or is suspected of being adulterated, misbranded, or otherwise rendered unsafe and has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agent or the court. No person shall remove or dispose of such embargoed drug or device by sale or otherwise without the permission of the board or its agent or, after summary proceedings have been instituted, without permission from the court.

(b) When a drug or device detained or embargoed under paragraph (a) of this subsection has been declared by such representative to be adulterated, misbranded or a new drug, or rendered unsafe, the board shall, as soon as practical thereafter, petition the judge of the circuit court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded or rendered unsafe, the board shall direct the immediate removal of the tag or other marking.

(c) If the court finds the detained or embargoed drug or device is adulterated or misbranded or rendered unsafe, such drug or device, after entry of the judgment, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration or misbranding can be corrected by proper labeling or processing of the drug or device,

the court, after entry of the judgment and after such costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner thereof for such labeling or processing under the supervision of a board representative. Expense of such supervision shall be paid by the owner. Such bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.

(d) It is the duty of the Attorney General to whom the board reports any violation of this subsection to cause appropriate proceedings to be instituted in the proper court without delay and to be prosecuted in the manner required by law. Nothing in this subsection shall be construed to require the board to report violations whenever the board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.

[(15)] (14) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers and authority in accordance with ORS chapter 183.

SECTION 143. ORS 689.995 is amended to read:

689.995. (1) Violation of any provision of this chapter or of any rule of the State Board of Pharmacy is a misdemeanor.

(2) Failure to comply with any notice, citation or subpoena issued by the board under ORS 689.135 [(13)] (12) is a misdemeanor. Each day during which the violation continues is a separate offense.

(3) Refusal to furnish information required under this chapter or willfully furnishing false information, is a misdemeanor.

(4) Any attempt to secure or the securing of registration or licensure for any person under any certificate, license or permit authorized by this chapter by making or causing to be made any false representations is a misdemeanor.

SECTION 144. ORS 802.110 is amended to read:

802.110. Any procedures the Department of Transportation establishes for financial administration of those functions of the department dealing with driver and motor vehicle services and for the disposition and payment of moneys it receives from the provision of driver and motor vehicle services shall comply with all of the following:

(1) The department shall deposit all moneys it receives related to driver and motor vehicle services in the Department of Transportation Driver and Motor Vehicle Suspense Account for approved expenses and disbursements before payment of general administrative expenses of the department related to the provision of driver and motor vehicle services. Notwithstanding this subsection, the department may return a bank check or money order when received in incorrect or incomplete form or when not accompanied by the proper application.

(2) The department shall pay the following approved expenses and disbursements from the Department of Transportation Driver and Motor Vehicle Suspense Account before payment of the general administrative expenses of the department related to driver and motor vehicle services:

(a) Refunds authorized by any statute administered by the department when such refunds are approved by the department.

(b) Amounts transferred to the State Treasurer under ORS 319.410 (2) for the purpose of carrying out the state aviation laws, amounts transferred to the Boating Safety, Law Enforcement and Facility Account by ORS 319.415, amounts transferred to the State Aviation Account by ORS 319.417 and amounts transferred to the Department of Transportation Operating Fund by ORS 184.643.

(c) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected from the Student Driver Training Fund eligibility fee under ORS 807.040, 807.150 and 807.370 to the State Treasurer for deposit in the Student Driver Training Fund. The moneys deposited in the Student Driver Training Fund under this paragraph are continuously appropriated to the department for the following purposes:

(A) To the extent of not more than 10 percent of the amount transferred into the Student Driver Training Fund in any biennium, to pay the expenses of administering ORS 336.795, 336.800, 336.805, 336.810 (2) and 336.815.

(B) The remaining moneys, for reimbursing school districts and commercial driver training schools as provided under ORS 336.805.

(d) After deduction of expenses of collection, transfer and administration, the department shall pay moneys collected for the Motorcycle Safety Subaccount under ORS 807.170 to the State Treasurer for deposit in the Motorcycle Safety Subaccount of the Transportation Safety Account. Moneys paid to the State Treasurer under this paragraph shall be used for the purpose of ORS 802.320.

(e) After deduction of expenses for the administration of the issuance of customized registration plates under ORS 805.240, the department shall place moneys received from the sale of customized registration plates in the Passenger Rail Transportation Account. The moneys placed in the account are continuously appropriated to the department and shall be used for the payment of expenses incurred in administering passenger rail programs.

(f) After deduction of expenses of collection, transfer and administration, the department shall pay moneys from any registration fees established by the governing bodies of counties or a district, as defined in ORS 801.237, under ORS 801.041 or 801.042 to the appropriate counties or districts. The department shall make the payments on at least a monthly basis unless another basis is established by the intergovernmental agreements required by ORS 801.041 and 801.042 between the department and the governing bodies of a county or a district.

(g) After deducting the expenses of the department in collecting and transferring the moneys, the department shall make disbursements and payments of moneys collected for or dedicated to any other purpose or fund except the State Highway Fund, including but not limited to, payments to the Department of Transportation Operating Fund established by ORS 184.642 (1) and (2).

(3) The department shall refund from the Department of Transportation Driver and Motor Vehicle Suspense Account any excess or erroneous payment to a person who made the payment or to the person's legal representative when the department determines that money has been received by it in excess of the amount legally due and payable or that it has received money in which it has no legal interest. Refunds payable under this subsection are continuously appropriated for such purposes in the manner for payment of refunds under this section. If the department determines that a refund is due, the department may refund the amount of excess or erroneous payment without a claim being filed. Except as provided in ORS 319.290, 319.375, 319.820 and 319.831, any claim for a refund from the department must be filed within 12 months after the date payment is received by the department.

(4) After payment of those expenses and disbursements approved for payment before general administrative expenses related to the provision of driver and motor vehicle services, the department shall pay from the Department of Transportation Driver and Motor Vehicle Services Administrative Account its general administrative expenses incurred in the administration of any law related to driver and motor vehicle services that the department is charged with administering and any other expenses the department is permitted by law to pay from moneys held by the department before transfer of the moneys to the State Highway Fund. The following limitations apply to payments of administrative expenses under this subsection:

(a) The department shall make payment of the expenses of administering the issuance of winter recreation parking permits under ORS 811.595 from those moneys received from issuing the permits [*or from moneys received under ORS 153.630 from violation of the requirement to have the permit*].

(b) The department shall pay its expenses for administering the registration and titling of snowmobiles under ORS 821.060 and 821.100 from the fees collected from administering those sections. The department shall also pay its expenses for the administration of the snowmobile driver permit program under ORS 821.160 from the moneys otherwise described in this paragraph.

(c) The department shall pay its expenses for determining the amount of money to be withheld under ORS 802.120 from the fees collected for administering the registration and titling of snowmobiles. The amount used to pay expenses under this paragraph shall be such sum as necessary but shall not exceed \$10,000 during each biennium.

(d) The department shall retain not more than \$15,000 in any biennium for the expenses of collecting and transferring moneys to the Student Driver Training Fund under this section and for the administration of ORS 336.810 (3).

(5) Except as otherwise provided in this subsection, the department shall transfer to the State Highway Fund the moneys not used for payment of the general administrative expenses or for approved expenses and disbursements before payment of general administrative expenses. The following apply to this subsection:

(a) If the Director of Transportation certifies the amount of principal or interest of highway bonds due on any particular date, the department may make available for the payment of such interest or principal any sums that may be necessary to the extent of moneys on hand available for the State Highway Fund regardless of the dates otherwise specified under this section.

(b) Notwithstanding paragraph (a) of this subsection the department shall not make available for purposes described in paragraph (a) of this subsection any moneys described in ORS 367.605 when there are not sufficient amounts of such moneys in the State Highway Fund for purposes of bonds issued under ORS 367.615.

(6) Notwithstanding any other provision of this section, the following moneys shall be transferred to the State Highway Fund at the times described:

(a) Moneys received under ORS 802.120 and not used for the payment of administrative expenses of the department shall be transferred before July 31 of each year.

(b) Moneys received from the registration of snowmobiles that is not to be used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(c) Moneys received from the issuance of winter recreation parking permits [*or under ORS 153.630 from violation of the requirement to have a winter recreation parking permit and*] that is not used for payment of administrative expenses of the department shall be transferred within 30 days after the end of the quarter.

(7) The following moneys transferred to the State Highway Fund under this section may be used only for the purposes described as follows:

(a) Moneys collected from the issuance of winter recreation parking permits [*or under ORS 153.630 for violation of the requirement to have a winter recreation parking permit*], and the interest on such moneys, shall be used to enforce the requirement for winter recreation parking permits and to remove snow from winter recreation parking locations designated under ORS 810.170. Any remaining moneys shall, upon approval by the Winter Recreation Advisory Committee:

(A) Be used to maintain parking locations developed with moneys obtained under ORS 810.170 and snowmobile facilities that are parking lots developed with moneys as provided under this section;

(B) Be used to develop additional winter recreation parking locations under ORS 810.170; or

(C) Be carried over to be used in subsequent years for the purposes and in the manner described in this paragraph.

(b) Moneys received from the registration of snowmobiles or under ORS 802.120 may be used for development and maintenance of multiuse trails within urban growth boundaries described in ORS 367.017 or for the development and maintenance of snowmobile facilities, including the acquisition of land therefor by any means other than the exercise of eminent domain. Moneys received under ORS 802.120 may also be used for the enforcement of ORS 811.590, 821.100 to 821.120, 821.140, 821.150, 821.190, 821.210 and 821.240 to 821.290.

(8) The department shall maintain the Revolving Account for Emergency Cash Advances separate from other moneys described in this section. From the account, the department may pay for the taking up of dishonored remittances returned by banks or the State Treasurer and for emergency cash advances to be subsequently reimbursed. The account shall be used only as a revolving fund. The department shall at all times be accountable for the amount of the account, either in cash or unreimbursed items and advances. The moneys in the account are continuously appropriated for the purposes of this subsection. The amount of the account under this subsection shall not exceed

\$40,000 from moneys received by the department in the performance of its driver and motor vehicle services functions and moneys otherwise appropriated for purposes of this subsection. The account under this subsection shall be kept on deposit with the State Treasurer. The State Treasurer is authorized to honor and pay all properly signed and indorsed checks or warrants drawn against the account.

SECTION 145. ORS 802.155 is amended to read:

802.155. (1) There is created the Safety Education Fund, separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund.

(2) Moneys deposited in the Safety Education Fund from the Criminal Fine [*and Assessment*] Account are continuously appropriated to the office of the administrator of the Transportation Safety section of the Department of Transportation to be used for safety education programs:

(a) That provide injury prevention education on traffic safety issues for each age group in the kindergarten through college ages;

(b) That have been recipients of funds under 23 U.S.C. 402 for at least three years;

(c) That are found by the Transportation Safety section to be effective, as measured by the three-year reporting cycle funded under 23 U.S.C. 402; and

(d) That operate statewide.

SECTION 146. ORS 810.530 is amended to read:

810.530. (1) A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed may arrest or issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer. This subsection applies to the following offenses:

(a) Violation of maximum weight limits under ORS 818.020.

(b) Violation of posted weight limits under ORS 818.040.

(c) Violation of administratively imposed weight or size limits under ORS 818.060.

(d) Violation of maximum size limits under ORS 818.090.

(e) Exceeding maximum number of vehicles in combination under ORS 818.110.

(f) Violation of posted limits on use of road under ORS 818.130.

(g) Violation of towing safety requirements under ORS 818.160.

(h) Operating with sifting or leaking load under ORS 818.300.

(i) Dragging objects on highway under ORS 818.320.

(j) Unlawful use of devices without wheels under ORS 815.155.

(k) Unlawful use of metal objects on tires under ORS 815.160.

(L) Operation without pneumatic tires under ORS 815.170.

(m) Operation in violation of vehicle variance permit under ORS 818.340.

(n) Failure to carry and display permit under ORS 818.350.

(o) Failure to comply with commercial vehicle enforcement requirements under ORS 818.400.

(p) Violation of any provision of ORS chapter 825.

(q) Operation without proper fenders or mudguards under ORS 815.185.

(r) Operating a vehicle without driving privileges in violation of ORS 807.010 if the person is operating a commercial motor vehicle and the person does not have a commercial driver license or does not have an appropriate permit.

(s) Violation driving while suspended or revoked in violation of ORS 811.175 if the person is operating a commercial motor vehicle while the person's commercial driver license is suspended or revoked.

(t) Failure to use vehicle traction tires or chains in violation of ORS 815.140 if the person is operating a motor vehicle subject to ORS chapter 825 or 826.

(2) A weighmaster or motor carrier enforcement officer in whose presence an offense described in this subsection is committed by a person operating a commercial motor vehicle may issue a citation for the offense. A weighmaster or motor carrier enforcement officer who finds evidence that an offense described in this subsection has been committed by a person operating a commercial motor vehicle or by a motor carrier for which the person is acting as an agent may issue a citation

for the offense. A weighmaster or motor carrier enforcement officer issuing a citation under this subsection has the authority granted a police officer issuing a citation under ORS 810.410. A citation issued under this subsection to the operator of a commercial motor vehicle shall be considered to have been issued to the motor carrier that owns the commercial motor vehicle if the operator is not the owner. This subsection applies to the following offenses, all of which are Class A traffic violations under ORS 825.990 (1):

- (a) Repeatedly violating or avoiding any order or rule of the Department of Transportation.
 - (b) Repeatedly refusing or repeatedly failing, after being requested to do so, to furnish service authorized by certificate.
 - (c) Refusing or failing to file the annual report as required by ORS 825.320.
 - (d) Refusing or failing to maintain records required by the department or to produce such records for examination as required by the department.
 - (e) Failing to appear for a hearing after notice that the carrier's certificate or permit is under investigation.
 - (f) Filing with the department an application that is false with regard to the ownership, possession or control of the equipment being used or the operation being conducted.
 - (g) Delinquency in reporting or paying any fee, tax or penalty due to the department under ORS chapter 825 or 826.
 - (h) Refusing or failing to file a deposit or bond as required under ORS 825.506.
 - (i) Failing to comply with the applicable requirements for attendance at a motor carrier education program as required by ORS 825.402.
- (3) A weighmaster or motor carrier enforcement officer who finds evidence that a person operating a commercial motor vehicle has committed the offense of failure to pay the appropriate registration fee under ORS 803.315 may issue a citation for the offense in the same manner as under ORS 810.410 as if the weighmaster or motor carrier enforcement officer were a police officer.
- (4) The authority of a weighmaster or motor carrier enforcement officer to issue citations or arrest under this section is subject to ORS chapter 153.
- (5)(a) A person is a weighmaster for purposes of this section if the person is a county weighmaster or a police officer.
- (b) A person is a motor carrier enforcement officer under this section if the person is duly authorized as a motor carrier enforcement officer by the Department of Transportation.
- (6) A weighmaster or motor carrier enforcement officer may accept security in the same manner as a police officer under ORS 810.440 and 810.450 and may take as security for the offenses, in addition to other security permitted under this section, the sum fixed as the [base] **presumptive** fine for the offense.
- (7) A weighmaster or motor carrier enforcement officer may arrest a person for the offense of failure to appear in a violation proceeding under ORS 153.992 if the violation is based upon a citation for any offense described in subsection (1) or (3) of this section except those described in subsection (1)(p) of this section.
- (8) A weighmaster or motor carrier enforcement officer may exercise the same authority as a police officer under ORS 810.490 to enforce vehicle requirements and detain vehicles. A person who fails to comply with the authority of a weighmaster or motor carrier enforcement officer under this subsection is subject to penalty under ORS 818.400.

SECTION 147. ORS 813.030 is amended to read:

813.030. The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of \$130, except that the court may waive all or part of the fee in cases involving indigent defendants. The court may make provision for payment of the fee on an installment basis. **The court shall deposit the fee in the Criminal Fine Account.** [The fee shall be ordered paid as follows:]

[1] \$105 to be credited and distributed under ORS 137.295 as an obligation payable to the state; and]

[2] \$25 to be paid to the Director of the Oregon Health Authority for deposit in the Intoxicated Driver Program Fund created by ORS 813.270.]

SECTION 148. ORS 837.100 is amended to read:

837.100. [(1)] In addition to any other persons permitted to enforce violations, the Director of the Oregon Department of Aviation and any employee specifically designated by the director may issue citations for violations established under ORS 837.990 in the manner provided by ORS chapter 153.

[(2) *All fines and court costs recovered from violations established under ORS 837.990 shall be paid to the clerk of the court involved. The clerk, after deductions of court costs provided by law for the proceeding, shall pay the remainder of the money to the State Treasurer to be deposited in the Criminal Fine and Assessment Account in the General Fund.*]

STATEWIDE FINE SCHEDULE FOR CIRCUIT COURTS

SECTION 149. ORS 153.800 is amended to read:

153.800. (1) Any court of this state may establish a Violations Bureau and designate the clerk or deputy clerk of the court or any other appropriate person to act as a violations clerk for the Violations Bureau. [A *Violations Bureau shall be established by each circuit court unless the Chief Justice of the Supreme Court issues a written exemption to the presiding judge for the court.*] The violations clerk shall serve under the direction and control of the court appointing the clerk.

(2) A violations clerk may exercise authority over any violation. A court establishing a Violations Bureau shall by order specify the violations that are subject to the authority of the violations clerk.

(3) Except as provided in subsection (6) of this section, the violations clerk shall accept:

(a) Written appearance, waiver of trial, plea of guilty and payment of fine, costs and assessments for violations that are subject to the authority of the violations clerk; or

(b) Payment of [base] **presumptive** fine amounts for violations that are subject to the authority of the violations clerk.

(4)(a) [The court] **Courts other than circuit courts** shall establish schedules, within the limits prescribed by law, of the amounts of penalties to be imposed for first, second and subsequent violations, designating each violation specifically or by class. The order of the court establishing the schedules shall be prominently posted in the place where penalties established under the schedule are paid.

(b) **The Chief Justice of the Supreme Court shall establish a uniform fine schedule for violations prosecuted in circuit courts.**

(c) All amounts must be paid to, receipted by and accounted for by the violations clerk in the same manner as other payments on money judgments are received by the court.

(5) Any person charged with a violation within the authority of the violations clerk may:

(a) Upon signing an appearance, plea of guilty and waiver of trial, pay the clerk the penalty established for the violation charged, including any costs and assessments authorized by law.

(b) Pay the clerk the [base] **presumptive** fine amount established for the violation. Payment of the [base] **presumptive** fine amount under this paragraph constitutes consent to forfeiture of the [base] **presumptive** fine amount and disposition of the violation by the clerk as provided by the rules of the court. Payment of [base] **presumptive** fine amount under this paragraph is not consent to forfeiture of the [base] **presumptive** fine amount if the payment is accompanied by a plea of not guilty or a request for hearing.

(6) A person who has been found guilty of, or who has signed a plea of [guilty or] no contest to, one or more previous offenses in the preceding 12 months within the jurisdiction of the court shall not be permitted to appear before the violations clerk unless the court, by general order applying to certain specified offenses, permits such appearance.

ELIMINATION OF OFFENSE SURCHARGE

SECTION 150. Section 2, chapter 659, Oregon Laws 2009, as amended by section 20, chapter 107, Oregon Laws 2010, is amended to read:

Sec. 2. (1) In all cases of conviction for the commission of a crime or violation, excluding parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense surcharge under this section. Except when the person successfully asserts the defense set forth in ORS 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in juvenile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a fine and shall be in an amount as follows:

- (a) \$35 in the case of a felony.
- (b) \$35 in the case of a misdemeanor.
- (c) \$45 in the case of a violation as described in ORS 153.008.

(2) A court may waive all or part of the offense surcharge required by this section only if the court imposes no fine on the defendant.

(3) The offense surcharge required by this section shall be imposed only for offenses that are committed on or after October 1, 2009, and before *[July 1, 2011]* **January 1, 2012.**

(4)(a) Offense surcharges imposed under this section are part of the base fine for the purposes of ORS chapter 153.

(b) The provisions of ORS 153.093 do not affect the amount of the offense surcharge imposed and collected under this section, and the amount calculated under ORS 153.093 (1) includes the full amount of the offense surcharge.

(5) Offense surcharges imposed in a circuit court under this section are category 3 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Offense surcharges imposed in a justice court, county court or municipal court under this section are category 4 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Amounts collected as offense surcharges under this section *[may not be deposited in the Criminal Fine and Assessment Account, or transferred to the Department of Revenue, under ORS 137.295 (5), but]* must be deposited or paid as follows:

[(a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Revenue in the Judicial System Surcharge Account.]

(a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Revenue in the General Fund.

(b) Offense surcharges imposed in a justice court or county court shall be paid to the county treasurer.

(c) Offense surcharges imposed in a municipal court shall be paid to the city treasurer.

[(6) The collections and revenue management program established under ORS 1.204 may not be reimbursed under ORS 1.204 from amounts imposed as offense surcharges under this section.]

SECTION 150a. Section 2, chapter 659, Oregon Laws 2009, as amended by section 20, chapter 107, Oregon Laws 2010, and section 150 of this 2011 Act, is amended to read:

Sec. 2. (1) In all cases of conviction for the commission of a crime or violation, excluding parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense surcharge under this section. Except when the person successfully asserts the defense set forth in ORS 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in juvenile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a fine and shall be in an amount as follows:

- (a) \$35 in the case of a felony.
- (b) \$35 in the case of a misdemeanor.
- (c) \$45 in the case of a violation as described in ORS 153.008.

(2) A court may waive all or part of the offense surcharge required by this section only if the court imposes no fine on the defendant.

(3) The offense surcharge required by this section shall be imposed only for offenses that are committed on or after October 1, 2009, and before January 1, 2012.

(4)(a) Offense surcharges imposed under this section are part of the base fine for the purposes of ORS chapter 153.

(b) The provisions of ORS 153.093 do not affect the amount of the offense surcharge imposed and collected under this section, and the amount calculated under ORS 153.093 (1) includes the full amount of the offense surcharge.

(5) Offense surcharges imposed in a circuit court under this section are category 3 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Offense surcharges imposed in a justice court, county court or municipal court under this section are category 4 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Amounts collected as offense surcharges under this section must be deposited or paid as follows:

(a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Revenue in the [*General Fund*] **Criminal Fine Account**.

(b) Offense surcharges imposed in a justice court or county court shall be paid to the county treasurer.

(c) Offense surcharges imposed in a municipal court shall be paid to the city treasurer.

SECTION 150b. Section 1, chapter 659, Oregon Laws 2009, is repealed.

SECTION 150c. Any funds in the Judicial System Surcharge Account on the effective date of this 2011 Act shall be transferred by the State Treasurer to the Criminal Fine and Assessment Account.

SECTION 150d. Section 2b, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 2b. The amendments to ORS 153.125 by section 2a [*of this 2009 Act*], **chapter 659, Oregon Laws 2009**, apply only to offenses that are committed on or after October 1, 2009, and before [*July 1, 2011*] **January 1, 2012**.

SECTION 150e. Section 2d, chapter 659, Oregon Laws 2009, is amended to read:

Sec. 2d. (1) The amendments to ORS 153.125 by section 2c [*of this 2009 Act*], **chapter 659, Oregon Laws 2009**, become operative [*July 1, 2011*] **January 1, 2012**.

(2) The amendments to ORS 153.125 by section 2c [*of this 2009 Act*], **chapter 659, Oregon Laws 2009**, do not affect the imposition of a surcharge under section 2 [*of this 2009 Act*], **chapter 659, Oregon Laws 2009**, for an offense committed on or after October 1, 2009, and before [*July 1, 2011*] **January 1, 2012**.

NONSTANDARD OFFENSE PROVISIONS

SECTION 151. ORS 25.990 is amended to read:

25.990. (1) Violation of ORS 25.720 (3) is a Class A violation.

(2) Violation of ORS 25.260 is [*punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 60 days, or by both*] **a Class C misdemeanor**.

(3) Violation of ORS 25.785 (3) is a Class A misdemeanor.

SECTION 152. ORS 45.900 is amended to read:

45.900. Violation of ORS 45.135 or 45.138 is a **Class B** violation. [*A person violating ORS 45.135 or 45.138 is subject to a fine of up to \$500.*]

SECTION 153. ORS 83.990 is amended to read:

83.990. (1) Any person who violates any provision of ORS 83.510 to 83.680 commits a Class A violation.

(2) A willful violation of ORS 83.520 to 83.600 or 83.650 to 83.670 by any person shall bar recovery of any finance charge, delinquency or collection charge or refinancing charge on the retail installment contract involved.

(3) Notwithstanding the provisions of subsections (1) to (3) of this section, any failure to comply with any provision of ORS 83.510 to 83.680 may be corrected within 10 days after the holder is no-

tified thereof in writing by the buyer, and, if so corrected, neither the seller nor the holder shall be subject to any penalty.

(4) Any person who willfully and intentionally violates any provision of ORS 83.010 to 83.190 [shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or both] **commits a Class B misdemeanor.** Violation of any order or injunction issued pursuant to ORS 83.010 to 83.190 shall constitute prima facie proof of a violation of this subsection.

SECTION 154. ORS 86.990 is amended to read:

86.990. Violation of ORS 86.040 is [punishable, upon conviction, by a fine not exceeding \$500 or imprisonment in the county jail not exceeding six months, or both] **a Class B misdemeanor.**

SECTION 155. ORS 92.990 is amended to read:

92.990. (1) Violation of any provision of ORS 92.010 to 92.090, 92.100 and 92.120 to 92.170 or of any regulation or ordinance adopted thereunder, is [punishable, upon conviction, by a fine of not less than \$50 nor more than \$500 or imprisonment in the county jail for not less than 25 days nor more than 50 days, or both] **a Class C misdemeanor.**

(2) Any person who violates any of the provisions of ORS 92.325 (1), 92.345 to 92.365, 92.405 (1), (2) and (3), 92.425, 92.433, 92.460 to 92.475 and any alternative requirements of the Real Estate Commissioner prescribed pursuant to ORS 92.425 (3), not waived by the commissioner pursuant to ORS 92.395, or who provides false information or omits to state material facts pursuant to ORS 92.337, [shall be punished by a fine not exceeding \$10,000, or by imprisonment in the custody of the Department of Corrections for a period not exceeding three years, or in the county jail not exceeding one year, or by both such fine and imprisonment] **commits a Class C felony.**

SECTION 156. ORS 97.990 is amended to read:

97.990. (1) Violation of ORS 97.160 is a **Class A** misdemeanor [and upon conviction is punishable by a fine not exceeding \$100].

(2) Every officer, agent or employee of this state or of any county, city or any other municipal subdivision thereof who willfully neglects to notify the Demonstrator of Anatomy of the existence of a body as required by ORS 97.170 to 97.210 or who refuses to deliver possession of such body according to the provisions of ORS 97.170 to 97.210 or who mutilates or permits any such body to be mutilated so that it is not valuable for anatomical purposes or who refuses or neglects to perform any of the duties enjoined upon the officer, agent or employee by ORS 97.170 to 97.210, [is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$50 for each offense] **commits a Class A misdemeanor.**

(3) Violation of ORS 97.520, 97.530 or 97.540 is a **Class A** misdemeanor.

(4) Any person, association or corporation who operates a cemetery, mausoleum or columbarium 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 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 of maintaining a nuisance and, upon conviction, is punishable by a fine not exceeding \$500 or by imprisonment in the county jail for not more than six months, or both] **commits a Class B misdemeanor.**

(5)(a) Violation of ORS 97.745 is a Class C felony.

(b) In addition to any other sentence provided by law for criminal violations of ORS 97.745, the judge shall impose a penalty not to exceed \$10,000 on any person convicted of a criminal violation of ORS 97.745.

(6) In addition to the penalty of subsection (5) of this section, any native Indian artifacts or human remains taken by, or in possession of, any person sentenced under subsection (5) of this section and all equipment used in the violation may be ordered forfeited by the court in which conviction occurs, and may be disposed of as the court directs.

SECTION 157. ORS 97.992 is amended to read:

97.992. Violation of any of the provisions of ORS 97.937 is [punishable, upon conviction, by a fine not exceeding \$1,000, or imprisonment in the county jail not exceeding one year, or both] **a Class A misdemeanor.**

SECTION 158. ORS 100.990 is amended to read:

100.990. Subject to ORS 153.022, any person who violates any of the provisions of ORS 100.015, 100.635 to 100.730 and 100.740 to 100.780 or any rules adopted thereunder or any alternative requirements of the Real Estate Commissioner prescribed pursuant to ORS 100.720 (3), [*shall be punished by a fine not exceeding \$10,000, or by imprisonment in the custody of the Department of Corrections for a period not exceeding three years, or in the county jail not exceeding one year, or by both such fine and imprisonment*] **commits a Class C felony.**

SECTION 159. ORS 105.590 is amended to read:

105.590. An intentional violation of a restraining order, preliminary injunction or order of abatement under ORS 105.550 to 105.600 is [*punishable as a contempt of court by a fine of not more than \$1,000 which may not be waived, or by imprisonment for not more than six months or by both*] **a Class B misdemeanor.**

SECTION 160. ORS 106.990 is amended to read:

106.990. (1) Violation of ORS 106.041 (5) is [*punishable, upon conviction, by a fine of not more than \$100 or by imprisonment in the county jail for not more than 30 days, or both*] **a Class C misdemeanor.**

(2) Violation of ORS 106.110 or 106.140 is [*punishable upon conviction by imprisonment in the custody of the Department of Corrections or county jail for not more than one year, or by a fine of not more than \$500 nor less than \$100*] **a Class A misdemeanor.**

(3) Refusal or neglect to comply with ORS 106.170 shall result in the forfeiture of a penalty of not less than \$10 nor more than \$50 to be recovered by action for every five days of such refusal or neglect.

SECTION 161. ORS 165.990 is amended to read:

165.990. [(1) *Any officer, agent, operator or employee of any telegraph company who refuses or willfully omits to transmit communications in accordance with ORS 165.480, or designedly alters or falsifies such communications, is liable to indictment and, upon conviction, may be punished by fine or imprisonment, at the discretion of the court.*]

[(2) *Violation of ORS 165.485 or 165.490 is punishable, upon conviction, by a fine of not exceeding \$1,000 or imprisonment in the county jail for not exceeding one year, or both.*]

[(3) *Violation of ORS 165.495 is punishable, upon conviction, by a fine of not exceeding \$500 or imprisonment in the county jail for not exceeding six months, or both.*]

[(4)(a)] Violation of ORS 165.692 is a Class C felony [*punishable as provided in ORS chapter 161*].

[(b)] Criminal prosecution of violators of ORS 165.692 [*shall*] **must** be commenced within five years after the commission of the crime.

SECTION 162. ORS 166.180 is amended to read:

166.180. Any person who, as a result of failure to use ordinary care under the circumstances, wounds any other person with a bullet or shot from any firearm, or with an arrow from any bow, [*shall be punished by imprisonment in the county jail for a period not to exceed six months, or by a fine not to exceed \$500, or both*] **commits a Class B misdemeanor.** In addition, any person so convicted shall forfeit any license to hunt, obtained under the laws of this state, and shall be ineligible to obtain a license to hunt for a period of 10 years following the date of conviction.

SECTION 163. ORS 166.300 is amended to read:

166.300. (1) Any person who has committed, with firearms of any kind or description, murder in any degree, or manslaughter, either voluntary or involuntary, or who in a careless or reckless manner, kills or injures another with firearms, and who, at any time after committing murder or manslaughter or after said careless or reckless killing or injury of another, carries or bears firearms of any kind or description within this state, [*shall be punished upon conviction by a fine of not more than \$500, or by imprisonment in the county jail not to exceed one year, or both*] **commits a Class A misdemeanor.**

(2) Subsection (1) of this section does not deprive the people of this state of the right to bear arms for the defense of themselves and the state, and does not apply to any peace officer in the

discharge of official duties or to a member of any regularly constituted military organization while on duty with such military organization.

[(3) Justice courts, county courts and all other courts having jurisdiction as justice courts, shall have concurrent jurisdiction with the circuit courts of all prosecutions under subsection (1) of this section.]

SECTION 164. ORS 166.320 is amended to read:

166.320. (1) Any person who places or sets any loaded springgun, setgun, or any gun, firearm or other device of any kind designed for containing or firing explosives, in any place where it may be fired, exploded or discharged by the contact of any person or animal with any string, wire, rod, stick, spring or other contrivance affixed to or connected with it, or with its trigger, *[shall be punished upon conviction by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not less than 30 days nor more than six months, or both]* **commits a Class B misdemeanor.**

(2) Subsection (1) of this section does not apply to any loaded springgun, setgun, firearm or other device placed for the purpose of destroying gophers, moles or other burrowing rodents, and does not prevent the use of a coyote getter by employees of county, state or federal governments engaged in cooperative predatory animal control work.

SECTION 165. ORS 166.330 is amended to read:

166.330. Any person who uses in any firearms discharged on lands within this state, not owned by the person, anything other than incombustible gun wadding, *[shall be punished upon conviction by a fine of not less than \$5 nor more than \$100, or by imprisonment in the county jail for not less than two days nor more than 60 days]* **commits a Class C misdemeanor.**

SECTION 166. ORS 166.715 is amended to read:

166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

(1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(3) "Investigative agency" means the Department of Justice or any district attorney.

(4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of racketeering activity may be used to establish a pattern of racketeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within the jurisdiction of the juvenile court.

(5) "Person" means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) "Racketeering activity" includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

- (A) ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and 59.995, relating to securities;
- (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;
- (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing governmental administration;
- (D) ORS 162.405 to 162.425, relating to abuse of public office;
- (E) ORS 162.455, relating to interference with legislative operation;
- (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;
- (G) ORS 163.160 to 163.205, relating to assault and related offenses;
- (H) ORS 163.225 and 163.235, relating to kidnapping;
- (I) ORS 163.275, relating to coercion;
- (J) ORS 163.670 to 163.693, relating to sexual conduct of children;
- (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.098, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270, relating to theft, burglary, criminal trespass and related offenses;
- (L) ORS 164.315 to 164.335, relating to arson and related offenses;
- (M) ORS 164.345 to 164.365, relating to criminal mischief;
- (N) ORS 164.395 to 164.415, relating to robbery;
- (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a recording;
- (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and related offenses;
- (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;
- (R) ORS [165.485 to 165.515,] 165.540 and 165.555, relating to communication crimes;
- (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating to firearms and other weapons;
- (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.054, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, sexually explicit material, sexual conduct, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related offenses;
- (U) ORS 171.990, relating to legislative witnesses;
- (V) ORS 260.575 and 260.665, relating to election offenses;
- (W) ORS 314.075, relating to income tax;
- (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cigarette and tobacco products taxes and the directories developed under ORS 180.425 and 180.477;
- (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS 411.990 (2) and (3);
- (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;
- (AA) ORS 463.995, relating to boxing, mixed martial arts and entertainment wrestling, as defined in ORS 463.015;
- (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445, 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS chapter 471 relating to licenses issued under the Liquor Control Act;
- (CC) ORS 475.005 to 475.285 and 475.840 to 475.980, relating to controlled substances;
- (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;
- (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;
- (FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;
- (GG) ORS chapter 706, relating to banking law administration;
- (HH) ORS chapter 714, relating to branch banking;
- (II) ORS chapter 716, relating to mutual savings banks;
- (JJ) ORS chapter 723, relating to credit unions;
- (KK) ORS chapter 726, relating to pawnbrokers;

(LL) ORS 166.382 and 166.384, relating to destructive devices;
(MM) ORS 165.074;
(NN) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage brokers;
(OO) ORS chapter 496, 497 or 498, relating to wildlife;
(PP) ORS 163.355 to 163.427, relating to sexual offenses;
(QQ) ORS 166.015, relating to riot;
(RR) ORS 166.155 and 166.165, relating to intimidation;
(SS) ORS chapter 696, relating to real estate and escrow;
(TT) ORS chapter 704, relating to outfitters and guides;
(UU) ORS 165.692, relating to making a false claim for health care payment;
(VV) ORS 162.117, relating to public investment fraud;
(WW) ORS 164.170 or 164.172;
(XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;
(YY) ORS 164.886;
(ZZ) ORS 167.312 and 167.388;
(AAA) ORS 164.889;
(BBB) ORS 165.800; or
(CCC) ORS 163.263, 163.264 or 163.266.

(b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

(7) “Unlawful debt” means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(A) ORS chapter 462, relating to racing;

(B) ORS 167.108 to 167.164, relating to gambling; or

(C) ORS 82.010 to 82.170, relating to interest and usury.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law.

(8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions from what the statute was when this section was enacted, the reference shall extend to and include amendments to the statute.

SECTION 167. ORS 167.337 is amended to read:

167.337. (1) A person commits the crime of interfering with a law enforcement animal if the person intentionally or knowingly injures or attempts to injure an animal the person knows or reasonably should know is a law enforcement animal while the law enforcement animal is being used in the lawful discharge of its duty.

(2) Interfering with a law enforcement animal is a Class A misdemeanor.

[(3) When a person is convicted of interfering with a law enforcement animal, in addition to any other sentence the court may impose, the court shall impose a fine in the amount of \$500.]

SECTION 168. ORS 167.339 is amended to read:

167.339. (1) A person commits the crime of assaulting a law enforcement animal if:

(a) The person knowingly causes serious physical injury to or the death of a law enforcement animal, knowing that the animal is a law enforcement animal; and

(b) The injury or death occurs while the law enforcement animal is being used in the lawful discharge of the animal’s duties.

(2) Assaulting a law enforcement animal is a Class C felony.

[(3) When a person is convicted of assaulting a law enforcement animal, in addition to any other sentence the court may impose, the court shall impose a fine in the amount of \$1,000.]

SECTION 168a. ORS 167.401 is amended to read:

167.401. (1) Except as provided in subsection (4) of this section, no person under 18 years of age shall purchase, attempt to purchase or acquire tobacco products as defined in ORS 431.840. Except

when such minor is in a private residence accompanied by the parent or guardian of the minor and with the consent of such parent or guardian, no person under 18 years of age shall have personal possession of tobacco products.

(2) Any person who violates subsection (1) of this section commits a **Class B** violation.

(3)(a) In lieu of any other penalty established by law, a person who is convicted for the first time of a violation of subsection (1) of this section may be ordered to participate in a tobacco education program or a tobacco use cessation program or to perform community service related to diseases associated with consumption of tobacco products. A person may be ordered to participate in such a program only once.

(b) In addition to and not in lieu of any other penalty established by law, a person who is convicted of a second violation of subsection (1) of this section through misrepresentation of age may be required to participate in a tobacco education or a tobacco use cessation program or to perform community service related to diseases associated with the consumption of tobacco products, and the court shall order that the person's driving privileges and right to apply for driving privileges be suspended for a period not to exceed one year. If a court has issued an order denying driving privileges under this subsection, the court, upon petition of the person, may withdraw the order at any time the court deems appropriate. The court notification to the Department of Transportation under this subsection may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(4) A minor acting under the supervision of an adult may purchase, attempt to purchase or acquire tobacco products for the purpose of testing compliance with a federal law, state statute, local law or retailer management policy limiting or regulating the delivery of tobacco products to minors.

SECTION 169. ORS 192.990 is amended to read:

192.990. Violation of ORS 192.710 (1) is a **Class D** violation [*punishable by a fine of \$10*].

SECTION 170. ORS 198.600 is amended to read:

198.600. (1) If a penalty for a violation is not otherwise provided, violation of any regulation adopted by a district board under ORS 198.510 to 198.600 is [*punishable, upon conviction, by a fine of not more than \$250 or imprisonment of not more than 30 days, or both*] a **Class C misdemeanor**.

(2) Actions to impose punishment shall be brought in the name of the district or county, as the case may be, in any court having jurisdiction of misdemeanors under state laws. The action shall be brought in the county in which the district, or the greater portion of the area of the district, is located. [*Fines recovered shall be paid to the clerk of the court who, after first deducting the court costs in such proceedings, shall pay the remainder thereof to the treasurer of the district or county initiating the action to go to and form a part of its general fund.*]

(3) Any peace officer may enforce an ordinance adopted under ORS 198.510 to 198.600. ORS 221.333 is applicable to the enforcement of such ordinances.

SECTION 171. ORS 221.916 is amended to read:

221.916. (1) The mayor and alderpersons shall compose the common council of any city organized under sections 1 to 6, pages 119 to 123, Oregon Laws 1893. At any regular council meeting, the common council may:

(a) Provide for lighting the streets and furnishing such city and its inhabitants with gas or other lights, and with pure and wholesome water. For such purpose it may construct such water, gas or other works, within or without the city limits, as may be necessary or convenient therefor. It may allow the use of the city streets and alleys to any person, company or corporation who may desire to establish works for supplying the city and inhabitants thereof with such water or lights upon such reasonable terms and conditions as the common council may prescribe.

(b) Permit, allow and regulate the laying down of tracks for streetcars and other railroads upon such streets as the common council may designate, and upon such terms and conditions as the common council may prescribe.

(c) Allow and regulate the erection and maintenance of poles, or poles and wires, for telegraph, telephone, electric light or other purposes, upon or through the streets, alleys or public grounds of such city.

(d) Permit and regulate the use of alleys, streets and public grounds of the city for laying down or repairing gas and water mains, for building and repairing sewers and for erecting gas or other lights.

(e) Preserve the streets, lights, side and crosswalks, bridges and public grounds from injury, prevent the unlawful use of the same and regulate their use.

(f) Fix the maximum rate of wharfage, rates for gas or other lights, rates for carrying passengers on street railways and water rates. No city shall ever deprive itself of the right through its common council of regulating and adjusting any such rates, so that the same shall be reasonable for the service rendered, at least once in any period of two years.

(g) License, tax, regulate, restrain and prohibit barrooms and tippling houses, and all places where spirituous, vinous or malt liquors are sold, or in any manner disposed of contrary to law. No license shall be issued for a lesser sum than that provided by law.

(h) Prevent and suppress gaming and gambling houses, and all games of chance, including lotteries and pool selling.

(i) Prevent and suppress bawdyhouses, lewd and lascivious cohabitation, opium-smoking houses and places occupied or kept therefor.

(j) License, regulate and control any lawful business, trade, occupation, profession or calling, carried on or conducted within the corporate limits of any such city.

(k) Suppress and prohibit anything that is injurious to the public morals, public safety or public health of the inhabitants of any such city. The common council may define, suppress and prohibit nuisances of every kind, including those arising out of the receipt, sale or disposal of intoxicating liquor in violation of law.

(L) Regulate, suppress and prohibit the running at large within the corporate limits of any and all domestic animals, including fowls, and provide for the impoundment and sale, after notice, of such animals.

(m) Exercise any and all police regulations concerning the public morals, public safety, public health and public convenience of the inhabitants of any such city.

(n) Provide for the surveying of blocks and streets of the city and for marking the boundary lines of such blocks and streets, and the establishing of grades of the streets, sidewalks and crosswalks.

(o) Prevent and punish trespass on real and personal property within the corporate limits of such city.

(p) Make bylaws and ordinances not inconsistent with the laws of the United States or of this state to carry into effect the provisions of ORS 221.901 to 221.928.

(q) Provide, in addition to such action as may be appropriate to carry into full effect the object to be achieved, for the punishment of persons violating any bylaws or ordinances by fine or imprisonment, or both, and the working of such persons on the city streets or at any other work. *[No fine shall exceed the sum of \$50, nor shall any imprisonment exceed 20 days.]*

(2) Nothing contained in ORS 221.901 to 221.928 shall be so construed as to oust the state courts of jurisdiction to indict or punish persons for offenses against any law of the state committed within the limits of any such city.

SECTION 172. ORS 240.990 is amended to read:

240.990. (1) Subject to ORS 153.022, any person who willfully violates any provision of this chapter or of the rules thereunder *[is guilty of a]* **commits a Class A** misdemeanor *[and is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for a term not exceeding one year, or both].*

(2) Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any investigation or hearing authorized by this chapter *[is guilty of a]* **commits a Class A** misdemeanor.

(3) A state officer or employee who fails to comply with any provision of this chapter or of any rule, regulation or order thereunder is subject to all penalties and remedies provided by law for failure of a public officer or employee to do an act required of a public officer or employee by law.

(4) Any person who is convicted of a **Class A** misdemeanor under this chapter shall, for a period of five years, be ineligible for appointment to or employment in a position in the state service, and if the person is an officer or employee of the state, shall be deemed guilty of malfeasance in office and shall be subject to forfeit of the office or position.

SECTION 173. ORS 241.990 is amended to read:

241.990. (1) Except as otherwise provided in this section, willful violation of any of the provisions of ORS 241.016 to 241.990 is a **Class A** misdemeanor [*and, upon conviction, is punishable by a fine of not less than \$25 nor more than \$1,000, or by imprisonment in the county jail for not longer than one year, or both*].

(2) Willful false swearing in any hearing or investigation before the commission, or designated commissioner, is perjury and punishable as such.

(3) Violation of ORS 241.525 is [*punishable, upon conviction, by a fine of not less than \$50 nor more than \$1,000 or imprisonment of not less than 10 days nor more than two years, or both*] a **Class A misdemeanor**. In addition, if the person convicted is a public officer of the state or any civil division thereof, including counties and cities, the person shall be deprived of office.

[*(4) The circuit court shall have jurisdiction of all offenses defined by ORS 241.016 to 241.990.*]

SECTION 174. ORS 267.990 is amended to read:

267.990. Any person violating a police ordinance of a mass transit district [*is guilty of a*] **commits a Class A** misdemeanor [*and upon conviction shall be punished by a fine of not more than \$250*].

SECTION 175. ORS 268.990 is amended to read:

268.990. [(1)] Violation of any ordinance, rule or regulation adopted by a district [*shall be punishable by a fine of not more than \$500 or by imprisonment in a county jail for not more than 30 days or by both*] **is a Class C misdemeanor**.

[(2)] *Any penalty for such a violation may be imposed or enforced by the district in the circuit court of the state for the county where the violation takes place.*

SECTION 176. ORS 279A.990 is amended to read:

279A.990. (1) The provisions of ORS 291.990 apply to ORS 279A.140, 279A.280 and 279B.270. Any violation of ORS 279A.140, 279A.280 or 279B.270 shall be punished as described in ORS 291.990.

(2) Any contractor, subcontractor, agent or person in authority or in charge who violates any provision of ORS 279C.520 or 279C.540 as to hours of labor [*shall be fined not less than \$50 nor more than \$1,000 or imprisoned in the county jail for not less than five days nor more than one year, or both*] **commits a Class A misdemeanor**.

(3) Any contractor or subcontractor subject to ORS 279C.840 who fails to pay the prevailing rate of wage as required by ORS 279C.840 [*shall be punished by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than six months, or both*] **commits a Class B misdemeanor**.

SECTION 177. ORS 291.990 is amended to read:

291.990. [(1)] *A person who makes or orders or votes to make an expenditure in violation of a provision of the statutes listed in subsection (5) of this section, or who makes or authorizes or causes to be made a disbursement of funds from the State Treasury in violation of a provision of the statutes listed in subsection (5) of this section, commits a violation and shall, upon conviction, be punished by a fine of not less than \$500 nor more than \$3,000.*

[(2)] (1) If a person incurs or orders or votes to incur an obligation in violation of a provision of the statutes listed in subsection [(5)] (4) of this section, the person and the sureties on the person's bond are jointly and severally liable for the violation to the person in whose favor the obligation was incurred.

[(3)] (2) Upon certification by the Oregon Department of Administrative Services that a state officer or employee of a state agency has failed or refused to comply with an order, rule or regulation the department made in accordance with the statutes listed in subsection [(5)] (4) of this section, the salary of the officer or employee may not be paid until the order, rule or regulation is complied with.

[(4)] (3) A violation of a provision of a statute listed in subsection [(5)] (4) of this section [for which no other penalty is provided in this section] is a Class A violation.

[(5)] (4) Subsections (1) to [(4)] (3) of this section apply to ORS 279A.140, 279A.280, 279B.270, 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 to 291.260, 291.307, 292.220 and 292.230.

SECTION 178. ORS 293.990 is amended to read:

293.990. (1) Any person, official or state agent violating ORS 293.265 to 293.280 or failing to comply with any of the requirements of those sections within the time provided shall be liable on the official bond of the person, officer or state agent and [shall, upon conviction thereof, be punished by a fine not exceeding \$1,000 or by imprisonment in the county jail for a period not exceeding one year, or both] **commits a Class A misdemeanor.**

(2) In addition to civil liability, violation of ORS 293.620 is a Class A violation. [Upon conviction, the defendant is liable for all costs of the prosecution in accordance with ORS 151.505 or 161.665.]

SECTION 179. ORS 305.990 is amended to read:

305.990. (1) Any person who willfully presents or furnishes to the Department of Revenue any statement required under ORS 305.160, which statement is false or fraudulent, [is guilty of] **commits** perjury and upon conviction shall be punished as provided by law therefor.

(2) Any person who gives testimony before the Director of the Department of Revenue which is false or fraudulent, [is guilty of] **commits** perjury and upon conviction shall be punished as provided by law therefor.

(3) Any public officer who neglects or refuses to perform any of the duties imposed on the public officer by law as to the assessment, levying or collection of taxes [shall be punished, upon conviction, by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding one year] **commits a Class A misdemeanor.**

(4) Violation of ORS 305.815 is [punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment for not more than one year in the county jail, or both] **a Class A misdemeanor.**

(5) Violation of ORS 305.260 is [punishable, upon conviction, as] a Class A misdemeanor[, as provided in ORS chapter 161]. If the offender is an officer or employee of the state the offender shall be dismissed from office and shall be incapable of holding any public office in this state for a period of five years thereafter.

SECTION 180. ORS 307.990 is amended to read:

307.990. If any person shall willfully deliver any statement to the officer charged with assessment of property for tax purposes in the county of the person containing a false statement of a material fact, whether it be an owner, shipper, the agent of the person, or a storageman or warehouseman of the agent of the person, the person [shall be guilty of a] **commits a Class B misdemeanor**[, and upon conviction shall be punished by a fine of not more than \$500 or by imprisonment in the county jail for not more than six months].

SECTION 181. ORS 319.990 is amended to read:

319.990. (1) Any person who violates any of the provisions of ORS 319.010 to 319.430, or any person who makes any false statement in any statement required by ORS 319.010 to 319.430 for the refund of any money or tax as provided in ORS 319.010 to 319.430, or who collects or causes to be repaid to the person or any person any tax, without being entitled to it under the provisions of ORS 319.010 to 319.430, [shall, upon conviction, be punished by a fine of not more than \$1,000, or by imprisonment in the county jail not more than six months, or both] **commits a Class B misdemeanor.**

(2) Violation of ORS 319.180 (6) or 319.694 (4) is theft of public money and, upon conviction, is punishable as provided in ORS 164.043 to 164.057.

(3) Violation of any provision of ORS 319.240 (4) and (5) is [punishable, upon conviction, by a fine of not more than \$5,000, or by imprisonment in the county jail not exceeding six months, or both] **a Class B misdemeanor.**

(4) Violation of any provision of ORS 319.510 to 319.880 is a **Class A** misdemeanor.

[(5) Justice courts have concurrent jurisdiction with the circuit court of all violations under the provisions of ORS 319.010 to 319.125 and 319.190 to 319.430, 319.510 to 319.880 or this section.]

SECTION 182. ORS 320.990 is amended to read:

320.990. Violation of any provision of ORS 320.005 to 320.150 *[by any person is punishable, upon conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than six months, or by both]* **is a Class B misdemeanor.** *[Justice courts have concurrent jurisdiction with the circuit courts of any prosecution provided for in this subsection.]*

SECTION 183. ORS 321.991 is amended to read:

321.991. Violation of any provision of ORS 321.005 to 321.185 and 321.560 to 321.600 is *[punishable, upon conviction, by a fine not exceeding \$1,000 or by imprisonment in the county jail for not exceeding one year, or by both]* **a Class A misdemeanor.**

SECTION 184. ORS 341.300 is amended to read:

341.300. (1) The board may adopt such regulations as it considers necessary to provide for the policing, control and regulations of traffic and parking of vehicles on property under the jurisdiction of the board. Such regulations may provide for the registration of vehicles, the designation and posting of parking areas, and the assessment and collection of reasonable fees and charges for parking and shall be filed in the board business office on the campus and shall be available for public inspection. The board may require that before a quarterly or yearly parking privilege for any vehicle is granted to any full-time or part-time student to use board property, the student must show that the vehicle is operated by a student holding a valid driver license, that the vehicle is currently registered and that the student driving the vehicle is insured under a motor vehicle liability insurance policy that meets the requirements described under ORS 806.080 or that the student or owner of the vehicle has provided the Department of Transportation with other satisfactory proof of compliance with the financial responsibility requirements of this state.

(2) The regulations adopted pursuant to subsection (1) of this section may be enforced administratively under procedures adopted by the board. Administrative and disciplinary sanctions may be imposed upon students, faculty, and staff for violation of the regulations. The board may establish hearing procedures for the determination of controversies in connection with imposition of *[fines or]* penalties.

(3) Upon agreement between the board and a city or county in which all or part of the community college campus is located, proceedings to enforce regulations adopted pursuant to subsection (1) of this section shall be brought in the name of the city or county enforcing the regulation in the circuit, justice or municipal court in the county in which the violation occurred. *[The fines, penalties and costs recovered shall be paid to the clerk of the court involved in accordance with the agreement between the board and the city or county with which the agreement is made.]*

(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 storage, if any, prior to the release of the vehicles to their owners.

(5) Every peace officer acting within the jurisdictional authority of a governmental unit of the place where the violation occurs shall enforce the regulations adopted by the board under subsection (1) of this section if an agreement has been entered into pursuant to subsection (3) of this section. The board, for the purpose of enforcing its regulations governing traffic control, may appoint peace officers who shall have the same authority as other peace officers as defined in ORS 133.005.

(6) Issuance of traffic citations to enforce the regulations adopted by the board under subsection (1) of this section shall conform to the requirements of ORS chapter 153. However, in proceedings brought to enforce parking regulations, it shall be sufficient to charge the defendant by an unsworn written notice in accordance with the provisions of ORS 221.333.

(7) Violation of any regulation adopted by the board pursuant to subsection (1) of this section and enforced pursuant to subsection (3) of this section is a **Class A misdemeanor.**

SECTION 185. ORS 346.991 is amended to read:

346.991. [(1)] Violation of ORS 346.167, **346.620 (1) or (2), 346.650 or 346.660 or any of the provisions of ORS 346.680 to 346.690** is [punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 60 days, or both] **a Class C misdemeanor.**

[(2) Violation of ORS 346.620 (1) or (2) is a Class C misdemeanor.]

[(3) Violation of ORS 346.650 or 346.660 is a Class C misdemeanor.]

[(4) Violations of ORS 346.680 to 346.690 are subject to the penalties provided in subsections (1) to (3) of this section.]

SECTION 186. ORS 368.990 is amended to read:

368.990. [(1)] Violation of ORS 368.251 [or], 368.256 **or 368.942** is [punishable, upon conviction, by a fine not exceeding \$100 or by imprisonment in the county jail not exceeding 60 days, or both] **a Class C misdemeanor.** [Justice courts shall have concurrent jurisdiction with the circuit courts of such offenses.]

[(2) Violation of ORS 368.942 is punishable, upon conviction, for each violation by a fine of not more than \$100 or imprisonment in the county jail for not more than 30 days or both.]

SECTION 187. ORS 376.990 is amended to read:

376.990. (1) Operation of a motor vehicle by any person over a contract forest road in violation of the contract provisions as to equipment, weight, width, length or height, is [punishable, upon conviction, by a fine not exceeding \$400 or by imprisonment in the county jail not exceeding one year, or both] **a Class A misdemeanor.** The definitions in ORS 376.310 apply to this section.

(2) Violation by any person of any of the provisions of ORS 376.305 to 376.390 is [punishable, upon conviction, by a fine not exceeding \$400 or by imprisonment in the county jail not exceeding one year, or both] **a Class A misdemeanor.**

SECTION 188. ORS 390.995 is amended to read:

390.995. (1) Violation of ORS 390.640 is a misdemeanor.

(2) Subject to ORS 153.022, any person who violates a rule adopted under ORS 390.950 to 390.989 [is guilty of a misdemeanor, and may be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or both] **commits a Class B misdemeanor.**

(3) Subject to ORS 153.022, violation of any provision of ORS 390.640 or 390.705, or any rule adopted to carry out the purposes of ORS 390.640 or 390.705, [may be punished by a fine of not more than \$500, or by imprisonment not exceeding six months, or both] **is a Class B misdemeanor.** Each day that a person violates ORS 390.640 or 390.705 shall be considered a separate offense.

SECTION 189. ORS 398.224 is amended to read:

398.224. (1) Any person not subject to this chapter [is guilty of an offense against the state when] **commits a Class B misdemeanor if** the person:

(a) Has been duly subpoenaed to appear as a witness before a court-martial, court of inquiry or any other military court or board, or before any military or civil officer designated to take a deposition to be read in evidence before such a court, commission or board;

(b) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the circuit court of the state in ORS 44.415 (2); and

(c) Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce.

[(2) Any person who commits an offense described in subsection (1) of this section shall be tried before the circuit court or judge thereof of the county where the offense occurred, and exclusive jurisdiction is conferred upon those courts for such purpose. Upon conviction, such a person shall be punished by a fine of not more than \$2,500, or imprisonment for not more than six months, or both.]

[(3)] **(2)** The district attorney of the county in which the offense occurred, upon certification of the facts by the military court, court of inquiry or board, shall prosecute any person who commits the offense described in subsection (1) of this section. [The fine shall be deposited in the General Fund of the State Treasury, to be available for general governmental expenses.]

SECTION 190. ORS 399.990 is amended to read:

399.990. Any person violating ORS 399.125 [*is guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed six months and a fine not to exceed \$500*] **commits a Class B misdemeanor.** [*The fine shall be recovered by an action brought by the district attorney in the name of the state and shall be deposited in the General Fund in the State Treasury, to be available for general governmental expenses.*]

SECTION 191. ORS 411.990 is amended to read:

411.990. (1) Violation of ORS 411.320 or 411.335 is [*punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 60 days, or by both*] **a Class C misdemeanor.**

(2) Violation of any provision of ORS 411.630 or 411.840 is a Class C felony which may be reduced to a Class A misdemeanor in accordance with ORS 161.705.

(3) Violation of ORS 411.675 is a Class C felony.

(4) Criminal prosecution of violators of ORS 411.675 shall be commenced in accordance with ORS 131.125 (6) and (7).

SECTION 192. ORS 418.215 is amended to read:

418.215. [(1)] No private child-caring agency shall provide or engage in any care or service described in ORS 418.205 unless the agency is at the time:

[(a)] (1) Duly incorporated under the corporation laws of any state; and

[(b)] (2) Licensed to provide or engage in the care or service by the Department of Human Services under the provisions of ORS 418.205 to 418.325.

[(2)] *The fine which may be imposed for violation of the provisions of this section, as provided in ORS 412.991 and 418.990, may be assessed by any court of competent jurisdiction upon presentation of evidence of such action.*

SECTION 193. ORS 421.990 is amended to read:

421.990. (1) Violation of ORS 421.340 is [*punishable upon conviction by a fine not exceeding \$1,000 or by imprisonment in the county jail for a term not exceeding one year, or both*] **a Class A misdemeanor.**

(2) Violation of ORS 421.105 (2) is punishable in the same manner as if the individual injured unlawfully was not convicted or sentenced.

SECTION 194. ORS 431.210 is amended to read:

431.210. (1) There is established in the General Fund the Public Health Account, classified separately as to federal and other moneys.

(2) All [*fin*es,] fees, penalties, federal apportionments or contributions and other moneys received by the Oregon Health Authority relating to public health shall be turned over to the State Treasurer not later than the 10th day of the calendar month next succeeding their receipt by the authority and shall be credited to the Public Health Account.

(3) All moneys credited to the Public Health Account are continuously appropriated to the authority for the payment of expenses of the authority.

SECTION 195. ORS 432.900 is amended to read:

432.900. (1) In addition to any other liability or penalty provided by law, the Director of the Oregon Health Authority may impose a civil penalty on any person for willful failure to comply with any part of ORS 432.520. A civil penalty may be imposed against a health care facility for each day compliance is refused. The penalty shall be \$50 per day for the first 30 days and \$500 per day thereafter. A civil penalty of \$50 may be imposed against a practitioner for each day compliance is refused.

(2) Any [*fin*es] **amounts** collected pursuant to subsection (1) of this section shall be paid into the State Treasury and deposited in the General Fund.

(3) Civil penalties described in subsection (1) of this section shall be imposed in the manner provided in ORS 183.745.

SECTION 196. ORS 435.990 is amended to read:

435.990. (1) Violation of any of the provisions of ORS 435.010 to 435.130 is [*punishable, upon conviction, by a fine not to exceed \$200 or imprisonment in a county jail for not exceeding 60 days, or both*] **a Class C misdemeanor.**

(2) Sale at wholesale or retail of any goods of the class specified in ORS 435.010 that do not comply with standards promulgated under ORS 435.100 (1) is a Class C misdemeanor.

SECTION 197. ORS 441.990 is amended to read:

441.990. (1) Violation of ORS 441.015 (1) is a **Class B** violation [*punishable, upon conviction, by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation*]. Each day of continuing violation after a first conviction shall be considered a subsequent violation.

(2) Any person who willfully prevents, interferes with, or attempts to impede in any way the work of any duly authorized representative of the Department of Human Services in the lawful carrying out of the provisions of ORS 441.087 (1) [*is guilty of*] **commits** a Class C misdemeanor.

(3) The removal of the notice required by ORS 441.030 (4) by any person other than an official of the department is a Class C misdemeanor.

(4) Any person who, after being excluded by a trustee pursuant to ORS 441.289 (16), remains upon the premises of a facility or returns to a facility violates ORS 164.245.

(5) In addition to the penalties under this section, the Oregon Health Authority, the Department of Human Services or the Department of Consumer and Business Services may assess civil penalties against any health care facility or health maintenance organization under ORS 441.030 or for a violation of ORS 441.015 (1). A civil penalty imposed under this section may not exceed \$5,000.

(6) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

(7) Civil penalties recovered under this section shall be paid into the State Treasury and credited to the General Fund for general governmental purposes.

SECTION 198. ORS 448.305 is amended to read:

448.305. (1) Subject to subsection (2) of this section, by ordinance a city may prohibit or restrict access for purposes of fishing, hunting, camping, hiking, picnicking, trapping of wild animals or birds, harvesting of timber or mining or removal of minerals or carrying on any other activity in its watershed area, or by ordinance may permit any such activity in its watershed area upon conditions specified in the ordinance. However, no ordinance passed under authority of this section shall prohibit the hunting or trapping of fur-bearing or predatory mammals doing damage to public or private property or prohibit the hunting or trapping of any bird or mammal for scientific purposes, as defined in ORS 497.298 (3).

(2) Subsection (1) of this section applies only to cities with respect to watershed areas which are the subject of an agreement between the city and the United States or any department or agency thereof, which agreement authorizes such action by the city.

(3) **Violation of** an ordinance adopted by any city pursuant to this section [*shall include a penalty clause providing for a penalty upon conviction of a fine of not more than \$100 or imprisonment for not more than 30 days, or both such fine and imprisonment*] **is a Class C misdemeanor.**

(4) After adoption of an ordinance pursuant to subsection (1) of this section, a city shall post the area with suitable signs setting forth the prohibition of access or the conditions of limited access imposed by the ordinance. Failure to post the area as required in this subsection shall be a defense in any prosecution under an ordinance adopted by any city under authority of this section.

SECTION 199. ORS 448.990 is amended to read:

448.990. (1) Violation of ORS 448.005 to 448.090 by any person, firm or corporation, whether acting as principal or agent, employer or employee, is [*punishable, upon conviction, by a fine of not less than \$25 nor more than \$500 or by imprisonment in the county jail not exceeding six months, or by both*] **a Class B misdemeanor.** Each day that the violation continues is a separate offense.

(2) Subject to ORS 153.022, violation of any of the following is [*punishable as*] a Class A misdemeanor:

(a) Any rule of the Oregon Health Authority adopted pursuant to ORS 448.115 to 448.330.

(b) Any order issued by the authority pursuant to ORS 448.175.

(c) ORS 448.265 or 448.315 (2)(a).

SECTION 200. ORS 448.992 is amended to read:

448.992. (1) *[Except as provided in subsection (2) of this section,]* Any person who knowingly and willfully violates ORS 448.415 (2) *[shall upon conviction be punished by a fine of not more than \$500 per day of violation or imprisonment for not more than six months, or both]* **commits a Class B misdemeanor.**

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under ORS 448.410 to 448.430, or by any rule adopted under ORS 448.410 to 448.430, *[shall upon conviction, be punished by a fine of not more than \$500 or by imprisonment for not more than six months, or both]* **commits a Class B misdemeanor.**

SECTION 201. ORS 448.994 is amended to read:

448.994. (1) *[Except as provided in subsection (2) of this section,]* Any person who knowingly and willfully violates ORS 448.455 (2) *[shall upon conviction be punished by a fine of not more than \$500 per day of violation or imprisonment for not more than six months, or both]* **commits a Class B misdemeanor.**

(2) Subject to ORS 153.022, any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under ORS 448.450 to 448.465 and 448.992, or by any rule adopted under ORS 448.450 to 448.465 and 448.992, *[shall upon conviction, be punished by a fine of not more than \$500 or by imprisonment for not more than six months, or both]* **commits a Class B misdemeanor.**

SECTION 202. ORS 450.990 is amended to read:

450.990. Violation of any regulation or ordinance under ORS 450.085 is *[punishable, upon conviction, by a fine of not more than \$100 or imprisonment for not more than one month, or both]* **a Class C misdemeanor.**

SECTION 203. ORS 460.370 is amended to read:

460.370. All moneys from fees collected by the Department of Consumer and Business Services under ORS 460.310 to 460.370 *[and 460.990 (2)]* shall be paid into the Consumer and Business Services Fund created by ORS 705.145 and are continuously appropriated to the department for use as provided in ORS 455.022.

SECTION 204. ORS 460.990 is amended to read:

460.990. (1) Violation of any of the provisions of ORS 460.005 to 460.175 is *[punishable, upon conviction, by a fine not to exceed \$100 or by imprisonment in the county jail for not more than 60 days, or both]* **a Class C misdemeanor.**

(2) Violation of any provisions of ORS 460.310 to 460.370 is a Class B misdemeanor.

SECTION 205. ORS 462.405 is amended to read:

462.405. (1) The board of stewards appointed by the Oregon Racing Commission for a race meet may, after an inquiry and hearing, impose appropriate sanctions for failure to comply with the laws and rules of racing and with the authorized commission or board directives applicable to said race meet, subject to the following limitations:

(a) *[No fine shall]* **A civil penalty may not** exceed \$500 per offense.

(b) *[No]* **A license suspension [shall] may not** be for a period longer than 365 calendar days from the date of issuance of the order of the board of stewards.

(2) Any sanction imposed by the board of stewards shall take effect on the date so indicated in the board's ruling unless the effective date is stayed for good cause shown by specific order of the executive director of the commission, or a member of the commission, pending commission review.

(3) In lieu of the board of stewards conducting any inquiry and hearing provided for by subsection (1) of this section, the board of stewards may request the commission to appoint and designate a person to conduct such inquiry and hearing who shall be known as a hearings master. The hearings master shall have the same authority and power as the board of stewards in conducting the inquiry and hearing. Any person adversely affected by any hearings master ruling has the right to appeal to the commission as provided for in subsection (4) of this section. The hearings master

need not be an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605.

(4) The board of stewards may refer any matter before it to the commission for appropriate review or action either before or after a board hearing or ruling. A person adversely affected by any board ruling has the right to appeal to the commission for a review and hearing as provided in ORS chapter 183. Such review shall be perfected by filing a written notice of appeal with the executive director within 10 days after the board ruling is issued. Hearings conducted by the commission under this subsection shall be heard by an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605. The commission is not limited in its actions or in the sanctions it may impose by any ruling of the board or by any limitation imposed upon the board by commission rule or regulation or by subsection (2) of this section.

SECTION 206. ORS 462.990 is amended to read:

462.990. (1) Except as [*hereinafter*] provided in this section, violations of any provision of this chapter is a **Class A** misdemeanor.

(2) Any person violating the provisions of ORS 462.420, 462.430, 462.450, 462.460, 462.470 or 462.415 (2) [*shall, upon conviction, be guilty of a felony and punished by imprisonment in the custody of the Department of Corrections for not more than two years or by a fine of not more than \$5,000, or by both*] **commits a Class C felony.**

(3) Any person who conspires or attempts to commit or commits any act of touting as defined in ORS 462.510 [*shall, upon conviction, be fined not more than \$500 or be imprisoned for not more than six months, or both*] **commits a Class B misdemeanor.**

(4) Any person violating the provisions of ORS 462.140 (1) [*shall be punished upon conviction by imprisonment in the county jail for not more than one year or by imprisonment in the custody of the Department of Corrections for not more than five years or by a fine of not more than \$5,000, or both such fine and imprisonment*] **commits a Class A misdemeanor.**

SECTION 207. ORS 466.913 is amended to read:

466.913. (1) The Fuel Tank Compliance and Corrective Action Fund is established separate and distinct from the General Fund in the State Treasury.

(2) The following moneys, as they pertain to a fuel tank facility, shall be deposited into the State Treasury and credited to the Fuel Tank Compliance and Corrective Action Fund:

(a) Moneys recovered or otherwise received from responsible parties for corrective action related to a fuel tank facility;

(b) Moneys allocated to the fund from the Administrative Services Economic Development Fund;

(c) Any penalty[, *fine*] or damages recovered under ORS 466.770 pertaining to a fuel tank facility; and

(d) Any moneys received pursuant to ORS 466.910.

(3) The State Treasurer may invest and reinvest moneys in the fund in the manner provided by law.

(4) The moneys in the fund are appropriated continuously to the Department of Environmental Quality to be used as provided in subsection (5) of this section.

(5) Moneys in the fund may be used by the department for administration and funding of the essential services grant program established under ORS 466.903 and 466.905.

SECTION 208. ORS 466.995, as amended by section 7, chapter 267, Oregon Laws 2009, is amended to read:

466.995. (1) Penalties provided in this section are in addition to and not in lieu of any other remedy specified in ORS 459.005 to 459.105, 459.205 to 459.385, 466.005 to 466.385 or 466.992.

(2) Subject to ORS 153.022, violation by any person of a provision of ORS 466.605 to 466.680 or of any rule or order entered or adopted under ORS 466.605 to 466.680 is [*punishable, upon conviction, by a fine of not more than \$25,000 or by imprisonment in the county jail for not more than one year or both*] **Class A misdemeanor. Notwithstanding ORS 161.635, the maximum fine for a violation is \$25,000.** Each day of violation shall be considered a separate offense.

(3) Subject to ORS 153.022, any person who knowingly violates any provision of ORS 466.706 to 466.882 and 466.994 or the rules adopted under ORS 466.706 to 466.882 and 466.994 [*shall be subject to a criminal penalty not to exceed \$25,000 or imprisonment for not more than one year or both*] **commits a Class A misdemeanor. Notwithstanding ORS 161.635, the maximum fine for a violation is \$25,000.** Each day of violation shall be deemed a separate offense.

(4) Subject to ORS 153.022, any person who knowingly violates any provision of ORS 465.200 to 465.545 or any rule or order adopted or issued under ORS 465.200 to 465.545 [*shall, upon conviction, be subject to a criminal penalty not to exceed \$25,000 or imprisonment for not more than one year, or both.*] **commits a Class A misdemeanor. Notwithstanding ORS 161.635, the maximum fine for a violation is \$25,000.** Each day of violation shall be deemed a separate offense.

(5) Notwithstanding ORS 161.655, if a person incurring a fine under this section is a corporation, the corporation shall pay the fine provided for under this section.

SECTION 209. ORS 468.140, as amended by section 9, chapter 267, Oregon Laws 2009, is amended to read:

468.140. (1) In addition to any other penalty provided by law, any person who violates any of the following shall incur a civil penalty for each day of violation in the amount prescribed by the schedule adopted under ORS 468.130:

(a) The terms or conditions of any permit required or authorized by law and issued by the Department of Environmental Quality or a regional air quality control authority.

(b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

(c) Any rule or standard or order of the Environmental Quality Commission adopted or issued 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 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

(d) Any term or condition of a variance granted by the commission or department pursuant to ORS 467.060.

(e) Any rule or standard or order of a regional authority adopted or issued under authority of ORS 468A.135.

(f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related to the financial assurance requirement under ORS 468B.390.

(2) Each day of violation under subsection (1) of this section constitutes a separate offense.

(3)(a) In addition to any other penalty provided by law, any person who intentionally or negligently causes or permits the discharge of oil or hazardous material into the waters of the state or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the amount of \$100,000 for each violation.

(b) In addition to any other penalty provided by law, the following persons shall incur a civil penalty not to exceed the amount of \$25,000 for each day of violation:

(A) Any person who violates the terms or conditions of a permit authorizing waste discharge into the air or waters of the state.

(B) Any person who violates any law, rule, order or standard in ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapters 468, 468A and 468B relating to air or water pollution.

(C) Any person who violates the provisions of a rule adopted or an order issued under ORS 459A.590.

(4) In addition to any other penalty provided by law, any person who violates the provisions of ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of violation.

(5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission standards which are not violations of standards for control of noise emissions.

(6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided by law, any person who intentionally or negligently causes or permits open field burning contrary to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned. Any [fines] **amounts** collected by the department pursuant to this subsection shall be deposited with the State Treasurer to the credit of the General Fund and shall be available for general governmental expense. As used in this subsection, "open field burning" does not include propane flaming of mint stubble.

SECTION 210. ORS 468.943 is amended to read:

468.943. (1) A person commits the offense of unlawful water pollution in the second degree if the person with criminal negligence violates ORS chapter 468B or any rule, standard, license, permit or order adopted or issued under ORS chapter 468B.

(2) Subject to ORS 153.022, unlawful water pollution in the second degree is [*punishable by a fine of up to \$25,000 or imprisonment for not more than one year, or both*] **a Class A misdemeanor. Notwithstanding ORS 161.635, the maximum fine for a violation is \$25,000.**

SECTION 211. ORS 468A.580 is amended to read:

468A.580. (1) Permits under ORS 468A.575 for open field burning of cereal grain crops shall be issued in the counties listed in ORS 468A.560 only if the person seeking the permit submits to the issuing authority a signed statement under oath or affirmation that the acreage to be burned will be planted to seed crops other than cereal grains which require flame sanitation for proper cultivation.

(2) The Department of Environmental Quality shall inspect cereal grain crop acreage burned under subsection (1) of this section after planting in the following spring to determine compliance with subsection (1) of this section.

(3) Any person planting contrary to the restrictions of subsection (1) of this section shall be assessed by the department a civil penalty of \$25 for each acre planted contrary to the restrictions. Any [fines] **amounts** collected by the department under this subsection shall be deposited by the State Treasurer in the Department of Agriculture Service Fund to be used in carrying out the smoke management program in cooperation with the Oregon Seed Council and for administration of this section.

(4) Any person planting seed crops after burning cereal grain crops under subsection (1) of this section may apply to the department for permission to plant contrary to the restrictions of subsection (1) of this section if the seed crop fails to grow. The department may allow planting contrary to the restrictions of subsection (1) of this section if the crop failure occurred by reasons other than the negligence or intentional act of the person planting the crop or one under the control of the person planting the crop.

SECTION 212. ORS 469.990 is amended to read:

469.990. (1) In addition to any penalties under subsection (2) of this section, a person who discloses confidential information in violation of ORS 469.090, willfully or with criminal negligence, as defined by ORS 161.085, may be subject to removal from office or immediate dismissal from public employment.

(2)(a) Willful disclosure of confidential information in violation of ORS 469.090 is [*punishable upon conviction, by a fine of not more than \$10,000 or imprisonment for up to one year, or both, for each offense*] **a Class A misdemeanor. Notwithstanding ORS 161.635, the maximum fine for a violation is \$10,000.**

(b) Disclosure of confidential information in violation of ORS 469.090 with criminal negligence, as defined by ORS 161.085, is a Class A violation.

(3) Any person who violates ORS 469.825 commits a Class A misdemeanor.

SECTION 213. ORS 471.559 is amended to read:

471.559. (1) If no warning sign is posted:

(a) The Oregon Liquor Control Commission shall furnish a warning sign.

(b) The retailer shall have five days from the receipt of the warning sign to post it appropriately.

(2) If there is a violation of this section or of ORS 471.551, the violator shall be subject to:

(a) A written warning from the commission for the first violation accompanied by a copy of the sign.

(b) A [*fine*] **civil penalty** of not to exceed \$25 payable to the commission for a second violation.

(c) A [*fine*] **civil penalty** of not to exceed \$25 for the third and subsequent violations for each day the sign is not posted.

(3) The [*fine*] **civil penalty** imposed under subsection (2) of this section shall be separate from any other sanction or penalty imposed by the commission and shall not be used in any progressive violation schedule.

(4) The penalty provided by this section shall be the sole penalty for violation of this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991.

(5) Violation of this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991, shall not be grounds for refusal to issue a license, cancellation of a license or suspension of a license issued under this chapter.

(6) Nothing in this section or ORS 471.551 or the rules adopted under section 1, chapter 324, Oregon Laws 1991, creates any new cause of action or any private right of any person.

SECTION 214. ORS 471.990 is amended to read:

471.990. (1) Except where other punishment is specifically provided for, violation of any provision of this chapter and ORS 474.105 and 474.115 is a **Class A** misdemeanor.

[2] *Except as otherwise specifically provided, municipal, justice and circuit courts have concurrent jurisdiction of all violations of this chapter and ORS 474.105 and 474.115 committed within their respective jurisdictions.*

[3] (2) A second or subsequent violation of ORS 471.440 is [*punishable upon conviction by imprisonment in the custody of the Department of Corrections for not more than three years and by a fine of not more than \$3,000*] a **Class C felony**.

(4) Subject to ORS 153.022, violation of any regulation promulgated under ORS 471.730 (5) is a Class C violation.

SECTION 215. ORS 473.990 is amended to read:

473.990. (1) Violation of ORS 473.170 (1) is [*punishable upon conviction by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding six months, or both*] a **Class B misdemeanor**.

(2) Violation of ORS 473.170 (2) is [*punishable upon conviction by a fine not exceeding \$1,000 or by imprisonment in the county jail not exceeding one year, or both*] a **Class A misdemeanor**.

SECTION 216. ORS 473.992 is amended to read:

473.992. Failure to pay a tax under ORS 473.045 (5) is [*punishable, upon conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than 90 days, or both*] a **Class C misdemeanor**.

SECTION 217. ORS 475.495 is amended to read:

475.495. (1) The Illegal Drug Cleanup Fund is established separate and distinct from the General Fund in the State Treasury.

(2) The following moneys shall be deposited into the State Treasury and credited to the Illegal Drug Cleanup Fund:

(a) Moneys recovered or otherwise received from responsible parties for cleanup costs;

(b) Moneys received from a state agency, local government unit or any agency of a local government unit for cleanup of illegal drug manufacturing sites, including moneys received from forfeiture proceeds under the provisions of ORS 131A.360 and 131A.365;

(c) Moneys received from the federal government for cleanup of illegal drug manufacturing sites; and

(d) Any penalty[, *fine*] or punitive damages recovered under ORS 475.435, 475.455 or 475.485.

(3) The State Treasurer may invest and reinvest moneys in the Illegal Drug Cleanup Fund in the manner provided by law. Interest earned by the fund shall be credited to the fund.

(4) The moneys in the Illegal Drug Cleanup Fund are appropriated continuously to the Department of Environmental Quality to be used as provided for in subsection (5) of this section.

(5) Moneys in the Illegal Drug Cleanup Fund may be used for the following purposes:

(a) Payment of the state's cleanup costs; and

(b) Funding any action or activity authorized by ORS 475.415 to 475.455, 475.475 and 475.485.

(6) In addition to the purposes provided for in subsection (5) of this section, moneys in the Illegal Drug Cleanup Fund received from forfeiture proceeds under the provisions of ORS 131A.360 and 131A.365 may be transferred to the Department of Human Services to support the administration of the illegal drug manufacturing cleanup program provided for in ORS 453.855 to 453.912.

(7) The department may not expend more than \$250,000 in each biennium of the forfeiture proceeds that are paid into the Illegal Drug Cleanup Fund by political subdivisions under the provisions of ORS 131A.360. If at the end of a biennium more than \$250,000 has been paid into the Illegal Drug Cleanup Fund under the provisions of ORS 131A.360, the department shall refund to each political subdivision that made payments into the fund a pro rata share of the excess amount, based on the amount of forfeiture proceeds paid into the fund by the political subdivision.

SECTION 218. ORS 475.565 is amended to read:

475.565. (1) In addition to any other penalty provided by law:

(a) A person who violates ORS 475.525 shall incur a civil penalty in an amount of at least \$2,000 and not more than \$10,000; and

(b) The court may order other equitable remedies including but not limited to injunctive relief.

(2) Any [*fin*es] **amounts** collected under this section shall be forwarded to the State Treasurer for deposit in the General Fund to the credit of the Oregon Health Authority. The moneys shall be used for the development and implementation of drug abuse prevention activities and adolescent treatment.

SECTION 219. ORS 476.990 is amended to read:

476.990. (1) Violation of ORS 476.150 (2) is a **Class A** misdemeanor. [*All penalties, fees or forfeitures collected under the provisions of this subsection, ORS 476.010 to 476.090, 476.155 to 476.170 and 476.210 to 476.270 shall be paid into the State Treasury.*]

(2) Violation of ORS 476.380 (1) is a **Class A** misdemeanor.

(3) Violation of ORS 476.410 to 476.440 is [*punishable, upon conviction, by a fine of not less than \$25 nor more than \$250, or by imprisonment in the county jail for not less than 10 or more than 60 days, or both*] a **Class C misdemeanor**. [*Justices of the peace and district judges shall have concurrent jurisdiction with the circuit courts over prosecutions for such violations.*]

(4) Violation of any provision of ORS 476.510 to 476.610 is a **Class A** misdemeanor.

(5) Subject to ORS 153.022, violation of ORS 476.710 or 476.715 or of any rule or regulation of the State Parks and Recreation Department promulgated thereunder is [*punishable, upon conviction, by a fine not exceeding \$500 or imprisonment in the county jail not exceeding six months, or both*] a **Class B misdemeanor**.

SECTION 220. ORS 479.520 is amended to read:

479.520. The purpose of the Electrical Safety Law is to protect the health and safety of the people of Oregon from the danger of electrically caused shocks, fires and explosions and to protect property situated in Oregon from the hazard of electrically caused fires and explosions. To accomplish this purpose the Legislative Assembly intends to provide a procedure:

(1) For determining where and by whom electrical installations are being made and where electrical products are sold in this state.

(2) To assure the public that persons making electrical installations in this state are qualified by experience and training.

(3) To assure the public that electrical installations meet minimum safety standards and that electrical products meet electrical product safety standards.

(4) For the administration and enforcement of the Electrical Safety Law by the Department of Consumer and Business Services and the Electrical and Elevator Board.

(5) By which the cost of administering and enforcing the Electrical Safety Law is defrayed by the collection of fees in connection with the issuing of permits and electrical licenses and the collection of *[fines and]* civil penalties.

SECTION 221. ORS 520.991 is amended to read:

520.991. Subject to ORS 153.022, violation of any provision of this chapter, any rule adopted by the governing board of the State Department of Geology and Mineral Industries under this chapter or any order issued by the board or the State Department of Geology and Mineral Industries under this chapter is *[punishable, upon conviction, by a fine not exceeding \$2,500 or imprisonment in the county jail for a term not exceeding six months, or both]* **a Class B misdemeanor.**

SECTION 222. ORS 522.990 is amended to read:

522.990. Subject to ORS 153.022, violation of any provision of this chapter or of any rule or order of the governing board of the State Department of Geology and Mineral Industries made thereunder, excluding ORS 522.405 to 522.545 and any rule promulgated thereunder, is *[punishable, upon conviction, by a fine of not more than \$2,500 or by imprisonment in the county jail for not more than six months, or both]* **a Class B misdemeanor.**

SECTION 223. ORS 527.990 is amended to read:

527.990. (1) Subject to ORS 153.022, violation of ORS 527.670, 527.676, 527.740, 527.750 or 527.755, or any rule promulgated under ORS 527.710 is *[punishable, upon conviction, as]* **a Class A misdemeanor.** Each day of operation in violation of an order issued under ORS 527.680 (3) shall be deemed to be a separate offense.

(2) Violation of ORS 527.260 (1) is a **Class A misdemeanor.** Violation of ORS 527.260 *[is punishable, upon conviction, by a fine of not more than \$250 or by imprisonment in the county jail for not more than 60 days, or both]* **(3) is a Class C misdemeanor.**

SECTION 224. ORS 532.990 is amended to read:

532.990. (1) Violation of any of the provisions of ORS 532.130 is *[punishable, upon conviction, by a fine of not less than \$500 nor more than \$1,000 or by imprisonment in the county jail for not less than 60 days nor more than 180 days, or both]* **a Class B misdemeanor.**

(2) Violation of any of the provisions of ORS 532.140 is a **Class C felony** *[and is punishable, upon conviction, by a fine of not less than \$1,000 nor more than \$5,000 or by imprisonment in the custody of the Department of Corrections for a period not to exceed two years, or both].*

SECTION 225. ORS 537.990 is amended to read:

537.990. (1) Violation of ORS 537.130 (2) is *[punishable, upon conviction, by a fine of not less than \$10 nor more than \$250, or by imprisonment in the county jail for not more than six months, or both]* **a Class B misdemeanor.**

(2) Any person who willfully diverts or uses water to the detriment of others without compliance with law shall be punished as provided in subsection (1) of this section. The possession or use of water, except when a right of use is acquired in accordance with law, shall be prima facie evidence of the guilt of the person using it.

(3) Violation of ORS 537.535 (1) *[is punishable, upon conviction, by a fine of not less than \$10 nor more than \$250, or by imprisonment in the county jail for not more than six months, or both. Violation of ORS]* **or 537.747 is a Class B misdemeanor.**

[(4) Justice courts shall have concurrent jurisdiction with the circuit courts in the trial of all violations under this section.]

SECTION 226. ORS 540.990 is amended to read:

540.990. (1) Violation of any provision of ORS 540.440 is *[punishable, upon conviction, by a fine of not less than \$25 nor more than \$150, together with the costs and disbursements of the action, and in default of the payment of the fine and costs, by confinement in the county jail one day for each \$2 thereof]* **a Class C misdemeanor.** *[Justice courts shall have concurrent jurisdiction with the circuit courts in the trial of all proceedings under this subsection.]*

(2) Violation of any provision of ORS 540.370 (2), 540.570 (5), 540.710, 540.720 or 540.730 is [punishable, upon conviction, by a fine of not less than \$10 nor more than \$250, or by imprisonment in the county jail for not more than six months, or both] **a Class B misdemeanor**. [Justice courts shall have concurrent jurisdiction with the circuit courts in the trial of all violations under this subsection.]

SECTION 227. ORS 541.990 is amended to read:

541.990. (1) Any person, or any officer of any firm or corporation who [shall be] is found guilty of constructing any splash dam for the floating of logs or other lumber products on any stream or other body of water in the State of Oregon [after August 20, 1957, shall be fined not more than \$1,000, or shall be imprisoned not more than one year in the county jail in the county in which such conviction is entered, or by both fine and imprisonment] **commits a Class A misdemeanor**.

(2) Violation of ORS 541.510 is a **Class A misdemeanor**.

(3) Violation of ORS 541.545 (1) is a **Class A misdemeanor**.

SECTION 228. ORS 543.990 is amended to read:

543.990. (1) Violation of ORS 543.530 (3) is [punishable, upon conviction, by a fine of not more than \$5,000, or by imprisonment for not more than one year, or both] **a Class A misdemeanor**.

(2) Violation of any of the provisions of ORS 543.010 to 543.610, or any of the conditions made a part of any license issued under ORS 543.010 to 543.610, or any subpoena of the Water Resources Commission or of an administrative law judge or any person designated by the commission to take testimony, any lawful order or rule of the commission is a **Class B misdemeanor**.

(3) Any person who willfully and knowingly gives false testimony concerning a material matter in any hearing before the commission, an administrative law judge or any person designated by the commission to take testimony, or in any deposition or affidavit to be used in a matter pending before the commission or administrative law judge, or willfully and knowingly verifies a false statement or report filed with the commission, [shall be guilty of] **commits** perjury and may be prosecuted and punished as otherwise provided by law for the prosecution and punishment of perjury.

SECTION 229. ORS 547.990 is amended to read:

547.990. Violation of ORS 547.425 is [punishable, upon conviction, by a fine of not less than \$25 nor more than \$500, or by imprisonment in the county jail for not more than 100 days, or both] **a Class C misdemeanor**.

SECTION 230. ORS 549.990 is amended to read:

549.990. (1) Subject to ORS 153.022, violation of ORS 549.180 is a **Class D violation**, and the violator shall be compelled to restore the drainage to the condition previously existing.

(2) Violation of ORS 549.400 is [punishable, upon conviction, by a fine of not less than \$10 nor more than \$25, or by imprisonment in the county jail for not more than 10 days, or both] **a Class C misdemeanor**. [Justice courts shall have concurrent jurisdiction with the circuit court over violations of ORS 549.400.]

SECTION 231. ORS 561.150 is amended to read:

561.150. (1) All unexpended funds that are available to the State Department of Agriculture for its use in carrying out its duties as prescribed by law and for any other purpose shall be a part of the General Fund of the state and shall be credited to a fund to be known as the Department of Agriculture Account except for:

(a) Funds to be expended for the extermination of predatory animals under the provisions of ORS chapter 610;

(b) Moneys received by the department from the sale of skins of predatory animals as provided in ORS 610.040; and

(c) Moneys received by the department that are subject to ORS 561.144.

(2) All appropriations, [fines,] fees, penalties and other moneys received by the department or credited to its use from the State Treasury, except the funds named in subsection (1)(a) and (b) of this section and money required by law to be placed therein, shall be placed in the General Fund and credited to the Department of Agriculture Account.

(3) All [*fin*es,] fees, penalties and other moneys received by the department shall be turned over to the State Treasurer not later than the 10th day of the calendar month next succeeding their receipt by the department.

(4) All moneys without respect to their sources, credited to either the Department of Agriculture Account or the Department of Agriculture Service Fund shall be available for the payment of any and all the expenses of the department, excepting those incurred in connection with the extermination of predatory animals.

(5) The Director of Agriculture shall keep a record of all moneys deposited in the Department of Agriculture Account and the Department of Agriculture Service Fund. Such record shall indicate the source from which the moneys are derived and name the individual departmental activity against which each withdrawal is charged.

SECTION 232. ORS 561.990 is amended to read:

561.990. (1) Violation of ORS 561.170 is a Class C violation.

(2) Violation of ORS 561.200 is [*punishable, upon conviction, by a fine of not to exceed \$100 or by imprisonment for not more than 30 days, or both*] **a Class C misdemeanor.**

(3) Violation of ORS 561.220 or 561.230 is a **Class A** misdemeanor.

(4) Violation of ORS 561.590 is **a specific fine violation** punishable[, *upon conviction,*] by a fine of not [*less than \$500 nor*] more than \$5,000.

SECTION 233. ORS 569.390 is amended to read:

569.390. [(1)] Each person, firm or corporation owning or occupying land within the district shall destroy or prevent the seeding on such land of any noxious weed within the meaning of ORS 569.360 to 569.495 in accordance with the declaration of the county court and by the use of the best means at hand and within a time declared reasonable and set by the court, except that no weed declared noxious shall be permitted to produce seed.

[(2) *All moneys collected as fines for violation of ORS 569.360 to 569.495 in any county shall be paid into the county treasury and shall become a part of the weed control fund.*]

SECTION 234. ORS 571.365 is amended to read:

571.365. (1) The State Department of Agriculture may revoke, suspend, deny or refuse to renew any grower or dealer a license if the department finds the person has violated any provision of ORS 571.355 or 571.360 or any rule adopted pursuant thereto.

(2) In addition to any other liability or penalty provided by law, the Director of Agriculture may impose a civil penalty on a person for violation of any provision of ORS 571.355 or 571.360 or any rule adopted pursuant thereto. The civil penalty for a first violation shall be [*a fine of*] not more than \$1,000. Upon a second violation, the department may impose a [*fine*] **civil penalty** of not more than \$2,000.

(3) The department shall adopt by rule a schedule establishing the amount of civil penalty that may be imposed for a particular violation.

(4) All penalties recovered under this section shall be deposited by the State Treasurer in the Department of Agriculture Service Fund. The moneys are continuously appropriated to the department for the purpose of carrying out ORS 571.355 and 571.360.

SECTION 235. ORS 576.053 is amended to read:

576.053. ORS 576.051 to 576.455 and 576.991 (2) [*and (3)*] may be known and cited as the Commodity Commission Act.

SECTION 236. ORS 576.595 is amended to read:

576.595. Any sale of a commodity by a grower or producer is a sale in commercial channels for the purposes of ORS 576.051 to 576.455 and 576.991 (2) [*and (3)*].

SECTION 237. ORS 576.991 is amended to read:

576.991. (1) Violation of the provisions of ORS 576.024 is a Class B violation.

(2) Violation of any provision of ORS 576.051 to 576.455 is [*punishable, upon conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than 90 days, or both*] **a Class C misdemeanor.**

[(3) Justice courts shall have concurrent jurisdiction with circuit courts in all prosecutions under ORS 576.051 to 576.455.]

SECTION 238. ORS 577.990 is amended to read:

577.990. *[(1)]* Violation of ORS 577.520 is *[punishable, upon conviction, by a fine of not more than \$500, or by imprisonment in the county jail for not more than 90 days, or both]* **a Class C misdemeanor.**

[(2) Justice courts have concurrent jurisdiction with circuit courts in all prosecutions under this section.]

SECTION 239. ORS 578.990 is amended to read:

578.990. Violation of any of the provisions of this chapter is *[punishable, upon conviction, by a fine of not less than \$25 nor more than \$500, or by imprisonment in the county jail for not less than 30 nor more than 90 days, or by both]* **a Class C misdemeanor.** *[Justice courts have concurrent jurisdiction with circuit courts in all prosecutions under this chapter.]*

SECTION 240. ORS 585.190 is amended to read:

585.190. *[(1)]* Except for fees paid under ORS 585.050, all fees received by the State Department of Agriculture pursuant to the provisions of this chapter shall be paid to the State Treasurer, who shall place the moneys in the General Fund of the state to the credit of the Department of Agriculture Account. All such funds paid to the State Treasurer, or so much thereof as is necessary, shall be a continuing appropriation from the Department of Agriculture Account and shall be used for the purpose of carrying out the provisions of this chapter. The fees paid to the department under ORS 585.050 shall be deposited into the Department of Agriculture Service Fund, and such funds are continuously appropriated to the department for the purpose of administering and enforcing this chapter.

[(2) All fines collected pursuant to ORS 585.990 shall go into the fruit inspection fund of the county where collected if that county has a fruit inspection fund, otherwise the fines shall go into the general fund of the county.]

SECTION 241. ORS 585.990 is amended to read:

585.990. Violation of any provision of ORS 585.010 to 585.220 is *[punishable, upon conviction, by a fine of not more than \$1,000, or by confinement in the county jail for not more than one year, or both]* **a Class A misdemeanor.**

SECTION 242. ORS 586.990 is amended to read:

586.990. (1) Violation of ORS 586.250 is *[punishable, upon conviction, by a fine of not less than \$1,000 nor more than \$3,000, or by imprisonment in the county jail for not less than six months nor more than one year, or by both]* **a Class B misdemeanor.**

(2) Violation of ORS 586.730 is *[punishable, upon conviction, by a fine not exceeding \$3,000, or by imprisonment in the county jail for not more than one year, or by both]* **a Class A misdemeanor.**

(3) Violation of any of the provisions of ORS 586.210 to 586.300, 586.315 to 586.380, 586.400, 586.410, 586.520, 586.525, 586.530, 586.550, 586.570 to 586.630 and 586.650 to 586.720, or failure to comply with any order, rule, direction, demand or requirement of the State Department of Agriculture made pursuant to those sections, is **a specific fine violation** *[punishable, upon conviction,]* by a fine not exceeding \$3,000 for each offense. Each violation is a separate and continuing offense; *[and]*. In case of a continuing violation, every day's continuance of the violation is a separate and distinct offense.

(4) Violation of ORS 586.382, 586.385 and 586.395 is a **Class A** misdemeanor.

SECTION 243. ORS 596.990 is amended to read:

596.990. (1) Violation of any of the provisions of ORS 596.075, 596.321, 596.331 (1) or (3), 596.351, 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 Department of Agriculture issued pursuant to this chapter, is a **Class A** violation.

(2) Violation of any of the quarantine provisions of ORS 596.331 (2), 596.355, 596.392 (4) or (5) or 596.394 to 596.402 is **a specific fine violation** *[punishable, upon conviction,]* by a fine of not *[less than \$500 nor]* more than \$5,000.

(3) Violation of any of the provisions of ORS 596.100 or 596.105 or rules adopted thereunder is a **Class A** misdemeanor.

SECTION 244. ORS 600.990 is amended to read:

600.990. Subject to ORS 153.022, notwithstanding ORS 596.990, violation of ORS 600.095, a quarantine imposed under ORS 600.105 or a rule or regulation of the State Department of Agriculture relating to the feeding of swine is [*punishable, upon conviction, by a fine of not less than \$500 nor more than \$5,000 or by imprisonment in the county jail not exceeding one year, or both*] a **Class A misdemeanor**.

SECTION 245. ORS 602.990 is amended to read:

602.990. Subject to ORS 153.022, violation of any of the provisions of ORS 602.090 or 602.190, or any rule adopted pursuant thereto, is [*punishable, upon conviction, by a fine not exceeding \$500 or imprisonment in the county jail not exceeding six months, or both*] a **Class B misdemeanor**.

SECTION 246. ORS 607.365 is amended to read:

607.365. (1) No person, who is not the owner of such animal, shall take or drive, cause to be taken or driven, or assist in driving or taking away any horse, gelding, mare, foal, mule, ass, jenny, bull, cow, heifer, steer, calf, sheep, hog or any other domestic animal from the range or place where it is lawfully grazing, pasturing or ranging, or in the habit of ranging, or where it has been herded or placed by the owner thereof, for a distance of more than 10 miles from such place.

(2) Persons violating this section shall be liable to the owner of such animal for all damages sustained by reason of such driving or taking away of such domestic animal.

[*(3) All fines collected for violations of this section shall be paid over to the county treasurer of the county in which the offense was committed, and used for the support of common schools within such county.*]

SECTION 247. ORS 608.990 is amended to read:

608.990. (1) Violation of ORS 608.330 is [*punishable, upon conviction, by a fine not exceeding \$50 or by imprisonment in the county jail not exceeding 10 days, or both*] a **Class C misdemeanor**.

(2) Violation of ORS 608.380 is a Class A violation.

(3) Violation of ORS 608.510 is a Class D violation.

SECTION 248. ORS 609.060 is amended to read:

609.060. (1) If a majority of all votes cast in the election provided for by ORS 609.040 is against permitting dogs to run at large, or if the governing body of the county by ordinance prohibits dogs from running at large, the county shall give notice, by publication in some newspaper having a general circulation in the county, and in the election precinct if the prohibition of dogs running at large affects any one precinct only, for three consecutive weeks.

(2) After 60 days from the date of the notice, every person keeping a dog shall prevent the dog from running at large in any county, city or precinct where prohibited. A person who is the keeper of a dog [*is guilty of*] **commits a Class B** violation if the dog runs at large in a county, city or precinct where prohibited.

[*(3) County license fees and the penalty for violation of subsection (2) of this section or ORS 609.100, when collected, shall be paid into the county treasury, and kept in a special fund.*]

SECTION 249. ORS 609.990 is amended to read:

609.990. (1) Violation of ORS 609.060 (2), 609.100 or 609.169 is a Class B violation.

(2) Maintaining a public nuisance in violation of ORS 609.095 (2) or (3) is [*punishable by a fine of not more than \$250*] a **Class B violation**.

(3)(a) Except as provided in paragraph (b) of this subsection, violation of ORS 609.098 is a Class A misdemeanor.

(b) If a dog kills a person, violation of ORS 609.098 is a Class C felony.

(c) If a keeper violates ORS 609.098, the court shall order the dangerous dog killed in a humane manner.

(4) Violation of ORS 609.405 constitutes a Class C misdemeanor.

(5) In addition to any fine or sentence imposed under this section, a court may order a person who violates ORS 609.060 (2), 609.095, 609.098, 609.100, 609.169 or 609.405 to pay restitution for any

physical injury, death or property damage caused by the dog as a result of the keeper's violation of ORS 609.060 (2), 609.095, 609.098, 609.100, 609.169 or 609.405. The court may also order the person to pay the cost of keeping the dog in impoundment.

(6) In addition to any fine imposed or restitution ordered of a keeper for a violation of ORS 609.060 (2), 609.095, 609.100, 609.169 or 609.405, the court may impose reasonable restrictions on the keeping of the dog to ensure the safety or health of the public. The keeper must pay the cost of complying with reasonable restrictions. As used in this subsection, "reasonable restrictions" may include, but is not limited to, sterilization. If the dog is a potentially dangerous dog, the court may order the dog killed in a humane manner. In determining whether to have the dog killed, the court shall give consideration to the factors described in ORS 609.093 and issue written findings on those factors.

(7) Notwithstanding ORS 19.270 and 19.330, subject to periodic advance payment of the cost of keeping the dog in impoundment, the killing of a dog pursuant to an order under subsection (3) or (6) of this section may not be carried out during the period that the order is subject to the appeal process. Unless otherwise ordered by the Court of Appeals, the dog may be killed during the appeal period if the keeper fails to maintain advance payment of the cost of keeping the dog impounded.

(8) If a court orders a dog killed under subsection (6) of this section and the keeper does not make the dog available for that purpose, the court may issue a search warrant for a property upon probable cause to believe that the dog is located at that property.

SECTION 250. ORS 609.994 is amended to read:

609.994. (1) Violation of ORS 609.510, 609.515 or 609.520 is a **specific fine violation** punishable by a fine of not [*less than \$500, nor*] more than \$50,000.

(2) A person has a cause of action for the recovery of compensatory damages from any person violating ORS 164.055 (1)(e), 164.085, 609.510, 609.515 or 609.520. In the action, the minimum pecuniary value of any companion animal is \$250.

(3) The circuit court for each county has the authority to enjoin any violation of ORS 609.510, 609.515 or 609.520, to issue warrants and to take such other actions as equity or justice may require.

SECTION 251. ORS 610.990 is amended to read:

610.990. (1) Violation of ORS 610.045 is a Class A violation.

(2) Violation of ORS 610.050 is [*punishable upon conviction by a fine of not more than \$500, or by imprisonment in the county jail not more than one year, or both*] a **Class A misdemeanor**.

SECTION 252. ORS 618.991 is amended to read:

618.991. (1) Violation of ORS 618.086, 618.096, 618.121 or 618.201 is a **Class B misdemeanor**. [*punishable as follows:*]

[*(a) If the violator is an individual, by imprisonment for not more than six months, or a fine not to exceed \$500, or both.*]

[*(b) If the violator is a person other than an individual, by a fine of not more than \$2,500.*]

(2) For the purposes of this section, each day of violation of ORS 618.086, 618.096, 618.121 or 618.201 is a separate offense and the penalties provided in subsection (1) of this section apply to each such offense.

SECTION 253. ORS 621.991 is amended to read:

621.991. Violation of any provision of ORS 621.056, 621.057, 621.062, 621.070, 621.072, 621.076, 621.084, 621.088, 621.117, 621.122, 621.124, 621.161, 621.166, 621.183, 621.198, 621.207, 621.226, 621.259, 621.335, 621.340, 621.345, 621.418, 621.445 or 621.730 or any rule or standard adopted under ORS 621.060, 621.083, 621.096, 621.224 or 621.261, or failure to pay a fee assessed under ORS 621.166, is [*an unclassified misdemeanor punishable by a fine of not more than \$1,000, imprisonment for not more than one year, or both*] a **Class A misdemeanor**.

SECTION 254. ORS 628.990 is amended to read:

628.990. Violation of ORS 628.210 to 628.370 is [*punishable, upon conviction, by a fine of not less than \$10 nor more than \$1,000 or by imprisonment in the county jail for not more than one year, or both*] a **Class A misdemeanor**.

SECTION 255. ORS 632.990 is amended to read:

632.990. (1) Violation of ORS 632.216 or 632.226 is [*punishable, upon conviction, by a fine of not less than \$10 or more than \$100, or by imprisonment in the county jail for not less than 10 days or more than 30 days, or both*] **a Class C misdemeanor.**

(2) Violation of any provision of ORS 632.275 to 632.290 or of any rule adopted under ORS 632.275 to 632.290 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense.

(3) Violation of any provision of ORS 632.410 to 632.430 is a Class D violation.

(4) Violation of any provision of ORS 632.450 to 632.490 or of any rule adopted under ORS 632.450 to 632.490 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense.

(5) Violation of ORS 632.625 is [*punishable, upon conviction, by a fine of not less than \$10 or more than \$100, or by imprisonment in the county jail for not less than 10 days or more than 30 days, or both*] **a Class C misdemeanor.**

(6) Violation of any provision of ORS 632.705 to 632.815 is [*punishable, upon conviction, by a fine of not less than \$10 or more than \$100*] **a Class D violation** for a first offense, and [*by a fine of not less than \$25 or more than \$200*] **a Class B violation** for a second or subsequent offense.

(7) Violation of any provision of ORS 632.900 to 632.985 or of any rule adopted under ORS 632.900 to 632.985 is a Class B misdemeanor for a first offense, and a Class A misdemeanor for a second or subsequent offense.

SECTION 256. ORS 634.992 is amended to read:

634.992. Violation of any of the provisions of this chapter is [*an unclassified*] **a Class A misdemeanor** [*and is punishable, upon the first conviction, by a fine of not more than \$1,000, or by imprisonment in the county jail for not more than one year, or both, and upon a second or additional conviction, by a fine of not more than \$2,000, or by imprisonment in the county jail for not more than one year, or both*].

SECTION 257. ORS 635.991 is amended to read:

635.991. Violation of any provision of this chapter is [*punishable, upon conviction, by a fine not exceeding \$500 or by imprisonment in the county jail not exceeding six months, or both*] **a Class B misdemeanor.**

SECTION 258. ORS 646.990 is amended to read:

646.990. (1) Each violation of any of the provisions of ORS 646.010 to 646.180 by any person, firm or corporation, whether as principal, agent, officer or director, is [*punishable, upon conviction, by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail not exceeding six months, or by both*] **a Class B misdemeanor.**

(2) Violation of ORS 646.725 or 646.730 is a Class A misdemeanor.

(3) Any person who willfully and intentionally violates any provision of ORS 646A.220 to 646A.230 [*shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months or both*] **commits a Class B misdemeanor.** Violation of any order or injunction issued pursuant to ORS 646A.230 (1) shall constitute prima facie proof of a violation of this subsection.

(4) Violation of ORS 646.910 is a Class D violation.

(5) Violation of ORS 646.915 is a Class D violation.

(6) Violation of ORS 646.920 is a Class D violation.

(7) A person violating ORS 646.930 commits a Class C misdemeanor.

SECTION 259. ORS 646A.508 is amended to read:

646A.508. (1) A commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe baby crib as described in ORS 646A.506 (1) to (3) commits a **Class A violation** [*punishable by a fine not exceeding \$1,000*].

(2) An individual who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe baby crib as described in ORS 646A.506 (1) to (3) commits a **Class B violation** [*punishable by a fine not exceeding \$200*].

SECTION 260. ORS 646A.765 is amended to read:

646A.765. Violation of a provision of ORS 646A.702 to 646A.720 or 646A.725 to 646A.750 is a **Class A** misdemeanor [*punishable by not more than one year's imprisonment, a fine of not more than \$10,000, or both*].

SECTION 261. ORS 649.990 is amended to read:

649.990. (1) Violation of ORS 649.030 is a Class D violation. [*Default in the payment of a fine shall be dealt with as provided in ORS 161.675.*]

(2) Intentional violation of ORS 649.070 is [*punishable, upon conviction, by a fine not to exceed \$500 or imprisonment not to exceed six months*] a **Class B misdemeanor**.

(3) Violation of ORS 649.080 is [*punishable:*] a **Class C misdemeanor**.

[(a) *Upon conviction, by a fine of not more than \$100 or by imprisonment for not more than 10 days.*]

[(b) *Upon a second such conviction within one year after the first conviction, by a fine of not more than \$200 or by imprisonment for not more than 20 days, or both.*]

[(c) *Upon a third or subsequent conviction within one year after the first conviction, by a fine of not more than \$500 or by imprisonment for not more than six months, or both.*]

SECTION 262. ORS 651.990 is amended to read:

651.990. (1) Willful neglect or refusal by any person subpoenaed under ORS 651.060 to attend or testify at the time and place named in the subpoena is [*punishable, upon conviction, by a fine of not less than \$25 nor more than \$100, or by imprisonment in the county jail not exceeding 30 days*] a **Class C misdemeanor**.

(2) Violation of ORS 651.120 (2) is [*punishable, upon conviction, by a fine of not less than \$25 nor more than \$100, or by imprisonment in the county jail not exceeding 90 days*] a **Class C misdemeanor**.

SECTION 263. ORS 652.400 is amended to read:

652.400. Subject to ORS 652.390, all moneys collected on **civil** judgments pursuant to ORS 652.330, or as a result of administrative proceedings pursuant to ORS 652.332, [*including fines,*] shall be paid to the Commissioner of the Bureau of Labor and Industries and, together with all other sums collected under ORS 652.310 to 652.414, be deposited in the State Treasury to become part of a special trust account to be known as the Wage Collection Account, which account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. All moneys in the Wage Collection Account are appropriated continuously for the purpose of payment to the persons entitled thereto.

SECTION 264. ORS 652.445 is amended to read:

652.445. Except as provided in ORS 652.440, all moneys collected pursuant to ORS 652.420 to 652.445, including [*finer and*] costs, shall be paid to the Commissioner of the Bureau of Labor and Industries and be deposited in the State Treasury in the Wage Collection Account established by ORS 652.400.

SECTION 265. ORS 652.990 is amended to read:

652.990. (1) Violation of ORS 652.020 (2) is a Class A violation. Every day's violation is deemed a separate offense.

(2) Any person, body corporate, general manager or employer who violates ORS 652.040 or causes ORS 652.040 to be violated [*is punishable, upon conviction, by a fine of not less than \$50, nor more than \$300, or by imprisonment in the county jail for not less than 30 days, nor more than three months, or both*] **commits a Class C misdemeanor**.

(3) Violation of ORS 652.110 or 652.120 is a Class A violation.

(4) Violation of ORS 652.130 by any employer is [*punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than 60 days, or by both*] a **Class C misdemeanor**. [*Justice courts and circuit courts shall have concurrent jurisdiction in all cases arising under this subsection.*]

(5) In addition to the civil damages recoverable under ORS 652.230, violation of ORS 652.210 to 652.230 is a **Class A** misdemeanor.

(6) The violation of ORS 652.240 is a **Class A** misdemeanor.

- (7) Violation of ORS 652.355 is a Class C misdemeanor.
- (8) Violation of ORS 652.610 or 652.620 is a Class D violation.
- (9) Willful violation of ORS 652.635 or 652.640 by a producer or agent of the producer is a **Class A** misdemeanor.

(10) Violation of any of the provisions of ORS 652.710 or 652.720 by any employer is a Class A violation.

NOTE: Section 266 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 267. ORS 656.605 is amended to read:

656.605. (1) The Workers' Benefit Fund is created in the State Treasury, separate and distinct from the General Fund. Moneys in the fund shall be invested in the same manner as other state moneys and investment earnings shall be credited to the fund. The fund shall consist of the following:

- (a) Moneys received pursuant to ORS 656.506.
- (b) Moneys recovered under ORS 656.054.
- (c) [*Fines and*] Penalties recovered under ORS 656.735.
- (d) All moneys received by the Director of the Department of Consumer and Business Services pursuant to law or from any other source for purposes for which the fund may be expended.
- (2) Moneys in the Workers' Benefit Fund may be expended for the following purposes:
 - (a) Expenses of programs under ORS 656.445, 656.506, 656.622, 656.625, 656.628 and 656.630.
 - (b) Proceedings against noncomplying employers pursuant to ORS 656.054 and 656.735.
 - (c) Expenses of vocational assistance on claims, the cost of which was imposed pursuant to section 15, chapter 600, Oregon Laws 1985.
 - (d) Payment of supplemental temporary disability benefits for workers employed in more than one job at the time of injury and reimbursement of the costs of administering payments resulting from elections by insurers and self-insured employers as provided by ORS 656.210 (5).
 - (e) Payments made to injured workers pursuant to section 6a, chapter 865, Oregon Laws 2001.
 - (f) Expenses of the Bureau of Labor and Industries for enforcing ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052, subject to an agreement between the Director of the Department of Consumer and Business Services and the Commissioner of the Bureau of Labor and Industries. The agreement must include, but is not limited to, the amount of funds to be transferred to the bureau for enforcing ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052 and the information relating to the enforcement of ORS 659A.040, 659A.043, 659A.046, 659A.049 and 659A.052 that the bureau must report to the director.
 - (g) Reimbursement to the insurer or self-insured employer for the amount of permanent total disability benefits paid after the date of the notice of closure that was upheld pursuant to ORS 656.206.
 - (h) Reimbursement of vocational benefit expenses as provided in ORS 656.313.
- (3) Subject to the following provisions, all moneys in the fund are appropriated continuously to the Director of the Department of Consumer and Business Services to carry out the activities for which the fund may be expended:
 - (a) Moneys received pursuant to ORS 656.054 and 656.735 and transfers made pursuant to ORS 705.148 may be expended only to carry out the provisions of ORS 656.054 and 656.735 and section 15, chapter 600, Oregon Laws 1985.
 - (b) Moneys received pursuant to ORS 656.506 and the transfers of unexpended and unobligated moneys in the Retroactive Reserve, Reemployment Assistance Reserve, Reopened Claims Reserve and Handicapped Workers Reserve referred to in ORS 656.506, 656.622, 656.625 and 656.628 (All 1993 Edition) may be expended only to carry out the programs referred to in ORS 656.506, 656.622, 656.625, 656.628 and 656.630.
 - (4) Notwithstanding any other provision of this chapter, if the director determines at any time that there are insufficient moneys in the Workers' Benefit Fund to pay the expenses of programs for which expenditure of the fund is authorized, the director may reduce the level of benefits payable accordingly.

SECTION 268. ORS 656.990 is amended to read:

656.990. (1) Any person who knowingly makes any false statement or representation to the Workers' Compensation Board or its employees, the Workers' Compensation Board chairperson, the Director of the Department of Consumer and Business Services or employees of the director, the insurer or self-insured employer for the purpose of obtaining any benefit or payment under this chapter, either for self or any other person, or who knowingly misrepresents to the board, the board chairperson, the director or the corporation or any of their representatives the amount of a payroll, or who knowingly submits a false payroll report to the board, the board chairperson, the director or the corporation, *[is punishable, upon conviction, by imprisonment for a term of not more than one year or by a fine of not more than \$1,000, or by both]* **commits a Class A misdemeanor.**

(2) Violation of ORS 656.052 is a Class D violation. Each day during which an employer engages in any subject occupation in violation of ORS 656.052 constitutes a separate offense.

(3) Violation of ORS 656.056 is a Class D violation.

(4) The individual refusing to keep the payroll in accordance with ORS 656.726 or 656.758 when demanded by the director or corporation, *[is punishable, upon conviction, by a fine of not more than \$100 or by imprisonment in the county jail for not more than 90 days, or by both]* **commits a Class C misdemeanor.** *[Circuit courts and justice courts shall have concurrent jurisdiction of this offense.]*

(5) Failure on the part of an employer to send the signed payroll statement required by ORS 656.504 within 30 days after receipt of notice by the director or corporation is a **Class A** misdemeanor.

(6) Violation of ORS 656.560 (4) is a Class D violation.

SECTION 269. ORS 657.515 is amended to read:

657.515. (1) If an employer defaults with respect to any payment required to be made by the employer to the Unemployment Compensation Trust Fund, the taxes at any time due, together with interest thereon and penalties, shall be collected by the Director of the Employment Department in a civil action against such employer brought in the name of the director and judgment rendered thereon shall bear interest at the rate provided in subsection (2) of this section. Such employer's compliance with this chapter, requiring payments to be made to the Unemployment Compensation Trust Fund, shall date from the time said money was collected. The amount of taxes collected shall be paid into the Unemployment Compensation Trust Fund. The amount of interest[,] **and** penalties *[and fines]* collected pursuant to this subsection shall be paid to the Employment Department Special Administrative Fund in accordance with the provisions of ORS 657.830 (3).

(2) Interest upon the amount due from an employer shall be paid and shall be collected, at the same time payment of taxes is required to be made by such employer to the Unemployment Compensation Trust Fund at the rate of one and one-half percent per month from the date prescribed for the payment to the Unemployment Compensation Trust Fund. In computing such interest, a fraction of a month shall be counted as a full month.

(3) If any employer fails to make payment of taxes required by this chapter at the time prescribed by the director for the payment thereof, such employer shall be in default.

(4) If any employer who is in default with respect to payment of any taxes fails to make payment thereof within 10 days after written demand therefor has been made by the director, such employer shall be subject, in the discretion of the director, to a penalty of 10 percent of the amount of such taxes. A demand for payment shall be deemed to have been made when deposited in the mail addressed to such employer at the employer's last-known address as shown by the records of the director.

(5) If any part of any deficiency is due to fraud with intent to avoid payment of taxes to the Unemployment Compensation Trust Fund, then 50 percent of the total amount of the deficiency, in addition to such deficiency, shall be assessed, collected and paid in the same manner as if it were a deficiency and shall be paid into the Employment Department Special Administrative Fund pursuant to this section and ORS 657.822.

(6) Civil actions brought in the name of the director under this section to collect taxes, interest or penalties from an employer, shall be entitled to preference upon the calendar over all civil cases which involve only private parties.

(7) Notwithstanding the provisions of this section, if the director finds that the total interest collectible on any delinquent account is in excess of 25 percent of the principal and that an employer or former employer, who no longer conducts an active business, has insufficient net assets to pay the full amount of all taxes, interest or penalties that may be due and where such employer or former employer can pay some but not all of such amount, the director may agree to accept any amount the director finds reasonable under the circumstances, as consideration for the settlement of the full amount of taxes, interest or penalties due. Whenever such an agreement is made a written record signed by the director shall be maintained in the files of the director. Such records shall set forth:

(a) The name of the taxpayer against whom the liability was assessed;

(b) The amount of the assessed liability;

(c) The amount of the liability paid;

(d) The amount of the liability canceled or waived;

(e) A sworn statement of the taxpayer or personal representative setting forth the complete financial responsibility of the taxpayer or the taxpayer's estate, and containing a full disclosure of all matters bearing upon the ability of the taxpayer or estate to pay the full amount of the liability assessed; and

(f) The written recommendation of an assistant to the Attorney General assigned to the director that the liability be reduced in the amount shown by the record.

(8) A full and true copy of the record of each such agreement and settlement as provided in subsection (7) of this section shall be filed by the director with the Secretary of State as a public record.

(9) The amount of any settlement reached pursuant to this section shall be first credited to the taxes due from such employer until the principal amount of taxes due has been satisfied and shall be deposited in the Unemployment Compensation Trust Fund.

SECTION 270. ORS 657.822 is amended to read:

657.822. (1) There is established in the State Treasury, separate and distinct from the General Fund, the Employment Department Special Administrative Fund. The Employment Department Special Administrative Fund shall consist of moneys collected or received by the Employment Department as follows:

(a) All interest collected under ORS 657.515.

(b) All [*fin*es and] penalties collected pursuant to this chapter, except as provided in ORS 657.400.

(c) All gifts to or interest on or profits earned by the Employment Department Special Administrative Fund.

(2) The moneys in the Employment Department Special Administrative Fund are continuously appropriated to the department, and may not be transferred or otherwise made available to any other state agency, to pay the expenses of the Secretary of State incurred in performing the audit of the department and such other expenses as may be included in the biennial budget of the department and approved by the Legislative Assembly for payment from the fund. On July 1 of every odd-numbered year, any amounts in the Employment Department Special Administrative Fund that have not been appropriated in the biennial budget of the department approved by the Legislative Assembly shall be transferred to the Unemployment Compensation Trust Fund.

SECTION 271. ORS 657.990 is amended to read:

657.990. (1) Violation of ORS 657.295 is [*punishable for each offense by a fine of not less than \$50 nor more than \$500, or by imprisonment for not more than six months, or both*] **a Class B misdemeanor.**

(2) Violation of ORS 657.300 is a **Class A** misdemeanor.

(3) Violation of ORS 657.480 (3)(a) or (b) is a Class C felony.

(4) In addition to any penalties otherwise prescribed in this chapter, violation of ORS 657.495, 657.565, 657.660 (2) or any other provision of this chapter is a **Class C** misdemeanor [*and is punishable by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 90 days, or both*]. If an offending employer or the employer of an offending agent is a corporation, the president, secretary and the treasurer, or officers exercising corresponding functions, are subject to the penalties in this subsection in respect to any duties of which they respectively had or, in the proper exercise of their duties, ought to have had knowledge.

(5) Subject to ORS 153.022, willful violation of this chapter or of any order issued or rule adopted under this chapter, the violation of which is made unlawful or the observance of which is required under this chapter, and for which a penalty neither is prescribed in this section nor provided by any other applicable statute, is [*punishable by a fine of not less than \$20 nor more than \$200, or by imprisonment for not more than 60 days, or both*] a **Class C misdemeanor**. Each day the violation continues is considered a separate offense.

[(6) Circuit courts and justice courts have concurrent jurisdiction of any offense under this section.]

SECTION 272. ORS 658.991 is amended to read:

658.991. (1) Violation of ORS 658.005 to 658.245 or 658.250 is [*punishable, upon conviction, by a fine of not more than \$250 or by imprisonment in the county jail for not more than 60 days, or by both*] a **Class C misdemeanor**.

(2) Violation of ORS 658.452 is a Class A misdemeanor.

(3) Any person who intentionally defaces, alters or changes a license or permit to act as a farm labor contractor, or who uses the license or permit of another or knowingly permits that person's license or permit to be used by another, or who acts as a farm labor contractor without a valid license or permit under ORS 658.405 to 658.503, [*is guilty of*] **commits** a Class A misdemeanor.

(4) Any person who willfully swears or affirms falsely under ORS 658.415 (1), (2) or (3) in regard to any matter concerning which an oath or affirmation is required, or who solicits or induces another person to do so, whether or not the matter sworn to or affirmed is material, [*is guilty of*] **commits** a Class A misdemeanor.

(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 misdemeanor.

(6) Any person who violates the provisions of ORS 658.410 (1) or 658.417 (1) [*is guilty of*] **commits** a Class C felony if:

(a) The person has previously been convicted of violating the provisions of ORS 658.410 (1) or 658.417 (1);

(b) The person's license to act as a farm labor contractor has been suspended, revoked or denied; or

(c) The person is acting in violation of an outstanding order of any court of competent jurisdiction arising out of the enforcement of ORS 658.405 to 658.503.

SECTION 273. ORS 659.990 is amended to read:

659.990. (1) Violation of ORS 659.815 is [*punishable, upon conviction, by a fine of not more than \$1,000 or imprisonment in the county jail for not more than one year, or both*] a **Class A misdemeanor**.

(2) Violation of ORS 659.805 by any officer or agent of a corporation or any other person is [*punishable, upon conviction, by a fine of not less than \$50 nor more than \$250, or by imprisonment in the county jail not less than 30 nor more than 90 days, or both*] a **Class C misdemeanor**.

(3) Violation of ORS 659.800 is [*punishable, upon conviction, by a fine of not less than \$10 nor more than \$200 or by imprisonment in the county jail for not less than one month nor more than six months*] a **Class B misdemeanor**.

(4) Violation of ORS 659.810 or 659.845 is [*punishable, upon conviction, by a fine of not more than \$100 or imprisonment in the county jail for not more than 60 days, or both*] a **Class C misdemeanor**.

(5) Any person who violates ORS 659.825, **commits a Class A misdemeanor and**, upon conviction, shall be required to make immediate restitution of delinquent payments to the fund or funds mentioned in ORS 659.825 *[and shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than one year, or both]*.

(6) Violation of ORS 659.840 is *[punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than one year, or by both]* **a Class A misdemeanor.**

SECTION 274. ORS 659A.990 is amended to read:

659A.990. Violation of ORS 659A.810 is *[punishable, upon conviction, by imprisonment in the county jail for not more than one year or by a fine of not more than \$500, or by both]* **a Class A misdemeanor.**

SECTION 275. ORS 661.990 is amended to read:

661.990. (1) Violation of ORS 661.040 is a **Class A misdemeanor.**

(2) Violation of ORS 661.210, **661.220** or 661.260 is *[punishable, upon conviction, by a fine of not more than \$500 or by imprisonment for not more than three months, or by both]* **a Class C misdemeanor.**

[(3) Violation of ORS 661.220 is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than three months.]

SECTION 276. ORS 671.992 is amended to read:

671.992. *[A person who violates]* **Violation of** any provision of ORS 671.310 to 671.459, or any rule of the State Landscape Architect Board adopted thereunder, is *[guilty of]* a **Class A misdemeanor.** *[Subject to ORS 161.655, a court may impose on the person a fine of not less than \$250 or more than \$5,000, a term of imprisonment of not more than six months, or both.]*

NOTE: Section 277 was deleted by amendment. Subsequent sections were not renumbered.

SECTION 278. ORS 676.990 is amended to read:

676.990. Violation of any of the provisions of ORS 676.110 to 676.130 is *[punishable, upon conviction, by a fine of not more than \$250, or by imprisonment in the county jail for not more than 30 days, or by both]* **a Class C misdemeanor.**

SECTION 279. ORS 679.260 is amended to read:

679.260. (1) The Oregon Board of Dentistry Account is established in the State Treasury separate and distinct from the General Fund.

(2) All moneys received by the Oregon Board of Dentistry under this chapter shall be paid to the State Treasury and credited to the Oregon Board of Dentistry Account. Any interest or other income derived from moneys paid into the account shall be credited monthly to the account.

(3) Moneys in the Oregon Board of Dentistry Account are appropriated continuously and shall be used only for the administration and enforcement of ORS 680.010 to 680.205 and this chapter.

[(4) All fines imposed and collected under this chapter shall be paid into the treasury of the county in which the suits, actions or proceedings were commenced. All money thus paid into the treasury, over and above the amount necessary to reimburse the county for any expense incurred by the county, in any suit, action or proceeding brought under this chapter, shall be paid before January 1 of each year, into the State Treasury and placed to the credit of the Oregon Board of Dentistry Account and such moneys hereby are continuously appropriated and shall be used only for the administration and enforcement of ORS 680.010 to 680.205 and this chapter.]

[(5)] (4) Ten percent of the annual license fee to be paid by each licensee of the Oregon Board of Dentistry shall be used by the board to ensure the continued professional competence of licensees. Such activities shall include the development of performance standards and professional peer review.

SECTION 280. ORS 679.991 is amended to read:

679.991. (1) Violation of any provision of ORS 679.020 or 679.025 (1), is a Class A misdemeanor.

(2) Violation of ORS 679.170 or 679.176 is a Class B misdemeanor.

(3) In the event of a second or subsequent conviction under subsection (1) of this section, *[it is mandatory upon the part of the court to sentence the convicted person to imprisonment in the county jail for not less than 10 days in addition to the maximum fine or imprisonment permitted]* **the court must impose a minimum sentence of 10 days of imprisonment.**

(4) In any prosecution for violation of subsection (1) or (2) of this section, it shall be sufficient to sustain a conviction to show a single act of conduct in violation of any of the provisions of this chapter and it shall not be necessary to show a general course of such conduct.

SECTION 281. ORS 688.715 is amended to read:

688.715. The Oregon Health Licensing Agency is granted authority to carry out the following duties:

(1) Adopt rules that are necessary to conduct business, carry out duties and administer the provisions of ORS 688.701 to 688.734.

(2) Issue registrations, including temporary registrations, permits, waivers and other authorizations to practice athletic training as determined by the Board of Athletic Trainers.

(3) Establish and collect fees and charges to carry out its legal responsibilities.

(4) Authorize all necessary disbursements to carry out the provisions of ORS 688.701 to 688.734, including but not limited to payment for necessary supplies, office equipment, books and expenses for the conduct of examinations, payment for legal and investigative services rendered to the agency and such other expenditures as are provided for in ORS 688.701 to 688.734.

(5) Employ inspectors, examiners, special agents, investigators, clerical assistants and accountants as are necessary for the investigation and prosecution of alleged violations and the enforcement of ORS 688.701 to 688.734, and for such other purposes as the agency may require. Nothing in ORS 688.701 to 688.734 shall be construed to prevent assistance being rendered by an employee of the agency in any hearing called by it. However, all obligations for salaries and expenses incurred under ORS 688.701 to 688.734 shall be paid only from the fees accruing to the agency under ORS 688.701 to 688.734.

(6) The agency shall provide the board with such administrative services and employees as the board requires to carry out its duties.

(7) Maintain an accurate record of all proceedings of the board and of all its meetings, receipts and disbursements, [*fin*es] **civil penalties** and orders for violation of ORS 688.701 to 688.734, records for registration to practice athletic training together with the addresses of those registered, and the names of all persons whose registration has been subject to disciplinary action.

(8) Investigate complaints, take disciplinary action, including assessment of civil [*fin*es] **penalties**, and provide opportunity for hearing according to ORS 183.745.

(9) Administer oaths, issue notices and subpoenas in the name of the board, enforce subpoenas in the manner authorized by ORS 183.440, hold hearings and perform such other acts as are reasonably necessary to carry out duties of the board granted under ORS 688.701 to 688.734.

SECTION 282. ORS 688.160 is amended to read:

688.160. (1) The Physical Therapist Licensing Board operates as a semi-independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 688.010 to 688.201 and 688.990 [(1)]. The Physical Therapist Licensing Board consists of eight members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Five must be physical therapists who are Oregon residents, possess unrestricted licenses to practice physical therapy in this state, have been practicing in this state for at least two years immediately preceding their appointments and have been practicing in the field of physical therapy for at least five years.

(b) One must be a licensed physical therapist assistant.

(c) Two must be public members who have an interest in consumer rights and who are not:

(A) Otherwise eligible for appointment to the board; or

(B) The spouse, domestic partner, child, parent or sibling of a physical therapist or physical therapist assistant.

(2)(a) Board members required to be physical therapists or physical therapist assistants may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by the Oregon Physical Therapy Association.

(b) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:

- (A) Geographic areas of this state; and
- (B) Ethnic group.

(3)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment.

(b) In the event of a vacancy in the office of a member of the board other than by reason of the expiration of a term, the Governor, not later than 90 days after the occurrence of the vacancy, shall appoint a person to fill the vacancy for the unexpired term.

(c) A board member shall be removed immediately from the board if, during the member's term, the member:

- (A) Is not a resident of this state;
- (B) Has been absent from three consecutive board meetings, unless at least one absence is excused;
- (C) Is not a licensed physical therapist or a retired physical therapist who was a licensed physical therapist in good standing at the time of retirement, if the board member was appointed to serve on the board as a physical therapist; or

(D) Is not a licensed physical therapist assistant or a retired physical therapist assistant who was a licensed physical therapist assistant in good standing at the time of retirement, if the board member was appointed to serve on the board as a retired physical therapist assistant.

(4) Each member of the board is entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

(5) A board member who acts within the scope of board duties, without malice and in reasonable belief that the member's action is warranted by law, is immune from civil liability.

(6) The board shall have power to:

- (a) Establish matters of policy affecting administration of ORS 688.010 to 688.201;
- (b) Provide for examinations for physical therapists and physical therapist assistants and adopt passing scores for the examinations;
- (c) Adopt rules necessary to carry out and enforce the provisions of ORS 688.010 to 688.201;
- (d) Establish standards and tests to determine the qualifications of applicants for licenses to practice physical therapy in this state;
- (e) Issue licenses to persons who meet the requirements of ORS 688.010 to 688.201;
- (f) Adopt rules relating to the supervision and the duties of physical therapist aides who assist in performing routine work under supervision;
- (g) Adopt rules establishing minimum continuing education requirements for all licensees;
- (h) Exercise general supervision over the practice of physical therapy within this state;
- (i) Establish and collect fees for the application or examination for, or the renewal, reinstatement or duplication of, a license under ORS 688.040, 688.080 or 688.100 or for the issuance of a temporary permit under ORS 688.110; and
- (j) Establish and collect fees to carry out and enforce the provisions of ORS 688.010 to 688.201.

(7) The board shall meet as determined by the board and at any other time at the call of the board chairperson, who shall be elected by the members of the board. All members have equal voting privileges.

(8) The board may appoint and fix the compensation of staff as necessary to carry out the operations of the board.

(9) The board shall:

(a) Maintain a current list of all persons regulated under ORS 688.010 to 688.201, including the persons' names, current business and residential addresses, telephone numbers, electronic mail addresses and license numbers.

(b) Provide information to the public regarding the procedure for filing a complaint against a physical therapist or physical therapist assistant.

(c) Publish at least annually, and in a format or place determined by the board, final disciplinary actions taken against physical therapists and physical therapist assistants and other information, including rules, in order to guide physical therapists and physical therapist assistants regulated pursuant to ORS 688.010 to 688.201.

SECTION 283. ORS 688.990 is amended to read:

688.990. *[(1)]* Violation of any provision of ORS 688.020 *[or]*, 688.120, **688.415 or 688.425** is a **Class A** misdemeanor.

[(2) Violation of ORS 688.415 or 688.425 is punishable by a fine of not more than \$500, or imprisonment for not more than one year, or both.]

SECTION 284. ORS 691.565 is amended to read:

691.565. *[(1)]* The Board of Examiners of Licensed Dietitians Account is established in the State Treasury, separate and distinct from the General Fund. All moneys received by the Board of Examiners of Licensed Dietitians under ORS 691.405 to 691.585 shall be deposited into the account and are continuously appropriated to the board to be used only for the administration and enforcement of ORS 691.405 to 691.585. Any interest or other income from moneys in the account shall be credited to the account.

[(2) All fines collected or received for violations of or prosecutions under ORS 691.405 to 691.585 shall be paid into the account and used only for the administration and enforcement of ORS 691.405 to 691.585.]

SECTION 285. ORS 695.990 is amended to read:

695.990. Violation of any of the provisions of ORS 695.210 to 695.240 is *[punishable, upon conviction, by a fine of not more than \$500 or by imprisonment in the county jail for not more than one year]* a **Class A misdemeanor**.

SECTION 286. ORS 705.165 is amended to read:

705.165. (1) Except as provided in ORS 59.255, 59.995, 86A.130, 86A.992 and 645.950, the net amount accruing to the Department of Consumer and Business Services from all fees, charges, interest, *[fines,]* penalties and miscellaneous revenues from all sources under ORS chapter 645 and 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 shall, after deduction of refunds, be paid over to the State Treasurer and deposited in a separate subaccount in the Consumer and Business Services Fund created under ORS 705.145 at least monthly and may be used only for the expenses of the department in carrying out its functions and duties under ORS chapter 645 and ORS 59.005 to 59.451, 59.710 to 59.830, 59.991, 59.995, 86A.095 to 86A.198, 650.005 to 650.100 and 705.350.

(2) Any amount deposited in the separate subaccount in the Consumer and Business Services Fund as provided in subsection (1) of this section that at the end of each quarter is determined by the Director of the Department of Consumer and Business Services to be in excess of the amount needed to administer ORS chapter 645 and ORS 59.005 to 59.451, 59.710 to 59.830, 59.991, 59.995, 86A.095 to 86A.198 and 650.005 to 650.100 shall be transferred to the General Fund and shall become available for general governmental expenses.

SECTION 287. ORS 705.642 is amended to read:

705.642. (1) Whenever the Director of the Department of Consumer and Business Services determines that a person has engaged, is engaging or is about to engage in an act or practice constituting a violation of a provision of ORS 705.638, 707.005 or 707.010 or any rule or order of the director, the director may bring suit in the name of or on behalf of the State of Oregon in the circuit court of any county of this state to enjoin the acts or practices and to enforce compliance with the provisions of ORS 705.638, 707.005 or 707.010 or the rule or order. Upon a proper showing, the court shall grant a permanent or temporary injunction, restraining order or writ of mandamus. The court may *[fine]* **impose a penalty against** the person *[against whom the order is entered]* **of** not more than \$20,000 for each violation, which shall be entered as a judgment and paid to the General Fund of the State Treasury. Each violation is a separate offense. In the case of a continuing violation,

each day's continuance is a separate violation, but the maximum penalty for a continuing violation may not exceed \$100,000. If the court finds that the defendant has violated a provision of ORS 705.638, 707.005 or 707.010 or a rule or order, the court may appoint a receiver, who may be the director, for the defendant or the defendant's assets. The court may not require the director to post a bond. The court may award reasonable attorney fees to the director if the director prevails in an action under this section. The court may award reasonable attorney fees to a defendant who prevails in an action under this section if the court determines that the director had no objectively reasonable basis for asserting the claim or no reasonable basis for appealing an adverse decision of the trial court.

(2) The director may include either of the following in any action authorized by subsection (1) of this section:

(a) A claim for restitution or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action. The court shall have jurisdiction to award appropriate relief to such persons, if the court finds that enforcement of the rights of such persons by private civil action, whether by class action or otherwise, would be so burdensome or expensive as to be impractical.

(b) A claim for disgorgement of illegal gains or profits derived. Any recovery under this paragraph must be turned over to the General Fund of the State Treasury unless the court requires another disposition.

SECTION 288. ORS 707.145 is amended to read:

707.145. The Director of the Department of Consumer and Business Services may disapprove an application for a permit to organize or refuse to approve the articles of incorporation or to grant a charter upon a finding that any person named in the application to organize or in other documents submitted for filing:

(1) Is insolvent, either in the sense that the person's liabilities exceed the person's assets or that the person cannot meet the person's obligations as they mature, or is in such financial condition that the person cannot continue in business with safety to the person's customers;

(2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or profession;

(3) Has willfully or repeatedly violated or failed to comply with any provisions of the Bank Act or any rule or order of the director;

(4) Has been convicted of a crime, an essential element of which is fraud;

(5) Is not qualified to conduct a banking business on the basis of such factors as training, experience and knowledge of the business;

(6) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the banking business or other business that may lawfully be conducted by an insured institution;

(7) Is the subject of an order of the director subjecting the person to [*a fine or*] a civil penalty, or removing the person from an office in any entity regulated by the director; or

(8) Is the subject of an order entered within the past five years, directing the person to cease and desist from any fraudulent or unlawful business or banking practice, subjecting the person to a [*fine or other*] civil penalty, or removing the person from an office in a financial institution or a consumer finance company issued by the banking supervisor of another state or by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System or by any other agency of the federal government or another state with regulatory authority over such financial institutions or consumer finance companies.

SECTION 289. ORS 717.235 is amended to read:

717.235. (1) Upon the filing of a complete application, the Director of the Department of Consumer and Business Services shall review the application and may investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The director may conduct an on-site investigation of the applicant, the reasonable cost of which

shall be paid by the applicant. The director may disapprove an application if the director finds that the applicant:

(a) Is insolvent, either in the sense that the person's liabilities exceed the person's assets or that the person cannot meet obligations as they mature, or that the person is in such financial condition that the person cannot continue in business with safety to the person's customers;

(b) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or profession;

(c) Has willfully or repeatedly violated or failed to comply with a provision of the Oregon Bank Act, Oregon Securities Law, Oregon Credit Union Act, Oregon Consumer Finance Act or Pawnbrokers Act or any rule or order of the director adopted under those laws;

(d) Has been convicted of a crime, an essential element of which is fraud;

(e) Is not qualified to engage in the business of money transmission on the basis of such factors as training, experience and knowledge of the business;

(f) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving an aspect of the banking business or of the money transmission business;

(g) Is the subject of an order of the director subjecting the person to a [*fine or other*] civil penalty or removing the person from an office in any entity regulated by the director; or

(h) Is the subject of an order entered within the past five years, subjecting the person to a [*fine or other*] civil penalty or removing the person from an office in a state or federally chartered, licensed or regulated financial services company.

(2) The director may also disapprove an application if the director finds that a controlling person is subject to a provision of subsection (1) of this section except subsection (1)(a) or (e) of this section. If a controlling person is the sole owner of the applicant, then the director may disapprove an application if the director finds that the controlling person is subject to a provision of subsection (1) of this section.

(3) If the director finds that the applicant's business will be conducted honestly, fairly and in a manner commanding the confidence and trust of the community, and that the applicant has fulfilled the requirements imposed by ORS 717.200 to 717.320, 717.900 and 717.905 and has paid the required license fee, the director shall issue a license to the applicant authorizing the applicant to conduct money transmission business in this state for a term of one year. If these requirements have not been met, the director shall deny the application in writing and shall describe the reasons for the denial.

(4) An order of the director denying an application under ORS 717.200 to 717.320, 717.900 and 717.905 shall state the grounds upon which the order is based and shall not become effective for at least 20 days after written notice of the order has been sent by registered or certified mail to the applicant at the principal place of business of the applicant.

(5) Appeals from an order of the director denying an application may be taken to the courts of this state as provided by ORS chapter 183.

SECTION 290. ORS 717.315 is amended to read:

717.315. All fees, charges, costs and [*fin*es] **civil penalties** collected by the Director of the Department of Consumer and Business Services under ORS 717.200 to 717.320, 717.900 and 717.905 shall be paid to the State Treasurer and credited as provided in ORS 705.145.

SECTION 291. ORS 723.014 is amended to read:

723.014. The Director of the Department of Consumer and Business Services may not issue a certificate of approval under ORS 723.012 if a person named in the articles of incorporation submitted for approval:

(1) Is insolvent or bankrupt;

(2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or profession;

(3) Has willfully or repeatedly violated or failed to comply with a provision of the Oregon Bank Act, the Oregon Credit Union Act, the Oregon Consumer Finance Act, the Oregon Securities Law,

the Oregon Mortgage Lender Law or the Pawnbrokers Act, or an administrative rule or order adopted under an Act identified in this subsection;

(4) Has been convicted of a crime, an essential element of which is fraud;

(5) Is not qualified to conduct a credit union business on the basis of such factors as training, experience and knowledge of the business;

(6) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the credit union business;

(7) Is the subject of an order of the director subjecting the person to a [*fine or other*] civil penalty, or removing the person from an office in any entity regulated by the director; or

(8) Is the subject of an order that was issued by the regulatory authority of another state, or of the federal government, with authority over banking institutions, credit unions, consumer finance companies, savings associations, securities firms or mortgage lenders, that was entered within the past five years and that subjects the person to a [*fine or other*] civil penalty or removes the person from an office in a state banking institution, a national bank, a state or federal credit union, a state or federal savings association or a consumer finance company, or from a position as a securities broker or dealer, a state or federal investment adviser or a mortgage lender.

SECTION 292. ORS 723.106 is amended to read:

723.106. (1) Credit unions shall report to the Director of the Department of Consumer and Business Services annually by a date established by the director on forms supplied and in the manner specified by the director for that purpose. Additional reports may be required.

(2) A [*fine*] **civil penalty** in an amount to be established by rule of the director, but not to exceed \$1,000 for each day a report is in arrears shall be levied against the offending credit union unless it is excused for cause by the director.

SECTION 293. ORS 725.145 is amended to read:

725.145. The Director of the Department of Consumer and Business Services may disapprove an application for a license if a person named in the application submitted pursuant to ORS 725.120:

(1) Is insolvent, either in the sense that the person's liabilities exceed the person's assets or that the person cannot meet the person's obligations as they mature, or is in such financial condition that the person cannot continue in business with safety to the person's customers;

(2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or profession;

(3) Has knowingly or repeatedly violated or failed to comply with any provision of the Oregon Bank Act, the Oregon Credit Union Act, the Oregon Consumer Finance Act or the Pawnbrokers Act, or any administrative rule or order adopted under an Act identified in this subsection;

(4) Has been convicted of a crime, an essential element of which is fraud;

(5) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving an aspect of the consumer finance business;

(6) Is the subject of an order of the director subjecting the person to a [*fine or other*] civil penalty under the Bank Act or ORS chapter 723 or this chapter, or removing the person from an office in any entity regulated under the Bank Act or ORS chapter 723 or this chapter; or

(7) Is the subject of an order that was issued by the regulatory authority of another state or of the federal government with authority over banking institutions, savings associations, credit unions or consumer finance companies, that was entered within the past five years and that subjects the person to a [*fine or other*] civil penalty or removes the person from an office in a state banking institution, a national bank, a state or federal savings association, a state or federal credit union or a consumer finance company.

SECTION 294. ORS 726.075 is amended to read:

726.075. The Director of the Department of Consumer and Business Services may not grant a license to engage in the business of pawnbroker to any person if any person named in the application submitted pursuant to ORS 726.060:

(1) Is insolvent, either in the sense that the person's liabilities exceed the person's assets or that the person cannot meet obligations as they mature, or is in such financial condition that the person cannot continue in business with safety to the person's customers;

(2) Has engaged in dishonest, fraudulent or illegal practices or conduct in any business or profession;

(3) Has willfully or repeatedly violated or failed to comply with a provision of the Oregon Bank Act, the Oregon Credit Union Act, the Oregon Consumer Finance Act or the Pawnbrokers Act, or any administrative rule or order adopted under an Act identified in this subsection;

(4) Has been convicted of a crime, an essential element of which is fraud;

(5) Is not qualified to conduct a pawnbroker business on the basis of such factors as training, experience and knowledge of the business;

(6) Is permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving an aspect of the pawnbroker business;

(7) Is the subject of an order of the director, subjecting the person to a [*fine or other*] civil penalty, or removing the person from an office in an entity regulated by either director; or

(8) Is the subject of an order that was issued by the regulatory authority of another state or of the federal government with authority over such banking institutions, credit unions, consumer finance companies or savings associations, that was entered within the past five years and that subjects the person to a [*fine or other*] civil penalty or removes the person from an office in a state banking institution, a national bank, a state or federal savings association, a state or federal credit union or a consumer finance company.

SECTION 295. ORS 726.990 is amended to read:

726.990. (1) Violation, or participation in the violation, of any provision of this chapter by any pawnbroker or any agent, member, officer or employee thereof, or any other person is [*punishable, upon conviction, by a fine of not less than \$100 nor more than \$500 or by imprisonment in the county jail for not less than one month and not more than six months, or both*] **a Class B misdemeanor.**

(2) Upon conviction under subsection (1) of this section, no license shall be granted to such person, nor to the husband or wife of such person, nor to any partnership, association or corporation of which the person is an agent or member, until two years after the date of the conviction.

SECTION 296. ORS 731.292 is amended to read:

731.292. (1) Except as provided in subsections (2), (3) and (4) of this section, all fees, charges and other moneys received by the Department of Consumer and Business Services or the Director of the Department of Consumer and Business Services under the Insurance Code shall be deposited in the fund created by ORS 705.145 and are continuously appropriated to the department for the payment of the expenses of the department in carrying out the Insurance Code.

(2) All taxes[, *fin*es] and penalties paid pursuant to the Insurance Code shall be paid to the director and after deductions of refunds shall be paid by the director to the State Treasurer, at the end of every calendar month or more often in the director's discretion, for deposit in the General Fund to become available for general governmental expenses.

(3) All premium taxes received by the director pursuant to ORS 731.820 shall be paid by the director to the State Treasurer for deposit in the State Fire Marshal Fund.

(4) Assessments received by the department under ORS 743.951 and 743.961 and penalties received by the department under ORS 743.990 and section 10, chapter 867, Oregon Laws 2009, shall be paid into the State Treasury and credited to the Health System Fund established in section 1, chapter 867, Oregon Laws 2009, after deducting the following amounts:

(a) Amounts needed to reimburse the department for expenses in administering ORS 743.951 to 743.965 and 743.990; and

(b) Amounts needed to reimburse the General Fund for reductions in revenue caused by the effect of ORS 743.961 on the retaliatory tax imposed under ORS 731.854 and 731.859.

SECTION 297. ORS 731.992 is amended to read:

731.992. (1) Violation of ORS 731.260 is [*punishable upon conviction, in the case of an individual, by imprisonment in the county jail for not more than one year or by a fine not exceeding \$1,000; or, in the case of a corporation, by a fine not exceeding \$10,000*] **a Class A misdemeanor.**

(2) Violation of any provision of the Insurance Code for which a greater penalty is not otherwise provided by the Insurance Code or by other applicable laws of this state, in addition to any applicable prescribed denial, suspension or revocation of any certificate or license or any civil forfeiture, [*shall be punishable upon conviction as for a*] **is a Class A misdemeanor.**

SECTION 298. ORS 756.360 is amended to read:

756.360. All fees, [*fin*es,] penalties and other moneys collected by the Public Utility Commission under ORS 756.310, 756.320, 756.350, 758.015, 758.400 to 758.475 and ORS chapter 759 shall be paid by the commission into the State Treasury within 30 days after the collection thereof, and shall be placed by the State Treasurer to the credit of the Public Utility Commission Account and the fees, [*fin*es,] penalties and other moneys collected from:

(1) Public utilities shall be used only for the purpose of paying the expenses of the commission in performing the duties imposed by law upon the commission in respect to utilities, and for the purpose of paying the expenses of the Office of the Governor for its responsibilities in administering energy conservation and allocation programs.

(2) Telecommunications providers shall be used only for the purpose of paying the expenses of the commission in performing the duties imposed by law upon the commission in respect to telecommunications providers, and for the purpose of paying the expenses of the Office of the Governor for its responsibilities in administering energy conservation and allocation programs.

SECTION 299. ORS 756.990 is amended to read:

756.990. (1) Any public utility or telecommunications utility that fails to comply with an order or subpoena issued pursuant to ORS 756.090 shall forfeit, for each day it so fails, a sum of not less than \$50 nor more than \$500.

(2) Except where a penalty is otherwise provided by law, any public utility, telecommunications utility or other person subject to the jurisdiction of the Public Utility Commission shall forfeit a sum of not less than \$100 nor more than \$10,000 for each time that the person:

- (a) Violates any statute administered by the commission;
- (b) Does any act prohibited, or fails to perform any duty enjoined upon the person;
- (c) Fails to obey any lawful requirement or order made by the commission; or
- (d) Fails to obey any judgment made by any court upon the application of the commission.

(3) Violation of ORS 756.115 is a Class A violation. [*A penalty of not less than \$500 nor more than \$1,000 shall be recovered from the public utility or telecommunications utility for each such offense when such officer, agent or employee acted in obedience to the direction, instruction or request of the public utility, telecommunications utility or any general officer thereof.*]

(4) Violation of ORS 756.125 is [*punishable, upon conviction, by a fine of not more than \$100 or imprisonment for not more than 30 days, or both*] **a Class C misdemeanor.** [*Any public utility or telecommunications utility that knowingly permits the violation of ORS 756.125 shall forfeit, upon conviction, not more than \$1,000 for each offense.*]

(5) Violation of ORS 756.543 (1) is [*punishable, upon conviction, by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than one year, or both*] **a Class A misdemeanor.**

(6) In construing and enforcing this section, the act, omission or failure of any officer, agent or other person acting for or employed by any public utility, telecommunications utility or other person subject to the jurisdiction of the commission acting within the scope of the person's employment shall in every case be deemed to be the act, omission or failure of such public utility, telecommunications utility or other person subject to the jurisdiction of the commission. With respect to any violation of any statute administered by the commission, any penalty provision applying to such a violation by a public utility or telecommunications utility shall apply to such a violation by any other person.

(7) Except when provided by law that a penalty, [*fine,*] forfeiture or other sum be paid to the aggrieved party, or as provided in ORS 757.994 (1), all penalties, [*fin*es] or forfeitures or other sums collected or paid under the provisions of any law administered by the commission shall be paid into the General Fund and credited to the Public Utility Commission Account.

SECTION 300. ORS 776.991 is amended to read:

776.991. [(1) *Except as provided in subsection (2) of this section, any person violating*] **Violation** of any of the provisions of this chapter is [*punishable, upon conviction, by a fine not to exceed \$500, or by imprisonment in the county jail not to exceed six months, or both*] **a Class B misdemeanor. Notwithstanding ORS 161.635 and section 10 of this 2011 Act, the minimum fine for a violation of ORS 776.405 (1)(a) is \$5,000 and the maximum fine is \$50,000.**

[(2) *Any person violating the provisions of ORS 776.405 (1)(a) is punishable, upon conviction, by a fine of not less than \$5,000 nor more than \$50,000, or by imprisonment in the county jail not to exceed six months, or both.*]

SECTION 301. ORS 778.085 is amended to read:

778.085. (1) To the full extent the State of Oregon might exercise control, or grant to the Port of Portland the right to exercise control, the port has full control of the rivers, harbors and waterways within its boundaries and between its boundaries and the sea.

(2) The port may make, change or abolish wharf lines of, in and for the rivers, harbors and waterways within its boundaries.

(3) As it considers convenient, requisite or necessary, or in the best interests of the maritime shipping or commercial interests of the port, the board may by ordinance make, modify or abolish regulations:

(a) For the use or navigation of the rivers, harbors and waterways mentioned in subsection (1) of this section; or

(b) For the placing of obstructions therein, or the removal of obstructions therefrom.

(4) The port may enforce the regulations by [*fin*es and] penalties or seek other appropriate remedies as the port considers necessary. [*Fines and*] Penalties are recoverable in the name of the port in any court of this state [*having jurisdiction of actions for the recovery of fines or penalties imposed by state laws. Fines recovered shall be paid to the clerk of the court who, after deducting court costs in the proceedings, shall pay the remainder thereof to the treasurer of the port, to go to its general fund*].

(5) This section does not authorize the port to cause the removal of bridges or other obstructions existing under a grant by this state. This section does not authorize the port to exclude cities other than the City of Portland from free access to the channel of either the Willamette or Columbia Rivers or the Oregon and the Columbia Sloughs, or the free use of the rivers or sloughs for navigation.

SECTION 302. ORS 778.990 is amended to read:

778.990. Any person who violates an ordinance adopted by the board of the Port of Portland under ORS 778.085 or 778.260 [*shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$250*] **commits a Class A misdemeanor.**

SECTION 303. ORS 783.610 is amended to read:

783.610. [(1)] No person shall moor any vessel of any kind or any name, or any boat, skiff, barge, scow, raft, or part of a raft, to any buoy or beacon placed in the navigable waters of this state, or in any bay, river or arm of the sea bordering upon this state, by the authority of the United States Coast Guard or shall in any manner hang on with any vessel, boat, barge, scow, raft, or part of a raft, to any such buoy or beacon, or shall willfully remove, damage or destroy any such buoy or beacon, or shall cut down, remove, damage or destroy any beacon or beacons erected on land in this state by authority of the United States Coast Guard.

[(2) *All fines for violation of this section shall be paid into the county school fund of the county in which the action is tried.*]

SECTION 304. ORS 783.990 is amended to read:

783.990. (1) Violation of ORS 783.510, **783.520 or 783.610** is [punishable, upon conviction, in a justice or circuit court, by a fine of not less than \$50 nor more than \$200, or by imprisonment in the county jail for not less than one nor more than six months, or both] **a Class B misdemeanor.**

[(2) Violation of ORS 783.520 is punishable, upon conviction, in a justice or circuit court, by a fine of not less than \$50 nor more than \$250, or by imprisonment in the county jail for not less than 60 days nor more than six months.]

[(3)] (2) Violation of ORS 783.530, **783.550 or 783.580** is [punishable, upon conviction, in a justice or circuit court, by a fine of not less than \$20 nor more than \$200, or by imprisonment in the county jail for not less than 10 nor more than 100 days] **a Class C misdemeanor.**

[(4) Violation of ORS 783.550 is punishable, upon conviction, in a justice or circuit court, by a fine of not less than \$20 nor more than \$100 or by imprisonment in the county jail for not less than 10 nor more than 100 days, or both.]

[(5)] (3) Violation of ORS 783.560 by any officer is a Class D violation.

[(6) Violation of ORS 783.580 is punishable, upon conviction, by a fine of not less than \$100 nor more than \$250, and by imprisonment in the county jail not less than 10 nor more than 25 days. Justices of the peace have jurisdiction of violations of ORS 783.580.]

[(7)] (4) Violation of ORS 783.590 and injury or damage of any bridge across the Willamette River for want of the appliances described in ORS 783.590 is a Class A violation.

[(8)] (5) Violation of ORS 783.620 is [punishable, upon conviction, by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not less than three months nor more than one year] **a Class A misdemeanor.**

[(9) Violation of ORS 783.610 is punishable, upon conviction, by a fine of not less than \$100 nor more than \$200, or by imprisonment in the county jail not less than one nor more than six months, or both.]

SECTION 305. ORS 811.172 is amended to read:

811.172. (1) A person commits the offense of improperly disposing of human waste if the person is operating or riding in a motor vehicle and the person throws, puts or otherwise leaves a container of urine or other human waste on or beside the highway.

(2) The offense described in this section, improperly disposing of human waste, is a **Class A** misdemeanor [and is punishable by a maximum fine of \$250].

SECTION 306. ORS 823.991 is amended to read:

823.991. (1) Any motor carrier or railroad that fails to comply with an order or subpoena issued pursuant to ORS 823.025 shall pay a civil penalty, for each day it so fails, of not less than \$50 nor more than \$500.

(2) Except where a penalty is otherwise provided by law, any motor carrier or railroad shall pay a civil penalty of not less than \$100 nor more than \$10,000 for each time that the motor carrier or railroad:

(a) Violates any statute regarding motor carriers or railroads, as appropriate, administered by the Department of Transportation;

(b) Does any act prohibited, or fails to perform any duty enjoined upon the motor carrier or railroad;

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

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

(3) Violation of ORS 823.029 is punishable after issuance of a final order by the department, by a civil penalty of not less than \$1,000 for each offense. A penalty of not less than \$500 nor more than \$1,000 shall be recovered from the motor carrier or railroad for each such offense when such officer, agent or employee acted in obedience to the direction, instruction or request of the motor carrier or railroad, or any general officer thereof.

(4) Violation of ORS 823.029 is a Class A violation.

(5) Violation of ORS 823.051 is [punishable, upon conviction, by a fine of not more than \$100 or imprisonment for not more than 30 days, or both] **a Class C misdemeanor.** Any motor carrier or

railroad that knowingly permits the violation of ORS 823.051 shall forfeit, upon conviction, not more than \$1,000 for each offense.

(6) In construing and enforcing this section, the act, omission or failure of any officer, agent or other person acting for or employed by any motor carrier or railroad shall in every case be deemed to be the act, omission or failure of such motor carrier or railroad. With respect to any violation of any statute administered by the department regarding motor carriers or railroads, any penalty provision applying to such a violation by a motor carrier or railroad shall apply to such a violation by any other person.

(7) Except as provided in ORS 824.019 and 825.326, and except when provided by law that a penalty, [*fine*,] forfeiture or other sum be paid to the aggrieved party, all penalties[, *fin*es] or forfeitures collected from persons subject to the regulatory authority of the department under ORS chapters 823, 824, 825 and 826 shall be paid into the General Fund and credited to the Motor Carrier Account if collected from a motor carrier and to the Railroad Fund created under ORS 824.014 (1) if collected from a railroad.

(8) Violation of ORS 823.105 is punishable, after issuance of a final order by the department, by a civil penalty of not more than \$5,000 for each offense.

(9) Violation of ORS 823.105 is a **specific fine** violation punishable by a fine of not more than \$5,000 for each offense.

(10) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

SECTION 307. ORS 824.014 is amended to read:

824.014. (1) The Railroad Fund is established separate and distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the Railroad Fund.

(2) All fees, [*fin*es,] penalties and other moneys collected by the Department of Transportation under ORS 824.010 and 824.012 shall be paid by the department into the State Treasury within 30 days after the collection thereof, and shall be placed by the State Treasurer to the credit of the Railroad Fund created by subsection (1) of this section. The fees, [*fin*es,] penalties and other moneys collected from railroads shall be used only for the purpose of paying the expenses of the department in performing the duties imposed by law upon the department in respect to railroads.

SECTION 308. ORS 825.990 is amended to read:

825.990. (1) Except as otherwise provided in subsection (2) of this section, every person who violates or procures, aids or abets violation of this chapter and any person who refuses or fails to obey any order, decision or rule, made under or pursuant to this chapter commits a Class A traffic violation.

(2) Knowingly violating an out-of-service notice issued under authority of the Department of Transportation is a Class A misdemeanor.

(3) A person is subject to the penalties under subsection (4) of this section if the person knowingly:

(a) Transports any hazardous waste listed under ORS 466.005 or rules adopted thereunder to a facility that does not have appropriate authority to receive the waste under ORS 466.005 to 466.385 and 466.992.

(b) Disposes of any hazardous waste listed under ORS 466.005 or rules adopted thereunder without appropriate authority under ORS 466.005 to 466.385 and 466.992.

(c) Materially violates terms of any permit or authority issued to the person under this chapter or ORS 466.005 to 466.385 and 466.992 in the transporting or disposing of hazardous waste.

(d) Makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with requirements under this chapter for the safe transportation of hazardous wastes.

(e) Fails to include material information required under rules of the Department of Transportation in any application for any permit or authority to transport hazardous waste under this chapter.

(f) Violates any rules adopted by the Department of Transportation concerning the transportation of hazardous wastes.

(4) Subject to ORS 153.022, violation of subsection (3) of this section is [subject to the penalty of a fine of not more than \$10,000 for each day of violation, imprisonment of not more than six months, or both] a **Class B misdemeanor**.

SECTION 309. ORS 165.475, 165.480, 165.485, 165.490, 165.495, 165.505, 165.510, 165.515, 165.520, 221.923 and 632.620 are repealed.

SECTION 310. The amendments to statutes by sections 151 to 308 of this 2011 Act and the repeal of statutes by section 309 of this 2011 Act apply only to offenses committed on or after January 1, 2012.

CONFLICT AMENDMENTS

SECTION 311. If House Bill 3525 becomes law, ORS 31.735, as amended by section 1, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3525), is amended to read:

31.735. (1) Upon the entry of a verdict including an award of punitive damages, the Department of Justice becomes a judgment creditor as to the amounts payable under paragraphs (b) and (c) of this section, and the punitive damage portion of an award shall be allocated as follows:

(a) Thirty percent is payable to the prevailing party. The attorney for the prevailing party shall be paid out of the amount allocated under this paragraph, in the amount agreed upon between the attorney and the prevailing party. However, in no event may more than 20 percent of the amount awarded as punitive damages be paid to the attorney for the prevailing party.

(b) Sixty percent is payable to the Attorney General for deposit in the Criminal Injuries Compensation Account of the Department of Justice Crime Victims' Assistance Section, and may be used only for the purposes set forth in ORS chapter 147. However, if the prevailing party is a public entity, the amount otherwise payable to the Criminal Injuries Compensation Account shall be paid to the general fund of the public entity.

(c) Ten percent is payable to the Attorney General for deposit in the [Courthouse Capital Improvement Trust Fund] **State Court Facilities and Security Account established under ORS 1.178**, and may be used only for the purposes specified in [section 2 of this 2011 Act] **ORS 1.178 (2)(d)**.

(2) The party preparing the proposed judgment shall assure that the judgment identifies the judgment creditors specified in subsection (1) of this section.

(3) Upon the entry of a verdict including an award of punitive damages, the prevailing party shall provide notice of the verdict to the Department of Justice. In addition, upon entry of a judgment based on a verdict that includes an award of punitive damages, the prevailing party shall provide notice of the judgment to the Department of Justice. The notices required under this subsection must be in writing and must be delivered to the Department of Justice Crime Victims' Assistance Section in Salem, Oregon within five days after the entry of the verdict or judgment.

(4) Whenever a judgment includes both compensatory and punitive damages, any payment on the judgment by or on behalf of any defendant, whether voluntary or by execution or otherwise, shall be applied first to compensatory damages, costs and court-awarded attorney fees awarded against that defendant and then to punitive damages awarded against that defendant unless all affected parties, including the Department of Justice, expressly agree otherwise, or unless that application is contrary to the express terms of the judgment.

(5) Whenever any judgment creditor of a judgment which includes punitive damages governed by this section receives any payment on the judgment by or on behalf of any defendant, the judgment creditor receiving the payment shall notify the attorney for the other judgment creditors and all sums collected shall be applied as required by subsections (1) and (4) of this section, unless all affected parties, including the Department of Justice, expressly agree otherwise, or unless that application is contrary to the express terms of the judgment.

SECTION 312. If House Bill 3525 becomes law, section 2, chapter ___, Oregon Laws 2011 (Enrolled House Bill 3525), is amended to read:

Sec. 2. *[(1) The Courthouse Capital Improvement Trust Fund is established separate and distinct from the General Fund. The Courthouse Capital Improvement Trust Fund consists of moneys deposited to the credit of the fund under ORS 31.735. Interest earned by the fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Department of Administrative Services, and may be used only for the purpose of paying for the costs of capital improvements to county courthouses under the plan developed by the Chief Justice of the Supreme Court under subsection (2) of this section.]*

[2] (1) The Chief Justice of the Supreme Court shall develop a **biennial** plan for capital improvements to county courthouses. The plan shall prioritize the need for capital improvements in the counties and establish budgets for capital improvement projects. *[The Chief Justice may revise the plan at any time. Amounts deposited in the Courthouse Capital Improvement Trust Fund may be expended only pursuant to the provisions of the plan.]* **The list of projects and costs of those projects shall be submitted to the Legislative Assembly with the Judicial Department's request for an allocation from the Criminal Fine Account for the purpose of funding the State Court Facilities and Security Account established under ORS 1.178.**

(2) **The Chief Justice of the Supreme Court shall prepare a biennial report to the Legislative Assembly that reflects the original budget of projects funded in whole or part with amounts from the State Court Facilities and Security Account, any revisions to those budgets, and the amounts from the account actually expended on those projects.**

SECTION 313. If Senate Bill 415 becomes law, section 2, chapter 423, Oregon Laws 2011 (Enrolled Senate Bill 415) (amending ORS 153.061), is repealed and ORS 153.061, as amended by section 25 of this 2011 Act, is amended to read:

153.061. (1) Except as provided in subsections (2) and (3) of this section, a defendant who has been issued a violation citation must either:

(a) Make a first appearance by personally appearing in court at the time indicated in the summons; or

(b) Make a first appearance in the manner provided in subsection (4) of this section before the time indicated in the summons.

(2) If a defendant is issued a violation citation for careless driving under ORS 811.135 on which a police officer noted that the offense contributed to an accident and that *[a vulnerable user of a public way suffered serious physical injury or death by reason of the offense]* **the cited offense appears to have contributed to the serious physical injury or death of a vulnerable user of a public way**, the officer may not enter the amount of the presumptive fine on the summons and the defendant must make a first appearance by personally appearing in court at the time indicated in the summons.

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

(4) Except as provided in this section, a defendant who has been issued a violation citation may make a first appearance in the matter before the time indicated in the summons by one of the following means:

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

(b) The defendant may enter a plea of no contest by delivering to the court the summons and a check or money order in the amount of the presumptive fine set forth in the summons. The entry of a plea under the provisions of this paragraph constitutes a waiver of trial and consent to the entry of a judgment forfeiting the presumptive fine. A no contest plea under this section is not subject to the requirements of ORS chapter 135 relating to the entry of pleas and, upon receipt of the plea, the court may enter judgment against the defendant without taking further evidence.

(5) The court may require that a defendant requesting a trial under subsection (4) of this section deposit an amount equal to the presumptive fine established under sections 2 and 3 of this 2011 Act or such other amount as the court determines appropriate if the defendant has failed to appear in any court on one or more other charges in the past. If the defendant does not deposit the amount

specified by the court, the defendant must personally appear in court at the time indicated in the summons. The amount deposited by the defendant may be applied against any fine imposed by the court, and any amount not so applied shall be refunded to the defendant at the conclusion of the proceedings.

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

(7) If a defendant has entered a no contest plea in the manner provided in subsection (4) of this section, and the court determines that the presumptive fine is not adequate by reason of previous convictions of the defendant, the nature of the offense charged or other circumstances, the court may require that a trial be held unless an additional fine amount is paid by the defendant before a specified date. Notice of an additional fine amount under this subsection may be given to the defendant by mail. In no event may the court require a total fine amount in excess of the maximum fine established for the violation by statute.

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

SECTION 314. If Senate Bill 415 becomes law, section 3, chapter 423, Oregon Laws 2011 (Enrolled Senate Bill 415), is amended to read:

Sec. 3. The amendments to ORS 153.061 and 811.135 by [*sections 1 and 2 of this 2011 Act*] **section 1, chapter 423, Oregon Laws 2011 (Enrolled Senate Bill 415), and section 313 of this 2011 Act** apply to offenses that occur on or after the effective date of [*this 2011 Act*] **chapter 423, Oregon Laws 2011 (Enrolled Senate Bill 415).**

SECTION 315. ORS 496.992, as amended by section 1, chapter 517, Oregon Laws 2011 (Enrolled Senate Bill 924), is amended to read:

496.992. [(1)(a) *Except as otherwise provided by subsection (3) of this section and ORS 153.022 and other law, violation of any provision of the wildlife laws, or any rule promulgated pursuant thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state.*]

[(b) *When a person is convicted of a Class A misdemeanor described in paragraph (a) of this subsection, in addition to any other penalty authorized by law, the court shall impose a fine that is:*]

[(A) *Equal to the maximum fine described in ORS 161.635 (1)(a), if the person has two or more previous convictions for a Class A misdemeanor described in paragraph (a) of this subsection or if the offense involves taking three or more times the daily bag limit of any wildlife.*]

[(B) *Not less than one-half of the maximum fine described in ORS 161.635 (1)(a), if the offense involves:*]

[(i) *Failing to release a sturgeon more than six feet in length;*]

[(ii) *Unlawfully taking wildlife with the intent to sell, barter, trade, import or export the wildlife, or parts thereof, or selling, bartering, trading, importing or exporting unlawfully taken wildlife, or parts thereof; or*]

[(iii) *Taking a raptor and the person has a previous conviction for taking a raptor.*]

[(C) *Not less than one-fourth of the maximum fine described in ORS 161.635 (1)(a), if the offense involves taking a raptor and the person does not have a previous conviction for taking a raptor.*]

[(c) *If more than one minimum fine described in paragraph (b) of this subsection applies, the court shall impose a fine in an amount that is not less than the highest of the applicable minimum fines.*]

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

[(3) *The second and each subsequent conviction within a 10-year period for the taking of a raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of the wildlife laws, or any rule promulgated pursuant thereto which occurs more than one hour prior to or more than one hour sub-*

sequent to a season established for the lawful taking of such game mammals or game fish, is a Class C felony when the offense is committed with a culpable mental state.]

[(4) As used in this section:]

[(a) "Culpable mental state" has the meaning given that term in ORS 161.085.]

[(b) "Previous conviction" includes a conviction entered in the same sentencing proceeding if the conviction is for a separate criminal episode as defined in ORS 131.505.]

[(c) "Raptor" means a member of the order Falconiformes or Strigiformes and includes owls, hawks, falcons, eagles, osprey and harriers.]

(1) Except as otherwise provided by this section or other law, a violation of any provision of the wildlife laws, or any rule adopted pursuant to the wildlife laws, is a Class A misdemeanor if the offense is committed with a culpable mental state.

(2) Except as otherwise provided by this section or other law, a violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that does not involve the taking of wildlife is a Class D violation if the offense is committed without a culpable mental state.

(3) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that involves the taking of wildlife, other than nongame mammals and game birds, is a Class A violation if the offense is committed without a culpable mental state.

(4) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that involves the taking of nongame mammals or game birds is a Class C violation if the offense is committed without a culpable mental state.

(5) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that involves the size or quantity limits for salmon, steelhead trout and sturgeon is a Class A violation if the offense is committed without a culpable mental state.

(6) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, relating to the size or quantity limits for fish or shellfish, other than size and quantity limits for salmon, steelhead trout and sturgeon, is a Class C violation if the offense is committed without a culpable mental state.

(7) A violation of the nonresident licensing provisions of ORS 497.102 or 497.121 is a Class A violation if the offense is committed without a culpable mental state.

(8) A violation of ORS 496.994 is a Class A violation if the offense is committed without a culpable mental state.

(9) The second and each subsequent conviction within a 10-year period for the taking of a raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of any provision of the wildlife laws, or any rule adopted pursuant thereto, which occurs more than one hour prior to or more than one hour subsequent to a season established for the lawful taking of such game mammals or game fish is a Class C felony if the offense is committed with a culpable mental state.

(10) If a person is convicted of a Class A misdemeanor under subsection (1) of this section, in addition to any other penalty authorized by law, the court shall impose a fine that is:

(a) Equal to the maximum fine described in ORS 161.635 (1)(a), if the person has two or more previous convictions for a Class A misdemeanor under subsection (1) of this section or if the offense involves taking three or more times the daily bag limit of any wildlife.

(b) Not less than one-half of the maximum fine described in ORS 161.635 (1)(a), if the offense involves:

(A) Failing to release a sturgeon more than six feet in length;

(B) Unlawfully taking wildlife with the intent to sell, barter, trade, import or export the wildlife, or parts thereof, or selling, bartering, trading, importing or exporting unlawfully taken wildlife, or parts thereof; or

(C) Taking a raptor and the person has a previous conviction for taking a raptor.

(c) Not less than one-fourth of the maximum fine described in ORS 161.635 (1)(a), if the offense involves taking a raptor and the person does not have a previous conviction for taking a raptor.

(11) If more than one minimum fine described in subsection (10) of this section applies, the court shall impose a fine in an amount that is not less than the highest of the applicable minimum fines.

(12) As used in this section:

(a) "Culpable mental state" has the meaning given that term in ORS 161.085.

(b) "Previous conviction" includes a conviction entered in the same sentencing proceeding if the conviction is for a separate criminal episode as defined in ORS 131.505.

(c) "Raptor" means a member of the order Falconiformes or Strigiformes and includes owls, hawks, falcons, eagles, osprey and harriers.

SECTION 316. ORS 496.992, as amended by sections 1 and 3, chapter 517, Oregon Laws 2011 (Enrolled Senate Bill 924), is amended to read:

496.992. [(1) Except as otherwise provided by subsection (3) of this section and ORS 153.022 and other law, violation of any provision of the wildlife laws, or any rule promulgated pursuant thereto, is a Class A misdemeanor when the offense is committed with a culpable mental state.]

[(2) Except as otherwise provided by ORS 153.022 and other law, violation of any provision of the wildlife laws or any rule promulgated pursuant thereto is punishable as a Class A violation in the manner prescribed in ORS chapter 153 when the offense is committed with no culpable mental state.]

[(3) The second and each subsequent conviction within a 10-year period for the taking of a raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of the wildlife laws, or any rule promulgated pursuant thereto which occurs more than one hour prior to or more than one hour subsequent to a season established for the lawful taking of such game mammals or game fish, is a Class C felony when the offense is committed with a culpable mental state.]

[(4) As used in this section, "culpable mental state" has the meaning given that term in ORS 161.085.]

(1) Except as otherwise provided by this section or other law, a violation of any provision of the wildlife laws, or any rule adopted pursuant to the wildlife laws, is a Class A misdemeanor if the offense is committed with a culpable mental state.

(2) Except as otherwise provided by this section or other law, a violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that does not involve the taking of wildlife is a Class D violation if the offense is committed without a culpable mental state.

(3) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that involves the taking of wildlife, other than nongame mammals and game birds, is a Class A violation if the offense is committed without a culpable mental state.

(4) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that involves the taking of nongame mammals or game birds is a Class C violation if the offense is committed without a culpable mental state.

(5) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that involves the size or quantity limits for salmon, steelhead trout and sturgeon is a Class A violation if the offense is committed without a culpable mental state.

(6) A violation of a provision of the wildlife laws, or a rule adopted pursuant to the wildlife laws, relating to the size or quantity limits for fish or shellfish, other than size and quantity limits for salmon, steelhead trout and sturgeon, is a Class C violation if the offense is committed without a culpable mental state.

(7) A violation of the nonresident licensing provisions of ORS 497.102 or 497.121 is a Class A violation if the offense is committed without a culpable mental state.

(8) A violation of ORS 496.994 is a Class A violation if the offense is committed without a culpable mental state.

(9) The second and each subsequent conviction within a 10-year period for the taking of a raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope, black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of any provision of the wildlife laws, or any rule adopted pursuant thereto, which occurs more than one hour prior to or more than one hour subsequent to a season established for the lawful taking of such game mammals or game fish is a Class C felony if the offense is committed with a culpable mental state.

(10) As used in this section, “culpable mental state” has the meaning given that term in ORS 161.085.

SECTION 316a. Section 5, chapter 517, Oregon Laws 2011 (Enrolled Senate Bill 924), is amended to read:

Sec. 5. No later than January 1, 2014, the State Department of Fish and Wildlife and the Department of State Police shall each submit a report to the Legislative Assembly in the manner provided in ORS 192.245 on the effects of the amendments to ORS 496.992 by section 1 [of this 2011 Act], chapter 517, Oregon Laws 2011 (Enrolled Senate Bill 924), and section 315 of this 2011 Act. The report shall include the number of persons convicted of an offense described in ORS 496.992 (1)[(a)] and sentenced to pay a minimum fine described in ORS 496.992 [(1)(b)] (10).

SECTION 317. If House Bill 2256 becomes law, section 15, chapter __, Oregon Laws 2011 (Enrolled House Bill 2256) (amending ORS 609.060), is repealed and ORS 609.060, as amended by section 248 of this 2011 Act, is amended to read:

609.060. (1) If [a majority of all votes cast in the election provided for by ORS 609.040 is against permitting dogs to run at large, or if] the governing body of [the] a county by ordinance, or a measure approved by the electors in an election conducted in accordance with ORS chapter 250, prohibits dogs from running at large, the county shall give notice, by publication in [some] a newspaper having a general circulation in the county[, and in the election precinct if the prohibition of dogs running at large affects any one precinct only, for three consecutive weeks].

(2) After 60 days from the date of the notice, every person keeping a dog shall prevent the dog from running at large in any county[, city or precinct] or city where prohibited. A person who is the keeper of a dog commits a Class B violation if the dog runs at large [in a county, city or precinct] where prohibited.

SECTION 318. If House Bill 2256 becomes law, section 19, chapter __, Oregon Laws 2011 (Enrolled House Bill 2256), is amended to read:

Sec. 19. The amendments to ORS 609.060, 609.095 and 609.100 by sections [15 to] 16 and 17 [of this 2011 Act], chapter __, Oregon Laws 2011 (Enrolled House Bill 2256), and section 317 of this 2011 Act and the repeal of ORS 609.040 by section 18 [of this 2011 Act], chapter __, Oregon Laws 2011 (Enrolled House Bill 2256), do not invalidate any dog control program formed by one or more precincts prior to the effective date of [this 2011 Act] chapter __, Oregon Laws 2011 (Enrolled House Bill 2256). Precincts that formed dog control programs prior to the effective date of [this 2011 Act] chapter __, Oregon Laws 2011 (Enrolled House Bill 2256) may continue to administer and enforce those programs on and after the effective date of [this 2011 Act] chapter __, Oregon Laws 2011 (Enrolled House Bill 2256) in the same manner as a city dog control program.

SECTION 318a. If Senate Bill 939 becomes law, section 284 of this 2011 Act (amending ORS 691.565) is repealed.

SECTION 319. If House Bill 2137 becomes law, section 10, chapter 355, Oregon Laws 2011 (Enrolled House Bill 2137) (amending ORS 811.109), is repealed and ORS 811.109, as amended by section 96 of this 2011 Act, is amended to read:

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

- (a) One to 10 miles per hour in excess of the speed limit is a Class D traffic violation.
- (b) 11 to 20 miles per hour in excess of the speed limit is a Class C traffic violation.
- (c) 21 to 30 miles per hour in excess of the speed limit is a Class B traffic violation.
- (d) Over 30 miles per hour in excess of the speed limit is a Class A traffic violation.

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

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

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

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

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

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

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

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

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

(4) In addition to a fine imposed under subsection (1), (2) or (3) of this section, a court may *impose* **order** a suspension of driving privileges for up to 30 days if a person exceeds a speed limit or designated speed by more than 30 miles per hour and the person has received at least one prior conviction under ORS 811.100 or 811.111 within 12 months of the date of the current offense.

(5) Notwithstanding subsections (1) to (3) of this section, if a person drives 100 miles per hour or greater when the person commits a violation described in this section, the person commits a specific fine traffic violation. The presumptive fine for a violation under this subsection is \$1,150, and upon conviction the court shall order a suspension of driving privileges for not less than 30 days nor more than 90 days.

(6) When a court *imposes* **orders** a suspension under subsection (4) or (5) of this section, the court shall prepare and send to the Department of Transportation an order of suspension of driving privileges of the person. Upon receipt of an order under this subsection, the department shall take action as directed under ORS 809.280.

SECTION 320. If House Bill 3075 becomes law and House Bill 2104 does not become law, section 3, chapter __, Oregon Laws 2011 (Enrolled House Bill 3075) (amending ORS 813.030), is repealed and ORS 813.030, as amended by section 147 of this 2011 Act, is amended to read:

813.030. The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of ~~[\$130]~~ **\$155**, except that the court may waive all or part of the fee in cases involving indigent defendants. The court may make provision for payment of the fee on an installment basis. The court shall deposit the fee in the Criminal Fine Account.

SECTION 321. If House Bill 3075 becomes law and House Bill 2104 does not become law, section 5, chapter __, Oregon Laws 2011 (Enrolled House Bill 3075), is amended to read:

Sec. 5. The amendments to ORS 813.030, 813.240 and 813.602 by sections 2 *[to 4 of this 2011 Act]* and 4, chapter __, Oregon Laws 2011 (Enrolled House Bill 3075), and section 320 of this 2011 Act apply to offenses that occur on or after the effective date of *[this 2011 Act]* chapter __, Oregon Laws 2011 (Enrolled House Bill 3075).

SECTION 322. If House Bill 3075 does not become law and House Bill 2104 becomes law, section 1, chapter __, Oregon Laws 2011 (Enrolled House Bill 2104) (amending ORS 813.030), is repealed and ORS 813.030, as amended by section 147 of this 2011 Act, is amended to read:

813.030. The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of ~~[\$130]~~ **\$230**, except that the court may waive all or part of the fee in cases involving indigent defendants. The court may make provision for payment of the fee on an installment basis. The court shall deposit the fee in the Criminal Fine Account.

SECTION 323. If House Bill 3075 does not become law and House Bill 2104 becomes law, section 3, chapter __, Oregon Laws 2011 (Enrolled House Bill 2104), is amended to read:

Sec. 3. The amendments to ORS 813.030 and 813.240 by *[sections 1 and 2 of this 2011 Act]* **section 2, chapter __, Oregon Laws 2011 (Enrolled House Bill 2104), and section 322 of this 2011 Act** apply to persons convicted of driving while under the influence of intoxicants on or after the

effective date of *[this 2011 Act]* **chapter __, Oregon Laws 2011 (Enrolled House Bill 2104)**, and to persons who file a petition for a driving while under the influence of intoxicants diversion agreement on or after the effective date of *[this 2011 Act]* **chapter __, Oregon Laws 2011 (Enrolled House Bill 2104)**.

SECTION 324. If both House Bill 3075 and House Bill 2104 become law, sections 1 and 4, chapter __, Oregon Laws 2011 (Enrolled House Bill 2104) (both amending ORS 813.030), are repealed and ORS 813.030, as amended by section 147 of this 2011 Act, is amended to read:

813.030. The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of ~~[\$130]~~ **\$255**, except that the court may waive all or part of the fee in cases involving indigent defendants. The court may make provision for payment of the fee on an installment basis. The court shall deposit the fee in the Criminal Fine Account.

SECTION 325. If both House Bill 3075 and House Bill 2104 become law, section 3, chapter __, Oregon Laws 2011 (Enrolled House Bill 2104), as amended by section 6, chapter __, Oregon Laws 2011 (Enrolled House Bill 2104), is amended to read:

Sec. 3. The amendments to ORS 813.030 and 813.240 by *[sections 4 and 5 of this 2011 Act]* **section 5, chapter __, Oregon Laws 2011 (Enrolled House Bill 2104), and section 324 of this 2011 Act** apply to persons convicted of driving while under the influence of intoxicants on or after the effective date of *[this 2011 Act]* **chapter __, Oregon Laws 2011 (Enrolled House Bill 2104)**, and to persons who file a petition for a driving while under the influence of intoxicants diversion agreement on or after the effective date of *[this 2011 Act]* **chapter __, Oregon Laws 2011 (Enrolled House Bill 2104)**.

SECTION 326. If House Bill 3075 becomes law and House Bill 2104 does not become law, section 58 of this 2011 Act is amended to read:

Sec. 58. (1) There is allocated \$506,244 from the Criminal Fine Account to the Law Enforcement Medical Liability Account established under ORS 414.815 for the period beginning January 1, 2012, and ending June 30, 2013.

(2) There is allocated \$3,223,179 from the Criminal Fine Account to the Department of Corrections for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities. The grant to each county shall be based on amounts deposited in the Criminal Fine and Assessment Account by the circuit court for the county in the 2009-2011 biennium.

(3) There is allocated \$42,884 from the Criminal Fine Account to the Oregon Health Authority for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(4) There is allocated \$190,004 from the Criminal Fine Account to the Oregon State Police for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(5) There is allocated \$22,500 from the Criminal Fine Account to the Arrest and Return Account established under ORS 133.865 for the period beginning January 1, 2012, and ending June 30, 2013.

(6) There is allocated ~~[\$699,000]~~ **\$1,677,000** from the Criminal Fine Account to the Intoxicated Driver Program Fund created under ORS 813.270 for the period beginning January 1, 2012, and ending June 30, 2013.

SECTION 327. If House Bill 3075 does not become law and House Bill 2104 becomes law, section 58 of this 2011 Act is amended to read:

Sec. 58. (1) There is allocated \$506,244 from the Criminal Fine Account to the Law Enforcement Medical Liability Account established under ORS 414.815 for the period beginning January 1, 2012, and ending June 30, 2013.

(2) There is allocated \$3,223,179 from the Criminal Fine Account to the Department of Corrections for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities.

The grant to each county shall be based on amounts deposited in the Criminal Fine and Assessment Account by the circuit court for the county in the 2009-2011 biennium.

(3) There is allocated \$42,884 from the Criminal Fine Account to the Oregon Health Authority for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(4) There is allocated \$190,004 from the Criminal Fine Account to the Oregon State Police for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(5) There is allocated \$22,500 from the Criminal Fine Account to the Arrest and Return Account established under ORS 133.865 for the period beginning January 1, 2012, and ending June 30, 2013.

(6) There is allocated [~~\$699,000~~] **\$3,378,000** from the Criminal Fine Account to the Intoxicated Driver Program Fund created under ORS 813.270 for the period beginning January 1, 2012, and ending June 30, 2013.

SECTION 328. If both House Bill 3075 and House Bill 2104 become law, section 58 of this 2011 Act is amended to read:

Sec. 58. (1) There is allocated \$506,244 from the Criminal Fine Account to the Law Enforcement Medical Liability Account established under ORS 414.815 for the period beginning January 1, 2012, and ending June 30, 2013.

(2) There is allocated \$3,223,179 from the Criminal Fine Account to the Department of Corrections for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of planning, operating and maintaining county juvenile and adult corrections programs and facilities. The grant to each county shall be based on amounts deposited in the Criminal Fine and Assessment Account by the circuit court for the county in the 2009-2011 biennium.

(3) There is allocated \$42,884 from the Criminal Fine Account to the Oregon Health Authority for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of grants under ORS 430.345 for the establishment, operation and maintenance of alcohol and drug abuse prevention, early intervention and treatment services provided through a county.

(4) There is allocated \$190,004 from the Criminal Fine Account to the Oregon State Police for the period beginning January 1, 2012, and ending June 30, 2013, for the purpose of the enforcement of the laws relating to driving under the influence of intoxicants.

(5) There is allocated \$22,500 from the Criminal Fine Account to the Arrest and Return Account established under ORS 133.865 for the period beginning January 1, 2012, and ending June 30, 2013.

(6) There is allocated [~~\$699,000~~] **\$4,323,000** from the Criminal Fine Account to the Intoxicated Driver Program Fund created under ORS 813.270 for the period beginning January 1, 2012, and ending June 30, 2013.

SECTION 329. ORS 830.990, as amended by section 1, chapter 381, Oregon Laws 2011 (Enrolled House Bill 3121), is amended to read:

830.990. *[(1) Violation of ORS 830.565 by a person operating a manually propelled boat is punishable by a fine of \$30, and violation of ORS 830.565 by a person operating a motorboat is punishable by a fine of \$50. A court may not impose the unitary assessment provided for in ORS 137.290, the assessment provided for in ORS 137.309, or any other additional assessment or surcharge, for a violation of ORS 830.565.]*

(1)(a) Violation of ORS 830.565 by a person operating a manually propelled boat is a Class D violation. Notwithstanding section 2 of this 2011 Act, the presumptive fine for a violation of ORS 830.565 is \$30.

(b) Violation of ORS 830.565 by a person operating a motorboat is punishable is a Class D violation. Notwithstanding section 2 of this 2011 Act, the presumptive fine for a violation of ORS 830.565 is \$50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.195, 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6) A person who violates ORS 830.383 or 830.909 commits a Class B misdemeanor.

(7) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(8) A person who violates ORS 830.475 (2) commits a Class C felony.

SECTION 330. (1) **The amendments to ORS 137.300 by section 52 of this 2011 Act are intended to change the name of the Criminal Fine and Assessment Account to the Criminal Fine Account.**

(2) **For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Criminal Fine and Assessment Account,” wherever they occur in statutory law, other words designating the “Criminal Fine Account.”**

CAPTIONS

SECTION 331. **The unit and section captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.**

OPERATIVE DATES

SECTION 332. (1) **Except as provided in subsection (2) of this section, the provisions of this 2011 Act become operative January 1, 2012.**

(2) **Sections 53, 54, 55, 56, 57, 58, 58a, 59, 61a, 150c and 311 of this 2011 Act, the amendments to ORS 1.178, sections 2, 2b and 2d, chapter 659, Oregon Laws 2009, and section 24, chapter 107, Oregon Laws 2010, by sections 61, 67a, 150, 150d and 150e of this 2011 Act and the repeal of section 1, chapter 659, Oregon Laws 2009, by section 150b of this 2011 Act become operative on the effective date of this 2011 Act.**

EFFECTIVE DATE

SECTION 333. **This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect July 1, 2011.**

Passed by House June 28, 2011

Repassed by House June 30, 2011

.....
Ramona Kenady Line, Chief Clerk of House

.....
Bruce Hanna, Speaker of House

.....
Arnie Roblan, Speaker of House

Passed by Senate June 29, 2011

.....
Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

.....
Kate Brown, Secretary of State