

House Bill 3325

Sponsored by Representative BARKER (at the request of Department of Justice)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that fine imposed in certain environmental crimes cases be in form of compensatory fine. Directs court to forward payments credited to compensatory fine to Department of Justice for deposit in Department of Justice Protection and Education Revolving Account. Modifies scope of phrase "state and federal environmental laws" for purposes of account.

Modifies provisions related to imposition of civil penalties by Department of State Lands, State Parks and Recreation Department, Department of Environmental Quality, State Department of Energy, State Department of Fish and Wildlife, State Department of Geology and Mineral Industries, State Forestry Department, Water Resources Department and State Department of Agriculture.

Dedicates certain penalties to Department of Justice Protection and Education Revolving Account.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the environment; creating new provisions; amending ORS 137.101, 137.295, 180.095,
3 196.890, 196.895, 390.663, 390.669, 390.674, 390.925, 390.986, 390.992, 468.090, 468.100, 468.135,
4 468.140, 469.085, 469.563, 496.303, 517.880, 517.992, 520.175, 522.810, 561.280, 568.933, 634.905 and
5 634.925; and declaring an emergency.

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

7 **SECTION 1.** ORS 180.095 is amended to read:

8 180.095. (1) The Department of Justice Protection and Education Revolving Account is created
9 in the General Fund. All moneys in the account are continuously appropriated to the Department
10 of Justice and may be used to pay for only the following activities:

11 (a) Restitution and refunds in proceedings described in paragraph (c) of this subsection;

12 (b) Consumer and business education relating to the laws governing antitrust, unlawful trade
13 practices and the environment; and

14 (c) Personal services, travel, meals, lodging and all other costs and expenses incurred by the
15 department in investigating, preparing, commencing and prosecuting the following actions and suits,
16 and enforcing judgments, settlements, compromises and assurances of voluntary compliance arising
17 out of the following actions and suits:

18 (A) Actions and suits under the state and federal antitrust laws;

19 (B) Actions and suits under ORS 646.605 to 646.656;

20 (C) Criminal prosecutions under state and federal environmental laws, **including but not lim-**
21 **ited to prosecutions for conduct made criminal under ORS 164.775, 164.785, 164.805, 273.990,**
22 **274.990, 390.995, 448.992, 448.994, 453.990, 459.992, 466.995, 467.990, 468.922, 468.926, 468.929,**
23 **468.931, 468.936, 468.939, 468.943, 468.946, 468.951, 468.953, 468.956, 468A.595, 468A.655, 468A.990,**
24 **496.992, 498.222, 506.991, 517.990, 520.991, 522.990, 526.990, 527.990, 537.990, 540.990, 561.990 (2),**
25 **564.994, 596.990, 600.990, 609.992, 634.992, 783.990 (8) and 824.992 (7) and (8);**

26 (D) Actions commenced under ORS 59.331; [and]

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (E) Actions and suits under ORS 180.750 to 180.785[.]; and

2 (F) **Civil actions under state or federal environmental laws, including but not limited to**
 3 **actions under ORS 196.870, 196.895, 390.663 (1)(f) and (6), 390.674, 390.925, 390.986, 390.992 (2),**
 4 **468.090, 468.100, 468.135, 469.085, 469.563, 506.995, 509.910, 517.880 (3), 517.992, 520.175, 522.810,**
 5 **561.191, 568.993 (8) and 634.905, 561.280 to enjoin the violation of ORS 634.372, rules adopted**
 6 **pursuant to ORS 568.912 or rules specified in sections 20, 22, 28 and 30 of this 2011 Act.**

7 (2) Moneys in the Department of Justice Protection and Education Revolving Account are not
 8 subject to allotment. Upon request of the Attorney General, the State Treasurer shall create sub-
 9 accounts within the account for the purposes of managing moneys in the account and allocating
 10 those moneys to the activities described in subsection (1) of this section.

11 (3) Except as otherwise provided by law, all sums of money received by the Department of Jus-
 12 tice under a judgment, settlement, compromise or assurance of voluntary compliance, including
 13 damages, **compensatory fines**, restitution, refunds, attorney fees, costs, disbursements, **penalties**
 14 and other recoveries, but excluding civil penalties under ORS 646.642, in proceedings described in
 15 subsection (1)(c) of this section shall, upon receipt, be deposited with the State Treasurer to the
 16 credit of the Department of Justice Protection and Education Revolving Account. However, if the
 17 action or suit was based on an expenditure or loss from a public body or a dedicated fund, the
 18 amount of such expenditure or loss, after deduction of attorney fees and expenses awarded to the
 19 department by the court or agreed to by the parties, if any, shall be credited to the public body or
 20 dedicated fund and the remainder thereof credited to the Department of Justice Protection and Ed-
 21 ucation Revolving Account.

22 (4) If the Department of Justice recovers restitution or refunds in a proceeding described in
 23 subsection (1)(c) of this section, and the department cannot determine the persons to whom the
 24 restitution or refunds should be paid or the amount of the restitution or refund payable to individual
 25 claimants is de minimis, the restitution or refunds may not be deposited in the Department of Justice
 26 Protection and Education Revolving Account and shall be deposited in the General Fund.

27 (5) Before April 1 of each odd-numbered year, the Department of Justice shall report to the Joint
 28 Committee on Ways and Means:

29 (a) The department's projection of the balance in the Department of Justice Protection and Ed-
 30 ucation Revolving Account at the end of the biennium in which the report is made and at the end
 31 of the following biennium;

32 (b) The amount of the balance held for restitution and refunds; and

33 (c) An estimate of the department's anticipated costs and expenses under subsection (1)(b) and
 34 (c) of this section for the biennium in which the report is made and for the following biennium.

35 (6) The Joint Committee on Ways and Means, after consideration of recommendations made by
 36 the Department of Justice, shall use the information reported under subsection (5) of this section to
 37 determine an appropriate balance for the revolving account.

38 **SECTION 2.** ORS 137.101 is amended to read:

39 137.101. (1) [*Whenever*] **When** the court imposes a fine as penalty for the commission of a crime
 40 resulting in injury for which the person injured by the act constituting the crime has a remedy by
 41 civil action, unless the issue of punitive damages has been previously decided on a civil case arising
 42 out of the same act and transaction, the court may order that the defendant pay any portion of the
 43 fine separately to [*the clerk of*] the court as compensatory fines in the case. The [*clerk*] **court** shall
 44 pay over to the injured victim or victims, as directed in the court's order, moneys paid to the court
 45 as compensatory fines under this subsection. [*This section shall be liberally construed in favor of*

1 *victims.]*

2 **(2) When the court imposes a fine in a criminal prosecution described in ORS 180.095**
 3 **(1)(c)(C), the court shall order the defendant to pay separately to the court, as a**
 4 **compensatory fine in the case, any portion of the fine that is not ordered paid under sub-**
 5 **section (1) of this section. The court shall pay to the Department of Justice, for deposit in**
 6 **the Department of Justice Protection and Education Revolving Account, moneys paid to the**
 7 **court as a compensatory fine under this subsection.**

8 [(2)] **(3)** Compensatory fines may be awarded in addition to restitution awarded under ORS
 9 137.103 to 137.109.

10 [(3)] **(4)** Nothing in this section limits or impairs the right of a person injured by a defendant's
 11 criminal acts to sue and recover damages from the defendant in a civil action. Evidence that the
 12 defendant has paid or been ordered to pay compensatory fines under this section may not be intro-
 13 duced in any civil action arising out of the facts or events which were the basis for the
 14 compensatory fine. However, the court in such civil action shall credit any compensatory fine paid
 15 by the defendant to a victim against any judgment for punitive damages in favor of the victim in the
 16 civil action.

17 **(5) This section shall be liberally construed in favor of victims.**

18 **SECTION 3.** ORS 137.295 is amended to read:

19 137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or munic-
 20 ipal court, or allowed diversion in such a case, makes a payment of money to be credited against
 21 monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute
 22 the payment as provided in this section.

23 (2) There are four categories of monetary obligations. The categories are as follows:

24 (a) Category 1 consists of compensatory fines under ORS 137.101 (1).

25 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS
 26 419C.450 and a monetary obligation imposed under ORS 811.706.

27 (c) Category 3 consists of the unitary assessment imposed under ORS 137.290, **compensatory**
 28 **finances under ORS 137.101 (2)**, costs imposed under ORS 151.505 or 161.665 and those fines, costs,
 29 forfeited security amounts and other monetary obligations payable to the state or to the General
 30 Fund of the state in criminal and quasi-criminal cases for which moneys the law does not expressly
 31 provide other disposition.

32 (d) Category 4 consists of monetary obligations imposed upon the defendant as a result of the
 33 conviction, but which do not fall under category 1, category 2 or category 3 of the obligation cate-
 34 gories. These include, but are not limited to, fines and other monetary obligations that the law ex-
 35 pressly directs be paid to an agency, person or political subdivision of the state, and any other
 36 obligation to reimburse for payment of a reward under ORS 131.897. Notwithstanding paragraph (c)
 37 of this subsection, the portion of assessments collected as required by ORS 137.290 (2)(c) and (d)
 38 shall be considered category 4 obligations.

39 (3) As long as there remains unpaid any obligation under category 1, the clerk shall credit to-
 40 ward category 1 all of each payment received.

41 (4) After the total obligation has been credited under category 1, then as long as there remains
 42 unpaid any obligation under both categories 2 and 3, the clerk shall credit toward each such cate-
 43 gory 50 percent of each payment received.

44 [(5)] **(5)(a)** The clerk shall monthly transfer the moneys credited under category 1 and under
 45 category 2 to the victims for whose benefit moneys under that category were ordered paid. If there

1 are multiple victims for whose benefit moneys have been ordered paid under category 2, the clerk
 2 shall first transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 (4)(a).
 3 When the moneys due the victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk
 4 shall transfer moneys credited under category 2 to the Criminal Injuries Compensation Account if
 5 moneys have been ordered paid to the account under category 2. When the moneys due the account
 6 have been fully paid, the clerk shall transfer moneys credited under category 2 to any other victims,
 7 as defined in ORS 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered
 8 paid in proportion to the amounts ordered.

9 **(b) As long as there remains unpaid any obligation under category 3 resulting from a**
 10 **compensatory fine under ORS 137.101 (2), the clerk shall monthly transfer the moneys cred-**
 11 **ited under category 3 to the Department of Justice for deposit in the Department of Justice**
 12 **Protection and Education Revolving Account created pursuant to ORS 180.095. When the**
 13 **moneys due the Department of Justice have been fully paid:**

14 **(A)** The clerk of a circuit court shall monthly transfer the **remaining** moneys credited under
 15 category 3 as directed by the State Court Administrator for deposit in the State Treasury to the
 16 credit of the Criminal Fine and Assessment Account established under ORS 137.300.

17 **(B)** The clerk of a justice or municipal court shall monthly transfer the **remaining** moneys
 18 credited under category 3 to the Department of Revenue as provided in ORS 305.830.

19 (6) When the entire amount owing for purposes of either category 2 or category 3 has been
 20 credited, further payments by the defendant shall be credited by the clerk entirely to the unpaid
 21 balance of whichever of those categories remains unpaid, until both category 2 and category 3 have
 22 been entirely paid.

23 (7) When category 1, category 2 and category 3 have been entirely paid and any obligation re-
 24 mains owing under category 4, the clerk shall credit further payments by the defendant to the ob-
 25 ligations under category 4 and shall monthly transfer the moneys so received to the appropriate
 26 recipient, giving first priority to counties and cities entitled to revenues generated by prosecutions
 27 in justice and municipal courts and giving last priority to persons entitled to moneys as reimburse-
 28 ment for reward under ORS 131.897. The clerk shall monthly transfer the portion of assessments
 29 collected as required by ORS 137.290 (2)(c) and (d) to the county for administration of substance
 30 abuse treatment programs described in ORS 430.420.

31 (8) Notwithstanding subsection (5) of this section, the clerk of a circuit court shall monthly
 32 transfer the moneys attributable to parking violations to the State Treasurer for deposit in the
 33 General Fund.

34 (9) The clerk of a justice or municipal court must make the transfers required by this section
 35 not later than the last day of the month immediately following the month in which a payment is
 36 made.

37
 38 **DEPARTMENT OF STATE LANDS**
 39

40 **SECTION 4.** ORS 196.890 is amended to read:

41 196.890. Any person who violates any provision of ORS 196.600 to 196.905 or any rule, order or
 42 permit adopted or issued under ORS 196.600 to 196.905 shall be subject to a:

43 (1) Civil penalty in an amount to be determined by the Director of the Department of State
 44 Lands of not more than \$10,000 per day of violation[.]; **or**

45 (2) **Penalty of not more than \$10,000 per day of violation in a civil action under ORS**

1 **196.895 (1)(b). The specific amount of any such penalty shall be consistent with the amount**
 2 **of civil penalty that would be awarded for such violation as provided in rules adopted by the**
 3 **department under ORS 196.900.**

4 **SECTION 5.** ORS 196.895 is amended to read:

5 196.895. (1)(a) **Subject to paragraph (b) of this subsection,** civil penalties under ORS 196.890
 6 (1) shall be imposed as provided in ORS 183.745.

7 **(b) When the Department of State Lands brings a civil action pursuant to ORS 196.870,**
 8 **in lieu of imposing a civil penalty under ORS 196.890 (1), the Department of State Lands may**
 9 **recover a penalty in such civil action in amounts equal to those provided in ORS 196.890 (2).**

10 (2) The provisions of this section are in addition to and not in lieu of any other penalty or
 11 sanction provided by law. An action taken by the Director of the Department of State Lands under
 12 this section may be joined by the director with any other action taken against the same person
 13 under ORS 196.860 (1)(f).

14 (3)(a) Any civil penalty recovered under this section shall be deposited in the Common School
 15 Fund for use by the Department of State Lands in administration of ORS 196.600 to 196.905, 196.990
 16 and 541.990 and as otherwise required by law.

17 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**
 18 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 19 **180.095. The provisions of this paragraph do not affect the deposit of compensation amounts**
 20 **into the Common School Fund pursuant to ORS 196.870 (6).**

21 **SECTION 6.** ORS 196.895, as amended by section 5, chapter 516, Oregon Laws 2001, is amended
 22 to read:

23 196.895. (1)(a) Except as provided in **paragraph (b) of this subsection and** subsection (4) of
 24 this section, civil penalties under ORS 196.890 shall be imposed as provided in ORS 183.745.

25 **(b) When the Department of State Lands brings a civil action pursuant to ORS 196.870,**
 26 **in lieu of imposing a civil penalty under ORS 196.890 (1), the Department of State Lands may**
 27 **recover a penalty in such civil action in amounts equal to those provided in ORS 196.890 (2).**

28 (2) The provisions of this section are in addition to and not in lieu of any other penalty or
 29 sanction provided by law. An action taken by the Director of the Department of State Lands under
 30 this section may be joined by the director with any other action taken against the same person
 31 under ORS 196.860 (1)(f).

32 (3)(a) Any civil penalty recovered under this section shall be deposited in the Common School
 33 Fund for use by the Department of State Lands in administration of ORS 196.600 to 196.905, 196.990
 34 and 541.990 and as otherwise required by law.

35 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**
 36 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 37 **180.095. The provisions of this paragraph do not affect the deposit of compensation amounts**
 38 **into the Common School Fund pursuant to ORS 196.870 (6).**

39 (4) Notwithstanding any provision of ORS 183.745, any person having an interest that is ad-
 40 versely affected or aggrieved by an alleged violation for which civil penalties are imposed under
 41 ORS 196.890 may intervene in a contested case proceeding **or civil action** pertaining to the im-
 42 position of civil penalties under this section.

43
 44 **STATE PARKS AND RECREATION DEPARTMENT**
 45

SECTION 7. ORS 390.663 is amended to read:

390.663. (1) If the State Parks and Recreation Director determines that any improvement is being made on property within the ocean shore without a permit issued under ORS 390.650, or in a manner contrary to the conditions set out in the permit, the director may:

(a) Investigate, hold hearings, make orders and take action, as provided in ORS 390.620 to 390.676, as soon as possible.

(b) For the purpose of investigating conditions relating to such improvements, through the employees or the duly authorized representatives of the State Parks and Recreation Department, enter at reasonable times upon any private or public property.

(c) Conduct public hearings in accordance with ORS chapter 183.

(d) Publish findings and recommendations as they are developed relative to public policies and procedures necessary for the correction of conditions or violations of ORS 390.620 to 390.676.

(e) Give notice of any proposed order relating to a violation by personal service or by mailing the notice by registered or certified mail to the person or governmental body affected. Any person aggrieved by a proposed order of the director may request a hearing within 20 days of the date of personal service or mailing of the notice. Hearings shall be conducted under the provisions of ORS chapter 183 applicable to contested cases, and judicial review of final orders shall be conducted in the Court of Appeals according to ORS 183.482. If no hearing is requested or if the party fails to appear, a final order shall be issued upon a prima facie case on the record of the department.

(f) Take appropriate action for the enforcement of any rules or final orders. Any violation of ORS 390.620 to 390.676 or of any rule or final order of the director under ORS 390.620 to 390.676 may be enjoined in civil abatement proceedings brought in the name of the State of Oregon. In any such proceedings, the director may seek and the court may award a sum of money sufficient to compensate the public for any destruction or infringement of any public right of navigation, fishery or recreation resulting from such violation. Proceedings brought by the director shall set forth, if applicable, the dates of notice and hearing and the specific rule or order of the director, together with the facts of noncompliance, the facts giving rise to the public nuisance and a statement of the damages to any public right of navigation, fishery or recreation, if any, resulting from such violation. **The director may not be required to furnish a bond in such proceeding. Any action authorized by this section must be tried in the circuit court of the county in which the violation occurs or in Marion County. The State Parks and Recreation Commission, the department, the director and the employees and duly authorized representatives of the department may not be held liable for any damages a defendant may sustain as a result of an injunction, restraining order or other order issued under this section.**

(2) In addition to the administrative action the director may take under subsection (1) of this section, the director may enter an order requiring any person to cease and desist from any violation if the director determines that such violation presents an imminent and substantial risk of injury, loss or damage to the ocean shore.

(3) An order under subsection (2) of this section:

(a) May be entered without prior notice or hearing.

(b) Shall be served upon the person by personal service or by registered or certified mail.

(c) Shall state that a hearing will be held on the order if a written request for hearing is filed by the person subject to the order within 10 days after receipt of the order.

(d) Shall not be stayed during the pendency of a hearing conducted under subsection (4) of this section.

1 (4) If a person subject to an order under subsection (2) of this section files a timely demand for
2 hearing, the director shall hold a contested case hearing according to the applicable provisions of
3 ORS chapter 183. If the person fails to request a hearing, the order shall be entered as a final order
4 upon prima facie case made on the record of the department.

5 (5) Neither the director nor any duly authorized representative of the department shall be liable
6 for any damages a person may sustain as a result of a cease and desist order issued under sub-
7 section (2) of this section.

8 (6) The state and local police shall cooperate in the enforcement of any order issued under
9 subsection (2) of this section and shall require no further authority or warrant in executing or en-
10 forcing such order. If any person fails to comply with an order issued under subsection (2) of this
11 section, the circuit court of the county in which the violation occurred or is threatened shall compel
12 compliance with the director's order in the same manner as with an order of that court.

13 (7) As used in this section, "violation" means making an improvement on property within the
14 ocean shore without a permit or in a manner contrary to the conditions set out in a permit issued
15 under ORS 390.650.

16 **SECTION 8.** ORS 390.669 is amended to read:

17 390.669. (1) In addition to any enforcement action taken under ORS 390.663, civil proceedings
18 to abate alleged public nuisances under ORS 390.661 may be instituted in the name of the State of
19 Oregon upon relation of the State Parks and Recreation Director or by any person in the person's
20 name.

21 (2) Before beginning any action under subsection (1) of this section, a person other than the
22 director shall provide to the director 60 days' notice of the intended action. A person other than the
23 director may not begin an action under subsection (1) of this section if the director has commenced
24 and is diligently prosecuting civil, criminal or administrative proceedings in the same matter.

25 (3) The director may institute an action in the name of the State of Oregon for a temporary
26 restraining order or preliminary injunction if a threatened or existing public nuisance under ORS
27 390.661 creates an emergency that requires immediate action to protect the public health, safety or
28 welfare. The director shall not be required to furnish a bond in such proceeding. **Any action au-**
29 **thorized by this section must be tried in the circuit court of the county in which the vio-**
30 **lation occurs or in Marion County.**

31 (4) The State Parks and Recreation Commission, the State Parks and Recreation Director and
32 the employees or duly authorized representatives of the State Parks and Recreation Department
33 shall not be liable for any damages a defendant may sustain as a result of an injunction, restraining
34 order or abatement order issued under this section.

35 (5) A case filed under this section shall be given preference on the docket over all other civil
36 cases except those given an equal preference by statute.

37 (6) In any action brought under this section, the plaintiff may seek and the court may award a
38 sum of money sufficient to compensate the public for any destruction or infringement of any public
39 right of navigation, fishery or recreation resulting from an existing public nuisance under ORS
40 390.661. Any money received by the plaintiff under this subsection shall be deposited in an account
41 of the State Parks and Recreation Department for use by the department in administering the ocean
42 shore program.

43 **SECTION 9.** ORS 390.674 is amended to read:

44 390.674. (1)(a) **Except as provided in paragraph (b) of this subsection,** civil penalties under
45 ORS 390.992 shall be imposed as provided in ORS 183.745.

1 **(b) When the State Parks and Recreation Department brings a civil action pursuant to**
 2 **ORS 390.663 (1)(f), 390.669 or 390.992 (2), in lieu of imposing a civil penalty under ORS 390.992,**
 3 **the State Parks and Recreation Department may recover a penalty in such civil action in**
 4 **amounts equal to those provided for in ORS 390.992 (1)(b).**

5 (2) The provisions of this section are in addition to and not in lieu of any other penalty or
 6 sanction provided by law. An action taken by the State Parks and Recreation Director under this
 7 section may be joined by the director with any other action taken against the same person under
 8 ORS 390.995 (1).

9 (3)(a) Any civil penalty recovered under this section shall be deposited into an account of the
 10 State Parks and Recreation Department for use by the department in administration of the ocean
 11 shore program.

12 **(b) Any penalty recovered in a civil action under ORS 390.992 (1)(b) shall be deposited in**
 13 **the Department of Justice Protection and Education Revolving Account created pursuant to**
 14 **ORS 180.095. The provisions of this paragraph do not affect the deposit of compensation**
 15 **amounts into an account of the State Parks and Recreation Department pursuant to ORS**
 16 **390.669 (6).**

17 **SECTION 10.** ORS 390.925 is amended to read:

18 390.925. In addition to any other penalties provided by law for violation of ORS 390.805 to
 19 390.925 or rules adopted thereunder, the State Parks and Recreation Department is vested with
 20 power to obtain injunctions and other appropriate relief against violations of any provisions of ORS
 21 390.805 to 390.925 and any rules adopted under ORS 390.805 to 390.925 and agreements made under
 22 ORS 390.805 to 390.925. **The department may not be required to furnish a bond in such pro-**
 23 **ceeding. Any action authorized by this section must be tried in the circuit court of the**
 24 **county in which the violation occurs or in Marion County. The State Parks and Recreation**
 25 **Commission, the department, the State Parks and Recreation Director and the employees**
 26 **and duly authorized representatives of the department may not be held liable for any dam-**
 27 **ages a defendant may sustain as a result of an injunction, restraining order or other order**
 28 **issued under this section.**

29 **SECTION 11.** ORS 390.986 is amended to read:

30 390.986. The State Parks and Recreation Department has power to obtain injunctions against
 31 violations of any provisions of ORS 390.950 to 390.989 and any rules and regulations adopted under
 32 ORS 390.950 to 390.989 and agreements made under ORS 390.950 to 390.989. **The department may**
 33 **not be required to furnish a bond in such proceeding. Any action authorized by this section**
 34 **must be tried in the circuit court of the county in which the violation occurs or in Marion**
 35 **County. The State Parks and Recreation Commission, the department, the State Parks and**
 36 **Recreation Director and the employees and duly authorized representatives of the depart-**
 37 **ment may not be held liable for any damages a defendant may sustain as a result of an in-**
 38 **junction, restraining order or other order issued under this section.**

39 **SECTION 12.** ORS 390.992 is amended to read:

40 390.992. (1) Any person who violates any provision of ORS 390.610, 390.620 to 390.676, 390.690
 41 and 390.705 to 390.770 or any rule, order or permit adopted or issued under ORS 390.610, 390.620 to
 42 390.676, 390.690 and 390.705 to 390.770 shall be subject to a:

43 **(a) Civil penalty in an amount to be determined by the State Parks and Recreation Director of**
 44 **not more than \$10,000 per day of violation[.]; or**

45 **(b) Penalty of not more than \$10,000 per day of violation in a civil action under ORS**

1 **390.674 (1)(b). The specific amount of any such penalty shall be consistent with the amount**
 2 **of civil penalty that would be awarded for such violation as provided in rules adopted by the**
 3 **State Parks and Recreation Commission under ORS 390.124 or by the State Parks and Re-**
 4 **creation Department under ORS 390.660.**

5 (2) In addition to any other penalties provided under subsection (1) of this section, the State
 6 Parks and Recreation Department is vested with power to obtain injunctions and other appropriate
 7 relief against a person who violates any provisions of ORS 390.610, 390.620 to 390.676, 390.690 and
 8 390.705 to 390.770 or any rule, order or permit adopted or issued under ORS 390.610, 390.620 to
 9 390.676, 390.690 and 390.705 to 390.770. **The department shall not be required to furnish a bond**
 10 **in any such action seeking injunctive relief. Any action authorized by this section shall be**
 11 **tried in the circuit court of the county in which the violation occurs or in Marion County.**
 12 **The State Parks and Recreation Commission, the department, the State Parks and Recre-**
 13 **ation Director and the employees and duly authorized representatives of the department**
 14 **shall not be liable for any damages a defendant may sustain as a result of an injunction,**
 15 **restraining order or abatement order issued under this section.**

16
 17 **DEPARTMENT OF ENVIRONMENTAL QUALITY**
 18

19 **SECTION 13.** ORS 468.090 is amended to read:

20 468.090. *[(1)]* In case any written substantiated complaint is filed with the Department of Envi-
 21 ronmental Quality which it has cause to believe, or in case the department itself has cause to be-
 22 lieve, that any person is violating any rule or standard adopted by the Environmental Quality
 23 Commission or any permit issued by the department by causing or permitting water pollution or air
 24 pollution or air contamination, the department shall cause an investigation thereof to be made. If
 25 it finds after such investigation that such a violation of any rule or standard of the commission or
 26 of any permit issued by the department exists, it:

27 (1) Shall by conference, conciliation and persuasion endeavor to eliminate the source or cause
 28 of the pollution or contamination which resulted in such violation[.]; **and**

29 *[(2) In case of failure to remedy the violation, the department shall]*

30 (2)(a) **May** commence enforcement proceedings pursuant to the procedures set forth in ORS
 31 chapter 183 for a contested case and in ORS 468B.032; **or**

32 **(b) May commence a civil action as provided in ORS 468.100.**

33 **SECTION 14.** ORS 468.100 is amended to read:

34 468.100. (1) Whenever the **Department of** Environmental Quality [*Commission*] has good cause
 35 to believe that any person **has engaged**, is engaged or is about to engage in any acts or practices
 36 which constitute a violation of ORS [*448.305*] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to
 37 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to 454.800**, **459.900**, **459A.552 to 459A.599**,
 38 **459A.695**, **459A.780**, **468A.655**, **468B.095**, **468B.165** and **783.625 to 783.640** and ORS chapters **459**,
 39 **459A. 465**, **466**, **467**, 468, 468A and 468B, or any rule, standard or order adopted or entered pursuant
 40 thereto, or of any permit **or certificate** issued pursuant to ORS [*448.305*] **448.410 to 448.430**, 454.010
 41 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to 454.800**, **459A.552**
 42 **to 459A.599** and **468B.095** and ORS chapters **459**, **459A**, **465**, **466**, **467**, 468, 468A and 468B, the
 43 [*commission*] **department** may institute [*actions or proceedings*] **a civil action** for legal or equitable
 44 remedies to enforce compliance thereto or to restrain further violations. **The department may not**
 45 **be required to furnish a bond in any such action seeking injunctive relief. Any action au-**

1 **thorized by this section must be tried in the circuit court of the county in which the vio-**
 2 **lation occurs or in Marion or Multnomah County. The Environmental Quality Commission,**
 3 **the department, the Director of the Department of Environmental Quality and the employees**
 4 **and duly authorized representatives of the department may not be liable for any damages a**
 5 **defendant may sustain as a result of an injunction, restraining order or abatement order**
 6 **issued under this section.**

7 (2) The proceedings authorized by subsection (1) of this section may be instituted without the
 8 necessity of prior agency notice, hearing and order, or during said agency hearing if it has been
 9 initially commenced by the [*commission*] **department**.

10 (3) A regional authority formed under ORS 468A.105 may exercise the same functions as are
 11 vested in the [*commission*] **department** by this section insofar as such functions relate to air pol-
 12 lution control and are applicable to the conditions and situations of the territory within the regional
 13 authority. The regional authority shall carry out these functions in the manner provided for the
 14 [*commission*] **department** to carry out the same functions.

15 (4) The provisions of this section are in addition to and not in substitution of any other civil
 16 or criminal enforcement provisions available to the [*commission*] **department** or a regional author-
 17 ity. The provisions of this section shall not prevent the maintenance of actions for legal or equitable
 18 remedies relating to private or public nuisances brought by any other person, or by the state on
 19 relation of any person without prior order of the [*commission*] **department**.

20 **SECTION 15.** ORS 468.135 is amended to read:

21 468.135. (1)(a) Any civil penalty under ORS 468.140 shall be imposed in the manner provided in
 22 ORS 183.745.

23 **(b) If the Department of Environmental Quality institutes a civil action as provided in**
 24 **ORS 468.100, in lieu of imposing a civil penalty under ORS 466.992 and 468.140, the department**
 25 **may recover a penalty in such civil action in an amount equal to the amount of civil penalty**
 26 **that would be recovered as provided in ORS 466.992 and 468.140.**

27 (2) **Except as otherwise provided by law and by subsection (3) of this section,** all penalties
 28 recovered under ORS 468.140 shall be paid into the State Treasury and credited to the General
 29 Fund, or in the event the penalty is recovered by a regional air quality control authority, it shall
 30 be paid into the county treasury of the county in which the violation occurred.

31 **(3) Any penalty recovered in a civil action under this section shall be deposited in the**
 32 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 33 **180.095.**

34 **SECTION 16.** ORS 468.140, as amended by section 9, chapter 267, Oregon Laws 2009, is
 35 amended to read:

36 468.140. (1) In addition to any other penalty provided by law, any person who violates any of the
 37 following shall incur a civil penalty for each day of violation in the amount prescribed by the
 38 schedule adopted under ORS 468.130:

39 (a) The terms or conditions of any permit required or authorized by law and issued by the De-
 40 partment of Environmental Quality or a regional air quality control authority.

41 (b) Any provision of ORS 164.785, [448.305] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to
 42 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to 454.800, 459.900, 459A.552 to 459A.599,**
 43 **459A.695, 459A.780, 468A.655, 468B.095, 468B.165** and 783.625 to 783.640 and [*ORS chapter 467*
 44 *and*] ORS chapters **459, 459A, 465, 466, 467,** 468, 468A and 468B.

45 (c) Any rule or standard or order of the Environmental Quality Commission adopted or issued

1 pursuant to ORS [448.305,] **448.410 to 448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to
 2 454.535, 454.605 to 454.755, **454.782 to 454.800**, **459A.552 to 459A.599**, **468B.095**, **468B.165** and
 3 783.625 to 783.640 and [ORS chapter 467 and] ORS chapters **459**, **459A**, **465**, **466**, **467**, 468, 468A and
 4 468B.

5 (d) Any term or condition of a variance granted by the commission or department pursuant to
 6 ORS 467.060.

7 (e) Any rule or standard or order of a regional authority adopted or issued under authority of
 8 ORS 468A.135.

9 (f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related
 10 to the financial assurance requirement under ORS 468B.390.

11 (2) Each day of violation under subsection (1) of this section constitutes a separate offense.

12 (3)(a) In addition to any other penalty provided by law, any person who intentionally or
 13 negligently causes or permits the discharge of oil or hazardous material into the waters of the state
 14 or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into
 15 the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the
 16 amount of \$100,000 for each violation.

17 (b) In addition to any other penalty provided by law, the following persons shall incur a civil
 18 penalty not to exceed the amount of \$25,000 for each day of violation:

19 (A) Any person who violates the terms or conditions of a permit authorizing waste discharge
 20 into the air or waters of the state.

21 (B) Any person who violates any law, rule, order or standard in ORS [448.305] **448.410 to**
 22 **448.430**, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755, **454.782 to**
 23 **454.800**, **459.900**, **459A.552 to 459A.599**, **459A.695**, **459A.780**, **468A.655**, **468B.095**, **468B.165** and
 24 783.625 to 783.640 and ORS chapters **459**, **459A**, **465**, **466**, **467**, 468, 468A and 468B relating to air
 25 or water pollution.

26 (C) Any person who violates the provisions of a rule adopted or an order issued under ORS
 27 459A.590.

28 (4) In addition to any other penalty provided by law, any person who violates the provisions of
 29 ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of vio-
 30 lation.

31 (5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission
 32 standards which are not violations of standards for control of noise emissions.

33 (6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided
 34 by law, any person who intentionally or negligently causes or permits open field burning contrary
 35 to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed
 36 by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned.
 37 Any fines collected by the department pursuant to this subsection shall be deposited with the State
 38 Treasurer to the credit of the General Fund and shall be available for general governmental ex-
 39 pense. As used in this subsection, "open field burning" does not include propane flaming of mint
 40 stubble.

41
 42 **STATE DEPARTMENT OF ENERGY**

43
 44 **SECTION 17.** ORS 469.085 is amended to read:

45 469.085. (1) Except as otherwise provided in this section, civil penalties under ORS 469.992 shall

1 be imposed as provided in ORS 183.745.

2 (2) Notwithstanding ORS 183.745 (2), the notice to the person against whom a civil penalty is
 3 to be imposed shall reflect a complete statement of the consideration given to the factors listed in
 4 subsection (7) of this section. The notice may be served by either the Director of the State Depart-
 5 ment of Energy or the Energy Facility Siting Council.

6 (3) Notwithstanding ORS 183.745, if a hearing is not requested or if the person requesting a
 7 hearing fails to appear, a final order shall be entered upon a prima facie case made on the record
 8 of the agency.

9 (4) The provisions of this section are in addition to and not in lieu of any other penalty or
 10 sanction provided by law. An action taken by the director or the council under this section may be
 11 joined by the director or the council with any other action against the same person under this
 12 chapter.

13 (5) Any civil penalty recovered under this section shall be paid into the General Fund.

14 (6) The director or the council shall adopt by rule a schedule of the amount of civil penalty that
 15 may be imposed for a particular violation.

16 (7) In imposing a penalty under ORS 469.992, the director or the council shall consider:

17 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
 18 necessary or appropriate to correct or prevent any violation;

19 (b) Any prior violations of ORS chapter 469 or rules, orders or permits relating to the alleged
 20 violation;

21 (c) The impact of the violation on public health and safety or public interests in fishery, navi-
 22 gation and recreation;

23 (d) Any other factors determined by the director or the council to be relevant; and

24 (e) The alleged violator's cooperativeness and effort to correct the violation.

25 (8) The penalty imposed under ORS 469.992 may be remitted or mitigated upon such terms and
 26 conditions as the director or council determines to be proper. Upon the request of the person in-
 27 curring the penalty, the director or council shall consider evidence of the economic and financial
 28 condition of the person in determining whether a penalty shall be remitted or mitigated.

29 **(9)(a) Notwithstanding any other provision of this section, when the State Department**
 30 **of Energy brings a civil action pursuant to ORS 469.563, in lieu of imposing civil penalties**
 31 **under ORS 469.992, the State Department of Energy may recover a penalty in such civil**
 32 **action in an amount equal to the amount of civil penalty that would be recovered as provided**
 33 **in ORS 469.992.**

34 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**
 35 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 36 **180.095.**

37 **SECTION 18.** ORS 469.563 is amended to read:

38 469.563. Without prior administrative proceedings, a circuit court may issue such restraining
 39 orders, and such temporary and permanent injunctive relief as is necessary to secure compliance
 40 with ORS 469.320, 469.405 (3), 469.410, 469.421, 469.430, 469.440, 469.442, 469.507, 469.525 to 469.559,
 41 469.560, 469.561, 469.562, 469.590 to 469.619, 469.930 and 469.992 or with the terms and conditions
 42 of a site certificate. **The State Department of Energy may not be required to furnish a bond**
 43 **in such proceeding. Any action authorized by this section must be tried in the circuit court**
 44 **of the county in which the violation occurs or in Marion County. The State Department of**
 45 **Energy, the Director of the State Department of Energy, the employees and duly authorized**

1 representatives of the department, and the Energy Facility Siting Council may not be liable
 2 for any damages a defendant may sustain as a result of an injunction, restraining order or
 3 other order issued under this section.

4
 5 **STATE DEPARTMENT OF FISH AND WILDLIFE**

6
 7 **SECTION 19.** Section 20 of this 2011 Act is added to and made a part of ORS chapter 496.

8 **SECTION 20.** In addition to any other remedies provided by law, the State Department
 9 of Fish and Wildlife may institute a civil action in circuit court to enjoin or abate any vio-
 10 lation of wildlife laws or any rule promulgated by the State Fish and Wildlife Commission in
 11 carrying out the wildlife laws. The department may not be required to furnish a bond in such
 12 proceeding. Any action authorized by this section must be tried in the circuit court of the
 13 county in which the violation occurs or in Marion County. The commission, the department,
 14 the State Fish and Wildlife Director and the employees and duly authorized representatives
 15 of the department may not be held liable for any damages a defendant may sustain as a re-
 16 sult of an injunction, restraining order or abatement order issued under this section.

17 **SECTION 21.** Section 22 of this 2011 Act is added to and made a part of ORS chapter 506.

18 **SECTION 22.** (1) In addition to any other remedies provided by law, the State Department
 19 of Fish and Wildlife may institute a civil action in circuit court to enjoin or abate any vio-
 20 lation of any provision of the commercial fishing laws or of any rule promulgated by the
 21 State Fish and Wildlife Commission in carrying out the commercial fishing laws. The de-
 22 partment shall not be required to furnish a bond in such proceeding.

23 (2) Any action authorized by this section shall be tried in the circuit court of the county
 24 in which the violation occurs or in Marion County.

25 (3) The commission, the department, the State Fish and Wildlife Director and the em-
 26 ployees and duly authorized representatives of the department may not be held liable for any
 27 damages a defendant may sustain as a result of an injunction, restraining order or abate-
 28 ment order issued under this section.

29 (4) When the department brings a civil action under this section, in lieu of imposing a
 30 civil penalty under ORS 506.995, the department may recover a penalty in such civil action
 31 in an amount equal to the amount of civil penalty that would be recovered as provided in
 32 ORS 506.995 (2). Any such penalty recovered in a civil action shall be deposited in the De-
 33 partment of Justice Protection and Education Revolving Account created pursuant to ORS
 34 180.095.

35
 36 **STATE DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES**

37
 38 **SECTION 23.** ORS 517.880 is amended to read:

39 517.880. (1) When the State Department of Geology and Mineral Industries finds that an operator
 40 is conducting a surface mining operation for which an operating permit is required by ORS 517.702
 41 to 517.989 or by rules adopted by the department, but has not been issued by the department, the
 42 department may issue an order to the operator to suspend the operation until an operating permit
 43 has been issued by the department for the surface mining operation or until the department is as-
 44 sured that the operator will comply with the requirement to obtain a permit.

45 (2) The department may issue an order to an operator to suspend operations if the operator has

1 not complied with or is not complying with the operating permit, reclamation plan, this chapter or
 2 rules of the department. Failure to comply includes, but is not limited to, disturbing land within the
 3 permit boundary that has not been approved by the department for excavation, placement of debris
 4 or removal of vegetation.

5 (3) If the operator fails or refuses to comply with a suspension order, the Attorney General, at
 6 the request of the department, shall initiate any necessary legal proceeding to enjoin the surface
 7 mining operation and to provide for completion of the reclamation of the lands affected by the op-
 8 eration, including the restoration of buffers, setbacks or other areas not approved for disturbance.
 9 **The department may not be required to furnish a bond in such proceeding. Any action au-**
 10 **thorized by this section must be tried in the circuit court of the county in which the vio-**
 11 **lation occurs or in Marion County. The governing board of the department, the department,**
 12 **the State Geologist and the employees and duly authorized representatives of the department**
 13 **may not be liable for any damages a defendant may sustain as a result of an injunction, re-**
 14 **straining order or other order issued under this section.**

15 **SECTION 24.** ORS 517.992 is amended to read:

16 517.992. (1) In addition to any other sanction authorized by law, the governing board of the State
 17 Department of Geology and Mineral Industries may impose a civil penalty of not less than \$200 per
 18 day and not more than \$50,000 per day for any violation of ORS 517.702 to 517.989 related to a
 19 chemical process mine, of any rules adopted under those provisions related to a chemical process
 20 mine, of any orders issued under those provisions related to a chemical process mine or of any
 21 conditions of a permit issued under those provisions related to a chemical process mine. A penalty
 22 may be imposed under this section without regard to whether the violation occurs on property
 23 covered by a permit issued under ORS 517.702 to 517.989.

24 (2)(a) In addition to any other sanction authorized by law, and subject to the limitations of
 25 paragraph (b) of this subsection, the governing board of the State Department of Geology and Min-
 26 eral Industries may impose a civil penalty of not more than \$10,000 per day for any violation of ORS
 27 517.702 to 517.740, 517.750 to 517.901 and 517.905 to 517.951 not related to a chemical process mine,
 28 of any rules adopted under those provisions not related to a chemical process mine, of any orders
 29 issued under those provisions not related to a chemical process mine or of any conditions of a per-
 30 mit issued under those provisions not related to a chemical process mine.

31 (b) A penalty may be imposed under this subsection only if a landowner or operator fails to
 32 complete erosion stabilization as required by ORS 517.775 or board rules adopted to implement that
 33 section, if the operator has failed to comply with an order issued under ORS 517.860 or 517.880, if
 34 the operation is being conducted in violation of conditions imposed on an operating permit or rec-
 35 lamation plan pursuant to ORS 517.835 or if the operation is being conducted:

36 (A) Without a permit;

37 (B) Outside the permit boundary; or

38 (C) Outside a permit condition regarding boundaries, setbacks, buffers or the placement of sur-
 39 face mining refuse.

40 (3)(a) **Except as provided in paragraph (b) of this subsection,** civil penalties under this sec-
 41 tion shall be imposed in the manner provided by ORS 183.745.

42 (b) **When the State Department of Geology and Mineral Industries brings a civil action**
 43 **pursuant to ORS 517.860 (3) or 517.880 (3), in lieu of imposing a civil penalty under this sec-**
 44 **tion, the State Department of Geology and Mineral Industries may recover a penalty in such**
 45 **civil action in an amount equal to the amount of the civil penalty that would be awarded as**

1 **provided in the rules adopted under subsection (8) of this section.**

2 (4) Failure to pay a civil penalty that has become final under this section shall be grounds for
 3 revocation of any permit issued under ORS 517.702 to 517.989 to the person against whom the pen-
 4 alty has been assessed.

5 (5)(a) Any civil penalty received by the State Treasurer under this section shall be deposited in
 6 the General Fund to the credit of the Geology and Mineral Industries Account and is continuously
 7 appropriated to the State Department of Geology and Mineral Industries to the extent necessary for
 8 the administration and enforcement of the laws, rules and orders under which the penalty was as-
 9 sessed.

10 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**
 11 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 12 **180.095.**

13 (6) A reclamation fund shall be established into which funds not used as described in subsection
 14 (5) of this section shall be deposited. This money shall be used by the State Department of Geology
 15 and Mineral Industries for the purpose of the reclamation of abandoned mine and drill sites.

16 (7) When a single incident violates statutes, rules, board orders or permit conditions adminis-
 17 tered by more than one agency, the department shall coordinate with the other agencies having civil
 18 penalty authority before imposing a civil penalty.

19 (8) In implementing this section, the department shall adopt rules that provide civil penalties
 20 that are commensurate with the severity of violations.

21 (9) A civil penalty may be imposed against the board of directors and high managerial agents
 22 of a corporation if those persons engage in, authorize, solicit, request, command or knowingly tol-
 23 erate the conduct for which the penalty is to be imposed. As used in this subsection, “agent” and
 24 “high managerial agent” have the meanings given those terms in ORS 161.170.

25 **SECTION 25.** ORS 520.175 is amended to read:

26 520.175. (1) Whenever it appears that any person is violating or threatening to violate any pro-
 27 vision of this chapter or any rule adopted or order issued under this chapter, the governing board
 28 of the State Department of Geology and Mineral Industries may bring an action against such person
 29 in the circuit court of any county where the violation occurs or is threatened, to restrain such
 30 person from continuing such violation. In any such action, the court shall have jurisdiction to grant
 31 to the board, without bond or other undertaking, such temporary restraining orders or final
 32 prohibitory and mandatory injunctions as the facts may warrant, including any such orders re-
 33 straining the movement or disposition of oil or gas. **The governing board of the State Department**
 34 **of Geology and Mineral Industries may not be required to furnish a bond in such proceeding.**
 35 **The governing board of the State Department of Geology and Mineral Industries, the State**
 36 **Department of Geology and Mineral Industries, the State Geologist and the employees and**
 37 **duly authorized representatives of the State Department of Geology and Mineral Industries**
 38 **may not be held liable for any damages a defendant may sustain as a result of an injunction,**
 39 **restraining order or other order issued under this section.**

40 (2) If the board fails to bring an action to enjoin a violation or threatened violation of any
 41 provision of this chapter or any rule adopted or order issued under this chapter, within 60 days after
 42 receipt of a written request to do so by any person who is or will be adversely affected by such
 43 violation, then the person making such request may bring an action to restrain such violation or
 44 threatened violation in any court in which the board might have brought such action. The board
 45 shall be made a party defendant in such action in addition to the person or persons bringing the

1 action and the action shall proceed and injunctive relief may be granted without bond in the same
 2 manner as if the action had been brought by the board.

3 **SECTION 26.** ORS 522.810 is amended to read:

4 522.810. Whenever it appears that any person is violating or threatening to violate any provision
 5 of this chapter or any rule or order of the governing board of the State Department of Geology and
 6 Mineral Industries made thereunder, or is threatening to or committing waste, the board may bring
 7 suit against such person in the circuit court of any county where the violation or waste occurs or
 8 is threatened, to restrain such person from continuing such violation or waste. In any such suit, the
 9 court shall have jurisdiction to grant to the board, without bond or other undertaking, such tempo-
 10 rary restraining orders or final prohibitory and mandatory injunctions as the facts may warrant,
 11 including any such orders restraining the movement, disposition or waste of geothermal resources.
 12 **The board may not be required to furnish a bond in such proceeding. The board, the State**
 13 **Department of Geology and Mineral Industries, the State Geologist and the employees and**
 14 **duly authorized representatives of the department may not be held liable for any damages a**
 15 **defendant may sustain as a result of an injunction, restraining order or other order issued**
 16 **under this section.**

17
 18 **STATE FORESTRY DEPARTMENT**

19
 20 **SECTION 27.** Section 28 of this 2011 Act is added to and made a part of ORS 527.610 to
 21 **527.770.**

22 **SECTION 28.** (1) In addition to any other remedies provided by law, the State Forester
 23 may institute a civil action in circuit court to enjoin or abate any violation described in ORS
 24 527.992 (1). The State Forester may not be required to furnish a bond in such proceeding.

25 (2) When the State Forester brings a civil action under this section, in lieu of imposing
 26 a civil penalty under ORS 527.992, the State Forestry Department may recover a penalty in
 27 such civil action an amount equal to the amount of civil penalty that would be recovered as
 28 provided in ORS 527.992 (1). Any such penalty recovered in a civil action shall be deposited
 29 in the Department of Justice Protection and Education Revolving Account created pursuant
 30 to ORS 180.095.

31 (3) Any action authorized by this section shall be tried in the circuit court of the county
 32 in which the violation occurs or in Marion County.

33 (4) The State Board of Forestry, the State Forestry Department, the State Forester and
 34 the employees and duly authorized representatives of the department may not be liable for
 35 any damages a defendant may sustain as a result of an injunction, restraining order or
 36 abatement order issued under this section.

37
 38 **WATER RESOURCES DEPARTMENT**

39
 40 **SECTION 29.** Section 30 of this 2011 Act is added to and made a part of ORS chapter 536.

41 **SECTION 30.** (1) In addition to any other remedies provided by law, the Water Resources
 42 Department may institute a civil action in circuit court to enjoin or abate any violation de-
 43 scribed in ORS 536.900 (1). The department shall not be required to furnish a bond in such
 44 proceeding.

45 (2) When the Water Resources Department brings a civil action under this section, in

1 lieu of imposing a civil penalty under ORS 536.900 to 536.920, the Water Resources Depart-
 2 ment may recover a penalty in such civil action in an amount equal to the amount of civil
 3 penalty that would be recovered as provided in ORS 536.900 to 536.920. Any such penalty re-
 4 covered in a civil action shall be deposited in the Department of Justice Protection and Ed-
 5 ucation Revolving Account created pursuant to ORS 180.095.

6 (3) When the Water Resources Department brings a civil action under this section, the
 7 department also may recover in such civil action the damages provided for in ORS 536.930.
 8 Any such damages recovered in a civil action shall be deposited as provided in ORS 536.930.

9 (4) Any action authorized by this section shall be tried in the circuit court of the county
 10 in which the violation occurs or in Marion County.

11 (5) The Water Resources Commission, the Water Resources Department, the Water Re-
 12 sources Director and the employees and duly authorized representatives of the commission
 13 and the department shall not be liable for any damages a defendant may sustain as a result
 14 of an injunction, restraining order or abatement order issued under this section.

15 **SECTION 31.** ORS 496.303 is amended to read:

16 496.303. (1) The Fish and Wildlife Account is established in the State Treasury, separate and
 17 distinct from the General Fund. All moneys in the account are continuously appropriated to the
 18 State Fish and Wildlife Commission. The Fish and Wildlife Account shall consist of the moneys in
 19 its various subaccounts and any moneys transferred to the account by the Legislative Assembly.
 20 Unless otherwise specified by law, interest earnings on moneys in the account shall be paid into the
 21 State Treasury and credited to the State Wildlife Fund.

22 (2)(a) The Fish Screening Subaccount is established in the Fish and Wildlife Account. The sub-
 23 account shall consist of:

24 (A) All penalties recovered under ORS 536.900 to 536.920, **except those required to be de-**
 25 **posited in the Department of Justice Protection and Education Revolving Account pursuant**
 26 **to section 30 of this 2011 Act.**

27 (B) All moneys received pursuant to ORS 498.306.

28 (C) All gifts, grants and other moneys from whatever source that may be used to carry out the
 29 provisions of ORS 498.306.

30 (D) All moneys received from the surcharge on angling licenses imposed by ORS 497.124.

31 (b) All moneys in the subaccount shall be used to carry out the provisions of ORS 315.138,
 32 498.306 and 509.620. However, moneys received from the surcharge on angling licenses imposed by
 33 ORS 497.124 shall be expended only to carry out the provisions of law relating to the screening of
 34 water diversions.

35 (3) The Fish Endowment Subaccount is established in the Fish and Wildlife Account. The sub-
 36 account shall consist of transfers of moneys authorized by the Legislative Assembly from the State
 37 Wildlife Fund and gifts and grants of moneys from whatever source for the purpose of paying the
 38 expense of maintaining fish hatcheries operated by the department.

39 (4) The Migratory Waterfowl Subaccount is established in the Fish and Wildlife Account. All
 40 moneys received by the commission from the sale of art works and prints related to the migratory
 41 waterfowl stamp shall be deposited in the subaccount. Moneys in the subaccount may be expended
 42 only for activities that promote the propagation, conservation and recreational uses of migratory
 43 waterfowl and for activities related to the design, production, issuance and arrangements for sale
 44 of the migratory waterfowl stamps and related art works and prints. Expenditures of moneys in the
 45 subaccount may be made within this state, in other states or in foreign countries, in such amounts

1 as the commission determines appropriate. Expenditures in other states and foreign countries shall
2 be on such terms and conditions as the commission determines will benefit most directly the mi-
3 gratory waterfowl resources of this state.

4 (5) The Halibut Research Subaccount is established in the Fish and Wildlife Account. Based on
5 the annual number of recreational halibut anglers, a portion of the moneys derived from the sale
6 of the salmon, steelhead trout, sturgeon and halibut tag pursuant to ORS 497.121 shall be credited
7 to the subaccount. Moneys in the subaccount may be expended only for halibut population studies
8 and other research.

9 (6) The Upland Bird Subaccount is established in the Fish and Wildlife Account. All moneys
10 received by the State Fish and Wildlife Commission from the sale of upland bird stamps, from the
11 sale of any art works and prints related to the upland bird stamp and from private hunting preserve
12 permit fees shall be deposited in the subaccount. Moneys in the subaccount may be expended only
13 for promoting the propagation and conservation of upland birds and the acquisition, development,
14 management, enhancement, sale or exchange of upland bird habitat, and for activities related to the
15 design, production, issuance and arrangements for sale of the upland bird stamps and related art
16 works and prints. Expenditures of moneys in the subaccount shall be made for the benefit of pro-
17 grams within this state in such amounts and at such times as the commission determines appropriate
18 to most directly benefit the upland bird resources of the state.

19 (7)(a) The Fish and Wildlife Deferred Maintenance Subaccount is established in the Fish and
20 Wildlife Account. Interest earnings on moneys in the subaccount shall be credited to the subaccount.
21 The subaccount shall consist of moneys authorized by the Legislative Assembly from the State
22 Wildlife Fund and moneys obtained by gift, grant, bequest or donation from any other public or
23 private source.

24 (b) The principal in the subaccount may be utilized only as provided in paragraph (c) of this
25 subsection. Interest earnings on the moneys in the subaccount may be expended only for the main-
26 tenance of fish hatcheries and State Department of Fish and Wildlife facilities other than adminis-
27 trative facilities located in Salem.

28 (c) The department may borrow funds from the principal of the subaccount to maintain adequate
29 cash flow requirements. However, moneys borrowed from the principal must be repaid to the sub-
30 account:

31 (A) Within six months from the date on which the moneys were borrowed.

32 (B) With interest at the standard rate that the State Treasurer charges to state agencies for
33 other loans. Interest paid under this subparagraph shall be paid to the subaccount.

34 (d) For purposes of this subsection, "principal" means moneys authorized by the Legislative
35 Assembly for transfer to the subaccount from the State Wildlife Fund, including any assignment of
36 earnings on moneys in the fund and other moneys obtained by gift, grant, bequest or donation de-
37 posited into the subaccount.

38 (8) The Access and Habitat Board Subaccount is established in the Fish and Wildlife Account.
39 The subaccount shall consist of moneys transferred to the subaccount pursuant to ORS 496.242.
40 Moneys in the subaccount may be used for the purposes specified in ORS 496.242.

41 (9) The Marine Shellfish Subaccount is established in the Fish and Wildlife Account. Interest
42 earnings on moneys in the subaccount shall be credited to the subaccount. All moneys received by
43 the commission from the sale of resident and nonresident shellfish licenses pursuant to ORS 497.121
44 shall be deposited in the subaccount. Moneys in the subaccount shall be used for the protection and
45 enhancement of shellfish for recreational purposes, including shellfish sanitation costs and the cost

1 of enforcement of wildlife laws pertaining to the taking of shellfish. The State Fish and Wildlife
2 Director, or a designee, the Director of Agriculture, or a designee, and the Superintendent of State
3 Police, or a designee, shall jointly make a recommendation to the Governor for inclusion in the
4 Governor's budget beginning July 1 of each odd-numbered year.

5 (10)(a) The Mountain Sheep Subaccount is established in the Fish and Wildlife Account, con-
6 sisting of moneys collected under ORS 497.112 (2)(a) to (c).

7 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
8 sheep, for research, development, management, enhancement and sale or exchange of mountain
9 sheep habitat and for programs within the state that in the discretion of the commission most di-
10 rectly benefit mountain sheep resources of this state.

11 (11)(a) The Antelope Subaccount is established in the Fish and Wildlife Account, consisting of
12 moneys collected under ORS 497.112 (2)(a) to (c).

13 (b) All moneys in the subaccount shall be used for the propagation and conservation of antelope,
14 for research, development, management, enhancement and sale or exchange of antelope habitat and
15 for programs within the state that in the discretion of the commission most directly benefit antelope
16 resources of this state.

17 (12)(a) The Mountain Goat Subaccount is established in the Fish and Wildlife Account, consist-
18 ing of moneys collected under ORS 497.112 (2)(a) to (c).

19 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
20 goats for research, development, management, enhancement and sale or exchange of mountain goat
21 habitat and for programs within the state that in the discretion of the commission most directly
22 benefit mountain goat resources of this state.

23 (13)(a) The commission shall keep a record of all moneys deposited in the Fish and Wildlife
24 Account. The record shall indicate by separate cumulative accounts the sources from which the
25 moneys are derived and the individual activity or programs against which each withdrawal is
26 charged.

27 (b) Using the record created pursuant to paragraph (a) of this subsection, the commission shall
28 report, in the budget documents submitted to the Legislative Assembly, on the application of in-
29 vestment and interest earnings to the maintenance of fish hatcheries and other State Department
30 of Fish and Wildlife facilities.

31 **SECTION 32.** ORS 496.303, as amended by section 14, chapter 625, Oregon Laws 2007, is
32 amended to read:

33 496.303. (1) The Fish and Wildlife Account is established in the State Treasury, separate and
34 distinct from the General Fund. All moneys in the account are continuously appropriated to the
35 State Fish and Wildlife Commission. The Fish and Wildlife Account shall consist of the moneys in
36 its various subaccounts and any moneys transferred to the account by the Legislative Assembly.
37 Unless otherwise specified by law, interest earnings on moneys in the account shall be paid into the
38 State Treasury and credited to the State Wildlife Fund.

39 (2)(a) The Fish Screening Subaccount is established in the Fish and Wildlife Account. The sub-
40 account shall consist of:

41 (A) All penalties recovered under ORS 536.900 to 536.920, **except those required to be de-**
42 **posited in the Department of Justice Protection and Education Revolving Account pursuant**
43 **to section 30 of this 2011 Act.**

44 (B) All moneys received pursuant to ORS 498.306.

45 (C) All gifts, grants and other moneys from whatever source that may be used to carry out the

1 provisions of ORS 498.306.

2 (D) All moneys received from the surcharge on angling licenses imposed by ORS 497.124.

3 (b) All moneys in the subaccount shall be used to carry out the provisions of ORS 498.306 and
4 509.620. However, moneys received from the surcharge on angling licenses imposed by ORS 497.124
5 shall be expended only to carry out the provisions of law relating to the screening of water diver-
6 sions.

7 (3) The Fish Endowment Subaccount is established in the Fish and Wildlife Account. The sub-
8 account shall consist of transfers of moneys authorized by the Legislative Assembly from the State
9 Wildlife Fund and gifts and grants of moneys from whatever source for the purpose of paying the
10 expense of maintaining fish hatcheries operated by the department.

11 (4) The Migratory Waterfowl Subaccount is established in the Fish and Wildlife Account. All
12 moneys received by the commission from the sale of art works and prints related to the migratory
13 waterfowl stamp shall be deposited in the subaccount. Moneys in the subaccount may be expended
14 only for activities that promote the propagation, conservation and recreational uses of migratory
15 waterfowl and for activities related to the design, production, issuance and arrangements for sale
16 of the migratory waterfowl stamps and related art works and prints. Expenditures of moneys in the
17 subaccount may be made within this state, in other states or in foreign countries, in such amounts
18 as the commission determines appropriate. Expenditures in other states and foreign countries shall
19 be on such terms and conditions as the commission determines will benefit most directly the mi-
20 gratory waterfowl resources of this state.

21 (5) The Halibut Research Subaccount is established in the Fish and Wildlife Account. Based on
22 the annual number of recreational halibut anglers, a portion of the moneys derived from the sale
23 of the salmon, steelhead trout, sturgeon and halibut tag pursuant to ORS 497.121 shall be credited
24 to the subaccount. Moneys in the subaccount may be expended only for halibut population studies
25 and other research.

26 (6) The Upland Bird Subaccount is established in the Fish and Wildlife Account. All moneys
27 received by the State Fish and Wildlife Commission from the sale of upland bird stamps, from the
28 sale of any art works and prints related to the upland bird stamp and from private hunting preserve
29 permit fees shall be deposited in the subaccount. Moneys in the subaccount may be expended only
30 for promoting the propagation and conservation of upland birds and the acquisition, development,
31 management, enhancement, sale or exchange of upland bird habitat, and for activities related to the
32 design, production, issuance and arrangements for sale of the upland bird stamps and related art
33 works and prints. Expenditures of moneys in the subaccount shall be made for the benefit of pro-
34 grams within this state in such amounts and at such times as the commission determines appropriate
35 to most directly benefit the upland bird resources of the state.

36 (7)(a) The Fish and Wildlife Deferred Maintenance Subaccount is established in the Fish and
37 Wildlife Account. Interest earnings on moneys in the subaccount shall be credited to the subaccount.
38 The subaccount shall consist of moneys authorized by the Legislative Assembly from the State
39 Wildlife Fund and moneys obtained by gift, grant, bequest or donation from any other public or
40 private source.

41 (b) The principal in the subaccount may be utilized only as provided in paragraph (c) of this
42 subsection. Interest earnings on the moneys in the subaccount may be expended only for the main-
43 tenance of fish hatcheries and State Department of Fish and Wildlife facilities other than adminis-
44 trative facilities located in Salem.

45 (c) The department may borrow funds from the principal of the subaccount to maintain adequate

1 cash flow requirements. However, moneys borrowed from the principal must be repaid to the sub-
2 account:

3 (A) Within six months from the date on which the moneys were borrowed.

4 (B) With interest at the standard rate that the State Treasurer charges to state agencies for
5 other loans. Interest paid under this subparagraph shall be paid to the subaccount.

6 (d) For purposes of this subsection, "principal" means moneys authorized by the Legislative
7 Assembly for transfer to the subaccount from the State Wildlife Fund, including any assignment of
8 earnings on moneys in the fund and other moneys obtained by gift, grant, bequest or donation de-
9 posited into the subaccount.

10 (8) The Access and Habitat Board Subaccount is established in the Fish and Wildlife Account.
11 The subaccount shall consist of moneys transferred to the subaccount pursuant to ORS 496.242.
12 Moneys in the subaccount may be used for the purposes specified in ORS 496.242.

13 (9) The Marine Shellfish Subaccount is established in the Fish and Wildlife Account. Interest
14 earnings on moneys in the subaccount shall be credited to the subaccount. All moneys received by
15 the commission from the sale of resident and nonresident shellfish licenses pursuant to ORS 497.121
16 shall be deposited in the subaccount. Moneys in the subaccount shall be used for the protection and
17 enhancement of shellfish for recreational purposes, including shellfish sanitation costs and the cost
18 of enforcement of wildlife laws pertaining to the taking of shellfish. The State Fish and Wildlife
19 Director, or a designee, the Director of Agriculture, or a designee, and the Superintendent of State
20 Police, or a designee, shall jointly make a recommendation to the Governor for inclusion in the
21 Governor's budget beginning July 1 of each odd-numbered year.

22 (10)(a) The Mountain Sheep Subaccount is established in the Fish and Wildlife Account, con-
23 sisting of moneys collected under ORS 497.112 (2)(a) to (c).

24 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
25 sheep, for research, development, management, enhancement and sale or exchange of mountain
26 sheep habitat and for programs within the state that in the discretion of the commission most di-
27 rectly benefit mountain sheep resources of this state.

28 (11)(a) The Antelope Subaccount is established in the Fish and Wildlife Account, consisting of
29 moneys collected under ORS 497.112 (2)(a) to (c).

30 (b) All moneys in the subaccount shall be used for the propagation and conservation of antelope,
31 for research, development, management, enhancement and sale or exchange of antelope habitat and
32 for programs within the state that in the discretion of the commission most directly benefit antelope
33 resources of this state.

34 (12)(a) The Mountain Goat Subaccount is established in the Fish and Wildlife Account, consist-
35 ing of moneys collected under ORS 497.112 (2)(a) to (c).

36 (b) All moneys in the subaccount shall be used for the propagation and conservation of mountain
37 goats for research, development, management, enhancement and sale or exchange of mountain goat
38 habitat and for programs within the state that in the discretion of the commission most directly
39 benefit mountain goat resources of this state.

40 (13)(a) The commission shall keep a record of all moneys deposited in the Fish and Wildlife
41 Account. The record shall indicate by separate cumulative accounts the sources from which the
42 moneys are derived and the individual activity or programs against which each withdrawal is
43 charged.

44 (b) Using the record created pursuant to paragraph (a) of this subsection, the commission shall
45 report, in the budget documents submitted to the Legislative Assembly, on the application of in-

1 vestment and interest earnings to the maintenance of fish hatcheries and other State Department
 2 of Fish and Wildlife facilities.

3
 4 **STATE DEPARTMENT OF AGRICULTURE**

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 6 **SECTION 33.** ORS 561.280 is amended to read:

7 561.280. In addition to the other remedies provided by law, the State Department of Agriculture
 8 may apply to the circuit court for, and such court shall have jurisdiction upon a summary hearing
 9 and for cause shown to grant, a temporary or permanent injunction restraining any person from
 10 violating any provision of a law under the jurisdiction of the department. **The department may**
 11 **not be required to furnish a bond in such proceeding. Any action authorized by this section**
 12 **must be tried in the circuit court of the county in which the violation occurs or in Marion**
 13 **County. The State Board of Agriculture, the department, the Director of Agriculture and the**
 14 **employees and duly authorized representatives of the department may not be held liable for**
 15 **any damages a defendant may sustain as a result of an injunction, restraining order or other**
 16 **order issued under this section.**

17 **SECTION 34.** ORS 568.933 is amended to read:

18 568.933. (1) In addition to any other liability or penalty provided by law, the State Department
 19 of Agriculture may impose a civil penalty on a landowner of lands within an agricultural or rural
 20 area subject to a water quality management plan for failure to comply with rules implementing the
 21 plan.

22 (2) The department may not impose a civil penalty on a landowner for a first violation under this
 23 section unless the department:

24 (a) Has notified the landowner of the violation in a writing that describes, with reasonable
 25 specificity, the factual basis for the department’s determination that a violation has occurred; and

26 (b) Has prescribed a reasonable time for the landowner to correct the violation that may not
 27 exceed 30 days after the first notice of a violation, unless the violation requires more than 30 days
 28 to correct, in which case the department shall specify a reasonable period of time to correct the
 29 violation in a plan of correction issued to the landowner.

30 (3) A civil penalty imposed under this section may not exceed:

31 (a) \$2,500 for a first violation; or

32 (b) \$10,000 for a second or subsequent violation.

33 (4) For purposes of this section, each day of a violation continuing after any period of time of
 34 correction set by the department is a separate violation unless the department finds that a different
 35 period of time is more appropriate to describe a specific violation event.

36 (5) The landowner to whom a notice of violation or a notice of civil penalty is addressed shall
 37 have 30 days from the date of receipt of the notice in which to make written application for a
 38 hearing before the department.

39 (6) In imposing a penalty under this section, the department shall consider the following factors:

40 (a) The past history of the landowner incurring a penalty in taking all feasible steps or proce-
 41 dures necessary or appropriate to correct a violation.

42 (b) Any prior violations of rules, regulations or statutes pertaining to a water quality manage-
 43 ment plan.

44 (c) The gravity and magnitude of the violation.

45 (d) Whether the violation was repeated or continuous.

1 (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional
 2 act.

3 (f) The violator's efforts to correct the violation.

4 (g) The immediacy and extent to which the violation threatens the public health or safety.

5 (7) A notice of violation or period to comply shall not be required under subsection (2) of this
 6 section if:

7 (a) The violation is intentional; or

8 (b) The landowner has received a previous notice of the same or similar violation.

9 **(8) When the State Department of Agriculture brings a civil action pursuant to ORS**
 10 **561.280 to enjoin the violation of any rules adopted under ORS 561.191 or 568.912, in lieu of**
 11 **imposing civil penalties under this section, the State Department of Agriculture may recover**
 12 **a penalty in such civil action in an amount equal to the amount of civil penalty that would**
 13 **be recovered as provided in this section.**

14 [(8)] **(9)(a) Except as provided in paragraph (b) of this subsection,** the department shall de-
 15 posit any civil penalty recovered under this section into a special subaccount in the Department of
 16 Agriculture Service Fund. Moneys in the subaccount are continuously appropriated to the depart-
 17 ment to be used for educational programs on water quality management and to provide funding for
 18 water quality management demonstration projects.

19 **(b) Any penalty recovered in a civil action under this section shall be deposited in the**
 20 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 21 **180.095.**

22 [(9)] **(10)** The State Department of Agriculture shall reduce the amount of any civil penalty im-
 23 posed under this section by the amount of any civil penalty imposed by the Environmental Quality
 24 Commission or the Department of Environmental Quality for violations of water quality rules or
 25 standards, if the latter penalty is imposed on the same person and is based on the same violation.

26 **SECTION 35.** ORS 634.905 is amended to read:

27 634.905. (1) [*Any civil penalty*] **Subject to subsection (3) of this section, civil penalties** under
 28 ORS 634.900 shall be imposed as provided in ORS 183.745.

29 (2) Notwithstanding ORS 183.745, the person to whom the notice is addressed shall have 10 days
 30 from the date of service of the notice in which to make written application for a hearing before the
 31 Director of Agriculture.

32 **(3) When the State Department of Agriculture brings a civil action pursuant to ORS**
 33 **561.280 to enjoin the violation of ORS 634.372, in lieu of imposing civil penalties under ORS**
 34 **634.900, the department may recover a penalty in such civil action in an amount equal to the**
 35 **amount of civil penalty authorized to be recovered under ORS 634.900. In setting the amount**
 36 **of a penalty for a particular violation, the circuit court shall consider any schedule adopted**
 37 **under ORS 634.915 (1) and the factors described in ORS 634.915 (2).**

38 **SECTION 36.** ORS 634.925 is amended to read:

39 634.925. (1) **Except as provided in subsection (2) of this section,** all penalties recovered un-
 40 der ORS 634.900 to 634.915 shall be deposited by the State Treasurer in the Department of Agri-
 41 culture Service Fund. Such moneys are continuously appropriated to the State Department of
 42 Agriculture to be used for information and education related to pesticide application.

43 **(2) Any penalty recovered in a civil action under ORS 634.905 (3) shall be deposited in the**
 44 **Department of Justice Protection and Education Revolving Account created pursuant to ORS**
 45 **180.095.**

MISCELLANEOUS

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SECTION 37. (1) The amendments to ORS 137.101 and 137.295 by sections 2 and 3 of this 2011 Act apply to crimes committed on or after the effective date of this 2011 Act.

(2) Sections 20, 22, 28 and 30 of this 2011 Act and the amendments to ORS 196.890, 196.895, 390.674, 390.992, 468.135, 469.085, 517.992, 568.933 and 634.905 by sections 4 to 6, 9, 12, 15, 17, 24, 34 and 35 of this 2011 Act apply to violations occurring on or after the effective date of this 2011 Act.

(3) The amendments to ORS 468.090 by section 13 of this 2011 Act apply to complaints filed with the Department of Environmental Quality on or after the effective date of this 2011 Act.

SECTION 38. The unit 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.

SECTION 39. 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 on its passage.
