

**PROPOSED AMENDMENTS TO
SENATE BILL 454**

1 On page 1 of the printed bill, line 2, after “ORS” insert “653.256 and”.

2 Delete lines 4 through 28 and delete pages 2 through 7 and insert:

3 **“SECTION 1. Sections 2 to 17 of this 2015 Act are added to and made**
4 **a part of ORS chapter 653.**

5 **“SECTION 2. As used in sections 2 to 17 of this 2015 Act:**

6 **“(1) ‘Employee’ means an individual who renders personal services**
7 **at a fixed rate, based on the time spent in the performance of those**
8 **services or on the number of operations accomplished or quantity**
9 **produced or handled, to an employer if the employer either pays or**
10 **agrees to pay for personal services or permits the individual to per-**
11 **form personal services. ‘Employee’ includes, but is not limited to,**
12 **home care workers as defined in ORS 410.600. ‘Employee’ does not in-**
13 **clude:**

14 **“(a) Employees who receive paid sick time under federal law;**

15 **“(b) Independent contractors;**

16 **“(c) Participants in a work training program administered under**
17 **state or federal assistance programs;**

18 **“(d) Participants in a work-study program that provides students**
19 **in secondary or post-secondary educational institutions with employ-**
20 **ment opportunities for financial or vocational training;**

21 **“(e) Railroad workers exempted under the federal Railroad Unem-**
22 **ployment Insurance Act;**

1 “(f) An individual employed by that individual’s parent, spouse or
2 child; and

3 “(g) Individuals employed in agricultural businesses.

4 “(2) ‘Employer’ means any person that employs another person.
5 ‘Employer’ includes, but is not limited to, the State of Oregon or a
6 political subdivision of the state or any county, city, district, author-
7 ity, public corporation or entity and any instrumentality thereof or-
8 ganized and existing under law or charter. ‘Employer’ does not include
9 the federal government.

10 “(3) ‘Family member’ has the meaning given that term in ORS
11 659A.150.

12 “(4) ‘Paid sick time’ means time off that is provided to an employee
13 by an employer that employs six or more employees that may be used
14 for the purposes specified in section 7 of this 2015 Act and that is
15 compensated at the regular rate of pay and without reductions in
16 benefits, including but not limited to health care benefits, that the
17 employee earns from the employer at the time the employee uses the
18 paid sick time.

19 “(5) ‘Sick time’ means an absence from work for a reason author-
20 ized under section 7 of this 2015 Act.

21 “(6) ‘Year’ means a consecutive 12-month period. ‘Year’ includes,
22 but is not limited to, a calendar year, tax year, fiscal year, contract
23 year or the 12-month period beginning on the anniversary of the date
24 of employment of the employee.

25 “SECTION 3. (1)(a) Employers with a minimum of six employees
26 shall implement a sick time policy that allows an employee to earn
27 and use up to 40 hours of paid sick time per year. Paid sick time shall
28 accrue at the rate of at least one hour of paid sick time for every 30
29 hours worked.

30 “(b) Employers with fewer than six employees shall implement a

1 sick time policy that allows an employee to earn and use up to 40
2 hours of unpaid sick time per year. Unpaid sick time shall accrue at
3 the rate of at least one hour of unpaid sick time for every 30 hours
4 worked.

5 “(2) An employee shall begin to earn and accrue sick time on the
6 first day of employment with an employer. Up to 40 hours of unused
7 sick time may be carried over from one year to a subsequent year.
8 However, an employer may adopt a policy that limits:

9 “(a) An employee from accruing more than 80 hours of sick time;
10 or

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

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

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

20 “(B) If the employer has fewer than six employees, the employer
21 will credit the employee with an amount of sick time that meets the
22 requirements of this section on the first day of the immediately sub-
23 sequent year.

24 “(b) The Commissioner of the Bureau of Labor and Industries shall
25 adopt rules for the determination of the number of employees em-
26 ployed by an employer.

27 “(4) Employees who are exempt from overtime requirements under
28 29 U.S.C. 213(a)(1) of the federal Fair Labor Standards Act of 1938 shall
29 be presumed to work 40 hours in each workweek for the purpose of
30 accrual of sick time unless the actual workweek of the employee is

1 less than 40 hours, in which case sick time accrues based on the actual
2 workweek of the employee.

3 “(5) Nothing in sections 2 to 17 of this 2015 Act requires an employer
4 to compensate an employee for accrued unused sick time upon the
5 employee’s termination, resignation, retirement or other separation
6 from employment.

7 “(6) An employer may not require an employee to:

8 “(a) Search for or find a replacement worker as a condition of the
9 employee’s use of accrued sick time; or

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

11 “(7) Upon mutual consent by the employee and the employer, an
12 employee may work additional hours or shifts without using accrued
13 sick time for the hours or shifts missed. However, the employer may
14 not require the employee to work additional hours or shifts authorized
15 by this subsection. If the employee works additional hours or shifts,
16 the employer must comply with any applicable federal, state or local
17 laws regarding overtime pay.

18 “(8) Accrued sick time shall be retained by the employee if the
19 employer sells, transfers or otherwise assigns the business or an in-
20 terest in the business to another employer.

21 “(9)(a) An employer shall restore previously accrued unused sick
22 time to an employee who is reemployed by that employer within 180
23 days of separation from employment with the employer. The employee
24 shall be entitled to use previously accrued sick time immediately upon
25 reemployment.

26 “(b) If an employee leaves employment with an employer before the
27 91st day of employment and subsequently is reemployed by that em-
28 ployer within 180 days of separation from employment, the accrued
29 sick time balance the employee had when the employee left the em-
30 ployment of the employer shall be restored and the employee may use

1 accrued sick time after the combined total of days of employment with
2 the employer exceeds 90 calendar days.

3 “(10) If an employee is transferred to a separate division, entity or
4 location of the employer but remains employed by that same employer,
5 the employee is entitled to use all sick time accrued while working at
6 the former division, entity or location of the employer and is entitled
7 to retain or use all sick time as provided by sections 2 to 17 of this 2015
8 Act.

9 **“SECTION 4. (1) Employers with sick leave policies, paid time off**
10 **policies, paid vacation policies or other paid time off programs that**
11 **provide employees with paid time off that meets or exceeds the re-**
12 **quirements of this section shall be deemed to be in compliance with**
13 **the requirements of sections 2 to 17 of this 2015 Act.**

14 “(2) An employer with an existing policy for paid sick time, paid
15 vacation leave, paid personal time off or other paid time off programs
16 is not required to provide additional paid sick time if:

17 “(a) The policy or combination of policies allows the use of 40 hours
18 of paid or unpaid leave for the same purposes as sick time specified in
19 section 7 of this 2015 Act; and

20 “(b) The employer specifies that the protections against retaliation
21 established by section 12 of this 2015 Act are applicable to the em-
22 ployee.

23 “(3) If an employee of an employer that has an existing policy for
24 paid sick time, paid vacation leave, paid personal time off or other paid
25 time off programs has exhausted all paid and unpaid leave available
26 to the employee, the employer is not obligated to provide additional
27 leave for paid or unpaid sick time as required by sections 2 to 17 of this
28 2015 Act. However, the employer may be obligated to provide paid or
29 unpaid sick time by federal or state law that provides for paid or un-
30 paid leave for similar purposes.

1 **“SECTION 5. (1) An employee is eligible to use sick time beginning**
2 **on the 91st calendar day of employment with the employer and may**
3 **use sick time as it is accrued.**

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

6 **“(3)(a) Employees of an employer that employs six or more em-**
7 **ployees shall be paid for accrued sick time used at the regular rate of**
8 **pay of the employee.**

9 **“(b) For employees employed on a commission or piece rate basis**
10 **by an employer that employs six or more employees, the regular rate**
11 **of pay shall be at least the minimum wage specified in ORS 653.025.**

12 **“SECTION 6. Notwithstanding section 5 of this 2015 Act, an em-**
13 **ployee who is employed by an employer on the effective date of this**
14 **2015 Act is eligible to use any accrued sick time as it accrues on or**
15 **after the effective date of this 2015 Act.**

16 **“SECTION 7. Sick time earned under section 3 of this 2015 Act may**
17 **be used by an employee:**

18 **“(1) For an employee’s mental or physical illness, injury or health**
19 **condition, need for medical diagnosis, care or treatment of a mental**
20 **or physical illness, injury or health condition or need for preventive**
21 **medical care;**

22 **“(2) For care of a family member with a mental or physical illness,**
23 **injury or health condition, care of a family member who needs medical**
24 **diagnosis, care, or treatment of a mental or physical illness, injury or**
25 **health condition or care of a family member who needs preventive**
26 **medical care;**

27 **“(3) Notwithstanding ORS 659A.153, for any other purpose specified**
28 **in ORS 659A.159;**

29 **“(4) For a purpose specified in ORS 659A.272, notwithstanding ORS**
30 **659A.270 (1);**

1 **“(5) To donate accrued sick time to another employee if the em-**
2 **ployee uses the donated sick time for a purpose specified in this sec-**
3 **tion;**

4 **“(6) In the event of a public health emergency, including but not**
5 **limited to:**

6 **“(a) Closure of the employee’s place of business, or the school or**
7 **place of care of the employee’s child, by order of a public official due**
8 **to a public health emergency;**

9 **“(b) Self-care or for care for a family member, if it has been de-**
10 **termined by a lawful public health authority or by a health care pro-**
11 **vider that the presence of the employee or the family member of the**
12 **employee in the community would jeopardize the health of others; or**

13 **“(c) Under any law or rule that requires the employer to exclude**
14 **the employee from the workplace for health reasons; or**

15 **“(7) In hourly increments.**

16 **“SECTION 8. (1) Upon request of an employee with accrued sick**
17 **time available, an employer must provide the employee with sick time.**
18 **If possible, the employee shall include the anticipated duration of the**
19 **sick time requested in the request.**

20 **“(2) An employer may require the employee to comply with the**
21 **employer’s usual and customary notice and procedural requirements**
22 **for absences or for requesting time off if those requirements do not**
23 **interfere with the ability of the employee to use sick time.**

24 **“(3) If the need to use sick time is foreseeable:**

25 **“(a) The employer may require reasonable advance notice of the**
26 **intention to use sick time, not to exceed 10 days prior to the date the**
27 **sick time is to begin or as soon as otherwise practicable; and**

28 **“(b) The employee shall make a reasonable attempt to schedule the**
29 **use of sick time in a manner that does not unduly disrupt the oper-**
30 **ations of the employer.**

1 **“(4) If the need to use sick time is unforeseeable, the employee shall**
2 **provide notice to the employer as soon as practicable and must comply**
3 **generally with the employer’s notice or procedural requirements for**
4 **requesting or reporting other time off if those requirements do not**
5 **interfere with the ability of the employee to use sick time.**

6 **“SECTION 9. (1)(a) If an employee takes more than three consec-**
7 **utive scheduled work days of sick time for a purpose described in**
8 **section 7 of this 2015 Act, an employer may require the employee to**
9 **provide verification from a health care provider of the need for the**
10 **sick time, or certification of the need for leave for purposes of ORS**
11 **659A.272 as provided in ORS 659A.280.**

12 **“(b) If the need for sick time is foreseeable and is projected to last**
13 **more than three scheduled work days and an employee is required to**
14 **provide notice under section 8 of this 2015 Act, the employer may re-**
15 **quire that verification or certification be provided before the sick time**
16 **commences or as soon as otherwise practicable.**

17 **“(c) If the employee commences sick time without providing prior**
18 **notice required by the employer under section 8 of this 2015 Act:**

19 **“(A) Medical verification shall be provided to the employer within**
20 **15 calendar days after the employer requests the verification; or**

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

24 **“(2) Any reasonable costs for providing medical verification or cer-**
25 **tification required under this section, including lost wages, that are**
26 **not paid under a health benefit plan in which the employee is enrolled**
27 **shall be paid by the employer.**

28 **“(3)(a) Except as provided in paragraph (b) of this subsection, an**
29 **employer may not require that the verification or certification re-**
30 **quired under this section explain the nature of the illness that neces-**

1 **sitates the use of sick time.**

2 **“(b) If an employer suspects that sick time is being abused by an**
3 **employee, including engaging in a pattern of abuse, the employer may**
4 **require verification from a health care provider of the need of the**
5 **employee to use sick time, regardless of whether the employee has**
6 **used sick time for more than three consecutive days. As used in this**
7 **paragraph, ‘pattern of abuse’ means, but is not limited to, repeated**
8 **use of unscheduled sick time on or adjacent to weekends, holidays,**
9 **vacation days or paydays.**

10 **“(4) As used in this section, ‘health care provider’ has the meaning**
11 **given that term in ORS 659A.150.**

12 **“SECTION 10. (1) An employer shall:**

13 **“(a) Provide written notification at least quarterly to each employee**
14 **of the amount of accrued and unused sick time available for use by**
15 **the employee. Inclusion of the amount of accrued and used sick time**
16 **on the statement required under ORS 652.610 meets the requirements**
17 **of this paragraph.**

18 **“(b) Provide written notice of the requirements of sections 2 to 17**
19 **of this 2015 Act to each employee in accordance with rules adopted by**
20 **the Commissioner of the Bureau of Labor and Industries.**

21 **“(2) The notices provided under this section must be in the language**
22 **the employer typically uses to communicate with the employee.**

23 **“(3) The Bureau of Labor and Industries shall make available to**
24 **employers a template that meets the required notice provisions of this**
25 **section.**

26 **“(4) Health information of an employee related to sick time is con-**
27 **fidential and may not be released without the permission of the em-**
28 **ployee. Information pertaining to leave under ORS 659A.272 that is**
29 **provided by an employee in accordance with sections 2 to 17 of this**
30 **2015 Act is confidential as provided in ORS 659A.280.**

1 **“SECTION 11. Sections 2 to 17 of this 2015 Act establish minimum**
2 **requirements pertaining to sick time and shall not be construed to**
3 **preempt, limit or otherwise affect the applicability of any employer**
4 **policy, standard or collective bargaining agreement that provides for**
5 **greater use of paid or unpaid sick time.**

6 **“SECTION 12. It is an unlawful practice for an employer or any**
7 **other person to:**

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

10 **“(2) Retaliate or in any way discriminate against an employee with**
11 **respect to any term or condition of employment because the employee**
12 **has inquired about the provisions of sections 2 to 17 of this 2015 Act,**
13 **submitted a request for sick time, taken sick time, participated in any**
14 **manner in an investigation, proceeding or hearing related to sections**
15 **2 to 17 of this 2015 Act, or invoked any provision of sections 2 to 17**
16 **of this 2015 Act; or**

17 **“(3) Apply an absence control policy that includes sick time ab-**
18 **sences covered under sections 2 to 17 of this 2015 Act as an absence**
19 **that may lead to or result in an adverse employment action against**
20 **the employee.**

21 **“SECTION 13. (1) The requirements of sections 2 to 17 of this 2015**
22 **Act do not apply to an employee whose terms and conditions of em-**
23 **ployment are covered by a collective bargaining agreement and who**
24 **is employed by referral through a hiring hall or similar referral system**
25 **operated by the labor organization or a third party and whose**
26 **employment-related benefits are provided by a joint multi-employer-**
27 **employee trust or benefit plan.**

28 **“(2)(a) The Home Care Commission created under ORS 410.602 or**
29 **the support services brokerage as defined in ORS 410.600 that is re-**
30 **sponsible for providing benefits to consumer employed home care**

1 workers shall establish a paid sick time policy for those home care
2 workers.

3 “(b) A policy for paid sick time for consumer employed home care
4 workers implemented by the Home Care Commission or a support
5 services brokerage that allows the home care worker to accrue and
6 use up to 40 hours of paid sick time a year is deemed to meet the re-
7 quirements of sections 2 to 17 of this 2015 Act and is exempt from the
8 provisions of sections 2 (4), 4, 5, 8 and 10 of this 2015 Act.

9 “(3) As used in this section, ‘consumer employed home care
10 worker’ has the meaning given the term ‘home care worker’ in ORS
11 410.600.

12 “SECTION 14. (1) An employee asserting a violation of sections 2
13 to 17 of this 2015 Act may file a complaint with the Commissioner of
14 the Bureau of Labor and Industries under ORS 659A.820 or a civil
15 action as provided in ORS 659A.885.

16 “(2) The commissioner shall enforce compliance with sections 2 to
17 17 of this 2015 Act in the manner provided in ORS chapters 652 and 653.

18 “SECTION 15. The Commissioner of the Bureau of Labor and In-
19 dustries:

20 “(1) Shall enforce the provisions of sections 2 to 17 of this 2015 Act;
21 and

22 “(2) May adopt rules necessary for the implementation and
23 enforcement of sections 2 to 17 of this 2015 Act.

24 “SECTION 16. Except as provided in section 11 of this 2015 Act, the
25 State of Oregon preempts all charter and statutory authority of local
26 governments as defined in ORS 174.116 to set any sick leave require-
27 ments.

28 “SECTION 17. If any provision or application of sections 2 to 17 of
29 this 2015 Act is determined to be invalid, the remaining provisions re-
30 main in force and have full effect, and the invalid provisions are de-

1 **clared severable.**

2 **“SECTION 18.** ORS 653.256 is amended to read:

3 “653.256. (1) In addition to any other penalty provided by law, the Com-
4 missioner of the Bureau of Labor and Industries may assess a civil penalty
5 not to exceed \$1,000 against any person who willfully violates ORS 653.025,
6 653.030, 653.045, 653.050, 653.060 or 653.261 **or sections 3 to 11 of this 2015**
7 **Act** or any rule adopted thereunder.

8 “(2) In addition to any other penalty provided by law, the commissioner
9 may assess a civil penalty not to exceed \$1,000 against any person who in-
10 tentionally violates ORS 653.077 or any rule adopted thereunder.

11 “(3) Civil penalties authorized by this section shall be imposed in the
12 manner provided in ORS 183.745.

13 “(4)(a) All sums collected as penalties under this section shall be first
14 applied toward reimbursement of costs incurred in determining the vio-
15 lations, conducting hearings under this section and addressing and collecting
16 the penalties.

17 “(b) The remainder, if any, of the sums collected as penalties under sub-
18 section (1) of this section shall be paid over by the commissioner to the De-
19 partment of State Lands for the benefit of the Common School Fund of this
20 state. The department shall issue a receipt for the money to the commis-
21 sioner.

22 “(c) The remainder, if any, of the sums collected as penalties under sub-
23 section (2) of this section shall be paid over by the commissioner to the De-
24 partment of Human Services for the benefit of the Breastfeeding Mother
25 Friendly Employer Project. The department shall issue a receipt for the
26 moneys to the commissioner.

27 **“SECTION 19.** ORS 659A.885 is amended to read:

28 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-
29 tice specified in subsection (2) of this section may file a civil action in cir-
30 cuit court. In any action under this subsection, the court may order

1 injunctive relief and any other equitable relief that may be appropriate, in-
2 cluding but not limited to reinstatement or the hiring of employees with or
3 without back pay. A court may order back pay in an action under this sub-
4 section only for the two-year period immediately preceding the filing of a
5 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-
6 bor and Industries, or if a complaint was not filed before the action was
7 commenced, the two-year period immediately preceding the filing of the
8 action. In any action under this subsection, the court may allow the pre-
9 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
10 cept as provided in subsection (3) of this section:

11 “(a) The judge shall determine the facts in an action under this sub-
12 section; and

13 “(b) Upon any appeal of a judgment in an action under this subsection,
14 the appellate court shall review the judgment pursuant to the standard es-
15 tablished by ORS 19.415 (3).

16 “(2) An action may be brought under subsection (1) of this section alleg-
17 ing a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237
18 (2), 476.574, 652.355, 653.060, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063,
19 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186,
20 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233,
21 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
22 659A.309, 659A.315, 659A.318, 659A.320 or 659A.421 **or sections 2 to 17 of**
23 **this 2015 Act.**

24 “(3) In any action under subsection (1) of this section alleging a violation
25 of ORS 25.337, 25.424, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
26 659A.082, 659A.103 to 659A.145, 659A.199, 659A.228, 659A.230, 659A.250 to
27 659A.262, 659A.290, 659A.318 or 659A.421:

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

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

2 “(c) Upon appeal of any judgment finding a violation, the appellate court
3 shall review the judgment pursuant to the standard established by ORS
4 19.415 (1); and

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

6 “(4) In any action under subsection (1) of this section alleging a violation
7 of ORS 652.355 or 653.060, the court may award, in addition to the relief
8 authorized under subsection (1) of this section, compensatory damages or
9 \$200, whichever is greater.

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

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

18 “(7) Any individual against whom any distinction, discrimination or re-
19 striction on account of race, color, religion, sex, sexual orientation, national
20 origin, marital status or age, if the individual is 18 years of age or older,
21 has been made by any place of public accommodation, as defined in ORS
22 659A.400, by any employee or person acting on behalf of the place or by any
23 person aiding or abetting the place or person in violation of ORS 659A.406
24 may bring an action against the operator or manager of the place, the em-
25 ployee or person acting on behalf of the place or the aider or abettor of the
26 place or person. Notwithstanding subsection (1) of this section, in an action
27 under this subsection:

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

30 “(b) The operator or manager of the place of public accommodation, the

1 employee or person acting on behalf of the place, and any aider or abettor
2 shall be jointly and severally liable for all damages awarded in the action;

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

4 “(d) The court shall award reasonable attorney fees to a prevailing
5 plaintiff;

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

10 “(f) Upon any appeal of a judgment under this subsection, the appellate
11 court shall review the judgment pursuant to the standard established by ORS
12 19.415 (1).

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

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

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

25 “(9) In any action under subsection (1) of this section alleging a violation
26 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing
27 law, when the commissioner is pursuing the action on behalf of an aggrieved
28 complainant, the court shall award reasonable attorney fees to the commis-
29 sioner if the commissioner prevails in the action. The court may award rea-
30 sonable attorney fees and expert witness fees incurred by a defendant that

1 prevails in the action if the court determines that the commissioner had no
2 objectively reasonable basis for asserting the claim or for appealing an ad-
3 verse decision of the trial court.

4 “(10) In an action under subsection (1) or (8) of this section alleging a
5 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-
6 ing law:

7 “(a) ‘Aggrieved person’ includes a person who believes that the person:

8 “(A) Has been injured by an unlawful practice or discriminatory housing
9 practice; or

10 “(B) Will be injured by an unlawful practice or discriminatory housing
11 practice that is about to occur.

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

17 **“SECTION 20. Except for penalties assessed for violation of section**
18 **12 (2) and (3) of this 2015 Act, civil penalties for violations of sections**
19 **2 to 17 of this 2015 Act may only be assessed against an employer after**
20 **January 1, 2017.**

21 **“SECTION 21. Sections 2 to 17 of this 2015 Act and the amendments**
22 **to ORS 653.256 and 659A.885 by sections 18 and 19 of this 2015 Act apply**
23 **to requests for sick time made on or after January 1, 2016.”.**

24