

**PROPOSED AMENDMENTS TO
HOUSE BILL 2005**

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; and**

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

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

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

11 “(4) ‘Paid sick time’ means time off that is provided to an employee
12 by an employer that employs more than 50 employees that may be used
13 for the purposes specified in section 7 of this 2015 Act and that is
14 compensated at the regular rate of pay and without reductions in
15 benefits, including but not limited to health care benefits, that the
16 employee earns from the employer at the time the employee uses the
17 paid sick time.

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

20 “(6) ‘Small business’ means a business that employs 50 or fewer
21 employees, the threshold for coverage mandates under the Patient
22 Protection and Affordable Care Act.

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

27 “SECTION 3. (1)(a) Employers with more than 50 employees shall
28 implement a sick time policy that allows an employee to earn and use
29 up to 40 hours of paid sick time per year. Paid sick time shall accrue
30 at the rate of at least one hour of paid sick time for every 30 hours

1 worked.

2 “(b) Small business employers shall implement a sick time policy
3 that allows an employee to earn and use up to 40 hours of unpaid sick
4 time per year. Unpaid sick time shall accrue at the rate of at least one
5 hour of unpaid sick time for every 30 hours worked.

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

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

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

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

16 “(A) If the employer has more than 50 employees, the employee will
17 be paid for all unused paid sick time at the end of the year in which
18 the sick time is accrued and the employer will credit the employee
19 with an amount of paid sick time that meets the requirements of this
20 section on the first day of the immediately subsequent year; or

21 “(B) If the employer has 50 or fewer employees, the employer will
22 credit the employee with an amount of sick time that meets the re-
23 quirements of this section on the first day of the immediately subse-
24 quent year.

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

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

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

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

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

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

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

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

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

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

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

1 **ployment of the employer shall be restored and the employee may use**
2 **accrued sick time after the combined total of days of employment with**
3 **the employer exceeds 90 calendar days.**

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

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

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

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

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

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

1 paid leave for similar purposes.

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

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

7 **“(3)(a) Employees of an employer that employs more than 50 em-**
8 **ployees shall be paid for accrued sick time used at the regular rate of**
9 **pay of the employee.**

10 **“(b) For employees employed on a commission or piece rate basis**
11 **by an employer that employs more than 50 employees, the regular rate**
12 **of pay shall be at least the minimum wage specified in ORS 653.025.**

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

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

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

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

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

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

1 **659A.270 (1);**

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

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

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

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

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

16 **“(7) In hourly increments.**

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

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

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

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

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

1 ations of the employer.

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

7 **“SECTION 9. (1)(a) If an employee takes more than three consec-**
8 **utive scheduled work days of sick time for a purpose described in**
9 **section 7 of this 2015 Act, an employer may require the employee to**
10 **provide verification from a health care provider of the need for the**
11 **sick time, or certification of the need for leave for purposes of ORS**
12 **659A.272 as provided in ORS 659A.280.**

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

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

20 “(A) Medical verification shall be provided to the employer within
21 15 calendar days after the employer requests the verification; or

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

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

29 “(3)(a) Except as provided in paragraph (b) of this subsection, an
30 employer may not require that the verification or certification re-

1 **quired under this section explain the nature of the illness that neces-**
2 **sitates the use of sick time.**

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

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

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

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

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

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

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

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

1 2015 Act is confidential as provided in ORS 659A.280.

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

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

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

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

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

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

29 **“(2)(a)** The Home Care Commission created under ORS 410.602 or
30 the support services brokerage as defined in ORS 410.600 that is re-

1 sponsible for providing benefits to consumer employed home care
2 workers shall establish a paid sick time policy for those home care
3 workers.

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

10 “(3) As used in this section, ‘consumer employed home care
11 worker’ has the meaning given the term ‘home care worker’ in ORS
12 410.600.

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

17 **“(2) The commissioner shall enforce compliance with sections 2 to
18 17 of this 2015 Act in the manner provided in ORS chapters 652 and 653.**

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

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

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

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

29 **“SECTION 17. If any provision or application of sections 2 to 17 of
30 this 2015 Act is determined to be invalid, the remaining provisions re-**

1 **main in force and have full effect, and the invalid provisions are de-**
2 **clared severable.**

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

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

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

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

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

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

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

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

29 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-
30 tice specified in subsection (2) of this section may file a civil action in cir-

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

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

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

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

25 “(3) In any action under subsection (1) of this section alleging a violation
26 of ORS 25.337, 25.424, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
27 659A.082, 659A.103 to 659A.145, 659A.199, 659A.228, 659A.230, 659A.250 to
28 659A.262, 659A.290, 659A.318 or 659A.421:

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

1 greater, and punitive damages;

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

3 “(c) Upon appeal of any judgment finding a violation, the appellate court
4 shall review the judgment pursuant to the standard established by ORS
5 19.415 (1); and

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

7 “(4) In any action under subsection (1) of this section alleging a violation
8 of ORS 652.355 or 653.060, the court may award, in addition to the relief
9 authorized under subsection (1) of this section, compensatory damages or
10 \$200, whichever is greater.

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

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

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

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

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

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

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

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

11 “(f) Upon any appeal of a judgment under this subsection, the appellate
12 court shall review the judgment pursuant to the standard established by ORS
13 19.415 (1).

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

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

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

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

1 sonable attorney fees and expert witness fees incurred by a defendant that
2 prevails in the action if the court determines that the commissioner had no
3 objectively reasonable basis for asserting the claim or for appealing an ad-
4 verse decision of the trial court.

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

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

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

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

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

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

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

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