

# D R A F T

## SUMMARY

Establishes penalty to be imposed by Employment Department on large employers whose employees receive health care coverage through medical assistance program. Appropriates penalties collected by department to Oregon Health Authority for specified purposes. Establishes remedy for employee who is retaliated against by employer for applying for or receiving medical assistance or premium tax credits under Patient Protection and Affordable Care Act.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to health care for low-income workers; creating new provisions;  
3 amending ORS 657.601, 657.610, 657.625, 657.630, 657.635, 657.640, 657.646,  
4 657.660 and 657.665 and 659A.885; and declaring an emergency.

5 Whereas working Oregonians should have affordable, comprehensive  
6 health insurance coverage; and

7 Whereas most working Oregonians obtain their health insurance coverage  
8 through their employment, but some working Oregonians receive coverage  
9 of their health care costs through the medical assistance program or through  
10 qualified health plans purchased on the health insurance exchange; and

11 Whereas the federal Patient Protection and Affordable Care Act (P.L.  
12 111-148), as amended by the Health Care and Education Reconciliation Act  
13 (P.L. 111-152) (Affordable Care Act), is expected to reduce the number of  
14 Oregonians without health insurance coverage by providing coverage  
15 through changes to the medical assistance program and the creation of the  
16 exchange; and

17 Whereas although the Affordable Care Act sets a standard for what con-

1 stitutes affordable, employment-based coverage and imposes penalties on any  
2 large employer whose full-time, nonseasonal employees receive coverage  
3 through the exchange, federal law imposes no penalty on large employers  
4 whose employees receive coverage through the taxpayer-funded medical as-  
5 sistance program; and

6 Whereas employers who fail to provide affordable coverage to low-wage  
7 workers who are covered by medical assistance shift the cost of health care  
8 coverage from the employer to the taxpayer; and

9 Whereas employers can avoid the employer responsibility penalty of the  
10 Affordable Care Act by reducing wages, hours worked or both, so that  
11 workers are no longer full-time, full-year employees within the meaning of  
12 the Affordable Care Act; and

13 Whereas workers who face low wages, work part-time or both are too of-  
14 ten eligible for taxpayer-funded medical assistance instead of affordable,  
15 employer-based coverage; and

16 Whereas persons who are covered by health insurance have better health  
17 outcomes than those who lack coverage; and

18 Whereas persons without health insurance coverage are more likely to  
19 be in poor health, more likely to miss needed medications and treatment and  
20 more likely to have chronic conditions that are not properly managed; and

21 Whereas persons without health insurance coverage are at risk of finan-  
22 cial ruin because medical debt is the second most common cause of personal  
23 bankruptcy in the United States; and

24 Whereas taxpayers, through state and local governments, fund county  
25 clinics, community clinics and other safety net providers that provide care  
26 to those working people whose employers fail to provide affordable health  
27 insurance coverage to their employees as well as to other uninsured persons;  
28 and

29 Whereas controlling health care costs can be more readily achieved if a  
30 greater share of working people and their families have employer-sponsored  
31 health insurance so that cost shifting is minimized; and

1 Whereas the social and economic burden created by the lack of health  
2 insurance coverage for some workers and the coverage of other workers  
3 through the medical assistance program creates a burden on other employers,  
4 the state, affected workers and the families of affected workers who suffer  
5 ill health and risk financial ruin; now, therefore,

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

7 **SECTION 1. The purpose of sections 1 to 5 of this 2015 Act is to:**

8 **(1) Ensure that large employers pay a fair share penalty for health**  
9 **care coverage provided to their employees through the medical assist-**  
10 **ance program and to base that penalty on the cost of employee-only**  
11 **health insurance provided by other large employers to their employees.**

12 **(2) Encourage large employers to provide affordable health insur-**  
13 **ance coverage to low-wage employees who would otherwise be enrolled**  
14 **in the medical assistance program and to discourage employers from**  
15 **reducing hours, wages or both in order to avoid the employer respon-**  
16 **sibility penalty of the Patient Protection and Affordable Care Act (P.L.**  
17 **111-148), as amended by the Health Care and Education Reconciliation**  
18 **Act (P.L. 111-152).**

19 **(3) Protect employees who receive medical assistance from retali-**  
20 **ation by their employers for seeking or obtaining medical assistance.**

21 **(4) Pay the state's share of the costs of medical assistance provided**  
22 **to working adults who lack affordable employer-sponsored health in-**  
23 **surance, improve reimbursement to the health care providers who care**  
24 **for these workers and support the safety net providers that care for**  
25 **the remaining uninsured workers.**

26 **SECTION 2. As used in sections 1 to 5 of this 2015 Act:**

27 **(1)(a) "Covered employee" means an individual who meets all of the**  
28 **following conditions:**

29 **(A) The individual is an employee of a large employer.**

30 **(B) The individual is enrolled in medical assistance on the basis of**  
31 **the individual's modified adjusted gross income in accordance with the**

1 **Patient Protection and Affordable Care Act (P.L. 111-148), as amended**  
2 **by the Health Care and Education Reconciliation Act (P.L. 111-152).**

3 **(C) The individual is not enrolled in medical assistance by reason**  
4 **of a disability or being over 65 years of age.**

5 **(b) A “covered employee” includes a leased employee or other indi-**  
6 **vidual under the direction and control of the employer.**

7 **(2)(a) “Employer” means an employing unit as defined in ORS**  
8 **657.020.**

9 **(b) An employer includes all of the members of a controlled group**  
10 **of corporations.**

11 **(c) As used in this subsection, a “controlled group of corporations”**  
12 **means a controlled group of corporations as defined in section 1563(a)**  
13 **of the Internal Revenue Code, except that “more than 50 percent” shall**  
14 **be substituted for “at least 80 percent” each place it appears in section**  
15 **1563(a)(1) of the Internal Revenue Code, and the determination shall**  
16 **be made without regard to sections 1563(a)(4) and 1563(e)(3)(C) of the**  
17 **Internal Revenue Code.**

18 **(3) “Fund” means the Employer Responsibility for Medical Assist-**  
19 **ance Trust Fund, created in section 5 of this 2015 Act.**

20 **(4)(a) “Large employer” includes:**

21 **(A) Any employer employing for wages or salary 50 or more persons**  
22 **to work in this state during any calendar quarter in a year for which**  
23 **the employer responsibility penalty is calculated; and**

24 **(B) Employers that are nonprofit entities for purposes of state or**  
25 **federal corporate income taxes, for purposes of state or local property**  
26 **taxes or for any other tax purpose.**

27 **(b) “Large employer” does not include a public employer as defined**  
28 **in ORS 243.650.**

29 **(5) “Medical assistance” has the meaning given that term in ORS**  
30 **414.025.**

31 **(6) “Safety net provider” means any provider of comprehensive**

1 primary care or acute hospital inpatient services that provides these  
2 services to a significant total number of medical assistance and med-  
3 ically indigent patients in relation to the total number of patients  
4 served by the provider.

5 (7) "Wages" means wages as defined in ORS 657.105 and paid directly  
6 to an individual by the individual's employer.

7 **SECTION 3.** (1) Except as otherwise provided in section 4 of this  
8 2015 Act, every large employer shall pay to the Employment Depart-  
9 ment an employer responsibility penalty for each covered employee,  
10 as determined under subsection (3) of this section.

11 (2) Each year the Department of Consumer and Business Services  
12 shall report to the Employment Department the average cost of a full  
13 year of coverage under a silver level health benefit plan offered  
14 through the health insurance exchange.

15 (3) For each large employer, the Employment Department shall:

16 (a) Multiply the amount reported by the Department of Consumer  
17 and Business Services in subsection (2) of this section by the number  
18 of the employer's employees who are enrolled in a health benefit plan  
19 offered by the employer;

20 (b) Multiply the product calculated in paragraph (a) of this sub-  
21 section by 0.9; and

22 (c) Impose a employer responsibility penalty on the employer that  
23 is equal to the product calculated in paragraph (b) of this subsection.

24 (4) All moneys collected pursuant to this section shall be deposited  
25 in the Employer Responsibility for Medical Assistance Trust Fund  
26 created in section 5 of this 2015 Act.

27 **SECTION 4.** (1) The Employment Department has the power and  
28 duties necessary to administer the collection and enforcement of em-  
29 ployer responsibility penalties required to be remitted by large em-  
30 ployers under this section and section 3 of this 2015 Act.

31 (2) A large employer shall pay to the department, for deposit into

1 **the Employer Responsibility for Medical Assistance Trust Fund, any**  
2 **penalties imposed on the large employer pursuant to section 3 of this**  
3 **2015 Act.**

4 **(3) The department shall annually send to each large employer**  
5 **subject to an employer responsibility penalty under section 3 of this**  
6 **2015 Act a notice of any employer responsibility penalty imposed and**  
7 **the date on which payment is due. The amount of the penalty shall**  
8 **become conclusive and binding upon the employer unless, within 20**  
9 **days after the mailing of the notice to the last-known address of the**  
10 **employer as shown on the records of the department, or in the absence**  
11 **of mailing, within 20 days after the delivery of the notice, the employer**  
12 **files a request for hearing. Hearings shall be conducted in accordance**  
13 **with ORS chapter 183.**

14 **(4) Interest shall be assessed on employer responsibility penalties**  
15 **not paid on or before payment is due at 10 percent per annum. Interest**  
16 **shall begin to accrue the day after the date the payment is due and**  
17 **shall be deposited into the Employer Responsibility for Medical As-**  
18 **sistance Trust Fund.**

19 **(5) If an employer responsibility penalty payment is more than 60**  
20 **days overdue, a penalty equal to the interest charged as described in**  
21 **subsection (4) of this section shall be assessed and due for each month,**  
22 **or part thereof, that the employer responsibility penalty payment is**  
23 **not received. Penalties collected under this subsection shall be depos-**  
24 **ited in the Employer Responsibility for Medical Assistance Trust Fund.**

25 **(6) All penalties shall be paid to and collected by the department**  
26 **at such times and in such manner as the department may prescribe**  
27 **and upon collection shall be deposited in the Employer Responsibility**  
28 **for Medical Assistance Trust Fund.**

29 **(7) A large employer shall provide information to all newly hired**  
30 **and existing employees regarding the availability of medical assistance**  
31 **for low-income employees and regarding the employees' rights under**

1 section 7 of this 2015 Act. The department, in consultation with the  
2 Oregon Health Authority, shall develop a simple, uniform notice con-  
3 taining the information.

4 (8) Any employer that is assessed an employer responsibility penalty  
5 under section 3 of this 2015 Act is liable for the amount assessed.

6 **SECTION 5. (1) The Employer Responsibility for Medical Assistance**  
7 **Trust Fund is hereby created in the State Treasury separate and dis-**  
8 **tinct from the General Fund.**

9 (2) The fund consists of moneys collected pursuant to this section  
10 and section 4 of this 2015 Act.

11 (3) Moneys in the fund are appropriated to the Oregon Health Au-  
12 thority.

13 (4) Moneys in the fund shall be used for the following purposes:

14 (a) To provide payment for the state's share of medical assistance  
15 costs for covered employees.

16 (b) To increase reimbursement to health care providers located in  
17 health profession shortage areas or medically underserved areas as  
18 designated by the Office of Rural Health. The supplemental payments  
19 shall be for both fee-for-service medical assistance and care provided  
20 by coordinated care organizations.

21 (c) To make supplemental medical assistance payments to providers  
22 in practice settings in which 30 percent or more of the patients are  
23 medical assistance recipients or uninsured.

24 (d) To provide reimbursement to safety net providers that provide  
25 care without expectation of compensation to those Oregonians who do  
26 not have minimum essential coverage as defined in 26 U.S.C. 5000A.

27 (e) To fund medical residency programs.

28 (5) All costs to implement and administer sections 1 to 5 and 6 of  
29 this 2015 Act shall be paid, upon appropriation by the Legislative As-  
30 sembly, from moneys deposited in the fund, including any necessary  
31 costs incurred by the authority, the Employment Department or any

1 other state government agency.

2 **SECTION 6. (1) The Oregon Health Authority shall match Social**  
3 **Security numbers of individuals enrolled in the medical assistance**  
4 **program with information provided by the Employment Department**  
5 **to determine whether the individuals are covered employees as defined**  
6 **in section 2 of this 2015 Act.**

7 **(2) The authority shall provide to the department information about**  
8 **employers who have employees who receive medical assistance in or-**  
9 **der to permit the department to determine and collect the employer**  
10 **responsibility penalty imposed pursuant to section 3 of this 2015 Act.**

11 **(3) Any and all documents and records that result from matching**  
12 **records with or providing information to the department shall be**  
13 **subject to the confidentiality requirements of ORS 413.171 and 657.665.**

14 **(4) This section shall not be construed to supersede the require-**  
15 **ments and protections in ORS 192.586.**

16 **SECTION 7. (1) As used in this section:**

17 **(a) "Health insurance exchange" has the meaning give that term in**  
18 **ORS 741.300.**

19 **(b) "Large employer" has the meaning given that term in section 2**  
20 **of this 2015 Act.**

21 **(c) "Medical assistance" has the meaning given that term in ORS**  
22 **414.025.**

23 **(d) "Premium tax credits" means tax credits provided under section**  
24 **36B of the Internal Revenue Code to a person who is enrolled in a**  
25 **qualified health plan through a health insurance exchange.**

26 **(2) It is an unlawful employment practice for a large employer to**  
27 **refuse to hire, discharge, demote, suspend, retaliate or otherwise dis-**  
28 **criminate against an employee who applies for or receives medical**  
29 **assistance or premium tax credits.**

30 **(3) An employee who alleges a violation of subsection (2) of this**  
31 **section may bring a civil action under ORS 659A.885 or may file a**



1 **complaint with the Commissioner of the Bureau of Labor and Indus-**  
2 **tries in the manner provided by ORS 659A.820.**

3 **SECTION 8.** ORS 657.601 is amended to read:

4 657.601. There is established an Employment Department. The department  
5 shall:

6 (1) Administer the unemployment insurance laws of this state to support  
7 Oregonians during periods of unemployment;

8 (2) Provide for the operation of a statewide employment service, including  
9 the establishment and maintenance of a system of public employment offices  
10 to promote employment of Oregonians;

11 (3) Provide oversight, operation and management of a statewide compre-  
12 hensive labor market and occupational supply and demand information sys-  
13 tem to assist in the development of a diversified, multiskilled workforce;  
14 [*and*]

15 (4) Provide child care advocacy, coordination of child care policy and  
16 planning, technical assistance to child care providers and certification of  
17 child care facilities to assist the employment of Oregonians and insure the  
18 health and well-being of the future workforce; **and**

19 **(5) Administer sections 1 to 5 of this 2015 Act.**

20 **SECTION 9.** ORS 657.610 is amended to read:

21 657.610. The Director of the Employment Department may:

22 (1) For purposes of administration and control, and with the approval of  
23 the Governor, organize and reorganize the department in whatever manner  
24 the director considers appropriate to carry out the duties, functions and  
25 powers of the department.

26 (2) Appoint all subordinate officers and employees of the department,  
27 whether classified or unclassified, and prescribe their duties and compen-  
28 sation, subject to applicable provisions of the State Personnel Relations Law.

29 (3) Delegate to departmental officers and employees such responsibility  
30 and authority as the director determines necessary.

31 (4)(a) Determine all questions of general policy for this chapter [*and ORS*

1 *chapter 657A]* **and sections 1 to 5 of this 2015 Act;**

2 (b) Adopt rules for this chapter [*and ORS chapter 657A]* **and sections 1**  
3 **to 5 of this 2015 Act;** and

4 (c) Administer and enforce this chapter [*and ORS chapter 657A]* **and**  
5 **sections 1 to 5 of this 2015 Act.**

6 (5) Sue and be sued in the name of the director, and shall have a seal  
7 bearing the name of the Employment Department.

8 (6) Adopt proper rules to regulate the mode and manner of all investi-  
9 gations.

10 (7) Prescribe the time, place and manner of making claims for benefits  
11 under this chapter, the kind and character of notices required thereunder  
12 and the procedure for investigating and deciding claims.

13 (8) Enter into contracts relating to the federal Workforce Investment Act  
14 deemed necessary by the director to fulfill the mission of the department.  
15 The director may enter into contracts with other states or governments,  
16 public bodies or persons to provide or receive services. Contracts entered  
17 into by the director shall be executed in the name of the state, by and  
18 through the Employment Department.

19 **SECTION 10.** ORS 657.625 is amended to read:

20 657.625. (1) The Director of the Employment Department shall cause to  
21 be printed in proper form for distribution the classification, rates, rules[,  
22 *regulations*] and rules of procedure and furnish the same to any person upon  
23 application [*therefor*]. The fact that such classifications, rates, rules[, *regu-*  
24 *lations*] and rules of procedure are printed ready for distribution to all who  
25 apply for the same[,] shall be a sufficient publication of the same as required  
26 by this chapter **and sections 1 to 5 of this 2015 Act.**

27 (2) The director may also publish from time to time any special reports  
28 of the results of any investigation which the director may have conducted.

29 (3) The director shall publish in suitable form information concerning the  
30 rights of employees under this chapter **and section 7 of this 2015 Act** and  
31 such other information [*concerning this chapter and the regulations pursuant*

1 *thereto*] as the director considers suitable and proper, and require every em-  
2 ployer to post [*such*] **the** publications at the place of employment of the  
3 employer.

4 **SECTION 11.** ORS 657.630 is amended to read:

5 657.630. The Director of the Employment Department may act in the  
6 director's own behalf or by any of the duly authorized agents or assistants  
7 of the director in the following:

8 (1) To hold sessions at any place within the state.

9 (2) To administer oaths.

10 (3) To issue and serve by the director's representative, or by any sheriff,  
11 subpoenas for the attendance of witnesses and the production of papers,  
12 contracts, books, accounts, documents and testimony. The director may re-  
13 quire the attendance and testimony of employers, their officers and repre-  
14 sentatives before any hearing of the director and the production by  
15 employers of books, records, papers and documents without payment or  
16 tender of witness fees on account of that attendance.

17 (4) Generally to provide for the taking of testimony and for the recording  
18 of proceedings held in accordance with this chapter **and sections 1 to 5 of**  
19 **this 2015 Act.**

20 **SECTION 12.** ORS 657.635 is amended to read:

21 657.635. The circuit court for any county or the judge thereof, on appli-  
22 cation of the Director of the Employment Department or any of the assist-  
23 ants of the director, shall compel obedience to subpoenas issued and served  
24 pursuant to ORS 657.630 and punish disobedience of any such subpoena or  
25 any refusal to testify at any session authorized in this chapter **or sections**  
26 **1 to 5 of this 2015 Act**, or to answer any lawful inquiry of said director or  
27 any of the assistants of the director, in the same manner as a refusal to  
28 testify in the circuit court or the disobedience of the requirements of a  
29 subpoena issued from said court is punished.

30 **SECTION 13.** ORS 657.640 is amended to read:

31 657.640. Upon request of the Director of the Employment Department, the

1 Attorney General or, under the direction of the Attorney General, the dis-  
2 trict attorney of any county[,] shall institute or prosecute actions or pro-  
3 ceedings for the enforcement of this chapter **and sections 1 to 5 of this 2015**  
4 **Act**, when such actions or proceedings are within the county in which such  
5 district attorney was elected, and shall defend in like manner all suits,  
6 actions and proceedings brought against the director in the official capacity  
7 of the director.

8 **SECTION 14.** ORS 657.646 is amended to read:

9 657.646. In any case in which a judgment is rendered in favor of the Em-  
10 ployment Department for amounts due under this chapter **and sections 1 to**  
11 **5 of this 2015 Act**, the Director of the Employment Department may issue  
12 a warrant to collect the amount of the judgment.

13 **SECTION 15.** ORS 657.660 is amended to read:

14 657.660. (1) Every employing unit shall keep true and accurate records of  
15 all persons employed by it and such records of hours worked, wages paid and  
16 other statistics as prescribed by the Director of the Employment Department  
17 for the administration of this chapter **and sections 1 to 5 of this 2015**  
18 **Act**.

19 (2) Such records shall be open to inspection by the director or an au-  
20 thorized representative of the director at any reasonable time. No person  
21 shall refuse to allow the director or authorized representative to inspect the  
22 payroll or other records or documents relative to the enforcement of this  
23 chapter **and sections 1 to 5 of this 2015 Act**.

24 (3) The director may require from any employing unit such reports on the  
25 wages, hours, employment, unemployment and related matters concerning its  
26 employees as the director deems necessary to the effective administration of  
27 this chapter **and sections 1 to 5 of this 2015 Act**.

28 (4) Every employing unit shall fully, correctly and promptly furnish the  
29 director all information required by the director to carry out the purposes  
30 and provisions of this chapter **and sections 1 to 5 of this 2015 Act**.

31 **SECTION 16.** ORS 657.665, as amended by section 1, chapter 26, Oregon

1 Laws 2014, is amended to read:

2 657.665. (1) Except as provided in subsections (2) to (5) of this section, all  
3 information in the records of the Employment Department pertaining to the  
4 administration of the unemployment insurance, employment service and labor  
5 market information programs **and sections 1 to 5 of this 2015 Act**:

6 (a) Is confidential and for the exclusive use and information of the Di-  
7 rector of the Employment Department in administering the unemployment  
8 insurance, employment service and labor market information programs in  
9 Oregon **and sections 1 to 5 of this 2015 Act**.

10 (b) May not be used in any court action or in any proceeding pending in  
11 the court unless the director or the state is a party to the action or pro-  
12 ceeding or unless the proceeding concerns the establishment, enforcement or  
13 modification of a support obligation and support services are being provided  
14 by the Division of Child Support or the district attorney pursuant to ORS  
15 25.080.

16 (c) Is exempt from disclosure under ORS 192.410 to 192.505.

17 (2) The Employment Department shall disclose information:

18 (a) To any claimant or legal representative, at a hearing before an ad-  
19 ministrative law judge, to the extent necessary for the proper presentation  
20 of an unemployment insurance claim.

21 (b) Upon request to the United States Secretary of Labor. The Employ-  
22 ment Department shall disclose the information in a form and containing the  
23 information that the United States Secretary of Labor may require. The in-  
24 formation disclosed is confidential and may not be used for any other pur-  
25 pose.

26 (c) Pursuant to section 303(a)(7) of the Social Security Act, upon request  
27 to any agency of the United States charged with the administration of public  
28 works or assistance through public employment. Under this paragraph, the  
29 Employment Department shall disclose the name, address, ordinary occupa-  
30 tion and employment status of each recipient of unemployment insurance  
31 benefits and a statement of the recipient's right to further benefits under this

1 chapter. The information disclosed is confidential and may not be used for  
2 any other purpose.

3 (d) Pursuant to section 303(c)(1) of the Social Security Act, to the Rail-  
4 road Retirement Board. Under this paragraph, the Employment Department  
5 shall disclose unemployment insurance records. The information disclosed is  
6 confidential and may not be used for any other purpose. The costs of dis-  
7 closing information under this paragraph shall be paid by the board.

8 (e) Pursuant to section 303(d) of the Social Security Act, upon request to  
9 officers and employees of the United States Department of Agriculture and  
10 to officers or employees of any state Supplemental Nutrition Assistance  
11 Program agency for the purpose of determining an individual's eligibility for  
12 or the amount of supplemental nutrition assistance. The information dis-  
13 closed is confidential and may not be used for any other purpose. The costs  
14 of disclosing information under this paragraph shall be paid by the United  
15 States Department of Agriculture.

16 (f) Pursuant to section 303(e)(1) and (2)(A)(ii) of the Social Security Act,  
17 to state or local child support enforcement agencies enforcing child support  
18 obligations under Title IV-D of the Social Security Act for the purposes of  
19 establishing child support obligations, locating individuals owing child sup-  
20 port obligations and collecting child support obligations from those individ-  
21 uals. The information disclosed is confidential and may not be used for any  
22 other purpose. The costs of disclosing information under this paragraph shall  
23 be paid by the child support enforcement agency.

24 (g) Pursuant to sections 303(f) and 1137 of the Social Security Act, to  
25 agencies participating in the income and eligibility verification system for  
26 the purpose of verifying an individual's eligibility for benefits, or the amount  
27 of benefits, under unemployment insurance, temporary assistance for needy  
28 families, Medicaid, the Supplemental Nutrition Assistance Program, Supple-  
29 mental Security Income, child support enforcement or Social Security pro-  
30 grams. The information disclosed is confidential and may not be used for any  
31 other purpose. The costs of disclosing information under this paragraph shall

1 be paid by the requesting agency.

2 (h) Pursuant to section 303(h) of the Social Security Act and section  
3 3304(a)(16)(B) of the Federal Unemployment Tax Act, to the United States  
4 Department of Health and Human Services National Directory of New Hires.  
5 The information disclosed is confidential and may not be used for any other  
6 purpose. The costs of disclosing information under this paragraph shall be  
7 paid by the United States Department of Health and Human Services.

8 (i) Pursuant to section 303(i) of the Social Security Act, to officers and  
9 employees of the United States Department of Housing and Urban Develop-  
10 ment and to representatives of a public housing agency for the purpose of  
11 determining an individual's eligibility for benefits, or the amount of benefits,  
12 under a housing assistance program of the United States Department of  
13 Housing and Urban Development. The information disclosed is confidential  
14 and may not be used for any other purpose. The costs of disclosing informa-  
15 tion under this paragraph shall be paid by the United States Department of  
16 Housing and Urban Development or the public housing agency.

17 (j) Pursuant to regulations of the United States Secretary of Health and  
18 Human Services issued under section 3304(a)(16)(A) of the Federal Unem-  
19 ployment Tax Act, and except as required by section 303 of the Social Secu-  
20 rity Act, to the state, a political subdivision or a federally recognized Indian  
21 tribe that has signed an agreement with the Department of Human Services  
22 to administer Part A of Title IV of the Social Security Act for the purpose  
23 of determining an individual's eligibility for assistance, or the amount of  
24 assistance, under a program funded under Part A of Title IV of the Social  
25 Security Act. The information disclosed is confidential and may not be used  
26 for any other purpose.

27 (k) Upon request, to the United States Attorney's Office. Under this  
28 paragraph, the Employment Department may disclose an individual's em-  
29 ployment and wage information in response to a federal grand jury subpoena  
30 or for the purpose of collecting civil and criminal judgments, including  
31 restitution and special assessment fees. The information disclosed is confi-

1   dential and may not be used for any other purpose. The costs of disclosing  
2   information under this paragraph shall be paid by the United States  
3   Attorney's Office.

4   (3) The Employment Department may disclose information secured from  
5   employing units:

6   (a) To agencies of this state, federal agencies and local government  
7   agencies to the extent necessary to properly carry out governmental plan-  
8   ning, performance measurement, program analysis, socioeconomic analysis  
9   and policy analysis functions performed under applicable law. The informa-  
10   tion disclosed is confidential and may not be disclosed by the agencies in any  
11   manner that would identify individuals, claimants, employees or employing  
12   units. If the information disclosed under this paragraph is not prepared for  
13   the use of the Employment Department, the costs of disclosing the informa-  
14   tion shall be paid by the agency requesting the information.

15   (b) As part of a geographic information system. Points on a map may be  
16   used to represent economic data, including the location, employment size  
17   class and industrial classification of businesses in Oregon. Information pre-  
18   sented as part of a geographic information system may not give specific de-  
19   tails regarding a business's address, actual employment or proprietary  
20   information. If the information disclosed under this paragraph is not pre-  
21   pared for the use of the Employment Department, the costs of disclosing the  
22   information shall be paid by the party requesting the information.

23   (c) In accordance with ORS 657.673.

24   (4) The Employment Department may:

25   (a) Disclose information to public employees in the performance of their  
26   duties under state or federal laws relating to the payment of unemployment  
27   insurance benefits, the provision of employment services and the provision  
28   of labor market information.

29   (b) At the discretion of the Director of the Employment Department and  
30   subject to an interagency agreement, disclose information to public officials  
31   in the performance of their official duties administering or enforcing laws



1 within their authority and to the agents or contractors of public officials.  
2 The public official shall agree to assume responsibility for misuse of the in-  
3 formation by the official's agent or contractor.

4 (c) Disclose information pursuant to an informed consent, received from  
5 an employer or claimant, to disclose the information.

6 (d) Disclose information to partners under the federal Workforce Invest-  
7 ment Act of 1998 for the purpose of administering state workforce programs  
8 under the Act. The information disclosed is confidential and may not be used  
9 for any other purpose. The costs of disclosing information under this para-  
10 graph shall be paid by the requesting partner.

11 (e) Disclose the names and addresses of employing units to the Bureau  
12 of Labor and Industries for the purpose of disseminating information to em-  
13 ploying units. The names and addresses disclosed are confidential and may  
14 not be used for any other purpose. If the information disclosed under this  
15 paragraph is not prepared for the use of the Employment Department, the  
16 costs of disclosing the information shall be paid by the bureau.

17 (f) Disclose information to the Commissioner of the Bureau of Labor and  
18 Industries for the purpose of performing duties under ORS 279C.800 to  
19 279C.870, 658.005 to 658.245 or 658.405 to 658.503 or ORS chapter 652, 653 or  
20 659A. The information disclosed may include the names and addresses of  
21 employers and employees and payroll data of employers and employees. The  
22 information disclosed is confidential and may not be used for any other  
23 purpose. If the information disclosed under this paragraph is not prepared  
24 for the use of the Employment Department, the costs of disclosing the in-  
25 formation shall be paid by the bureau.

26 (g) Disclose information required under ORS 657.660 (3) and (4) to the  
27 Public Employees Retirement System for the purpose of determining the el-  
28 igibility of members of the retirement system for disability retirement al-  
29 lowances under ORS chapter 238. The information disclosed is confidential  
30 and may not be used for any other purpose. The costs of disclosing informa-  
31 tion under this paragraph shall be paid by the Public Employees Retirement

1 System.

2 (h) Disclose to the Oregon Business Development Commission information  
3 required by the commission in performing its duty under ORS 285A.050 to  
4 verify changes in employment levels following direct employer participation  
5 in Oregon Business Development Department programs or indirect partic-  
6 ipation through municipalities under ORS 285B.410 to 285B.482. The infor-  
7 mation disclosed to the commission may include an employer's employment  
8 level, total subject wages payroll and whole hours worked. The information  
9 disclosed is confidential and may not be used for any other purpose. The  
10 commission may not disclose the information in any manner that would  
11 identify an employing unit or employee except to the extent necessary to  
12 carry out the commission's duty under ORS 285A.050. If the information  
13 disclosed under this paragraph is not prepared for the use of the Employment  
14 Department, the costs of disclosing the information shall be paid by the  
15 commission.

16 (i) Disclose information to the Department of Revenue for the purpose of  
17 performing its duties under ORS 293.250 or under the revenue and tax laws  
18 of this state. The information disclosed may include the names and addresses  
19 of employers and employees and payroll data of employers and employees.  
20 The information disclosed is confidential and may not be disclosed by the  
21 Department of Revenue in any manner that would identify an employing unit  
22 or employee except to the extent necessary to carry out the department's  
23 duties under ORS 293.250 or in auditing or reviewing any report or return  
24 required or permitted to be filed under the revenue and tax laws adminis-  
25 tered by the department. The Department of Revenue may not disclose any  
26 information received to any private collection agency or for any other pur-  
27 pose. If the information disclosed under this paragraph is not prepared for  
28 the use of the Employment Department, the costs of disclosing the informa-  
29 tion shall be paid by the Department of Revenue.

30 (j) Disclose information to the Department of Consumer and Business  
31 Services for the purpose of performing its duties under ORS chapters 654 and

1 656. The information disclosed may include the name, address, number of  
2 employees and industrial classification code of an employer and payroll data  
3 of employers and employees. The information disclosed is confidential and  
4 may not be disclosed by the Department of Consumer and Business Services  
5 in any manner that would identify an employing unit or employee except to  
6 the extent necessary to carry out the department's duties under ORS chap-  
7 ters 654 and 656, including administrative hearings and court proceedings in  
8 which the Department of Consumer and Business Services is a party. If the  
9 information disclosed under this paragraph is not prepared for the use of the  
10 Employment Department, the costs of disclosing the information shall be  
11 paid by the Department of Consumer and Business Services.

12 (k) Disclose information to the Construction Contractors Board for the  
13 purpose of performing its duties under ORS chapter 701. The information  
14 disclosed to the board may include the names and addresses of employers and  
15 status of their compliance with this chapter. If the information disclosed  
16 under this paragraph is not prepared for the use of the Employment De-  
17 partment, the costs of disclosing the information shall be paid by the board.

18 (L) Disclose information to the State Fire Marshal to assist the State Fire  
19 Marshal in carrying out duties under ORS 453.307 to 453.414. The informa-  
20 tion disclosed may include the name, address, telephone number and indus-  
21 trial classification code of an employer. The information disclosed is  
22 confidential and may not be disclosed by the State Fire Marshal in any  
23 manner that would identify an employing unit except to the extent necessary  
24 to carry out duties under ORS 453.307 to 453.414. If the information disclosed  
25 under this paragraph is not prepared for the use of the Employment De-  
26 partment, the costs of disclosing the information shall be paid by the office  
27 of the State Fire Marshal.

28 (m) Disclose information to the Higher Education Coordinating Commis-  
29 sion for the purpose of performing the commission's duties under ORS chap-  
30 ter 348 and Title IV of the Higher Education Act of 1965. The information  
31 disclosed may include the names and addresses of employers and employees

1 and payroll data of employers and employees. The information disclosed is  
2 confidential and may not be disclosed by the commission in any manner that  
3 would identify an employing unit or employee except to the extent necessary  
4 to carry out the commission's duties under ORS chapter 348 or Title IV of  
5 the Higher Education Act of 1965. If the information disclosed under this  
6 paragraph is not prepared for the use of the Employment Department, the  
7 costs of disclosing the information shall be paid by the commission.

8 (n) Disclose information to the Department of Transportation to assist the  
9 Department of Transportation in carrying out the duties of the Department  
10 of Transportation relating to collection of delinquent and liquidated debts,  
11 including taxes, under ORS 184.610 to 184.666, 184.670 to 184.733 and 805.263,  
12 ORS chapter 319 and the Oregon Vehicle Code. The information disclosed  
13 may include the names and addresses of employers and employees and payroll  
14 data of employers and employees. The information disclosed is confidential  
15 and may not be disclosed by the Department of Transportation in any man-  
16 ner that would identify an employing unit or employee except to the extent  
17 necessary to carry out the Department of Transportation's duties relating to  
18 collection of delinquent and liquidated debts or in auditing or reviewing any  
19 report or return required or permitted to be filed under the revenue and tax  
20 laws administered by the Department of Transportation. The Department of  
21 Transportation may not disclose any information received to any private  
22 collection agency or for any other purpose. If the information disclosed under  
23 this paragraph is not prepared for the use of the Employment Department,  
24 the costs of disclosing the information shall be paid by the Department of  
25 Transportation.

26 (o) Disclose information to the Department of Human Services and the  
27 Oregon Health Authority to **enable the Employment Department to ad-**  
28 **minister sections 1 to 5 of this 2015 Act and to** assist the Department of  
29 Human Services and the Oregon Health Authority in the collection of debts  
30 that the Department of Human Services and the Oregon Health Authority  
31 are authorized by law to collect. The information disclosed may include the

1 names, addresses and payroll data of employers and employees. The infor-  
2 mation disclosed is confidential and may not be disclosed by the Department  
3 of Human Services or the Oregon Health Authority in a manner that would  
4 identify an employing unit or employee except to the extent necessary for the  
5 [collection of debts as] **purposes** described in this paragraph. The Department  
6 of Human Services and the Oregon Health Authority may not disclose in-  
7 formation received under this paragraph to a private collection agency or  
8 use the information for a purpose other than the [collection of debts as]  
9 **purposes** described in this paragraph. If the information disclosed under this  
10 paragraph is not prepared for the use of the Employment Department, the  
11 costs of disclosing the information shall be paid by the Department of Hu-  
12 man Services or the Oregon Health Authority.

13 (p) Disclose to the Alcohol and Drug Policy Commission information re-  
14 quired by the commission in evaluating and measuring the performance of  
15 alcohol and drug prevention and treatment programs under ORS 430.242 or  
16 the impact of the programs on employment. The information disclosed to the  
17 commission may include total subject wages payroll and whole hours worked.  
18 The information disclosed under this paragraph is confidential and may not  
19 be used for any other purpose. The commission may not disclose the infor-  
20 mation in any manner that would identify an employing unit or employee  
21 except to the extent necessary to carry out the commission's duties under  
22 ORS 430.242. If the information disclosed under this paragraph is not pre-  
23 pared for the use of the Employment Department, the costs of disclosing the  
24 information shall be paid by the commission.

25 (q) Disclose to any person establishment level information secured pur-  
26 suant to this chapter from federal, state and local government employing  
27 units. If the information disclosed under this paragraph is not prepared for  
28 the use of the Employment Department, the costs of disclosing the informa-  
29 tion shall be paid by the party requesting the information.

30 (r) Disclose to any person the industrial classification code assigned to  
31 an employing unit. If the information disclosed under this paragraph is not

1 prepared for the use of the Employment Department, the costs of disclosing  
2 the information shall be paid by the party requesting the information.

3 (5) The Employment Department may make public all decisions of the  
4 Employment Appeals Board.

5 (6) Any officer appointed by or any employee of the Director of the Em-  
6 ployment Department who discloses confidential information, except with the  
7 authority of the director, pursuant to rules or as otherwise required by law,  
8 may be disqualified from holding any appointment or employment with the  
9 Employment Department.

10 (7) Any person or any officer or employee of an entity to whom informa-  
11 tion is disclosed by the Employment Department under this section who  
12 divulges or uses the information for any purpose other than that specified  
13 in the provision of law or agreement authorizing the use or disclosure may  
14 be disqualified from performing any service under contract or disqualified  
15 from holding any appointment or employment with the state agency that  
16 engaged or employed that person, officer or employee. The Employment De-  
17 partment may immediately cancel or modify any information sharing agree-  
18 ment with an entity when a person or an officer or employee of that entity  
19 discloses confidential information, other than as specified in law or agree-  
20 ment.

21 **SECTION 17.** ORS 659A.885 is amended to read:

22 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice  
23 specified in subsection (2) of this section may file a civil action in circuit  
24 court. In any action under this subsection, the court may order injunctive  
25 relief and any other equitable relief that may be appropriate, including but  
26 not limited to reinstatement or the hiring of employees with or without back  
27 pay. A court may order back pay in an action under this subsection only for  
28 the two-year period immediately preceding the filing of a complaint under  
29 ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries,  
30 or if a complaint was not filed before the action was commenced, the two-  
31 year period immediately preceding the filing of the action. In any action

1 under this subsection, the court may allow the prevailing party costs and  
2 reasonable attorney fees at trial and on appeal. Except as provided in sub-  
3 section (3) of this section:

4 (a) The judge shall determine the facts in an action under this subsection;  
5 and

6 (b) Upon any appeal of a judgment in an action under this subsection, the  
7 appellate court shall review the judgment pursuant to the standard estab-  
8 lished by ORS 19.415 (3).

9 (2) An action may be brought under subsection (1) of this section alleging  
10 a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2),  
11 476.574, 652.355, 653.060, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063,  
12 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186,  
13 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233,  
14 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,  
15 659A.309, 659A.315, 659A.318, 659A.320 or 659A.421 **or section 7 of this 2015**  
16 **Act.**

17 (3) In any action under subsection (1) of this section alleging a violation  
18 of ORS 25.337, 25.424, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,  
19 659A.082, 659A.103 to 659A.145, 659A.199, 659A.228, 659A.230, 659A.250 to  
20 659A.262, 659A.290, 659A.318 or 659A.421:

21 (a) The court may award, in addition to the relief authorized under sub-  
22 section (1) of this section, compensatory damages or \$200, whichever is  
23 greater, and punitive damages;

24 (b) At the request of any party, the action shall be tried to a jury;

25 (c) Upon appeal of any judgment finding a violation, the appellate court  
26 shall review the judgment pursuant to the standard established by ORS  
27 19.415 (1); and

28 (d) Any attorney fee agreement shall be subject to approval by the court.

29 (4) In any action under subsection (1) of this section alleging a violation  
30 of ORS 652.355 or 653.060, the court may award, in addition to the relief  
31 authorized under subsection (1) of this section, compensatory damages or

1 \$200, whichever is greater.

2 (5) In any action under subsection (1) of this section alleging a violation  
3 of ORS 171.120, 476.574, 659A.203 or 659A.218, the court may award, in addi-  
4 tion to the relief authorized under subsection (1) of this section,  
5 compensatory damages or \$250, whichever is greater.

6 (6) In any action under subsection (1) of this section alleging a violation  
7 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-  
8 thorized under subsection (1) of this section, a civil penalty in the amount  
9 of \$720.

10 (7) Any individual against whom any distinction, discrimination or re-  
11 striction on account of race, color, religion, sex, sexual orientation, national  
12 origin, marital status or age, if the individual is 18 years of age or older,  
13 has been made by any place of public accommodation, as defined in ORS  
14 659A.400, by any employee or person acting on behalf of the place or by any  
15 person aiding or abetting the place or person in violation of ORS 659A.406  
16 may bring an action against the operator or manager of the place, the em-  
17 ployee or person acting on behalf of the place or the aider or abettor of the  
18 place or person. Notwithstanding subsection (1) of this section, in an action  
19 under this subsection:

20 (a) The court may award, in addition to the relief authorized under sub-  
21 section (1) of this section, compensatory and punitive damages;

22 (b) The operator or manager of the place of public accommodation, the  
23 employee or person acting on behalf of the place, and any aider or abettor  
24 shall be jointly and severally liable for all damages awarded in the action;

25 (c) At the request of any party, the action shall be tried to a jury;

26 (d) The court shall award reasonable attorney fees to a prevailing  
27 plaintiff;

28 (e) The court may award reasonable attorney fees and expert witness fees  
29 incurred by a defendant who prevails only if the court determines that the  
30 plaintiff had no objectively reasonable basis for asserting a claim or no  
31 reasonable basis for appealing an adverse decision of a trial court; and



1 (f) Upon any appeal of a judgment under this subsection, the appellate  
2 court shall review the judgment pursuant to the standard established by ORS  
3 19.415 (1).

4 (8) When the commissioner or the Attorney General has reasonable cause  
5 to believe that a person or group of persons is engaged in a pattern or  
6 practice of resistance to the rights protected by ORS 659A.145 or 659A.421  
7 or federal housing law, or that a group of persons has been denied any of the  
8 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the  
9 commissioner or the Attorney General may file a civil action on behalf of  
10 the aggrieved persons in the same manner as a person or group of persons  
11 may file a civil action under this section. In a civil action filed under this  
12 subsection, the court may assess against the respondent, in addition to the  
13 relief authorized under subsections (1) and (3) of this section, a civil penalty:

14 (a) In an amount not exceeding \$50,000 for a first violation; and

15 (b) In an amount not exceeding \$100,000 for any subsequent violation.

16 (9) In any action under subsection (1) of this section alleging a violation  
17 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing  
18 law, when the commissioner is pursuing the action on behalf of an aggrieved  
19 complainant, the court shall award reasonable attorney fees to the commis-  
20 sioner if the commissioner prevails in the action. The court may award rea-  
21 sonable attorney fees and expert witness fees incurred by a defendant that  
22 prevails in the action if the court determines that the commissioner had no  
23 objectively reasonable basis for asserting the claim or for appealing an ad-  
24 verse decision of the trial court.

25 (10) In an action under subsection (1) or (8) of this section alleging a vi-  
26 olation of ORS 659A.145 or 659A.421 or discrimination under federal housing  
27 law:

28 (a) "Aggrieved person" includes a person who believes that the person:

29 (A) Has been injured by an unlawful practice or discriminatory housing  
30 practice; or

31 (B) Will be injured by an unlawful practice or discriminatory housing

1 practice that is about to occur.

2 (b) An aggrieved person in regard to issues to be determined in an action  
3 may intervene as of right in the action. The Attorney General may intervene  
4 in the action if the Attorney General certifies that the case is of general  
5 public importance. The court may allow an intervenor prevailing party costs  
6 and reasonable attorney fees at trial and on appeal.

7 **SECTION 18. Sections 1 to 7 of this 2015 Act become operative on**  
8 **January 1, 2017.**

9 **SECTION 19. The Employment Department and the Oregon Health**  
10 **Authority may take any action prior to the operative date specified in**  
11 **section 18 of this 2015 Act that is necessary to carry out sections 1 to**  
12 **7 of this 2015 Act on the operative date specified in section 18 of this**  
13 **2015 Act.**

14 **SECTION 20. This 2015 Act being necessary for the immediate**  
15 **preservation of the public peace, health and safety, an emergency is**  
16 **declared to exist, and this 2015 Act takes effect on its passage.**

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