

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 1527

By COMMITTEE ON JUDICIARY

February 23

1 On page 1 of the printed A-engrossed bill, line 2, delete “amending ORS” and insert “creating
2 new provisions; amending ORS 161.566, 161.568 and”.

3 On page 2, delete lines 4 through 6 and insert:

4 “**SECTION 2.** ORS 161.566 is amended to read:

5 “161.566. (1) Except as provided in subsection (4) of this section, a prosecuting attorney may
6 elect to treat any misdemeanor as a Class A violation. The election must be made by the prosecuting
7 attorney orally at the time of the first appearance of the defendant or in writing filed on or before
8 the time scheduled for the first appearance of the defendant. If no election is made within the time
9 allowed, the case shall proceed as a misdemeanor.

10 “(2) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this
11 section, the court shall amend the accusatory instrument to reflect the charged offense as a Class
12 A violation and clearly denominate the offense as a Class A violation in any judgment entered in
13 the matter. Notwithstanding ORS [153.018] **153.021**, the fine that a court may impose upon conviction
14 of a violation under this section may not:

15 “(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

16 “(b) Exceed the [*amount provided in ORS 161.635 for the class of misdemeanor receiving violation*
17 *treatment*] **maximum fine established by ORS 153.018 for a Class A violation.**

18 “(3) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this
19 section, and the defendant fails to make any required appearance in the matter, the court may enter
20 a default judgment against the defendant in the manner provided by ORS 153.102. Notwithstanding
21 ORS [153.018] **153.021**, the fine that the court may impose under a default judgment entered pursuant
22 to ORS 153.102 may not:

23 “(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

24 “(b) Exceed the maximum fine [*for the class of misdemeanor receiving violation treatment*] **es-**
25 **tablished by ORS 153.018 for a Class A violation.**

26 “(4) A prosecuting attorney may not elect to treat misdemeanors created under ORS 811.540 or
27 813.010 as violations under the provisions of this section.

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

33 “**SECTION 3.** ORS 161.568 is amended to read:

34 “161.568. (1) Except as provided in subsection (4) of this section, a court may elect to treat any
35 misdemeanor as a Class A violation for the purpose of entering a default judgment under ORS

1 153.102 if:

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

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

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

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

11 “(3) Notwithstanding ORS [153.018] **153.021**, if the court treats a misdemeanor as a Class A vi-
12 olation under this section, the fine that the court may impose under a default judgment entered
13 pursuant to ORS 153.102 may not:

14 “(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

15 “(b) Exceed the maximum fine [*for the class of misdemeanor receiving violation treatment*] **es-**
16 **tablished by ORS 153.018 for a Class A violation.**

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

19 “**SECTION 4. The amendments to ORS 161.566 and 161.568 by sections 2 and 3 of this 2012**
20 **Act apply to elections made on or after the effective date of this 2012 Act.**

21 “**SECTION 5. This 2012 Act being necessary for the immediate preservation of the public**
22 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**
23 **on its passage.”.**

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