

House Bill 3154

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND GOVERNMENT EFFICIENCY

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 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 Act:**

5 (a)(A) "Base amount" means the amount an owner requires a consumer to pay to park
6 the consumer's vehicle at the owner's parking facility on any single occasion.

7 (B) "Base amount" does not include charges, fines or fees the owner assesses against the
8 consumer for parking violations.

9 (b) "Consumer" means a natural person who parks a vehicle at a parking facility.

10 (c) "Local government" means a city, county or local service district located in this state
11 or an administrative subdivision of the city, county or local service district.

12 (d) "Owner" means:

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

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

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

19 (e) "Parking facility" means property that is used for parking vehicles.

20 (f) "Parking violation" means a violation of a rule or requirement that a consumer must
21 comply with to park a vehicle at an owner's parking facility.

22 (g) "Registered owner" means the owner of a vehicle that is registered in this or another
23 state.

24 (h) "State agency" means a state officer, board, commission, department, institution,
25 branch or agency of state government, as defined in ORS 174.111.

26 (i) "Vehicle" has the meaning given that term in ORS 801.590.

27 (2) An owner of a parking facility may not assess a charge, fine or fee against a con-
28 sumer or a registered owner for a parking violation unless the owner discloses to the con-

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 consumer or registered owner, before the consumer or registered owner parks a vehicle at the
2 parking facility:

3 (a) Rules and requirements with which the consumer or registered owner must comply
4 in order to avoid a charge, fine or fee for a parking violation;

5 (b) The amount of any charge, fine or fee, and the method for calculating the charge, fine
6 or fee, that may be assessed for:

7 (A) A parking violation;

8 (B) Administrative costs associated with assessing a charge, fine or fee for a parking
9 violation;

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

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

13 (c) The process by which a consumer or registered owner may certify under subsection
14 (6) of this section that the consumer or registered owner did not have custody of the vehicle
15 involved in the parking violation at the time the parking violation occurred.

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

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

18 (A) On a paper ticket or other document that a consumer or registered owner must
19 display in a vehicle parked at the owner's parking facility; or

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

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

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

25 (B) A ticket machine or booth from which the consumer or registered owner purchases
26 a ticket that permits the consumer to park at the parking facility, if the parking facility has
27 a ticket machine or booth installed.

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

32 (b) An owner may assess a late fee that, when added to the total amount of the charge,
33 fine or fee, exceeds twice the base amount only if the consumer or registered owner does
34 not pay the assessed charge, fine or fee within 30 days after the date that the consumer or
35 registered owner receives notice of the parking violation and the assessment. For purposes
36 of this paragraph, a consumer or registered owner pays the charge, fine or fee within 30 days
37 if the consumer or registered owner pays in person or electronically, if electronic payment
38 is available, within the 30-day period or if the owner receives payment by mail with a post-
39 marked date that is within the 30-day period.

40 (5) An owner that charges a base amount that the owner describes as a "weekend rate"
41 for parking at a parking facility shall clearly and conspicuously disclose the hours during
42 which the weekend rate applies. For purposes of this subsection, the hours during which a
43 weekend rate must apply, if the owner charges a weekend rate, are, at a minimum, the hours
44 of 6:00 p.m. on Friday until 11:59 p.m. on the following Sunday.

45 (6)(a) An owner may not assess a charge, fine or fee for a parking violation against a

1 consumer or registered owner unless the owner creates, makes available and notifies the
2 consumer or registered owner of appropriate forms for, and establishes a process by which
3 the consumer or registered owner may certify that the consumer or registered owner did
4 not have custody of the vehicle involved in the parking violation and provide the name and
5 address of the individual who did have custody of the vehicle at the time of the parking vio-
6 lation.

7 (b) After an owner receives the consumer's or registered owner's certification and the
8 information described in paragraph (a) of this subsection, the owner shall dismiss the charge,
9 fine or fee against the consumer or registered owner and may not seek payment from the
10 consumer or registered owner for the parking violation. The owner may assess the charge,
11 fine or fee against the person that the consumer or registered owner identified under para-
12 graph (a) of this subsection.

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

16 (2) If the consumer or registered owner prevails in an action brought under subsection
17 (1) of this section, the court shall enter judgment against the owner in an amount that is
18 three times the charge, fine or fee that the owner assessed against the consumer or regis-
19 tered owner and may award attorney fees and costs to the prevailing consumer or registered
20 owner.

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

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