

# House Bill 2481

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Racing Commission)

## 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**.

Establishes filing fee for appealing board of stewards ruling to Oregon Racing Commission. Provides for waiver or refund of fee under certain circumstances.

Requires administrative law judge to award commission costs and attorney fees if person filing appeal fails, without good cause, to appear at hearing or if administrative law judge finds no objectively reasonable basis for appeal.

Allows commission to recover costs related to appeal if appeal is withdrawn on or after 21st day before scheduled hearing date.

## A BILL FOR AN ACT

1  
2 Relating to appeals filed with the Oregon Racing Commission; creating new provisions; and amend-  
3 ing ORS 462.405.

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

5 **SECTION 1.** ORS 462.405 is amended to read:

6 462.405. (1) The board of stewards appointed by the Oregon Racing Commission for a race meet  
7 may, after an inquiry and hearing, impose appropriate sanctions for failure to comply with the laws  
8 and rules of racing and with the authorized commission or board directives applicable to said race  
9 meet, subject to the following limitations:

10 (a) A civil penalty may not exceed \$500 per offense.

11 (b) A license suspension may not be for a period longer than 365 calendar days from the date  
12 of issuance of the order of the board of stewards.

13 (2) Any sanction imposed by the board of stewards shall take effect on the date so indicated in  
14 the board's ruling unless the effective date is stayed for good cause shown by specific order of the  
15 executive director of the commission, or a member of the commission, pending commission review.

16 (3) In lieu of the board of stewards conducting any inquiry and hearing provided for by sub-  
17 section (1) of this section, the board of stewards may request the commission to appoint and desig-  
18 nate a person to conduct such inquiry and hearing who shall be known as a hearings master. The  
19 hearings master shall have the same authority and power as the board of stewards in conducting  
20 the inquiry and hearing. Any person adversely affected by any hearings master ruling has the right  
21 to appeal to the commission as provided for in subsection (4) of this section. The hearings master  
22 need not be an administrative law judge assigned from the Office of Administrative Hearings es-  
23 tablished under ORS 183.605.

24 (4) The board of stewards may refer any matter before it to the commission for appropriate re-  
25 view or action either before or after a board hearing or ruling. A person adversely affected by any  
26 board ruling has the right to appeal to the commission for a review and hearing as provided in ORS  
27 chapter 183. Such review shall be perfected by filing a written notice of appeal with the executive  
28 director within 10 days after the board ruling is issued. Hearings conducted by the commission un-

**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 der this subsection shall be heard by an administrative law judge assigned from the Office of Ad-  
2 ministrative Hearings established under ORS 183.605. The commission is not limited in its actions  
3 or in the sanctions it may impose by any ruling of the board or by any limitation imposed upon the  
4 board by commission rule or regulation or by subsection (2) of this section.

5 **(5) Except as provided in this subsection, an adversely affected person that files a written**  
6 **notice of appeal under subsection (4) of this section shall pay the commission a filing fee of**  
7 **\$50. The executive director may waive the fee upon request if payment would cause the**  
8 **person undue hardship. The commission shall refund the fee if:**

9 **(a) The appeal is withdrawn more than 21 days before the scheduled hearing date;**

10 **(b) The person and the commission agree to an informal disposition of the appeal; or**

11 **(c) The person asserts any objectively reasonable basis for the appeal at hearing, re-**  
12 **gardless of whether the appeal is successful.**

13 **(6) If an adversely affected person that filed a written notice of appeal under subsection**  
14 **(4) of this section withdraws the appeal on or after the 21st day before the scheduled hearing**  
15 **date, the commission may require the person to pay all or part of the costs incurred by the**  
16 **state as a result of the appeal.**

17 **(7) The final order after hearing shall award the commission costs and reasonable at-**  
18 **torney fees incurred as a result of an appeal filed by an adversely affected person under**  
19 **subsection (4) of this section if:**

20 **(a) The person fails, without good cause, to appear at the hearing; or**

21 **(b) The findings of fact and conclusions of law by the administrative law judge state that**  
22 **there was no objectively reasonable basis for the appeal.**

23 **SECTION 2. The Attorney General, at the request of the Oregon Racing Commission,**  
24 **shall bring an action in a court of competent jurisdiction to recover:**

25 **(1) Costs described in ORS 462.405 (6) plus reasonable legal fees for the recovery action.**

26 **(2) An award contained in a final order described in ORS 462.405 (7) plus reasonable legal**  
27 **fees for the recovery action.**

28 **SECTION 3. Section 2 of this 2015 Act and the amendments to ORS 462.405 by section 1**  
29 **of this 2015 Act apply to appeals filed with the Oregon Racing Commission on or after the**  
30 **effective date of this 2015 Act.**

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