

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2712

By JOINT COMMITTEE ON WAYS AND MEANS

June 27

- 1 On page 1 of the printed A-engrossed bill, delete line 4 and insert "133.865, 135.280, 137.017,
2 137.293, 137.300, 137.301, 137.533,".
- 3 In line 5, after "151.505," insert "153.015," and after "153.025," insert "153.030,".
- 4 In line 7, after "167.339," insert "167.401,".
- 5 In line 15, delete "498.155,".
- 6 In line 19, delete "654.991,".
- 7 In line 25, delete "813.240, 813.270,".
- 8 In line 27, delete "10, 12, 22, 24 and 26" and insert "2b and 2d" and after "2009" insert ", and
9 section 24, chapter 107, Oregon Laws 2010".
- 10 On page 2, line 9, after "4" insert "and 6b".
- 11 Delete lines 13 through 16 and insert:
- 12 "(a) \$435 for a Class A violation.
- 13 "(b) \$260 for a Class B violation.
- 14 "(c) \$160 for a Class C violation.
- 15 "(d) \$110 for a Class D violation.".
- 16 In line 22, delete "offense" and insert "violation, as defined in ORS 801.557,".
- 17 Delete lines 27 through 32 and insert:
- 18 "(a) \$870 for a Class A violation.
- 19 "(b) \$520 for a Class B violation.
- 20 "(c) \$320 for a Class C violation.
- 21 "(d) \$220 for a Class D violation.
- 22 "(2) The presumptive fine for a specific fine violation that is subject to this section is an amount
23 equal to twice the presumptive fine determined for the violation under section 2 (2) of this 2011
24 Act.".
- 25 In line 38, after "2" insert "or 3".
- 26 Delete lines 39 through 42 and insert:
- 27 "(a) \$220 for a Class A violation.
- 28 "(b) \$130 for a Class B violation.
- 29 "(c) \$80 for a Class C violation.
- 30 "(d) \$60 for a Class D violation.
- 31 "(2) Except as otherwise provided by law, a court may not defer, waive, suspend or otherwise
32 reduce the fine for a specific fine violation to an amount that is less than 20 percent of the
33 presumptive fine for the violation.".
- 34 In line 43, delete "(2)" and insert "(3)".
- 35 In line 45, delete "(3)" and insert "(4)".

1 On page 3, after line 13, insert:

2 **“SECTION 6a.** ORS 153.015 is amended to read:

3 “153.015. (1) An offense described in the Oregon Revised Statutes that is designated as a vio-
4 lation but does not specify the classification of the violation is an unclassified violation. An un-
5 classified violation is a Class B violation.

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

8 “(a) Is not designated as a crime or as a class A, B, C or D violation;

9 “(b) Is not punishable by a term of imprisonment as a penalty for committing the offense; and

10 “(c) Is punishable by a specific fine as the penalty for committing the offense.

11
12 **“REPLACEMENT FINE AMOUNT FOR UNITARY ASSESSMENT**

13
14 **“SECTION 6b.** (1) **In any criminal action in which a fine is imposed, the lesser of the**
15 **following amounts is payable to the state before any other distribution of the fine is made:**

16 **“(a) \$60; or**

17 **“(b) The amount of the fine if the fine is less than \$60.**

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

20 In line 21, delete the boldfaced material and insert “Except as otherwise provided by law, the
21 maximum fine for a violation committed by an individual”.

22 In line 27, before “amount” insert “maximum”.

23 In line 33, delete the boldfaced material and insert “Except as otherwise provided by law, if a
24 special corporate fine is not specified in the law creating the violation, the”.

25 On page 7, line 40, delete “for” and insert “by reason of committing an offense or by reason of
26 committing”.

27 On page 9, line 1, delete “or” and insert “and”.

28 In line 20, delete “shall” and insert “may”.

29 On page 11, line 39, delete “commenced and prosecuted” and insert “brought”.

30 On page 12, line 38, after “sections” insert “6b,”.

31 On page 13, line 16, delete “under sections 47 to 50 of this 2011 Act”.

32 Delete lines 21 through 24 and insert:

33 **“SECTION 39. Sections 33 to 38 of this 2011 Act and the repeal of ORS 137.295 by section**
34 **118 of this 2011 Act apply to all payments on judgments of conviction of an offense, without**
35 **regard to whether the offense was committed before, on or after January 1, 2012.”.**

36 On page 17, line 23, delete “, payable to the state,”.

37 In line 34, delete “, payable to the state,”.

38 On page 18, line 10, after “Account.” delete the rest of the line and line 11 and insert:

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

42 Delete lines 15 through 26 and insert:

43 **“SECTION 45.** ORS 133.865 is amended to read:

44 “133.865. (1) The Arrest and Return Account is established separate and distinct from the Gen-
45 eral Fund. The account consists of moneys deposited into the account under ORS [161.665] **144.605,**

1 **moneys allocated to the account under ORS 137.300** and [such] other moneys [as may be appro-
2 priated to the account by law] **received by the Governor for the purpose of paying the costs of**
3 **extraditing defendants.**

4 “(2) Except as provided in subsection [(2)] (3) of this section, moneys in the account are con-
5 tinuously appropriated to the Governor for the purpose of paying costs incurred in carrying out the
6 provisions of ORS 133.743 to 133.857.

7 “[2)] (3) Moneys deposited in the Arrest and Return Account under ORS 144.605 are contin-
8 uously appropriated to the Governor for the purpose of paying costs incurred in retaking offenders
9 who have transferred supervision under the Interstate Compact for Adult Offender Supervision de-
10 scribed in ORS 144.600.”.

11 Delete line 41 and insert:

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

14 In line 42, delete the second “the” and insert “any”.

15 In line 44, delete the second “the” and insert “any”.

16 On page 19, delete line 6 and insert:

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

19 In line 7, delete the second “the” and insert “any”.

20 In line 9, delete the second “the” and insert “any”.

21 Delete line 14 and insert:

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

24 Delete line 20 and insert:

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

27 In line 21, delete the second “the” and insert “any”.

28 In line 23, delete the second “the” and insert “any”.

29 Delete line 30 and insert:

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

32 In line 31, delete the second “the” and insert “any”.

33 In line 33, delete the second “the” and insert “any”.

34 Delete line 38 and insert:

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

37 Delete line 43 and insert:

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

40 In line 44, delete the second “the” and insert “any”.

41 On page 20, line 1, delete the second “the” and insert “any”.

42 In line 5, after “sections” insert “6b,”.

43 In line 11, after “sections” insert “6b,”.

44 After line 16, insert:
45

“(Transition Provisions)

1
2
3 **“SECTION 51a. (1) The repeal of ORS 137.308 and 137.309 by section 118 of this 2011 Act**
4 **apply only to offenses committed on or after January 1, 2012. Except as provided in this**
5 **section, any offense committed before January 1, 2012, shall continue to be governed by ORS**
6 **137.308 and 137.309 as in effect immediately before January 1, 2012.**

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

11 **“(3) Any amounts received on or after January 1, 2012, on judgments of conviction of an**
12 **offense committed before January 1, 2012, that would have been deposited in the State Court**
13 **Facilities Security Account under ORS 137.309, as in effect immediately before January 1,**
14 **2012, shall be deposited in the Criminal Fine Account.**

15 **“(4) Any amounts received on or after January 1, 2012, on judgments of conviction of an**
16 **offense committed before January 1, 2012, that would have been deposited in a county’s court**
17 **facilities security account under the provisions of ORS 137.308 (2), as in effect immediately**
18 **before January 1, 2012, shall be deposited in the Criminal Fine Account.**

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

21 **“SECTION 51b. (1) Any amounts received on or after January 1, 2012, on judgments of**
22 **conviction for violations of ORS 813.095 that were committed before January 1, 2012, that**
23 **would have been deposited in the State Police Account under ORS 153.630 (6), as in effect**
24 **immediately before January 1, 2012, shall be disposed as provided in sections 47 to 50 of this**
25 **2011 Act.**

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

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

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

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

40 Delete lines 20 through 45 and delete pages 21 through 24.

41 On page 25, delete lines 1 through 39 and insert:

42 **“SECTION 52. ORS 137.300 is amended to read:**

43 **“137.300. [(1) *The Criminal Fine and Assessment Account is established in the General Fund of***
44 ***the State Treasury. All moneys in the account are continuously appropriated to the Department of Re-***
45 ***venue to be distributed by the Department of Revenue according to allocations made by the Legislative***

1 *Assembly. The Department of Revenue shall keep a record of moneys transferred into and out of the*
2 *account. The Department of Revenue shall report monthly to the Attorney General the amount of mon-*
3 *eys received from the state courts in each county and from each city court.]*

4 *“(2) The Legislative Assembly shall allocate moneys in the account according to the following*
5 *priority:]*

6 *“(a) Public safety standards, training and facilities;]*

7 *“(b) Criminal injuries compensation and assistance to victims of crime and children reasonably*
8 *suspected of being victims of crime;]*

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

11 *“(d) Maintenance and operation of the Law Enforcement Data System.]*

12 *“(3) Moneys in the account may not be allocated for:]*

13 *“(a) The payment of debt service obligations; or]*

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

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

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

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

21 **“(1) The Criminal Fine Account is established in the General Fund. Except as otherwise**
22 **provided by law, all amounts collected in state courts as monetary obligations in criminal**
23 **actions shall be deposited by the courts in the account. All moneys in the account are con-**
24 **tinuously appropriated to the Department of Revenue to be distributed by the Department**
25 **of Revenue as provided in this section. The Department of Revenue shall keep a record of**
26 **moneys transferred into and out of the account.**

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

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

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

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

34 **“(d) Allocations for the maintenance and operation of the Law Enforcement Data Sys-**
35 **tem.**

36 **“(3) After making allocations under subsection (2) of this section, the Legislative As-**
37 **sembly shall allocate moneys from the Criminal Fine Account for the following purposes:**

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

40 **“(b) Allocations to the State Court Facilities and Security Account established under ORS**
41 **1.178.**

42 **“(c) Allocations to the Department of Corrections for community corrections grants un-**
43 **der ORS 423.520.**

44 **“(d) Allocations to the Oregon Health Authority for the purpose of grants under ORS**
45 **430.345 for the establishment, operation and maintenance of alcohol and drug abuse pre-**

1 **vention, early intervention and treatment services provided through a county.**

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

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

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

6 **“(4) It is the intent of the Legislative Assembly that allocations from the Criminal Fine**
7 **Account under subsection (3) of this section be consistent with historical funding of the en-**
8 **tities, programs and accounts listed in subsection (3) of this section from monetary obli-**
9 **gations imposed in criminal proceedings.**

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

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

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

17 **“SECTION 52a. Any funds in the Criminal Fine and Assessment Account on January 1,**
18 **2012, shall be transferred by the State Treasurer to the Criminal Fine Account.**

19 **“SECTION 52b. ORS 137.301 is amended to read:**

20 **“137.301. The Legislative Assembly finds that:**

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

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

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

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

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

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

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

40 **“SECTION 53. Notwithstanding ORS 137.300, for the period beginning July 1, 2011, and**
41 **ending June 30, 2013, the Department of Revenue shall distribute the moneys in the Criminal**
42 **Fine and Assessment Account and the Criminal Fine Account as specified in sections 54 to**
43 **59 of this 2011 Act.**

44 **“SECTION 54. There is allocated \$21,424,867 to the Department of Public Safety Standards**
45 **and Training for the period beginning July 1, 2011, and ending June 30, 2013, from the Crim-**

1 inal Fine and Assessment Account and the Criminal Fine Account, for the purpose of crim-
2 inal justice training and standards operations.

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

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

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

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

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

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

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

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

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

45 “(5) There is allocated \$22,500 from the Criminal Fine Account to the Arrest and Return

1 Account established under ORS 133.865 for the period beginning January 1, 2012, and ending
2 June 30, 2013.

3 “(6) There is allocated \$468,691 from the Criminal Fine Account to the Intoxicated Driver
4 Program Fund created under ORS 813.270 for the period beginning January 1, 2012, and end-
5 ing June 30, 2013.

6 “SECTION 58a. There is allocated \$7,564,295 from the Criminal Fine and Assessment Ac-
7 count and the Criminal Fine Account to the State Court Facilities and Security Account es-
8 tablished under ORS 1.178 for the period beginning July 1, 2011, and ending June 30, 2013.

9 “SECTION 59. After distributing the amounts specified in sections 54 to 58a of this 2011
10 Act, the Department of Revenue shall distribute funds remaining in the Criminal Fine Ac-
11 count to the General Fund.

12
13 “AMOUNTS FORMERLY COLLECTED
14 AS COUNTY ASSESSMENT

15
16 “(Court Facility Accounts)

17
18 “SECTION 60. ORS 1.182 is amended to read:

19 “1.182. (1) The county treasurer shall deposit moneys received [*under ORS 137.308 (2)*] **from**
20 **distributions under ORS 1.178** into a court facilities security account maintained by the county
21 treasurer. The following apply to the account:

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

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

29 “(c) Moneys deposited in the account [*under ORS 137.308 (2)*] **from distributions under ORS**
30 **1.178** and expended under the provisions of this section shall be in addition to any other moneys
31 expended by the county on court facilities security programs and personnel. A county shall not re-
32 duce other expenditures on court facilities security programs and personnel by reason of the addi-
33 tional moneys provided [*under ORS 137.308 (2)*] **from distributions under ORS 1.178.**

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

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

44 “(f) The presiding judge of the judicial district shall provide to the Chief Justice of the Supreme
45 Court a financial report showing all revenues, deposits and expenditures from the court facilities

1 security account for each fiscal year. The report shall be submitted to the Chief Justice not later
2 than August 30 of each year.

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

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

11 **“SECTION 61.** ORS 1.178 is amended to read:

12 **“1.178. (1) The State Court Facilities and Security Account is established separate and distinct**
13 **from the General Fund. The account consists of moneys [*deposited to the credit of the account under***
14 **ORS 137.309 (7)] allocated to the account under the provisions of ORS 137.300.** Interest earned
15 by the State Court Facilities and Security Account shall be credited to the account. Moneys in the
16 account are continuously appropriated to the State Court Administrator for the [*purpose of providing*
17 *security in buildings that contain or are utilized by the Supreme Court, Court of Appeals, Oregon Tax*
18 *Court or office of the State Court Administrator as described under ORS 1.177]* **purposes described**
19 **in subsection (2) of this section.**

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

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

24 “(b) Statewide training on state court security.

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

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

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

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

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

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

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

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

45 **“(3) Notwithstanding ORS 1.178 (2)(d), during the biennium beginning July 1, 2011, the**

1 **State Court Administrator may not expend any funds from the State Court Facilities and**
2 **Security Account for the purpose of capital improvements for courthouses and other state**
3 **court facilities.”.**

4 On page 26, delete lines 21 through 45 and insert:

5 “**SECTION 63.** ORS 496.992 is amended to read:

6 “496.992. (1) Except as otherwise provided by [ORS 153.022 and] **this section** or other law, a
7 violation of any provision of the wildlife laws, or any rule [promulgated] **adopted** pursuant [thereto]
8 **to the wildlife laws**, is a Class A misdemeanor [when] **if** the offense is committed with a culpable
9 mental state [as defined in ORS 161.085. If the defendant is sentenced to pay a fine, failure to pay the
10 fine, or any portion thereof, shall be treated as provided in ORS 161.685].

11 “[2) Except as otherwise provided by ORS 153.022 and other law, violation of any provision of the
12 wildlife laws or any rule promulgated pursuant thereto is punishable as a Class A violation in the
13 manner prescribed in ORS chapter 153 when the offense is committed with no culpable mental state
14 as defined in ORS 161.085.]

15 “(2) **Except as otherwise provided by this section or other law, a violation of a provision**
16 **of the wildlife laws, or a rule adopted pursuant to the wildlife laws, that does not involve the**
17 **taking of wildlife is a Class D violation if the offense is committed without a culpable mental**
18 **state.**

19 “(3) **A violation of a provision of the wildlife laws, or a rule adopted pursuant to the**
20 **wildlife laws, that involves the taking of wildlife, other than nongame mammals and game**
21 **birds, is a Class A violation if the offense is committed without a culpable mental state.**

22 “(4) **A violation of a provision of the wildlife laws, or a rule adopted pursuant to the**
23 **wildlife laws, that involves the taking of nongame mammals or game birds is a Class C vio-**
24 **lation if the offense is committed without a culpable mental state.**

25 “(5) **A violation of a provision of the wildlife laws, or a rule adopted pursuant to the**
26 **wildlife laws, that involves the size or quantity limits for salmon, steelhead trout and**
27 **sturgeon is a Class A violation if the offense is committed without a culpable mental state.**

28 “(6) **A violation of a provision of the wildlife laws, or a rule adopted pursuant to the**
29 **wildlife laws, relating to the size or quantity limits for fish or shellfish, other than size and**
30 **quantity limits for salmon, steelhead trout and sturgeon, is a Class C violation if the offense**
31 **is committed without a culpable mental state.**

32 “(7) **A violation of the nonresident licensing provisions of ORS 497.102 or 497.121 is a Class**
33 **A violation if the offense is committed without a culpable mental state.**

34 “(8) **A violation of ORS 496.994 is a Class A violation if the offense is committed without**
35 **a culpable mental state.**

36 “[3) (9) The second and each subsequent conviction within a 10-year period for the taking of
37 a raptor or the taking of game fish with a total value of \$200 or more or the taking of antelope,
38 black bear, cougar, deer, elk, moose, mountain goat or mountain sheep in violation of **any provision**
39 **of the wildlife laws**, or any rule [promulgated] **adopted** pursuant thereto, which occurs more than
40 one hour prior to or more than one hour subsequent to a season established for the lawful taking
41 of such game mammals or game fish[,] is a Class C felony [when] **if** the offense is committed with a
42 culpable mental state [as defined in ORS 161.085].

43 “(10) **As used in this section, ‘culpable mental state’ has the meaning given that term in**
44 **ORS 161.085.”.**

45 On page 27, delete lines 1 through 4.

1 On page 28, delete lines 40 through 45.

2 On page 29, delete lines 1 through 7.

3 After line 39, insert:

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

5 “**Sec. 24.** The amendments to ORS 496.951 by section 23 [*of this 2010 Act*], **chapter 107, Oregon**

6 **Laws 2010**, become operative [*July 1, 2011*] **January 1, 2012**.”.

7 In line 40, delete “, 498.155”.

8 In line 44, delete “, 498.155”.

9 Delete pages 30 through 38.

10 On page 39, delete lines 1 through 28 and insert:

11 “**NOTE:** Sections 68a to 78a were deleted by amendment. Subsequent sections were not re-

12 numbered.”.

13 On page 46, delete lines 24 and 25 and insert:

14 “(6)(a) A person who violates subsection (2) of this section is subject to the provisions of this

15 subsection if the person does not act knowingly or intentionally and:”.

16 In line 34, delete “\$720” and insert “\$860”.

17 On page 48, delete lines 43 through 45 and insert:

18 “(3) Violation of ORS 757.325 is a Class A violation if committed by an individual. Violation of

19 ORS 757.325 is a specific fine violation if committed by a person other than an individual and is

20 subject to a fine of not more than \$10,000.”.

21 On page 50, line 34, after “(5)” insert “Notwithstanding subsections (1) to (3) of this section,”.

22 On page 57, delete lines 4 through 45 and insert:

23 “**SECTION 108.** ORS 818.430 is amended to read:

24 “818.430. This section establishes schedules of [*penalties*] **presumptive fines** for violations of

25 maximum weight requirements under the vehicle code. The particular schedule applicable is the

26 schedule designated in the section establishing the offense. Upon conviction, a person is punishable

27 by a fine and other penalty established in the schedule. Fines are based upon the excess weight by

28 which any loaded weight exceeds the applicable loaded weight authorized in the provision, permit,

29 order or resolution the person violates. The schedules are as follows:

30 “(1) [*Except as provided in subsection (2) of this section,*] The [*penalties*] **presumptive fines** under

31 Schedule I are as provided in this subsection. If the excess weight is:

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

33 “(b) More than 1,000 pounds, but not in excess of 2,000 pounds, [*by a fine of not less than \$30*]

34 **the presumptive fine is \$150.**

35 “(c) More than 2,000 pounds, but not in excess of 3,000 pounds, [*by a fine of not more than three*

36 *cents per pound for each pound of the excess weight*] **the presumptive fine is \$200.**

37 “(d) More than 3,000 pounds, but not in excess of 5,000 pounds, [*the fine shall be five cents per*

38 *pound for each pound of the excess weight*] **the presumptive fine is \$300.**

39 “(e) More than 5,000 pounds, but not in excess of 7,500 pounds, [*the fine shall be 13*] **the**

40 **presumptive fine is an amount equal to 15** cents per pound for each pound of the excess weight.

41 “(f) More than 7,500 pounds, but not in excess of 10,000 pounds, [*the fine shall be 15*] **the**

42 **presumptive fine is an amount equal to 16** cents per pound for each pound of the excess weight.

43 “(g) More than 10,000 pounds, but not in excess of 12,500 pounds, [*the fine shall be 19*] **the**

44 **presumptive fine is an amount equal to 20** cents for each pound of the excess weight.

45 “(h) More than 12,500 pounds over the allowable weight, **the presumptive fine is an amount**

1 **equal to 24 cents per pound for each pound of excess weight.**

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

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

6 “[*(b) Transporting agricultural products;*]

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

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

9 “[*(3)*] **(2) The [penalties] presumptive fines** under Schedule II are as provided in this subsection.
10 If the excess weight is:

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

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

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

17 “[*(4)*] **(3) [The per pound penalty in subsection (3) of this section shall be waived by the court and**
18 **the fine] Notwithstanding section 4 of this 2011 Act, the fine imposed under subsection (2) of**
19 **this section** shall be not more than \$100 if a person charged with an offense punishable under
20 Schedule II produces in court a second valid variance permit issued under ORS 818.200 authorizing
21 a loaded weight equal to or greater than the actual loaded weight of the vehicle, combination of
22 vehicles, axle, tandem axles or group of axles upon which the citation was based.

23 “[*(5)*] **(4) The penalties under Schedule III are as provided in this subsection and are in addition**
24 **to any suspension of operator’s license under ORS 809.120 or any suspension of vehicle registration**
25 **under ORS 809.120. If the excess weight is:**

26 “(a) One hundred pounds, but not in excess of 5,000 pounds, the **presumptive** fine shall be
27 [*\$100*] **\$200** plus 15 cents per pound for each pound of the excess weight.

28 “(b) More than 5,000 pounds but not in excess of 10,000 pounds, the **presumptive** fine shall be
29 [*\$250*] **\$350** plus 20 cents per pound for each pound of excess weight.

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

33 On page 58, delete lines 1 through 14.

34 On page 59, after line 26, insert:

35 “**SECTION 111a.** ORS 153.030 is amended to read:

36 “153.030. (1) The procedures provided for in this chapter apply to violations described in ORS
37 153.008. Except as specifically provided in this chapter, the criminal procedure laws of this state
38 applicable to crimes also apply to violations.

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

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

43 “(4) This chapter does not affect the ability of a city described in ORS 3.136 (1) to engage in the
44 activities described in ORS 3.136 (3). Nothing in this chapter affects the ability of any other political
45 subdivision of this state to provide for the administrative enforcement of the charter, ordinances,

1 rules and regulations of the political subdivision, including enforcement through imposition of mon-
2 etary penalties. Except for ordinances governing the parking of vehicles, administrative enforcement
3 as described in this subsection may not be used for any prohibition designated as an offense.

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

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

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

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

18 On page 63, delete lines 34 through 38 and insert:

19 “**SECTION 122.** ORS 137.017 is amended to read:

20 “137.017. Except as otherwise specifically provided by law, all fines, costs [*and forfeited*], secu-
21 rity deposits **and other amounts** ordered **or required to be paid** in criminal actions [*and pro-*
22 *ceedings, as defined in ORS 131.005, in the circuit court shall be accounted for and distributed as*
23 *provided in ORS 137.293 and 137.295, as]* **are** monetary obligations payable to the state **and shall**
24 **be deposited in the Criminal Fine Account.**”

25 On page 64, delete lines 12 through 18 and insert:

26 “(e) Agrees to pay a fee equal to \$100. The person must pay the amount within 90 days of im-
27 position unless the court allows payment at a later time.”

28 On page 66, line 1, delete “shall” and insert “may”.

29 On page 67, delete lines 4 through 23 and insert:

30 “**SECTION 131.** ORS 305.830 is amended to read:

31 “305.830. (1) Amounts transferred to the Department of Revenue by justice and municipal courts
32 under [*ORS 137.295*] **sections 6b, 48 and 49 of this 2011 Act** shall be deposited in a suspense ac-
33 count established under ORS 293.445 for the purpose of receiving criminal fines and assessments.

34 “(2) In carrying out its duties under this section, the Department of Revenue shall have access
35 to the records and dockets of those courts charged with the duty to transfer moneys to the depart-
36 ment under [*ORS 137.295*] **sections 6b, 48 and 49 of this 2011 Act.**

37 “(3) The Department of Revenue may retain from the funds transferred under [*ORS 137.295*]
38 **sections 6b, 48 and 49 of this 2011 Act** an amount not to exceed two percent annually for its ac-
39 tual costs of collection and disbursement of funds under this section, including the cost of all ex-
40 aminations, investigations and searches, and of all traveling and other expenses in connection
41 therewith. The department shall deposit the net amount of moneys in the suspense account described
42 in subsection (1) of this section into the Criminal Fine [*and Assessment*] Account [*for distribution*
43 *as provided in ORS 137.300*].

44 “(4) All judicial, municipal and county officers shall cooperate with the Department of Revenue
45 with respect to the collections, searches and investigations and shall furnish the Department of

1 Revenue with any information contained in any of the records under their respective custodies re-
2 lating thereto.

3 “(5) The Department of State Police shall cooperate in the investigation of fines, penalties and
4 forfeitures.”.

5 On page 79, line 40, after “for” insert “violations prosecuted in”.

6 On page 80, delete lines 43 and 44 and insert:

7 “(a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Re-
8 venue in the General Fund.”.

9 On page 81, delete lines 3 and 4.

10 Delete lines 5 through 38 and insert:

11 “**SECTION 150a.** Section 2, chapter 659, Oregon Laws 2009, as amended by section 20, chapter
12 107, Oregon Laws 2010, and section 150 of this 2011 Act, is amended to read:

13 “**Sec. 2.** (1) In all cases of conviction for the commission of a crime or violation, excluding
14 parking violations, the trial court, whether a circuit, justice or municipal court, shall impose upon
15 the defendant, in addition to any fine, cost or other monetary obligation imposed, an offense sur-
16 charge under this section. Except when the person successfully asserts the defense set forth in ORS
17 419C.522, the offense surcharge shall also be imposed by the circuit court and county court in ju-
18 venile cases under ORS 419C.005 (1). The offense surcharge is a penal obligation in the nature of a
19 fine and shall be in an amount as follows:

20 “(a) \$35 in the case of a felony.

21 “(b) \$35 in the case of a misdemeanor.

22 “(c) \$45 in the case of a violation as described in ORS 153.008.

23 “(2) A court may waive all or part of the offense surcharge required by this section only if the
24 court imposes no fine on the defendant.

25 “(3) The offense surcharge required by this section shall be imposed only for offenses that are
26 committed on or after October 1, 2009, and before January 1, 2012.

27 “(4)(a) Offense surcharges imposed under this section are part of the base fine for the purposes
28 of ORS chapter 153.

29 “(b) The provisions of ORS 153.093 do not affect the amount of the offense surcharge imposed
30 and collected under this section, and the amount calculated under ORS 153.093 (1) includes the full
31 amount of the offense surcharge.

32 “(5) Offense surcharges imposed in a circuit court under this section are category 3 monetary
33 obligations for the purposes of ORS 137.295 and shall be collected as provided in ORS 137.295. Of-
34 fense surcharges imposed in a justice court, county court or municipal court under this section are
35 category 4 monetary obligations for the purposes of ORS 137.295 and shall be collected as provided
36 in ORS 137.295. Amounts collected as offense surcharges under this section must be deposited or
37 paid as follows:

38 “(a) Offense surcharges imposed in circuit courts shall be deposited by the Department of Re-
39 venue in the [*General Fund*] **Criminal Fine Account**.

40 “(b) Offense surcharges imposed in a justice court or county court shall be paid to the county
41 treasurer.

42 “(c) Offense surcharges imposed in a municipal court shall be paid to the city treasurer.”.

43 After line 42, insert:

44 “**SECTION 150d.** Section 2b, chapter 659, Oregon Laws 2009, is amended to read:

45 “**Sec. 2b.** The amendments to ORS 153.125 by section 2a [*of this 2009 Act*], **chapter 659, Oregon**

1 **Laws 2009**, apply only to offenses that are committed on or after October 1, 2009, and before [*July*
2 *1, 2011*] **January 1, 2012**.

3 “**SECTION 150e.** Section 2d, chapter 659, Oregon Laws 2009, is amended to read:

4 “**Sec. 2d.** (1) The amendments to ORS 153.125 by section 2c [*of this 2009 Act*], **chapter 659,**
5 **Oregon Laws 2009**, become operative [*July 1, 2011*] **January 1, 2012**.

6 “(2) The amendments to ORS 153.125 by section 2c [*of this 2009 Act*], **chapter 659, Oregon**
7 **Laws 2009**, do not affect the imposition of a surcharge under section 2 [*of this 2009 Act*], **chapter**
8 **659, Oregon Laws 2009**, for an offense committed on or after October 1, 2009, and before [*July 1,*
9 *2011*] **January 1, 2012**.”.

10 On page 88, after line 3, insert:

11 “**SECTION 168a.** ORS 167.401 is amended to read:

12 “167.401. (1) Except as provided in subsection (4) of this section, no person under 18 years of
13 age shall purchase, attempt to purchase or acquire tobacco products as defined in ORS 431.840.
14 Except when such minor is in a private residence accompanied by the parent or guardian of the
15 minor and with the consent of such parent or guardian, no person under 18 years of age shall have
16 personal possession of tobacco products.

17 “(2) Any person who violates subsection (1) of this section commits a **Class B** violation.

18 “(3)(a) In lieu of any other penalty established by law, a person who is convicted for the first
19 time of a violation of subsection (1) of this section may be ordered to participate in a tobacco edu-
20 cation program or a tobacco use cessation program or to perform community service related to
21 diseases associated with consumption of tobacco products. A person may be ordered to participate
22 in such a program only once.

23 “(b) In addition to and not in lieu of any other penalty established by law, a person who is
24 convicted of a second violation of subsection (1) of this section through misrepresentation of age
25 may be required to participate in a tobacco education or a tobacco use cessation program or to
26 perform community service related to diseases associated with the consumption of tobacco products,
27 and the court shall order that the person’s driving privileges and right to apply for driving privileges
28 be suspended for a period not to exceed one year. If a court has issued an order denying driving
29 privileges under this subsection, the court, upon petition of the person, may withdraw the order at
30 any time the court deems appropriate. The court notification to the Department of Transportation
31 under this subsection may include a recommendation that the person be granted a hardship permit
32 under ORS 807.240 if the person is otherwise eligible for the permit.

33 “(4) A minor acting under the supervision of an adult may purchase, attempt to purchase or
34 acquire tobacco products for the purpose of testing compliance with a federal law, state statute,
35 local law or retailer management policy limiting or regulating the delivery of tobacco products to
36 minors.”.

37 On page 112, line 1, after “on” insert “civil”.

38 Delete lines 35 through 45 and insert:

39 “**NOTE:** Section 266 was deleted by amendment. Subsequent sections were not renumbered.”.

40 On page 113, delete lines 1 through 13.

41 On page 129, line 18, delete “793.610” and insert “783.610”.

42 In line 24, delete “793.550 or 783.560” and insert “783.550 or 783.580”.

43 On page 132, delete lines 3 through 6 and insert:

44 “(2) Sections 53, 54, 55, 56, 57, 58, 58a, 59, 61a, 150c and 311 of this 2011 Act, the amendments
45 to ORS 1.178, sections 2, 2b and 2d, chapter 659, Oregon Laws 2009, and section 24, chapter 107,

1 Oregon Laws 2010, by sections 61, 67a, 150, 150d and 150e of this 2011 Act and the repeal of section
2 1, chapter 659, Oregon Laws 2009, by section 150b of this 2011 Act become operative on the effective
3 date of this 2011 Act.”

4
