

# D R A F T

## SUMMARY

Requires owner of private parking facility to disclose rules and charges for parking violations in writing and on outdoor signs and ticket machines. Establishes maximum amount that owner of parking facility may assess for parking violations. Specifies hours during which “weekend rate,” if any, applies. Requires owner of parking facility to create process by which consumer may certify that consumer did not have custody of vehicle at time of parking violation.

Creates cause of action against owner for violation. Requires court, if consumer prevails, to award three times the amount of charge, fine or fee wrongly assessed. Allows award of attorney fees and costs to prevailing consumer.

## A BILL FOR AN ACT

1  
2 Relating to parking facilities.

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

4 **SECTION 1. (1) As used in this section and in section 2 of this 2013**

5 **Act:**

6 (a)(A) **“Base amount” means the amount an owner requires a con-**  
7 **sumer to pay to park the consumer’s vehicle at the owner’s parking**  
8 **facility on any single occasion.**

9 (B) **“Base amount” does not include charges, fines or fees the owner**  
10 **assesses against the consumer for parking violations.**

11 (b) **“Consumer” means a natural person who parks a vehicle at a**  
12 **parking facility.**

13 (c) **“Local government” means a city, county or local service dis-**  
14 **trict located in this state or an administrative subdivision of the city,**  
15 **county or local service district.**

1 (d) “Owner” means:

2 (A) A person who owns or lawfully possesses a parking facility or  
3 a lessee of the person;

4 (B) A local government or state agency with authority to control  
5 or operate a parking facility; or

6 (C) A person or entity that has assumed responsibility by contract  
7 or otherwise on behalf of an owner of a parking facility for operating,  
8 managing, maintaining or controlling the parking facility.

9 (e) “Parking facility” means property that is used for parking ve-  
10 hicles.

11 (f) “Parking violation” means a violation of a rule or requirement  
12 that a consumer must comply with to park a vehicle at an owner’s  
13 parking facility.

14 (g) “Registered owner” means the owner of a vehicle that is regis-  
15 tered in this or another state.

16 (h) “State agency” means a state officer, board, commission, de-  
17 partment, institution, branch or agency of state government, as de-  
18 fined in ORS 174.111.

19 (i) “Vehicle” has the meaning given that term in ORS 801.590.

20 (2) An owner of a parking facility may not assess a charge, fine or  
21 fee against a consumer or a registered owner for a parking violation  
22 unless the owner discloses to the consumer or registered owner, before  
23 the consumer or registered owner parks a vehicle at the parking fa-  
24 cility:

25 (a) Rules and requirements with which the consumer or registered  
26 owner must comply in order to avoid a charge, fine or fee for a park-  
27 ing violation;

28 (b) The amount of any charge, fine or fee, and the method for cal-  
29 culating the charge, fine or fee, that may be assessed for:

30 (A) A parking violation;

31 (B) Administrative costs associated with assessing a charge, fine

1 or fee for a parking violation;

2 (C) Paying a charge, fine or fee assessed for a parking violation  
3 late;

4 (D) Any other charge, fine or fee that the owner may assess against  
5 the consumer or registered owner that arise out of a parking violation;  
6 and

7 (c) The process by which a consumer or registered owner may cer-  
8 tify under subsection (6) of this section that the consumer or regis-  
9 tered owner did not have custody of the vehicle involved in the parking  
10 violation at the time the parking violation occurred.

11 (3) An owner must make the disclosures required under subsection  
12 (2) of this section:

13 (a) In writing, in a font at least 18 points in size and in red ink:

14 (A) On a paper ticket or other document that a consumer or regis-  
15 tered owner must display in a vehicle parked at the owner's parking  
16 facility; or

17 (B) On a document that the consumer receives at the time the  
18 consumer parks at the parking facility; and

19 (b) By a clear and conspicuous visual display on:

20 (A) An outdoor sign on the premises of the parking facility that  
21 advises consumers that the property is a parking facility; and

22 (B) A ticket machine or booth from which the consumer or regis-  
23 tered owner purchases a ticket that permits the consumer to park at  
24 the parking facility, if the parking facility has a ticket machine or  
25 booth installed.

26 (4)(a) Except as provided in paragraph (b) of this subsection, an  
27 owner may not assess charges, fees or fines for a parking violation  
28 that, in total, exceed twice the base amount the owner charges the  
29 consumer to park at the parking facility at the time the parking vio-  
30 lation occurred.

31 (b) An owner may assess a late fee that, when added to the total

1 amount of the charge, fine or fee, exceeds twice the base amount only  
2 if the consumer or registered owner does not pay the assessed charge,  
3 fine or fee within 30 days after the date that the consumer or regis-  
4 tered owner receives notice of the parking violation and the assess-  
5 ment. For purposes of this paragraph, a consumer or registered owner  
6 pays the charge, fine or fee within 30 days if the consumer or regis-  
7 tered owner pays in person or electronically, if electronic payment is  
8 available, within the 30-day period or if the owner receives payment  
9 by mail with a postmarked date that is within the 30-day period.

10 (5) An owner that charges a base amount that the owner describes  
11 as a “weekend rate” for parking at a parking facility shall clearly and  
12 conspicuously disclose the hours during which the weekend rate ap-  
13 plies. For purposes of this subsection, the hours during which a  
14 weekend rate must apply, if the owner charges a weekend rate, are,  
15 at a minimum, the hours of 6:00 p.m. on Friday until 11:59 p.m. on the  
16 following Sunday.

17 (6)(a) An owner may not assess a charge, fine or fee for a parking  
18 violation against a consumer or registered owner unless the owner  
19 creates, makes available and notifies the consumer or registered owner  
20 of appropriate forms for, and establishes a process by which the con-  
21 sumer or registered owner may certify that the consumer or registered  
22 owner did not have custody of the vehicle involved in the parking vi-  
23 olation and provide the name and address of the individual who did  
24 have custody of the vehicle at the time of the parking violation.

25 (b) After an owner receives the consumer’s or registered owner’s  
26 certification and the information described in paragraph (a) of this  
27 subsection, the owner shall dismiss the charge, fine or fee against the  
28 consumer or registered owner and may not seek payment from the  
29 consumer or registered owner for the parking violation. The owner  
30 may assess the charge, fine or fee against the person that the con-  
31 sumer or registered owner identified under paragraph (a) of this sub-

1 **section.**

2 **SECTION 2. (1) A consumer or registered owner that has suffered**  
3 **an ascertainable loss as a result of an owner's violation of a provision**  
4 **of section 1 of this 2013 Act has a cause of action against the owner.**

5 **(2) If the consumer or registered owner prevails in an action**  
6 **brought under subsection (1) of this section, the court shall enter**  
7 **judgment against the owner in an amount that is three times the**  
8 **charge, fine or fee that the owner assessed against the consumer or**  
9 **registered owner and may award attorney fees and costs to the pre-**  
10 **vailing consumer or registered owner.**

11 **(3) A remedy under this section is in addition to any other civil or**  
12 **criminal remedy that is available under any other provision of law.**

13

\_\_\_\_\_