

**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 16 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 16 of this 2015 Act:**

6 **“(1)(a) ‘Employee’ means:**

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

10 **“(b) ‘Employee’ includes, but is not limited to:**

11 **“(A) An individual who is paid on the basis of the number of oper-**  
12 **ations accomplished or quantity produced or handled;**

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

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

15 **“(b) ‘Employee’ does not include:**

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

17 **“(B) An independent contractor;**

18 **“(C) A participant in a work training program administered under**  
19 **a state or federal assistance program;**

20 **“(D) A participant in a work-study program that provides students**  
21 **in secondary or post-secondary educational institutions with employ-**  
22 **ment opportunities for financial or vocational training;**

1       “(E) A railroad worker exempted under the federal Railroad Unem-  
2       ployment Insurance Act; and

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

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

9       “(b) ‘Employer’ does not include 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:

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

15       “(b) That may be used for the purposes specified in section 6 of this  
16       2015 Act; and

17       “(c) That is compensated at the regular rate of pay and without  
18       reductions in benefits, including but not limited to health care bene-  
19       fits, that the employee earns from the employer at the time the em-  
20       ployee uses the paid sick time.

21       “(5) ‘Sick time’ means time during which an employee is permitted  
22       to be absent from work for a reason authorized under section 6 of this  
23       2015 Act.

24       “(6) ‘Year’ includes any consecutive 12-month period, such as a  
25       calendar year, a tax year, a fiscal year, a contract year or the  
26       12-month period beginning on the anniversary of the date of employ-  
27       ment of the employee.

28       “SECTION 3. (1)(a) Employers who employ at least six employees  
29       shall implement a sick time policy that allows an employee to earn  
30       and use up to 40 hours of paid sick time per year. Paid sick time shall

1 accrue at the rate of at least one hour of paid sick time for every 30  
2 hours the employee works.

3 “(b) Employers who employ fewer than six employees shall imple-  
4 ment a sick time policy that allows an employee to earn and use up  
5 to 40 hours of unpaid sick time per year. Unpaid sick time shall accrue  
6 at the rate of at least one hour of unpaid sick time for every 30 hours  
7 the employee works.

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

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

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

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

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

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

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

30 “(4)(a) An employee is eligible to use sick time beginning on the 91st

1 calendar day of employment with the employer and may use sick time  
2 as it is accrued.

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

5 “(c)(A) An employer that employs six or more employees shall pay  
6 an employee for accrued sick time used at the regular rate of pay of  
7 the employee.

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

12 “(5) An employee who is exempt from overtime requirements under  
13 29 U.S.C. 213(a)(1) of the federal Fair Labor Standards Act of 1938 is  
14 presumed to work 40 hours in each workweek for the purpose of ac-  
15 crual of sick time unless the actual workweek of the employee is less  
16 than 40 hours, in which case sick time accrues based on the actual  
17 workweek of the employee.

18 “(6) Nothing in sections 2 to 16 of this 2015 Act requires an employer  
19 to compensate an employee for accrued unused sick time upon the  
20 employee’s termination, resignation, retirement or other separation  
21 from employment.

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

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

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

26 “(8) Upon mutual consent by the employee and the employer, an  
27 employee may work additional hours or shifts to compensate for hours  
28 or shifts during which the employee was absent from work without  
29 using accrued sick time for the hours or shifts missed. However, the  
30 employer may not require the employee to work additional hours or

1 shifts authorized by this subsection. If the employee works additional  
2 hours or shifts, the employer must comply with any applicable federal,  
3 state or local laws regarding overtime pay.

4 “(9) An employee retains accrued sick time if the employer sells,  
5 transfers or otherwise assigns the business or an interest in the busi-  
6 ness to another employer.

7 “(10)(a) An employer shall restore previously accrued unused sick  
8 time to an employee who is reemployed by that employer within 180  
9 days of separation from employment with the employer.

10 “(b) If an employee leaves employment with an employer before the  
11 91st day of employment and subsequently is reemployed by that em-  
12 ployer within 180 days of separation from employment, the employer  
13 shall restore the accrued sick time balance the employee had when the  
14 employee left the employment of the employer and the employee may  
15 use accrued sick time after the combined total of days of employment  
16 with the employer exceeds 90 calendar days.

17 “(11) If an employee is transferred to a separate division, entity or  
18 location of the employer but remains employed by that same employer,  
19 the employee is entitled to use all sick time accrued while working at  
20 the former division, entity or location of the employer and is entitled  
21 to retain or use all sick time as provided by sections 2 to 16 of this 2015  
22 Act.

23 “SECTION 4. (1) An employer with a sick leave policy, paid vacation  
24 policy, paid personal time off policy or other paid time off program  
25 that provides employees with paid time off that meets or exceeds the  
26 requirements of this section shall be deemed to be in compliance with  
27 the requirements of sections 2 to 16 of this 2015 Act.

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

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

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

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

15       “SECTION 5. Notwithstanding section 3 (4) of this 2015 Act, an  
16 employee who is employed by an employer on the effective date of this  
17 2015 Act is eligible to use any accrued sick time as it accrues on or  
18 after the effective date of this 2015 Act.

19       “SECTION 6. An employee may use sick time earned under section  
20 3 of this 2015 Act in hourly increments:

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

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

30       “(3) Notwithstanding ORS 659A.153, for any other purpose specified

1 in ORS 659A.159.

2 “(4) For a purpose specified in ORS 659A.272, notwithstanding ORS  
3 659A.270 (1).

4 “(5) To donate accrued sick time to another employee if the other  
5 employee uses the donated sick time for a purpose specified in this  
6 section and the employer has a policy that allows an employee to do-  
7 nate sick time to a coworker for a purpose specified in this section.

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

10 “(a) Closure of the employee’s place of business, or the school or  
11 place of care of the employee’s child, by order of a public official due  
12 to a public health emergency;

13 “(b) A determination by a lawful public health authority or by a  
14 health care provider that the presence of the employee or the family  
15 member of the employee in the community would jeopardize the health  
16 of others, such that the employee must provide self care or care for  
17 the family member; and

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

21 “SECTION 7. (1)(a) Upon request of an employee with accrued sick  
22 time available, an employer must allow the employee to use sick time.  
23 If possible, the employee shall include the anticipated duration of the  
24 sick time requested in the request.

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

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

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

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

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

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

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

20       **“(b) If the need for sick time is foreseeable and is projected to last**  
21 **more than three scheduled work days and an employee is required to**  
22 **provide notice under section 7 of this 2015 Act, the employer may re-**  
23 **quire that verification or certification be provided before the sick time**  
24 **commences or as soon as otherwise practicable.**

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

27       **“(A) Medical verification shall be provided to the employer within**  
28 **15 calendar days after the employer requests the verification; or**

29       **“(B) Certification provided as specified in ORS 659A.280 shall be**  
30 **provided to the employer within a reasonable time after the employee**



1 receives the request for certification.

2 “(2) The employer shall pay any reasonable costs for providing  
3 medical verification or certification required under this section, in-  
4 cluding lost wages, that are not paid under a health benefit plan in  
5 which the employee is enrolled.

6 “(3)(a) An employer may not require that the verification or certi-  
7 fication required under this section explain the nature of the illness  
8 or details related to the domestic violence, sexual assault, harassment,  
9 or stalking that necessitates the use of sick time.

10 “(b) If an employer suspects that an employee is abusing sick time,  
11 including engaging in a pattern of abuse, the employer may require  
12 verification from a health care provider of the need of the employee  
13 to use sick time, regardless of whether the employee has used sick  
14 time for more than three consecutive days. As used in this paragraph,  
15 ‘pattern of abuse’ includes, but is not limited to, repeated use of un-  
16 scheduled sick time on or adjacent to weekends, holidays, vacation  
17 days or paydays.

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

20 **“SECTION 9. (1) An employer shall:**

21 **“(a) Provide written notification at least quarterly to each employee**  
22 **of the amount of accrued and unused sick time available for use by**  
23 **the employee. Inclusion of the amount of accrued and used sick time**  
24 **on the statement required under ORS 652.610 meets the requirements**  
25 **of this paragraph.**

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

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

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

4       **“(b) The Secretary of State, in consultation with the commissioner,**  
5 **shall develop a tracking tool that employers may use to track time**  
6 **worked and paid sick time accrued and used. The secretary shall post**  
7 **the tool on the secretary’s website and shall make the tool available**  
8 **at no cost to employers.**

9       **“(4) Health information of an employee related to sick time is con-**  
10 **fidential and may not be released without the permission of the em-**  
11 **ployee. Information pertaining to leave under ORS 659A.272 that is**  
12 **provided by an employee in accordance with sections 2 to 16 of this**  
13 **2015 Act is confidential as provided in ORS 659A.280.**

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

19       **“SECTION 11. It is an unlawful practice for an employer or any**  
20 **other person to:**

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

23       **“(2) Retaliate or in any way discriminate against an employee with**  
24 **respect to any term or condition of employment because the employee**  
25 **has inquired about the provisions of sections 2 to 16 of this 2015 Act,**  
26 **submitted a request for sick time, taken sick time, participated in any**  
27 **manner in an investigation, proceeding or hearing related to sections**  
28 **2 to 16 of this 2015 Act, or invoked any provision of sections 2 to 16**  
29 **of this 2015 Act; or**

30       **“(3) Apply an absence control policy that includes sick time ab-**

1 sences covered under sections 2 to 16 of this 2015 Act as an absence  
2 that may lead to or result in an adverse employment action against  
3 the employee.

4 **“SECTION 12. (1) The requirements of sections 2 to 16 of this 2015  
5 Act do not apply to an employee:**

6 **“(a) Whose terms and conditions of employment are covered by a  
7 collective bargaining agreement;**

8 **“(b) Who is employed through a hiring hall or similar referral sys-  
9 tem operated by the labor organization or a third party; and**

10 **“(c) Whose employment-related benefits are provided by a joint  
11 multi-employer-employee trust or benefit plan.**

12 **“(2)(a) The Home Care Commission created under ORS 410.602 shall  
13 establish a paid sick time policy for consumer employed home care  
14 workers.**

15 **“(b) A policy for paid sick time for consumer employed home care  
16 workers implemented by the Home Care Commission that allows an  
17 eligible home care worker to accrue and use up to 40 hours of paid  
18 time off a year, including but not limited to sick time, is deemed to  
19 meet the requirements of sections 2 to 16 of this 2015 Act and is ex-  
20 empt from the provisions of sections 2 (4), 3 (4), 4, 7, 8 and 9 of this  
21 2015 Act.**

22 **“(3) As used in this section, ‘consumer employed home care  
23 worker’ has the meaning given the term ‘home care worker’ in ORS  
24 410.600.**

25 **“SECTION 13. (1) An employee asserting a violation of section 11  
26 (2) or (3) of this 2015 Act may file a complaint with the Commissioner  
27 of the Bureau of Labor and Industries under ORS 659A.820 or a civil  
28 action as provided in ORS 659A.885.**

29 **“(2) The commissioner has the same enforcement powers with re-  
30 spect to the rights established under sections 2 to 16 of this 2015 Act**

1 as are established in ORS chapters 652 and 653.

2 **“SECTION 14. The Commissioner of the Bureau of Labor and In-**  
3 **dustries:**

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

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

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

11 **“SECTION 16. If any provision or application of sections 2 to 16 of**  
12 **this 2015 Act is determined to be invalid, the remaining provisions re-**  
13 **main in force and have full effect, and the invalid provisions are de-**  
14 **clared severable.**

15 **“SECTION 17. ORS 653.256 is amended to read:**

16 **“653.256. (1) In addition to any other penalty provided by law, the Com-**  
17 **missioner of the Bureau of Labor and Industries may assess a civil penalty**  
18 **not to exceed \$1,000 against any person who willfully violates ORS 653.025,**  
19 **653.030, 653.045, 653.050, 653.060 or 653.261 or sections 3, 4, 5, 6, 7, 8, 9 and**  
20 **10 of this 2015 Act or any rule adopted thereunder.**

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

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

26 **“(4)(a) All sums collected as penalties under this section shall be first**  
27 **applied toward reimbursement of costs incurred in determining the vio-**  
28 **lations, conducting hearings under this section and addressing and collecting**  
29 **the penalties.**

30 **“(b) The remainder, if any, of the sums collected as penalties under sub-**

1 section (1) of this section shall be paid over by the commissioner to the De-  
2 partment of State Lands for the benefit of the Common School Fund of this  
3 state. The department shall issue a receipt for the money to the commis-  
4 sioner.

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

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

11 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-  
12 tice specified in subsection (2) of this section may file a civil action in cir-  
13 cuit court. In any action under this subsection, the court may order  
14 injunctive relief and any other equitable relief that may be appropriate, in-  
15 cluding but not limited to reinstatement or the hiring of employees with or  
16 without back pay. A court may order back pay in an action under this sub-  
17 section only for the two-year period immediately preceding the filing of a  
18 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-  
19 bor and Industries, or if a complaint was not filed before the action was  
20 commenced, the two-year period immediately preceding the filing of the  
21 action. In any action under this subsection, the court may allow the pre-  
22 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-  
23 cept as provided in subsection (3) of this section:

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

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

29 “(2) An action may be brought under subsection (1) of this section alleg-  
30 ing a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237

1 (2), 476.574, 652.355, 653.060, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063,  
2 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186,  
3 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230, 659A.233,  
4 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,  
5 659A.309, 659A.315, 659A.318, 659A.320 or 659A.421 **or sections 2 to 16 of**  
6 **this 2015 Act.**

7 “(3) In any action under subsection (1) of this section alleging a violation  
8 of ORS 25.337, 25.424, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,  
9 659A.082, 659A.103 to 659A.145, 659A.199, 659A.228, 659A.230, 659A.250 to  
10 659A.262, 659A.290, 659A.318 or 659A.421:

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

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

15 “(c) Upon appeal of any judgment finding a violation, the appellate court  
16 shall review the judgment pursuant to the standard established by ORS  
17 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  
20 of ORS 652.355 or 653.060, the court may award, in addition to the relief  
21 authorized under subsection (1) of this section, compensatory damages or  
22 \$200, whichever is greater.

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

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

1       “(7) Any individual against whom any distinction, discrimination or re-  
2       striction on account of race, color, religion, sex, sexual orientation, national  
3       origin, marital status or age, if the individual is 18 years of age or older,  
4       has been made by any place of public accommodation, as defined in ORS  
5       659A.400, by any employee or person acting on behalf of the place or by any  
6       person aiding or abetting the place or person in violation of ORS 659A.406  
7       may bring an action against the operator or manager of the place, the em-  
8       ployee or person acting on behalf of the place or the aider or abettor of the  
9       place or person. Notwithstanding subsection (1) of this section, in an action  
10      under this subsection:

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

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

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

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

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

23      “(f) Upon any appeal of a judgment under this subsection, the appellate  
24      court shall review the judgment pursuant to the standard established by ORS  
25      19.415 (1).

26      “(8) When the commissioner or the Attorney General has reasonable cause  
27      to believe that a person or group of persons is engaged in a pattern or  
28      practice of resistance to the rights protected by ORS 659A.145 or 659A.421  
29      or federal housing law, or that a group of persons has been denied any of the  
30      rights protected by ORS 659A.145 or 659A.421 or federal housing law, the

1 commissioner or the Attorney General may file a civil action on behalf of  
2 the aggrieved persons in the same manner as a person or group of persons  
3 may file a civil action under this section. In a civil action filed under this  
4 subsection, the court may assess against the respondent, in addition to the  
5 relief authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

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

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

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

21 “(A) Has been injured by an unlawful practice or discriminatory housing  
22 practice; or

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

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

30 **SECTION 19. (1) Except as provided in subsection (2) of this sec-**



1 tion, the Bureau of Labor and Industries may assess civil penalties  
2 only for violations of sections 2 to 16 of this 2015 Act against an em-  
3 ployer occurring on or after January 1, 2017.

4 “(2) Penalties for violations of section 11 (2) and (3) of this 2015 Act  
5 may be assessed against an employer only for violations occurring on  
6 or after January 1, 2017.

7 “SECTION 20. Sections 2 to 16 of this 2015 Act and the amendments  
8 to ORS 653.256 and 659A.885 by sections 17 and 18 of this 2015 Act apply  
9 to hours worked and sick time accrued or used on or after January 1,  
10 2016.”.

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