

A-Engrossed House Bill 2005

Ordered by the House April 24
Including House Amendments dated April 24

Sponsored by Representatives VEGA PEDERSON, HOYLE, Senators ROSENBAUM, STEINER HAYWARD; Representatives BUCKLEY, FAGAN, FREDERICK, GALLEGOS, HELM, KENY-GUYER, LININGER, MCLAIN, NOSSE, PILUSO, SMITH WARNER, WILLIAMSON, WITT, Senators BURDICK, DEMBROW, MONNES ANDERSON, MONROE, RILEY (Presession filed.)

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.

[Requires all employers to implement paid sick time for employees.] **Requires employers that employ six or more employees to implement paid sick time for employees and employers that employ fewer than six employees to implement unpaid sick time for employees.** Creates exceptions. Specifies purposes for which sick time may be taken and rate at which sick time accrues. Requires advance notice of request to use sick time under certain circumstances. Prohibits discrimination against employee for inquiring about or using paid sick time. Makes violation unlawful practice subject to jurisdiction of Bureau of Labor and Industries. Authorizes civil action for violation.

A BILL FOR AN ACT

1
2 Relating to mandatory provision of sick time; creating new provisions; and amending ORS 653.256
3 and 659A.885.

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

5 **SECTION 1. Sections 2 to 16 of this 2015 Act are added to and made a part of ORS**
6 **chapter 653.**

7 **SECTION 2. As used in sections 2 to 16 of this 2015 Act:**

8 **(1)(a) "Employee" means:**

9 **(A) An individual who renders personal services at a fixed rate to an employer if the**
10 **employer either pays or agrees to pay for personal services or permits the individual to**
11 **perform personal services.**

12 **(b) "Employee" includes, but is not limited to:**

13 **(A) An individual who is paid on the basis of the number of operations accomplished or**
14 **quantity produced or handled;**

15 **(B) Individuals paid on a salary or commission basis; and**

16 **(C) Home care workers as defined in ORS 410.600.**

17 **(c) "Employee" does not include:**

18 **(A) An employee who receives paid sick time under federal law;**

19 **(B) An independent contractor;**

20 **(C) A participant in a work training program administered under a state or federal as-**
21 **sistance program;**

22 **(D) A participant in a work-study program that provides students in secondary or post-**
23 **secondary educational institutions with employment opportunities for financial or vocational**

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 training;

2 (E) A railroad worker exempted under the federal Railroad Unemployment Insurance
3 Act; and

4 (F) An individual employed by that individual's parent, spouse or child.

5 (2)(a) "Employer" means any person that employs another person, the State of Oregon
6 or a political subdivision of the state and any county, city, district, authority, public corpo-
7 ration or entity and any instrumentality thereof organized and existing under law or charter.

8 (b) "Employer" does not include the federal government.

9 (3) "Family member" has the meaning given that term in ORS 659A.150.

10 (4) "Paid sick time" means time off:

11 (a) That is provided to an employee by an employer that employs six or more employees;

12 (b) That may be used for the purposes specified in section 6 of this 2015 Act; and

13 (c) That is compensated at the regular rate of pay and without reductions in benefits,
14 including but not limited to health care benefits, that the employee earns from the employer
15 at the time the employee uses the paid sick time.

16 (5) "Sick time" means time during which an employee is permitted to be absent from
17 work for a reason authorized under section 6 of this 2015 Act.

18 (6) "Year" includes any consecutive 12-month period, such as a calendar year, a tax year,
19 a fiscal year, a contract year or the 12-month period beginning on the anniversary of the date
20 of employment of the employee.

21 **SECTION 3.** (1)(a) Employers who employ at least six employees shall implement a sick
22 time policy that allows an employee to earn and use up to 40 hours of paid sick time per year.
23 Paid sick time shall accrue at the rate of at least one hour of paid sick time for every 30
24 hours the employee works.

25 (b) Employers who employ fewer than six employees shall implement a sick time policy
26 that allows an employee to earn and use up to 40 hours of unpaid sick time per year. Unpaid
27 sick time shall accrue at the rate of at least one hour of unpaid sick time for every 30 hours
28 the employee works.

29 (2) An employee shall begin to earn and accrue sick time on the first day of employment
30 with an employer. The employee may carry over up to 40 hours of unused sick time from one
31 year to a subsequent year. However, an employer may adopt a policy that limits:

32 (a) An employee to accruing no more than 80 hours of sick time; or

33 (b) The use of sick time by an employee to no more than 40 hours of sick time in a year.

34 (3)(a) An employer is not required to carry over unused sick time if, by mutual consent,
35 the employer and the employee agree that:

36 (A) If the employer has six or more employees, the employee will be paid for all unused
37 paid sick time at the end of the year in which the sick time is accrued and the employer will
38 credit the employee with an amount of paid sick time that meets the requirements of this
39 section on the first day of the immediately subsequent year; or

40 (B) If the employer has fewer than six employees, the employer will credit the employee
41 with an amount of sick time that meets the requirements of this section on the first day of
42 the immediately subsequent year.

43 (b) The Commissioner of the Bureau of Labor and Industries shall adopt rules for the
44 determination of the number of employees employed by an employer.

45 (4)(a) An employee is eligible to use sick time beginning on the 91st calendar day of em-

1 **ployment with the employer and may use sick time as it is accrued.**

2 **(b) An employer may authorize an employee to use accrued sick time prior to the 91st**
3 **calendar day of employment.**

4 **(c)(A) An employer that employs six or more employees shall pay an employee for ac-**
5 **crued sick time used at the regular rate of pay of the employee.**

6 **(B) For an employee employed on a commission or piece rate basis by an employer that**
7 **employs six or more employees, the employer shall pay the employee for accrued sick time**
8 **used at a regular rate of pay of at least the minimum wage specified in ORS 653.025.**

9 **(5) An employee who is exempt from overtime requirements under 29 U.S.C. 213(a)(1) of**
10 **the federal Fair Labor Standards Act of 1938 is presumed to work 40 hours in each workweek**
11 **for the purpose of accrual of sick time unless the actual workweek of the employee is less**
12 **than 40 hours, in which case sick time accrues based on the actual workweek of the em-**
13 **ployee.**

14 **(6) Nothing in sections 2 to 16 of this 2015 Act requires an employer to compensate an**
15 **employee for accrued unused sick time upon the employee's termination, resignation, re-**
16 **irement or other separation from employment.**

17 **(7) An employer may not require an employee to:**

18 **(a) Search for or find a replacement worker as a condition of the employee's use of ac-**
19 **crued sick time; or**

20 **(b) Work an alternate shift to make up for the use of sick time.**

21 **(8) Upon mutual consent by the employee and the employer, an employee may work ad-**
22 **ditional hours or shifts to compensate for hours or shifts during which the employee was**
23 **absent from work without using accrued sick time for the hours or shifts missed. However,**
24 **the employer may not require the employee to work additional hours or shifts authorized by**
25 **this subsection. If the employee works additional hours or shifts, the employer must comply**
26 **with any applicable federal, state or local laws regarding overtime pay.**

27 **(9) An employee retains accrued sick time if the employer sells, transfers or otherwise**
28 **assigns the business or an interest in the business to another employer.**

29 **(10)(a) An employer shall restore previously accrued unused sick time to an employee**
30 **who is reemployed by that employer within 180 days of separation from employment with the**
31 **employer.**

32 **(b) If an employee leaves employment with an employer before the 91st day of employ-**
33 **ment and subsequently is reemployed by that employer within 180 days of separation from**
34 **employment, the employer shall restore the accrued sick time balance the employee had**
35 **when the employee left the employment of the employer and the employee may use accrued**
36 **sick time after the combined total of days of employment with the employer exceeds 90 cal-**
37 **endar days.**

38 **(11) If an employee is transferred to a separate division, entity or location of the em-**
39 **ployer but remains employed by that same employer, the employee is entitled to use all sick**
40 **time accrued while working at the former division, entity or location of the employer and is**
41 **entitled to retain or use all sick time as provided by sections 2 to 16 of this 2015 Act.**

42 **SECTION 4. (1) An employer with a sick leave policy, paid vacation policy, paid personal**
43 **time off policy or other paid time off program that provides employees with paid time off that**
44 **meets or exceeds the requirements of this section shall be deemed to be in compliance with**
45 **the requirements of sections 2 to 16 of this 2015 Act.**

1 (2) An employer with an existing policy for paid sick time, paid vacation leave, paid per-
2 sonal time off or other paid time off is not required to provide additional paid sick time if:

3 (a) The policy or combination of policies allows the use of 40 hours of paid or unpaid leave
4 for the same purposes as sick time specified in section 6 of this 2015 Act; and

5 (b) The employer specifies that the protections against retaliation established by section
6 11 of this 2015 Act are applicable to the employee.

7 (3) If an employee of an employer that has an existing policy for paid sick time, paid va-
8 cation leave, paid personal time off or other paid time off programs has exhausted all paid
9 and unpaid leave available to the employee, the employer is not obligated to provide addi-
10 tional leave for paid or unpaid sick time as required by sections 2 to 16 of this 2015 Act.
11 However, the employer may be obligated to provide paid or unpaid sick time by federal or
12 state law that provides for paid or unpaid leave for similar purposes.

13 **SECTION 5.** Notwithstanding section 3 (4) of this 2015 Act, an employee who is employed
14 by an employer on the effective date of this 2015 Act is eligible to use any accrued sick time
15 as it accrues on or after the effective date of this 2015 Act.

16 **SECTION 6.** An employee may use sick time earned under section 3 of this 2015 Act in
17 hourly increments:

18 (1) For an employee's mental or physical illness, injury or health condition, need for
19 medical diagnosis, care or treatment of a mental or physical illness, injury or health condi-
20 tion or need for preventive medical care.

21 (2) For care of a family member with a mental or physical illness, injury or health con-
22 dition, care of a family member who needs medical diagnosis, care, or treatment of a mental
23 or physical illness, injury or health condition or care of a family member who needs pre-
24 ventive medical care.

25 (3) Notwithstanding ORS 659A.153, for any other purpose specified in ORS 659A.159.

26 (4) For a purpose specified in ORS 659A.272, notwithstanding ORS 659A.270 (1).

27 (5) To donate accrued sick time to another employee if the other employee uses the do-
28 nated sick time for a purpose specified in this section and the employer has a policy that
29 allows an employee to donate sick time to a coworker for a purpose specified in this section.

30 (6) In the event of a public health emergency. For purposes of this subsection, a public
31 health emergency includes, but is not limited to:

32 (a) Closure of the employee's place of business, or the school or place of care of the
33 employee's child, by order of a public official due to a public health emergency;

34 (b) A determination by a lawful public health authority or by a health care provider that
35 the presence of the employee or the family member of the employee in the community would
36 jeopardize the health of others, such that the employee must provide self care or care for
37 the family member; and

38 (c) The exclusion of the employee from the workplace under any law or rule that requires
39 the employer to exclude the employee from the workplace for health reasons.

40 **SECTION 7.** (1)(a) Upon request of an employee with accrued sick time available, an
41 employer must allow the employee to use sick time. If possible, the employee shall include
42 the anticipated duration of the sick time requested in the request.

43 (b) Sick time earned under section 3 of this 2015 Act shall be taken in hourly increments.

44 (2) An employer may require the employee to comply with the employer's usual and
45 customary notice and procedural requirements for absences or for requesting time off if

1 those requirements do not interfere with the ability of the employee to use sick time.

2 (3) If the need to use sick time is foreseeable:

3 (a) The employer may require reasonable advance notice of the employee's intention to
4 use sick time, not to exceed 10 days prior to the date the sick time is to begin or as soon
5 as otherwise practicable; and

6 (b) The employee shall make a reasonable attempt to schedule the use of sick time in a
7 manner that does not unduly disrupt the operations of the employer.

8 (4) If the need to use sick time is unforeseeable, the employee shall provide notice to the
9 employer as soon as practicable and must comply generally with the employer's notice or
10 procedural requirements for requesting or reporting other time off if those requirements do
11 not interfere with the ability of the employee to use sick time.

12 **SECTION 8.** (1)(a) If an employee takes more than three consecutive scheduled work days
13 of sick time for a purpose described in section 6 (1) to (4) of this 2015 Act, an employer may
14 require the employee to provide verification from a health care provider of the need for the
15 sick time, or certification of the need for leave for purposes of ORS 659A.272 as provided in
16 ORS 659A.280.

17 (b) If the need for sick time is foreseeable and is projected to last more than three
18 scheduled work days and an employee is required to provide notice under section 7 of this
19 2015 Act, the employer may require that verification or certification be provided before the
20 sick time commences or as soon as otherwise practicable.

21 (c) If the employee commences sick time without providing prior notice required by the
22 employer under section 7 of this 2015 Act:

23 (A) Medical verification shall be provided to the employer within 15 calendar days after
24 the employer requests the verification; or

25 (B) Certification provided as specified in ORS 659A.280 shall be provided to the employer
26 within a reasonable time after the employee receives the request for certification.

27 (2) The employer shall pay any reasonable costs for providing medical verification or
28 certification required under this section, including lost wages, that are not paid under a
29 health benefit plan in which the employee is enrolled.

30 (3)(a) An employer may not require that the verification or certification required under
31 this section explain the nature of the illness or details related to the domestic violence,
32 sexual assault, harassment, or stalking that necessitates the use of sick time.

33 (b) If an employer suspects that an employee is abusing sick time, including engaging in
34 a pattern of abuse, the employer may require verification from a health care provider of the
35 need of the employee to use sick time, regardless of whether the employee has used sick time
36 for more than three consecutive days. As used in this paragraph, "pattern of abuse" in-
37 cludes, but is not limited to, repeated use of unscheduled sick time on or adjacent to week-
38 ends, holidays, vacation days or paydays.

39 (4) As used in this section, "health care provider" has the meaning given that term in
40 ORS 659A.150.

41 **SECTION 9.** (1) An employer shall:

42 (a) Provide written notification at least quarterly to each employee of the amount of
43 accrued and unused sick time available for use by the employee. Inclusion of the amount of
44 accrued and used sick time on the statement required under ORS 652.610 meets the re-
45 quirements of this paragraph.

1 (b) Provide written notice of the requirements of sections 2 to 16 of this 2015 Act to each
2 employee in accordance with rules adopted by the Commissioner of the Bureau of Labor and
3 Industries.

4 (2) The notices provided under this section must be in the language the employer typi-
5 cally uses to communicate with the employee.

6 (3) The Bureau of Labor and Industries shall make available to employers a template that
7 meets the required notice provisions of this section.

8 (4) Health information of an employee related to sick time is confidential and may not
9 be released without the permission of the employee. Information pertaining to leave under
10 ORS 659A.272 that is provided by an employee in accordance with sections 2 to 16 of this 2015
11 Act is confidential as provided in ORS 659A.280.

12 SECTION 10. Sections 2 to 16 of this 2015 Act establish minimum requirements pertaining
13 to sick time and may not be construed to preempt, limit or otherwise affect the applicability
14 of any employer policy, standard or collective bargaining agreement that provides for greater
15 use of paid or unpaid sick time.

16 SECTION 11. It is an unlawful practice for an employer or any other person to:

17 (1) Deny, interfere with, restrain or fail to pay for sick time to which an employee is
18 entitled under sections 2 to 16 of this 2015 Act;

19 (2) Retaliate or in any way discriminate against an employee with respect to any term
20 or condition of employment because the employee has inquired about the provisions of
21 sections 2 to 16 of this 2015 Act, submitted a request for sick time, taken sick time, partic-
22 ipated in any manner in an investigation, proceeding or hearing related to sections 2 to 16
23 of this 2015 Act, or invoked any provision of sections 2 to 16 of this 2015 Act; or

24 (3) Apply an absence control policy that includes sick time absences covered under
25 sections 2 to 16 of this 2015 Act as an absence that may lead to or result in an adverse em-
26 ployment action against the employee.

27 SECTION 12. (1) The requirements of sections 2 to 16 of this 2015 Act do not apply to an
28 employee:

29 (a) Whose terms and conditions of employment are covered by a collective bargaining
30 agreement;

31 (b) Who is employed through a hiring hall or similar referral system operated by the la-
32 bor organization or a third party; and

33 (c) Whose employment-related benefits are provided by a joint multi-employer-employee
34 trust or benefit plan.

35 (2)(a) The Home Care Commission created under ORS 410.602 shall establish a paid sick
36 time policy for consumer employed home care workers.

37 (b) A policy for paid sick time for consumer employed home care workers implemented
38 by the Home Care Commission that allows an eligible home care worker to accrue and use
39 up to 40 hours of paid time off a year, including but not limited to sick time, is deemed to
40 meet the requirements of sections 2 to 16 of this 2015 Act and is exempt from the provisions
41 of sections 2 (4), 3 (4), 4, 7, 8 and 9 of this 2015 Act.

42 (3) As used in this section, “consumer employed home care worker” has the meaning
43 given the term “home care worker” in ORS 410.600.

44 SECTION 13. (1) An employee asserting a violation of section 11 (2) or (3) of this 2015
45 Act may file a complaint with the Commissioner of the Bureau of Labor and Industries under

1 **ORS 659A.820 or a civil action as provided in ORS 659A.885.**

2 **(2) The commissioner has the same enforcement powers with respect to the rights es-**
3 **tablished under sections 2 to 16 of this 2015 Act as are established in ORS chapters 652 and**
4 **653.**

5 **SECTION 14. The Commissioner of the Bureau of Labor and Industries:**

6 **(1) Shall enforce the provisions of sections 2 to 16 of this 2015 Act; and**

7 **(2) May adopt rules necessary for the implementation and enforcement of sections 2 to**
8 **16 of this 2015 Act.**

9 **SECTION 15. The State of Oregon preempts all charter and statutory authority of local**
10 **governments as defined in ORS 174.116 to set any sick leave requirements.**

11 **SECTION 16. If any provision or application of sections 2 to 16 of this 2015 Act is deter-**
12 **mined to be invalid, the remaining provisions remain in force and have full effect, and the**
13 **invalid provisions are declared severable.**

14 **SECTION 17. ORS 653.256 is amended to read:**

15 653.256. (1) In addition to any other penalty provided by law, the Commissioner of the Bureau
16 of Labor and Industries may assess a civil penalty not to exceed \$1,000 against any person who
17 willfully violates ORS 653.025, 653.030, 653.045, 653.050, 653.060 or 653.261 **or sections 3, 4, 5, 6,**
18 **7, 8, 9 and 10 of this 2015 Act** or any rule adopted thereunder.

19 (2) In addition to any other penalty provided by law, the commissioner may assess a civil penalty
20 not to exceed \$1,000 against any person who intentionally violates ORS 653.077 or any rule adopted
21 thereunder.

22 (3) Civil penalties authorized by this section shall be imposed in the manner provided in ORS
23 183.745.

24 (4)(a) All sums collected as penalties under this section shall be first applied toward reimburse-
25 ment of costs incurred in determining the violations, conducting hearings under this section and
26 addressing and collecting the penalties.

27 (b) The remainder, if any, of the sums collected as penalties under subsection (1) of this section
28 shall be paid over by the commissioner to the Department of State Lands for the benefit of the
29 Common School Fund of this state. The department shall issue a receipt for the money to the com-
30 missioner.

31 (c) The remainder, if any, of the sums collected as penalties under subsection (2) of this section
32 shall be paid over by the commissioner to the Department of Human Services for the benefit of the
33 Breastfeeding Mother Friendly Employer Project. The department shall issue a receipt for the
34 moneys to the commissioner.

35 **SECTION 18. ORS 659A.885 is amended to read:**

36 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
37 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
38 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
39 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
40 court may order back pay in an action under this subsection only for the two-year period imme-
41 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
42 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
43 year period immediately preceding the filing of the action. In any action under this subsection, the
44 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
45 cept as provided in subsection (3) of this section:

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

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

4 (2) An action may be brought under subsection (1) of this section alleging a violation of ORS
5 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 476.574, 652.355, 653.060, 659A.030,
6 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145,
7 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233,
8 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315,
9 659A.318, 659A.320 or 659A.421 **or sections 2 to 16 of this 2015 Act.**

10 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
11 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199,
12 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318 or 659A.421:

13 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
14 compensatory damages or \$200, whichever is greater, and punitive damages;

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

16 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
17 ment pursuant to the standard established by ORS 19.415 (1); and

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

19 (4) In any action under subsection (1) of this section alleging a violation of ORS 652.355 or
20 653.060, the court may award, in addition to the relief authorized under subsection (1) of this section,
21 compensatory damages or \$200, whichever is greater.

22 (5) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574,
23 659A.203 or 659A.218, the court may award, in addition to the relief authorized under subsection (1)
24 of this section, compensatory damages or \$250, whichever is greater.

25 (6) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
26 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
27 penalty in the amount of \$720.

28 (7) Any individual against whom any distinction, discrimination or restriction on account of
29 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
30 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
31 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
32 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
33 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
34 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
35 section:

36 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
37 compensatory and punitive damages;

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

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

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

43 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
44 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
45 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;

1 and

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

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

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

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

14 (9) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
15 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
16 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
17 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
18 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
19 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
20 appealing an adverse decision of the trial court.

21 (10) In an action under subsection (1) or (8) of this section alleging a violation of ORS 659A.145
22 or 659A.421 or discrimination under federal housing law:

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

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

25 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
26 occur.

27 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
28 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
29 tifies that the case is of general public importance. The court may allow an intervenor prevailing
30 party costs and reasonable attorney fees at trial and on appeal.

31 **SECTION 19. Except for penalties assessed for a violation of section 11 (2) or (3) of this**
32 **2015 Act, the Bureau of Labor and Industries may assess civil penalties against an employer**
33 **only for violations of sections 2 to 16 of this 2015 Act occurring on or after January 1, 2017.**

34 **SECTION 20. Sections 2 to 16 of this 2015 Act and the amendments to ORS 653.256 and**
35 **659A.885 by sections 17 and 18 of this 2015 Act apply to hours worked and sick time accrued**
36 **or used on or after January 1, 2016.**

37