

**PROPOSED AMENDMENTS TO
HOUSE BILL 2478**

1 On page 1 of the printed bill, line 5, delete “109.070, 109.103, 109.124,
2 109.125, 109.239, 109.243, 109.326, 109.804.”.

3 In line 6, after “164.164,” insert “174.100.”.

4 Delete lines 10 through 31 and delete pages 2 through 54 and insert:

5 **“SECTION 1. ORS 25.280 is amended to read:**

6 “25.280. In any judicial or administrative proceeding for the establishment
7 or modification of a child support obligation under ORS chapter 107, 108, 109,
8 110 or 416 or ORS 419B.400, 419B.923, 419C.590 or 419C.610, the amount of
9 support determined by the formula established under ORS 25.275 is presumed
10 to be the correct amount of the obligation. This is a rebuttable presumption
11 and a written finding or a specific finding on the record that the application
12 of the formula would be unjust or inappropriate in a particular case is suf-
13 ficient to rebut the presumption. The following criteria shall be considered
14 in making the finding:

15 “(1) Evidence of the other available resources of a parent;

16 “(2) The reasonable necessities of a parent;

17 “(3) The net income of a parent remaining after withholdings required by
18 law or as a condition of employment;

19 “(4) A parent’s ability to borrow;

20 “(5) The number and needs of other dependents of a parent;

21 “(6) The special hardships of a parent including, but not limited to, any
22 medical circumstances of a parent affecting the parent’s ability to pay child

1 support;

2 “(7) The needs of the child;

3 “(8) The desirability of the custodial parent remaining in the home as a
4 full-time parent and homemaker;

5 “(9) The tax consequences, if any, to both parents resulting from spousal
6 support awarded and determination of which parent will name the child as
7 a dependent; and

8 “(10) The financial advantage afforded a parent’s household by the income
9 of a spouse or another person with whom the parent lives in a relationship
10 similar to [*husband and wife*] **that of a spouse.**

11 **“SECTION 2.** ORS 40.135 is amended to read:

12 “40.135. (1) The following are presumptions:

13 “(a) A person intends the ordinary consequences of a voluntary act.

14 “(b) A person takes ordinary care of the person’s own concerns.

15 “(c) Evidence willfully suppressed would be adverse to the party sup-
16 pressing it.

17 “(d) Money paid by one to another was due to the latter.

18 “(e) A thing delivered by one to another belonged to the latter.

19 “(f) An obligation delivered to the debtor has been paid.

20 “(g) A person is the owner of property from exercising acts of ownership
21 over it or from common reputation of the ownership of the person.

22 “(h) A person in possession of an order on that person, for the payment
23 of money or the delivery of a thing, has paid the money or delivered the
24 thing accordingly.

25 “(i) A person acting in a public office was regularly appointed to it.

26 “(j) Official duty has been regularly performed.

27 “(k) A court, or judge acting as such, whether in this state or any other
28 state or country, was acting in the lawful exercise of the jurisdiction of the
29 court.

30 “(L) Private transactions have been fair and regular.

1 “(m) The ordinary course of business has been followed.

2 “(n) A promissory note or bill of exchange was given or indorsed for a
3 sufficient consideration.

4 “(o) An indorsement of a negotiable promissory note, or bill of exchange,
5 was made at the time and place of making the note or bill.

6 “(p) A writing is truly dated.

7 “(q) A letter duly directed and mailed was received in the regular course
8 of the mail.

9 “(r) A person is the same person if the name is identical.

10 “(s) A person not heard from in seven years is dead.

11 “(t) Persons acting as copartners have entered into a contract of
12 copartnership.

13 “(u) [*A man and woman*] **Two individuals** deporting themselves as [*hus-*
14 *band and wife*] **married to each other** have entered into a lawful contract
15 of marriage.

16 “(v) A child born in lawful wedlock is legitimate.

17 “(w) A thing once proved to exist continues as long as is usual with
18 things of that nature.

19 “(x) The law has been obeyed.

20 “(y) An uninterrupted adverse possession of real property for 20 years or
21 more has been held pursuant to a written conveyance.

22 “(z) A trustee or other person whose duty it was to convey real property
23 to a particular person has actually conveyed it to the person, when such
24 presumption is necessary to perfect the title of the person or the person’s
25 successor in interest.

26 “(2) A statute providing that a fact or a group of facts is prima facie ev-
27 idence of another fact establishes a presumption within the meaning of this
28 section.

29 **“SECTION 3.** ORS 40.255 is amended to read:
30 “40.255. (1) As used in this section, unless the context requires otherwise:

1 “(a) ‘Confidential communication’ means a communication by a spouse to
2 the other spouse and not intended to be disclosed to any other person.

3 “(b) ‘Marriage’ means a marital relationship between [*husband and wife*]
4 **two individuals**, legally recognized under the laws of this state.

5 “(2) In any civil or criminal action, a spouse has a privilege to refuse to
6 disclose and to prevent the other spouse from disclosing any confidential
7 communication made by one spouse to the other during the marriage. The
8 privilege created by this subsection may be claimed by either spouse. The
9 authority of the spouse to claim the privilege and the claiming of the privi-
10 lege is presumed in the absence of evidence to the contrary.

11 “(3) In any criminal proceeding, neither spouse, during the marriage, shall
12 be examined adversely against the other as to any other matter occurring
13 during the marriage unless the spouse called as a witness consents to testify.

14 “(4) There is no privilege under this section:

15 “(a) In all criminal actions in which one spouse is charged with bigamy
16 or with an offense or attempted offense against the person or property of the
17 other spouse or of a child of either, or with an offense against the person
18 or property of a third person committed in the course of committing or at-
19 tempting to commit an offense against the other spouse;

20 “(b) As to matters occurring prior to the marriage; or

21 “(c) In any civil action where the spouses are adverse parties.

22 “**SECTION 4.** ORS 59.350 is amended to read:

23 “59.350. For purposes of ORS 59.005 to 59.451, 59.710 to 59.830, 59.991 and
24 59.995:

25 “(1) A transaction with [*a husband and wife*] **spouses married to each**
26 **other** is treated as a transaction with one person. The securities may be held
27 jointly or individually.

28 “(2) A transaction with an entity is treated as a transaction with one
29 person. However, if an entity is formed substantially for the purpose of ac-
30 quiring the securities that are offered, each security holder shall be counted

1 as a separate person.

2 **“SECTION 5.** ORS 93.180 is amended to read:

3 “93.180. (1) A conveyance or devise of real property, or an interest in real
4 property, that is made to two or more persons:

5 “(a) Creates a tenancy in common unless the conveyance or devise clearly
6 and expressly declares that the grantees or devisees take the real property
7 with right of survivorship.

8 “(b) Creates a tenancy by the entirety if the conveyance or devise is to
9 [*a husband and wife*] **spouses married to each other** unless the conveyance
10 or devise clearly and expressly declares otherwise.

11 “(c) Creates a joint tenancy as described in ORS 93.190 if the conveyance
12 or devise is to a trustee or personal representative.

13 “(2) A declaration of a right to survivorship creates a tenancy in common
14 in the life estate with cross-contingent remainders in the fee simple.

15 “(3) Except as provided in ORS 93.190, joint tenancy in real property is
16 abolished and the use in a conveyance or devise of the words ‘joint tenants’
17 or similar words without any other indication of an intent to create a right
18 of survivorship creates a tenancy in common.

19 **“SECTION 6.** ORS 105.920 is amended to read:

20 “105.920. There shall be a form of co-ownership of personal property
21 known as joint tenancy. A joint tenancy shall have the incidents of
22 survivorship and severability as at common law. A joint tenancy may be
23 created only by a written instrument which expressly declares the interest
24 created to be a joint tenancy. It may be created by a transfer or bequest from
25 a sole owner to others, or to the sole owner and others; or from tenants in
26 common or joint tenants to others, or to themselves or some of them, or to
27 themselves or any of them and others; or from [*husband and wife*] **spouses**
28 **married to each other**, when holding title as community property or oth-
29 erwise, to others, or to themselves, or to one of them and to another or
30 others. A transfer or bequest creating a joint tenancy shall not derogate from

1 the rights of creditors.

2 **“SECTION 7.** ORS 106.020 is amended to read:

3 “106.020. The following marriages are prohibited; and, if solemnized
4 within this state, are absolutely void:

5 “(1) When either party thereto had a [*wife or husband*] **spouse** living at
6 the time of [*such*] **the** marriage.

7 “(2) When the parties thereto are first cousins or any nearer of kin to
8 each other, whether of the whole or half blood, whether by blood or adoption,
9 computing by the rules of the civil law, except that when the parties are first
10 cousins by adoption only, the marriage is not prohibited or void.

11 **“SECTION 8.** ORS 106.041 is amended to read:

12 “106.041. (1) All persons wishing to enter into a marriage contract shall
13 obtain a marriage license from the county clerk upon application, directed
14 to any person or religious organization or congregation authorized by ORS
15 106.120 to solemnize marriages, and authorizing the person, organization or
16 congregation to join together as [*husband and wife*] **spouses in a marriage**
17 the persons named in the license.

18 “(2) The State Registrar of the Center for Health Statistics shall provide
19 a standard form of the application, license and record of marriage to be used
20 in this state that must include:

21 “(a) Each applicant’s Social Security number recorded on a confidential
22 portion of the application, license and record of marriage;

23 “(b) Certain statistical data regarding age, place of birth, sex, occupation,
24 residence and previous marital status of each applicant;

25 “(c) The name and address of the affiant under ORS 106.050, if required;
26 and

27 “(d) Each applicant’s name after marriage as provided in ORS 106.220.

28 “(3) Each applicant for a marriage license shall file with the county clerk
29 from whom the marriage license is sought a written application for the li-
30 cense on forms prescribed for this purpose by the Center for Health Statis-

1 tics.

2 “(4) A marriage license must contain the following statement: ‘Neither
3 you nor your spouse is the property of the other. The laws of the State of
4 Oregon affirm your right to enter into marriage and at the same time to live
5 within the marriage free from violence and abuse.’

6 “(5) An applicant may not intentionally make a material false statement
7 in the records required by this section.

8 “(6) The county clerk may not issue a marriage license until the pro-
9 visions of this section and ORS 106.050 and 106.060 are complied with.

10 “**SECTION 9.** ORS 106.150 is amended to read:

11 “106.150. (1) In the solemnization of a marriage no particular form is re-
12 quired except that the parties thereto shall assent or declare in the presence
13 of the clergyperson, county clerk or judicial officer solemnizing the marriage
14 and in the presence of at least two witnesses, that they take each other to
15 be [*husband and wife*] **spouses in a marriage.**

16 “(2) All marriages, to which there are no legal impediments, solemnized
17 before or in any religious organization or congregation according to the es-
18 tablished ritual or form commonly practiced therein, are valid. In such case,
19 the person presiding or officiating in the religious organization or congre-
20 gation shall deliver to the county clerk who issued the marriage license the
21 application, license and record of marriage in accordance with ORS 106.170.

22 “**SECTION 10.** ORS 106.315 is amended to read:

23 “106.315. (1) A domestic partnership is prohibited and void when:

24 “(a) Either party to the domestic partnership had a partner[, *wife or*
25 *husband*] **or spouse** living at the time of the domestic partnership unless the
26 partner[, *wife or husband*] **or spouse** was the other party to the domestic
27 partnership.

28 “(b) The parties to the domestic partnership are first cousins or any
29 nearer of kin to each other, whether of the whole or half blood, whether by
30 blood or adoption, computing by the rules of the civil law. However, when

1 the parties are first cousins by adoption only, the domestic partnership is
2 not prohibited or void.

3 “(2) When either party to a domestic partnership is incapable of making
4 the civil contract or consenting to the contract for want of legal age or
5 sufficient understanding, or when the consent of either party is obtained by
6 force or fraud, the domestic partnership is void from the time it is so de-
7 clared by a judgment of a court having jurisdiction of the domestic partner-
8 ship.

9 **“SECTION 11.** ORS 107.005 is amended to read:

10 “107.005. (1) A marriage may be declared void from the beginning for any
11 of the causes specified in ORS 106.020; and, whether so declared or not, shall
12 be deemed and held to be void in any action, suit or proceeding in which
13 [it] **the marriage** may come into question.

14 “(2) When either [*husband or wife*] **spouse** claims or pretends that the
15 marriage is void or voidable under the provisions of ORS 106.020, [it] **the**
16 **marriage** may at the suit of the other be declared valid or that [it] **the**
17 **marriage** was void from the beginning or that [it] **the marriage** is void
18 from the time of the judgment.

19 “(3) A marriage once declared valid by the judgment of a court having
20 jurisdiction thereof, in a suit for that purpose, cannot afterward be ques-
21 tioned for the same cause directly or otherwise.

22 **“SECTION 12.** ORS 107.025 is amended to read:

23 “107.025. (1) A judgment for the dissolution of a marriage or a permanent
24 or unlimited separation may be rendered when irreconcilable differences be-
25 tween the parties have caused the irremediable breakdown of the marriage.

26 “(2) A judgment for separation may be rendered when:

27 “(a) Irreconcilable differences between the parties have caused a tempo-
28 rary or unlimited breakdown of the marriage;

29 “(b) The parties make and file with the court an agreement suspending
30 for a period not less than one year their obligation to live together as [*hus-*

1 *band and wife]* **spouses**, and the court finds such agreement to be just and
2 equitable; or

3 “(c) Irreconcilable differences exist between the parties and the contin-
4 uation of their status as married persons preserves or protects legal, finan-
5 cial, social or religious interest.

6 “**SECTION 13.** ORS 107.485 is amended to read:

7 “107.485. A marriage may be dissolved by the summary dissolution proce-
8 dure specified in this section and ORS 107.490 when all of the following
9 conditions exist at the time the proceeding is commenced:

10 “(1) The jurisdictional requirements of ORS 107.025 and 107.075 are met.

11 “(2)(a) There are no minor children born to the parties or adopted by the
12 parties during the marriage;

13 “(b) There are no children over age 18 attending school, as described in
14 ORS 107.108, either born to the parties or adopted by the parties during the
15 marriage;

16 “(c) There are no minor children born to or adopted by the parties prior
17 to the marriage; and

18 “(d) [*The wife is not*] **Neither spouse is** now pregnant.

19 “(3) The marriage is not more than 10 years in duration.

20 “(4) Neither party has any interest in real property wherever situated.

21 “(5) There are no unpaid obligations in excess of \$15,000 incurred by ei-
22 ther or both of the parties from the date of the marriage.

23 “(6) The total aggregate fair market value of personal property assets in
24 which either of the parties has any interest, excluding all encumbrances, is
25 less than \$30,000.

26 “(7) The petitioner waives any right to spousal support.

27 “(8) The petitioner waives any rights to pendente lite orders except those
28 pursuant to ORS 107.700 to 107.735 or 124.005 to 124.040.

29 “(9) The petitioner knows of no other pending domestic relations suits
30 involving the marriage in this or any other state.

1 **“SECTION 14.** ORS 108.010 is amended to read:

2 “108.010. (1) All laws [*which*] **that** impose or recognize civil disabilities
3 upon a [*wife which*] **spouse in a marriage that** are not imposed **upon** or
4 recognized as existing [*as*] **with respect** to the [*husband*] **other spouse are**
5 hereby [*are*] repealed[; *and*].

6 **“(2)** All civil rights belonging to [*the husband*] **a spouse in a marriage**
7 not conferred upon the [*wife*] **other spouse** prior to June 14, 1941, or [*which*
8 *she*] **that the other spouse** does not have at common law, **are** hereby [*are*]
9 conferred upon [*her*] **the other spouse**, including, [*among other things*] **but**
10 **not limited to**, the right of action for loss of consortium of [*her husband*]
11 **the spouse.**

12 **“SECTION 15.** ORS 108.020 is amended to read:

13 “108.020. Neither [*husband nor wife*] **spouse in a marriage** is liable for
14 the debts or liabilities of the other **spouse** incurred before marriage[; *and*].
15 Except as [*otherwise*] provided in ORS 108.040, [*they are*] **a spouse in a**
16 **marriage is** not liable for the separate debts of [*each other, nor is*] **the other**
17 **spouse, and** the rent or income of property owned by either [*husband or*
18 *wife*] **spouse is not** liable for the separate debts of the other **spouse.**

19 **“SECTION 16.** ORS 108.030 is amended to read:

20 “108.030. For all civil injuries committed by a [*married woman*] **spouse**
21 **in a marriage**, damages may be recovered from [*her alone*] **that spouse**
22 **only**, and [*her husband shall not be*] **the other spouse is not** responsible
23 [*therefor*] **for such civil injuries**, except [*in case*] where [*he*] **the spouses**
24 would be jointly responsible with [*her*] **each other** if the marriage did not
25 exist.

26 **“SECTION 17.** ORS 108.040 is amended to read:

27 “108.040. (1)(a) The expenses of the family and the education of the minor
28 children are chargeable upon the property of both [*husband and wife*]
29 **spouses in a marriage who are parents of the minor children**, or either
30 of them, and in relation thereto they may be sued jointly or separately.

1 “(b) As used in this subsection:

2 “(A) ‘Expenses of the family’ includes only expenses incurred for the
3 benefit of a member of the family.

4 “(B) ‘Family’ means the [*husband, wife*] **spouses in a marriage and the**
5 **minor children of the [*husband and wife*] spouses.**

6 “(2) Notwithstanding subsection (1) of this section, after the separation
7 of one spouse from the other spouse, a spouse is not responsible for debts
8 contracted by the other spouse after the separation except for debts incurred
9 for maintenance, support and education of the minor children of the spouses.

10 “(3) For the purposes of subsection (2) of this section, spouses shall be
11 considered separated if [*they*] **the spouses** are living in separate residences
12 without intention of reconciliation at the time the debt is incurred. The
13 court may consider the following factors in determining whether the spouses
14 are separated in addition to such other factors as may be relevant:

15 “(a) Whether the spouses subsequently reconciled.

16 “(b) The number of separations and reconciliations of the spouses.

17 “(c) The length of time the spouses lived apart.

18 “(d) Whether the spouses intend to reconcile.

19 “(e) Whether the spouses have filed a petition for separation or dissol-
20 ution.

21 “(4) An action under this section shall be commenced within the period
22 otherwise provided by law.

23 **“SECTION 18.** ORS 108.045 is amended to read:

24 “108.045. (1) The expenses of the family and the education of **the** minor
25 children, including stepchildren, are chargeable upon the property of both
26 [*husband and wife*] **spouses in a marriage who are parents or**
27 **stepparents of the minor children**, or either of them. However, with re-
28 gard to stepchildren, the obligation shall cease upon entry of a judgment of
29 dissolution.

30 “(2) As used in this section, ‘stepchild’ means a child under the age of 18,

1 or a child attending school as defined in ORS 107.108 who is in the custody
2 of one biological or adoptive parent who is married to and not legally sepa-
3 rated from a person other than the second biological or adoptive parent of
4 such child.

5 “(3) Notwithstanding subsection (1) of this section, the legal duty of a
6 parent to provide support for a child, as otherwise required by law, shall not
7 be affected.

8 **“SECTION 19.** ORS 108.050 is amended to read:

9 “108.050. The property and pecuniary rights of every [*married woman*]
10 **spouse in a marriage acquired** at the time of [*her*] **the** marriage or after-
11 wards [*acquired*], including real or personal property acquired by [*her*] **the**
12 **spouse’s** own labor during [*coverture*] **the marriage**, shall not be subject to
13 the debts or contracts of [*her husband*] **the other spouse**.

14 **“SECTION 20.** ORS 108.060 is amended to read:

15 “108.060. When property is owned by either [*husband or wife*] **spouse in**
16 **a marriage**, the other **spouse** has no interest [*therein which*] **in that**
17 **property that** can be the subject of contract between [*them*] **the spouses**,
18 or [*such interest as will*] **that can** make the [*same*] **spouses** liable for the
19 contracts or liabilities of [*either the husband or wife*] **the other spouse** who
20 is not the owner of the property, except as provided in ORS 108.040.

21 **“SECTION 21.** ORS 108.080 is amended to read:

22 “108.080. Should either [*the husband or wife*] **spouse in a marriage** ob-
23 tain possession or control of property belonging to the other **spouse** either
24 before or after marriage, the owner of the property may maintain an action
25 [*therefor*] **for possession and control of the property**, or for any right
26 growing out of the [*same*] **ownership of the property**, in the same manner
27 and to the same extent as if [*they*] **the spouses** were unmarried.

28 **“SECTION 22.** ORS 108.090 is amended to read:

29 “108.090. (1) A conveyance, transfer or lien executed by either [*husband*
30 *or wife*] **spouse in a marriage** to or in favor of the other **spouse** is valid

1 to the same extent as between other persons.

2 “(2) When a [*husband or wife*] **spouse** conveys to the other **spouse** an
3 undivided one-half of any real property and retains a like undivided half, and
4 in such conveyance there are used words indicating an intention to create
5 an estate in entirety, [*said husband and wife*] **the spouses** hold the real
6 property described in the conveyance by the entirety.

7 “(3) A conveyance from [*husband or wife*] **a spouse** to the other **spouse**
8 of [*his or her*] **the spouse’s** interest in an estate held by [*them*] **the spouses**
9 by entirety is valid and dissolves the estate by entirety. All deeds heretofore
10 executed by [*husband or wife*] **either spouse** to the other **spouse** for the
11 purpose of dissolving the estate by entirety are valid.

12 “**SECTION 23.** ORS 108.100 is amended to read:

13 “108.100. [*One spouse may constitute*] **A spouse in a marriage may des-**
14 **ignate** the other [*his or her*] **spouse to be the spouse’s** attorney in fact to
15 control, sell and convey, mortgage, or bar dower or curtesy for [*their*] **the**
16 **spouses’** mutual benefit, and may revoke the [*same*] **designation** to the same
17 extent and in the same manner as other persons.

18 “**SECTION 24.** ORS 108.110 is amended to read:

19 “108.110. (1) Any married person may apply to the circuit court of the
20 county in which the married person resides or in which the spouse may be
21 found for an order upon the spouse to provide for support of the married
22 person or for the support of minor children and children attending school,
23 or both, and, if the married person initiating the action for support is a
24 woman who is pregnant, her unborn child, or both, if her spouse is the na-
25 tural father of such children, children attending school or unborn child or
26 if her spouse is the adoptive [*father*] **parent** of such children or children
27 attending school. The married person initiating the action for support may
28 apply for the order by filing in such county a petition setting forth the facts
29 and circumstances upon which the married person relies for such order. If
30 satisfied that a just cause exists, the court shall direct that the married

1 person's spouse appear at a time set by the court to show cause why an order
2 of support should not be entered in the matter. The provisions of ORS 107.108
3 apply to an order entered under this section for the support of a child at-
4 tending school.

5 “(2) As used in this section, ‘child attending school’ has the meaning
6 given that term in ORS 107.108.

7 “(3) The petitioner shall state in the petition, to the extent known:

8 “(a) Whether there is pending in this state or any other jurisdiction any
9 type of support proceeding involving children of the marriage, including a
10 proceeding brought under ORS 107.085, 109.100, 125.025, 416.400 to 416.465,
11 419B.400 or 419C.590 or ORS chapter 110; and

12 “(b) Whether there exists in this state or any other jurisdiction a support
13 order, as defined in ORS 110.303, involving children of the marriage.

14 “(4) The petitioner shall include with the petition a certificate regarding
15 any pending support proceeding and any existing support order. The
16 petitioner shall use a certificate that is in a form established by court rule
17 and include information required by court rule and subsection (3) of this
18 section.

19 “(5) The provisions of this section apply equally [*to cases where it is the*
20 *husband*] **regardless of which spouse is** making application for a support
21 order.

22 “(6) In any proceeding under this section, the obligee, as that person is
23 defined in ORS 110.303, is a party to the proceeding.

24 “**SECTION 25.** ORS 108.510 is amended to read:

25 “108.510. (1) Notwithstanding any repeal of chapter 440, Oregon Laws
26 1943, known as the Oregon Community Property Law of 1943, [*any husband*
27 *and wife*] **spouses in a marriage** who elected to come under the terms
28 [*thereof*] **of that law** may revoke [*such*] **the** election upon filing in the office
29 of the Secretary of State a notice of [*their*] **the spouses’** desire to revoke
30 [*such*] **the** election in the following form:

1 Acknowledgments may be taken by any other officer authorized to take ac-
2 knowledgments.

3 “(2) Such an instrument, together with a fee of \$15, shall be presented to
4 the Secretary of State, who thereupon shall file the instrument, properly in-
5 dex it in a book kept for that purpose and transmit to the recording officer
6 of each county in the state the certificate of the Secretary of State, setting
7 forth the nature of such instrument, the names of the parties thereto, the
8 date thereof, and the date of the filing thereof in the office of the Secretary
9 of State. Upon receipt of such certificate, the recording officer shall file it
10 and properly index it in a book kept for that purpose.

11 “(3) Public notice of such revocation exists upon compliance with sub-
12 section (2) of this section.

13 “(4) The filing of such revocation operates to restore the title to any
14 community property of persons making the revocation to the status of the
15 property which existed on the date on which such persons filed a certificate
16 of election under the terms of the Oregon Community Property Law of 1943.
17 Such revocation in nowise limits the right of such persons to execute and
18 record such conveyances, assignments and transfers of property, or title
19 thereto, as may operate to effect and make a matter of record the restoration
20 of titles to the status they occupied prior to the filing of the certificate of
21 election.

22 “**SECTION 26.** ORS 108.530 is amended to read:

23 “108.530. Community property acquired during [*coverture*] **marriage** and
24 between July 5, 1947, and April 11, 1949, may be converted into property held
25 as tenants in common or by entirety or as the separate property of either
26 spouse by an agreement in writing evidencing such intent, signed by both
27 [*husband and wife*] **spouses in a marriage**. If [*such*] **the** agreement affects
28 title to real property, [*it*] **the agreement** shall describe the property affected
29 [*thereby*] **by the agreement**, shall be executed and acknowledged in the
30 same manner as deeds and shall be recorded in the deed records of each

1 county in which any such real property is located.

2 **“SECTION 27.** ORS 108.550 is amended to read:

3 “108.550. Notwithstanding any provisions of chapter 525, Oregon Laws
4 1947, or any provision of ORS 108.520 to 108.550, any [*other*] **third** person
5 may rely, and shall be fully protected in [*so doing*] **relying**, upon the right
6 of [*the husband or the wife*] **either spouse in a marriage** to receive, man-
7 age, control, dispose of or otherwise deal with property standing in [*his or*
8 *her*] **that spouse’s** name in such manner [*that, by law, but for the provisions*
9 *of said statutes, he or she would be entitled so to deal therewith*] **as the**
10 **spouse is entitled to by law.**

11 **“SECTION 28.** ORS 110.384 is amended to read:

12 “110.384. (1) The physical presence of the petitioner in a responding
13 tribunal of this state is not required for the establishment, enforcement or
14 modification of a support order or the rendition of a judgment determining
15 parentage.

16 “(2) A verified petition, affidavit, document substantially complying with
17 federally mandated forms and a document incorporated by reference in any
18 of them, not excluded under the hearsay rule if given in person, are admis-
19 sible in evidence if given under oath by a party or witness residing in an-
20 other state.

21 “(3) A copy of the record of child support payments certified as a true
22 copy of the original by the custodian of the record may be forwarded to a
23 responding tribunal. The copy is evidence of facts asserted in it, and is ad-
24 missible to show whether payments were made.

25 “(4) Copies of bills for testing for parentage and for prenatal and
26 postnatal health care of the mother and child furnished to the adverse party
27 at least 20 days before trial are admissible in evidence to prove the amount
28 of the charges billed and that the charges were reasonable, necessary and
29 customary.

30 “(5) Documentary evidence transmitted from another state to a tribunal

1 of this state by telephone, telecopier or other means that does not provide
2 an original writing may not be excluded from evidence on an objection based
3 on the means of transmission.

4 “(6) In a proceeding under this chapter, a tribunal of this state may per-
5 mit a party or witness residing in another state to be deposed or to testify
6 by telephone, audiovisual means or other electronic means at a designated
7 tribunal or other location in that state. A tribunal of this state shall coop-
8 erate with tribunals of other states in designating an appropriate location
9 for the deposition or testimony.

10 “(7) A privilege against disclosure of communications between spouses
11 does not apply in a proceeding under this chapter.

12 “(8) The defense of immunity based on the relationship of [*husband and*
13 *wife*] **spouses in a marriage** or of parent and child does not apply in a
14 proceeding under this chapter.

15 **“SECTION 29.** ORS 136.655 is amended to read:

16 “136.655. (1) Except as provided in subsection (2) of this section, in all
17 criminal actions in which [*the husband*] **a spouse in a marriage** is the party
18 accused, the [*wife*] **other spouse** is a competent witness, **but neither**
19 **spouse** [*and when the wife is the party accused, the husband is a competent*
20 *witness; but neither husband nor wife in such cases*] shall be compelled or
21 allowed to testify [*in such cases*] **in a criminal action**, except as provided
22 in ORS 40.255.

23 “(2) There is no privilege under this section, or under ORS 40.255 in all
24 criminal actions in which [*one*] **a spouse** is charged with bigamy or with an
25 offense or attempted offense against the person or property of the other
26 spouse or of a child of either, or with an offense against the person or
27 property of a third person committed in the course of committing or at-
28 tempting to commit an offense against the other spouse.

29 **“SECTION 30.** ORS 163.565 is amended to read:

30 “163.565. (1) Proof that a child was born to a woman during the time a

1 man lived and cohabited with her, or held her out as his [*wife*] **spouse in**
2 **a marriage**, is prima facie evidence that he is the father of the child. This
3 subsection does not exclude any other legal evidence tending to establish the
4 parental relationship.

5 “(2) No provision of law prohibiting the disclosure of confidential com-
6 munications between [*husband and wife*] **spouses in a marriage** apply to
7 prosecutions for criminal nonsupport. A [*husband or wife*] **spouse** is a com-
8 petent and compellable witness for or against either party.

9 **“SECTION 31.** ORS 164.035 is amended to read:

10 “164.035. (1) In a prosecution for theft it is a defense that the defendant
11 acted under an honest claim of right, in that:

12 “(a) The defendant was unaware that the property was that of another;
13 or

14 “(b) The defendant reasonably believed that the defendant was entitled to
15 the property involved or had a right to acquire or dispose of it as the de-
16 fendant did.

17 “(2) In a prosecution for theft by extortion committed by instilling in the
18 victim a fear that the victim or another person would be charged with a
19 crime, it is a defense that the defendant reasonably believed the threatened
20 charge to be true and that the sole purpose of the defendant was to compel
21 or induce the victim to take reasonable action to make good the wrong which
22 was the subject of the threatened charge.

23 “(3) In a prosecution for theft by receiving, it is a defense that the de-
24 fendant received, retained, concealed or disposed of the property with the
25 intent of restoring it to the owner.

26 “(4) It is a defense that the property involved was that of the defendant’s
27 spouse, unless the parties were not living together as [*husband and wife*]
28 **spouses in a marriage** and were living in separate abodes at the time of
29 the alleged theft.

30 **“SECTION 32.** ORS 164.164 is amended to read:

1 “164.164. (1) In a prosecution under ORS 164.162, it is a defense that the
2 defendant acted under an honest claim of right in that:

3 “(a) The defendant was unaware that the property was that of another
4 person;

5 “(b) The defendant reasonably believed that the defendant was entitled to
6 the property involved or had a right to acquire or dispose of it as the de-
7 fendant did; or

8 “(c) The property involved was that of the defendant’s spouse, unless the
9 parties were not living together as [*husband and wife*] **spouses in a mar-**
10 **riage** and were living in separate abodes at the time of the alleged offense.

11 “(2)(a) ORS 164.162 does not apply to employees charged with the opera-
12 tion of facilities listed in paragraph (b) of this subsection when the employ-
13 ees are carrying out their official duties to protect the safety and security
14 of the facilities.

15 “(b) The facilities to which paragraph (a) of this subsection applies are
16 juvenile detention facilities and local correctional facilities as defined in
17 ORS 169.005, detention facilities as defined in ORS 419A.004, youth cor-
18 rection facilities as defined in ORS 420.005 and Department of Corrections
19 institutions as defined in ORS 421.005.

20 “**SECTION 33.** ORS 174.100 is amended to read:

21 “174.100. As used in the statute laws of this state, unless the context or
22 a specially applicable definition requires otherwise:

23 “(1) ‘Any other state’ includes any state and the District of Columbia.

24 “(2) ‘City’ includes any incorporated village or town.

25 “(3) ‘County court’ includes board of county commissioners.

26 “(4) **‘Husband and wife,’ ‘husband or wife,’ ‘husband’ or ‘wife’ mean**
27 **spouses or a spouse in a marriage.**

28 “[4] (5) ‘May not’ and ‘shall not’ are equivalent expressions of an abso-
29 lute prohibition.

30 “[5] (6) ‘Person’ includes individuals, corporations, associations, firms,

1 partnerships, limited liability companies and joint stock companies.

2 “[6] (7) ‘Sexual orientation’ means an individual’s actual or perceived
3 heterosexuality, homosexuality, bisexuality or gender identity, regardless of
4 whether the individual’s gender identity, appearance, expression or behavior
5 differs from that traditionally associated with the individual’s sex at birth.

6 “[7] (8) ‘State Treasury’ includes those financial assets the lawful cus-
7 tody of which are vested in the State Treasurer and the office of the State
8 Treasurer relating to the custody of those financial assets.

9 “[8] (9) ‘To’ means ‘to and including’ when used in a reference to a se-
10 ries of statute sections, subsections or paragraphs.

11 “[9] (10) ‘United States’ includes territories, outlying possessions and
12 the District of Columbia.

13 “[10] (11) ‘Violate’ includes failure to comply.

14 **“SECTION 34.** ORS 215.705 is amended to read:

15 “215.705. (1) A governing body of a county or its designate may allow the
16 establishment of a single-family dwelling on a lot or parcel located within
17 a farm or forest zone as set forth in this section and ORS 215.710, 215.720,
18 215.740 and 215.750 after notifying the county assessor that the governing
19 body intends to allow the dwelling. A dwelling under this section may be
20 allowed if:

21 “(a) The lot or parcel on which the dwelling will be sited was lawfully
22 created and was acquired by the present owner:

23 “(A) Prior to January 1, 1985; or

24 “(B) By devise or by intestate succession from a person who acquired the
25 lot or parcel prior to January 1, 1985.

26 “(b) The tract on which the dwelling will be sited does not include a
27 dwelling.

28 “(c) The proposed dwelling is not prohibited by, and will comply with, the
29 requirements of the acknowledged comprehensive plan and land use regu-
30 lations and other provisions of law.

1 “(d) The lot or parcel on which the dwelling will be sited, if zoned for
2 farm use, is not on that high-value farmland described in ORS 215.710 except
3 as provided in subsections (2) and (3) of this section.

4 “(e) The lot or parcel on which the dwelling will be sited, if zoned for
5 forest use, is described in ORS 215.720, 215.740 or 215.750.

6 “(f) When the lot or parcel on which the dwelling will be sited lies within
7 an area designated in an acknowledged comprehensive plan as habitat of big
8 game, the siting of the dwelling is consistent with the limitations on density
9 upon which the acknowledged comprehensive plan and land use regulations
10 intended to protect the habitat are based.

11 “(g) When the lot or parcel on which the dwelling will be sited is part
12 of a tract, the remaining portions of the tract are consolidated into a single
13 lot or parcel when the dwelling is allowed.

14 “(2)(a) Notwithstanding the requirements of subsection (1)(d) of this sec-
15 tion, a single-family dwelling not in conjunction with farm use may be sited
16 on high-value farmland if:

17 “(A) It meets the other requirements of ORS 215.705 to 215.750;

18 “(B) The lot or parcel is protected as high-value farmland as described
19 under ORS 215.710 (1); and

20 “(C) A hearings officer of a county determines that:

21 “(i) The lot or parcel cannot practicably be managed for farm use, by it-
22 self or in conjunction with other land, due to extraordinary circumstances
23 inherent in the land or its physical setting that do not apply generally to
24 other land in the vicinity.

25 “(ii) The dwelling will comply with the provisions of ORS 215.296 (1).

26 “(iii) The dwelling will not materially alter the stability of the overall
27 land use pattern in the area.

28 “(b) A local government shall provide notice of all applications for
29 dwellings allowed under this subsection to the State Department of Agricul-
30 ture. Notice shall be provided in accordance with the governing body’s land

1 use regulations but shall be mailed at least 20 calendar days prior to the
2 public hearing before the hearings officer under paragraph (a) of this sub-
3 section.

4 “(3) Notwithstanding the requirements of subsection (1)(d) of this section,
5 a single-family dwelling not in conjunction with farm use may be sited on
6 high-value farmland if:

7 “(a) It meets the other requirements of ORS 215.705 to 215.750.

8 “(b) The tract on which the dwelling will be sited is:

9 “(A) Identified in ORS 215.710 (3) or (4);

10 “(B) Not protected under ORS 215.710 (1); and

11 “(C) Twenty-one acres or less in size.

12 “(c)(A) The tract is bordered on at least 67 percent of its perimeter by
13 tracts that are smaller than 21 acres, and at least two such tracts had
14 dwellings on them on January 1, 1993;

15 “(B) The tract is not a flaglot and is bordered on at least 25 percent of
16 its perimeter by tracts that are smaller than 21 acres, and at least four
17 dwellings existed on January 1, 1993, within one-quarter mile of the center
18 of the subject tract. Up to two of the four dwellings may lie within the urban
19 growth boundary, but only if the subject tract abuts an urban growth
20 boundary; or

21 “(C) The tract is a flaglot and is bordered on at least 25 percent of its
22 perimeter by tracts that are smaller than 21 acres, and at least four
23 dwellings existed on January 1, 1993, within one-quarter mile of the center
24 of the subject tract and on the same side of the public road that provides
25 access to the subject tract. The governing body of a county must interpret
26 the center of the subject tract as the geographic center of the flaglot if the
27 applicant makes a written request for that interpretation and that interpre-
28 tation does not cause the center to be located outside the flaglot. Up to two
29 of the four dwellings may lie within the urban growth boundary, but only
30 if the subject tract abuts an urban growth boundary. As used in this sub-

1 paragraph:

2 “(i) ‘Flaglot’ means a tract containing a narrow strip or panhandle of land
3 providing access from the public road to the rest of the tract.

4 “(ii) ‘Geographic center of the flaglot’ means the point of intersection of
5 two perpendicular lines of which the first line crosses the midpoint of the
6 longest side of a flaglot, at a 90-degree angle to that side, and the second line
7 crosses the midpoint of the longest adjacent side of the flaglot.

8 “(4) If land is in a zone that allows both farm and forest uses, is ac-
9 knowledged to be in compliance with goals relating to both agriculture and
10 forestry and may qualify as an exclusive farm use zone under this chapter,
11 the county may apply the standards for siting a dwelling under either sub-
12 section (1)(d) of this section or ORS 215.720, 215.740 and 215.750 as appro-
13 priate for the predominant use of the tract on January 1, 1993.

14 “(5) A county may, by application of criteria adopted by ordinance, deny
15 approval of a dwelling allowed under this section in any area where the
16 county determines that approval of the dwelling would:

17 “(a) Exceed the facilities and service capabilities of the area;

18 “(b) Materially alter the stability of the overall land use pattern in the
19 area; or

20 “(c) Create conditions or circumstances that the county determines would
21 be contrary to the purposes or intent of its acknowledged comprehensive plan
22 or land use regulations.

23 “(6) For purposes of subsection (1)(a) of this section, ‘owner’ includes the
24 [*wife, husband*] **spouses in a marriage**, son, daughter, [*mother, father,*]
25 **parent**, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-
26 law, [*mother-in-law, father-in-law,*] **parent-in-law**, aunt, uncle, niece,
27 nephew, stepparent, stepchild, grandparent or grandchild of the owner or a
28 business entity owned by any one or combination of these family members.

29 “(7) When a local government approves an application for a single-family
30 dwelling under the provisions of this section, the application may be trans-

1 ferred by a person who has qualified under this section to any other person
2 after the effective date of the land use decision.

3 **“SECTION 35.** ORS 314.105 is amended to read:

4 “314.105. For purposes of ORS 314.105 to 314.135:

5 “(1) ‘Determination’ means:

6 “(a) A decision by the Oregon Tax Court that has become final;

7 “(b) A closing agreement made under ORS 305.150;

8 “(c) A final disposition by the Department of Revenue of a claim for re-
9 fund. For purposes of this paragraph, a claim for refund shall be deemed
10 finally disposed of by the department as to items with respect to which the
11 claim was allowed, on the date of allowance of refund or credit or on the
12 date of mailing notice of disallowance (by reason of offsetting items) of the
13 claim for refund, and as to items with respect to which the claim was disal-
14 lowed, in whole or in part, or as to items applied by the department in re-
15 duction of the refund or credit, on expiration of the time for instituting suit
16 with respect thereto (unless suit is instituted before the expiration of such
17 time); or

18 “(d) Under regulations prescribed by the department, an agreement for
19 purposes of ORS 314.105 to 314.135 signed by the department and by any
20 person, relating to the liability of such person (or the person for whom the
21 person acts) in respect of a tax for any taxable period.

22 “(2) ‘Related taxpayer’ means a taxpayer who, with the taxpayer with re-
23 spect to whom a determination is made, stood, in the taxable year with re-
24 spect to which the erroneous inclusion, exclusion, omission, allowance, or
25 disallowance was made, in one of the following relationships:

26 “(a) [*Husband and wife*] **Spouses in a marriage;**

27 “(b) Grantor and fiduciary;

28 “(c) Grantor and beneficiary;

29 “(d) Fiduciary and beneficiary, legatee, or heir;

30 “(e) Decedent and decedent’s estate;

1 “(f) Partner;

2 “(g) Member of an affiliated group of corporations as defined in section
3 1504 of the Internal Revenue Code; or

4 “(h) Shareholder of an S corporation, as defined in section 1361 of the
5 Internal Revenue Code.

6 “(3) ‘Taxpayer’ means any person or entity subject to tax under an ap-
7 plicable revenue law.

8 **“SECTION 36.** ORS 315.465 is amended to read:

9 “315.465. (1) As used in this section and ORS 315.469:

10 “(a) ‘Alternative fuel vehicle’ means a motor vehicle that can operate on
11 a fuel blend.

12 “(b) ‘Biodiesel’ has the meaning given that term in ORS 646.905.

13 “(c) ‘Biomass’ has the meaning given that term in ORS 315.141.

14 “(d) ‘Bone dry ton’ means matter that is dried to less than one percent
15 moisture content and that weighs 2,000 pounds.

16 “(e) ‘Fuel blend’ means diesel fuel of blends equal to or exceeding 99
17 percent biodiesel or gasoline of a blend equal to or exceeding 85 percent
18 methanol or ethanol.

19 “(2)(a) A resident individual shall be allowed a credit against the taxes
20 otherwise due under ORS chapter 316 for costs paid or incurred to purchase
21 fuel blends for use in an alternative fuel vehicle.

22 “(b) A resident individual shall be allowed a credit against the taxes
23 otherwise due under ORS chapter 316 for costs paid or incurred to purchase
24 forest, rangeland or agriculture waste or residue densified and dried prepared
25 solid biofuel that contains 100 percent biomass.

26 “(3) The amount of the credit shall be calculated as follows:

27 “(a) Determine the quantity of fuel blend or solid biofuel purchased by
28 the taxpayer during the tax year;

29 “(b) Categorize the fuel blend or solid biofuel as prescribed in rules
30 adopted under ORS 469B.400; and

1 “(c) Multiply the quantity of fuel blend or solid biofuel in a particular
2 category by the appropriate credit rate for that category, expressed in dollars
3 and cents.

4 “(4) Notwithstanding subsection (3) of this section:

5 “(a) The credit allowed under this section for diesel blended fuel is equal
6 to \$0.50 per gallon and in any one tax year may not exceed \$200 per Oregon
7 registered motor vehicle that is owned or leased by the taxpayer under a
8 lease of greater than 30 days’ duration and that is capable of using a fuel
9 blend.

10 “(b) The credit allowed for gasoline blended fuel is equal to \$0.50 per
11 gallon and in any one tax year may not exceed \$200 per Oregon registered
12 motor vehicle that is owned or leased by the taxpayer under a lease of
13 greater than 30 days’ duration and that is capable of using a fuel blend.

14 “(c) The credit allowed for forest, rangeland or agriculture waste or res-
15 idue densified and dried prepared solid biofuel is equal to \$10 per bone dry
16 ton of solid biofuel and in any one tax year may not exceed \$200 per tax-
17 payer.

18 “(d) The credit allowed in any one tax year may not exceed the tax li-
19 ability of the taxpayer and may not be carried forward to a subsequent tax
20 year.

21 “(5) For each tax year for which a credit is claimed under this section,
22 the taxpayer shall maintain records sufficient to determine the taxpayer’s
23 purchase of qualifying fuel blends. A taxpayer shall maintain the records
24 required under this subsection for at least five years.

25 “(6) A nonresident shall be allowed the credit under this section in the
26 proportion provided in ORS 316.117.

27 “(7) If a change in the taxable year of a taxpayer occurs as described in
28 ORS 314.085, or if the Department of Revenue terminates the taxpayer’s
29 taxable year under ORS 314.440, the credit allowed by this section shall be
30 prorated or computed in a manner consistent with ORS 314.085.

1 “(8) If a change in the status of a taxpayer from resident to nonresident
2 or from nonresident to resident occurs, the credit allowed by this section
3 shall be determined in a manner consistent with ORS 316.117.

4 “(9) [*A husband and wife*] **Spouses in a marriage** who file separate re-
5 turns for a taxable year may each claim a share of the tax credit that would
6 have been allowed on a joint return in proportion to the contribution of
7 each.

8 **“SECTION 37.** ORS 315.469 is amended to read:

9 “315.469. (1) A resident individual shall be allowed a tax credit against
10 the taxes otherwise due under ORS chapter 316 for costs paid or incurred to
11 purchase fuel for primary home space heating that is at least 20 percent
12 biodiesel. The credit allowed under this section is the lesser of five cents per
13 gallon or \$200.

14 “(2) The credit allowed in any one tax year may not exceed the tax li-
15 ability of the taxpayer and may not be carried forward to a subsequent tax
16 year.

17 “(3) For each tax year for which a credit is claimed under this section,
18 the taxpayer shall maintain records sufficient to determine the taxpayer’s
19 purchase of qualifying fuel for primary home space heating. A taxpayer shall
20 maintain the records required under this subsection for at least five years.

21 “(4) A nonresident shall be allowed the credit under this section in the
22 proportion provided in ORS 316.117.

23 “(5) If a change in the taxable year of a taxpayer occurs as described in
24 ORS 314.085, or if the Department of Revenue terminates the taxpayer’s
25 taxable year under ORS 314.440, the credit allowed by this section shall be
26 prorated or computed in a manner consistent with ORS 314.085.

27 “(6) If a change in the status of a taxpayer from resident to nonresident
28 or from nonresident to resident occurs, the credit allowed by this section
29 shall be determined in a manner consistent with ORS 316.117.

30 “(7) [*A husband and wife*] **Spouses in a marriage** who file separate re-

1 turns for a taxable year may each claim a share of the tax credit that would
2 have been allowed on a joint return in proportion to the contribution of
3 each.

4 **“SECTION 38.** ORS 315.610 is amended to read:

5 “315.610. (1) A taxpayer shall be allowed a credit against the taxes oth-
6 erwise due under ORS chapter 316 (or, if the taxpayer is a corporation, under
7 ORS chapter 317 or 318) for premium costs actually paid or incurred during
8 the tax year for a long term care insurance policy:

9 “(a) For long term care coverage of the taxpayer or a dependent or parent
10 of the taxpayer; or

11 “(b) That is offered by the taxpayer to employees of the taxpayer that are
12 employed in this state.

13 “(2) The amount of the credit allowed under this section shall equal the
14 lesser of:

15 “(a) Fifteen percent of the total amount of long term care insurance pre-
16 miums paid or incurred by the taxpayer during the tax year; or

17 “(b)(A) If the long term care insurance coverage is for the taxpayer and
18 the dependents or parents of the taxpayer, \$500; or

19 “(B) If the long term care insurance coverage is for Oregon-based em-
20 ployees of the taxpayer and their dependents or parents, \$500 multiplied by
21 the number of employees covered.

22 “(3) A credit may not be allowed under this section if the policy was first
23 issued prior to January 1, 2000.

24 “(4) The credit allowed under this section may not exceed the tax liability
25 of the taxpayer and may not be carried forward to another tax year.

26 “(5) In the case of a credit allowed under this section for purposes of ORS
27 chapter 316:

28 “(a) A nonresident shall be allowed the credit under this section in the
29 proportion provided in ORS 316.117.

30 “(b) If a change in the status of a taxpayer from resident to nonresident

1 or from nonresident to resident occurs, the credit allowed by this section
2 shall be determined in a manner consistent with ORS 316.117.

3 “(c) [*A husband and wife*] **Spouses in a marriage** who file separate re-
4 turns for a taxable year may each claim a share of the tax credit that would
5 have been allowed on a joint return in proportion to the contribution of
6 each.

7 “(d) If a change in the taxable year of a taxpayer occurs as described in
8 ORS 314.085, or if the Department of Revenue terminates the taxpayer’s
9 taxable year under ORS 314.440, the credit allowed under this section shall
10 be prorated or computed in a manner consistent with ORS 314.085.

11 “(6) As used in this section, ‘long term care insurance’ has the meaning
12 given that term in ORS 743.652.

13 **“SECTION 39.** ORS 315.675 is amended to read:

14 “315.675. (1) As used in this section, ‘cultural organization’ means an en-
15 tity that is:

16 “(a) Exempt from federal income tax under section 501(c)(3) of the Inter-
17 nal Revenue Code; and

18 “(b) Organized primarily for the purpose of producing, promoting or pre-
19 senting the arts, heritage, programs and humanities to the public or organ-
20 ized primarily for identifying, documenting, interpreting and preserving
21 cultural resources.

22 “(2) A taxpayer shall be allowed a credit against the taxes otherwise due
23 under ORS chapter 316 for amounts contributed during the tax year to the
24 Trust for Cultural Development Account established under ORS 359.405.

25 “(3) A taxpayer that is a corporation shall be allowed a credit against the
26 taxes otherwise due under ORS chapter 317 or 318 for amounts contributed
27 during the tax year to the Trust for Cultural Development Account estab-
28 lished under ORS 359.405.

29 “(4) The credit is allowable under this section only to the extent the
30 taxpayer has contributed an equal amount to an Oregon cultural organiza-

1 tion during the tax year.

2 “(5) The amount of the credit shall equal 100 percent of the amount con-
3 tributed to the Trust for Cultural Development Account, but may not exceed
4 the lesser of the tax liability of the:

5 “(a) Taxpayer under ORS chapter 316 for the tax year or \$500.

6 “(b) Taxpayer that is a corporation under ORS chapter 317 or 318 for the
7 tax year or \$2,500.

8 “(6) The credit allowed under this section may not be carried over to
9 another tax year.

10 “(7) The credit allowed under this section is in addition to any charitable
11 contribution deduction allowable to the taxpayer.

12 “(8) In the case of a credit allowed under this section for purposes of ORS
13 chapter 316:

14 “(a) A nonresident shall be allowed the credit under this section in the
15 proportion provided in ORS 316.117.

16 “(b) If a change in the status of a taxpayer from resident to nonresident
17 or from nonresident to resident occurs, the credit allowed under this section
18 shall be determined in a manner consistent with ORS 316.117.

19 “(c) [*A husband and wife*] **Spouses in a marriage** who file separate re-
20 turns for a taxable year may each claim a share of the tax credit that would
21 have been allowed on a joint return in proportion to the contribution of
22 each.

23 “(d) If a change in the taxable year of a taxpayer occurs as described in
24 ORS 314.085, or if the Department of Revenue terminates the taxpayer’s
25 taxable year under ORS 314.440, the credit allowed under this section shall
26 be prorated or computed in a manner consistent with ORS 314.085.

27 **“SECTION 40.** ORS 316.042 is amended to read:

28 “316.042. In the case of a joint return of [*husband and wife*] **spouses in**
29 **a marriage**, pursuant to ORS 316.122 or pursuant to ORS 316.367, the tax
30 imposed by ORS 316.037 shall be twice the tax which would be imposed if the

1 taxable income were cut in half. For purposes of this section, a return of
2 a head of household or a surviving spouse, as defined in subsections (a) and
3 (b) of section 2 of the Internal Revenue Code, shall be treated as a joint re-
4 turn of [*husband and wife*] **spouses in a marriage.**

5 **“SECTION 41.** ORS 316.116 is amended to read:

6 “316.116. (1)(a) A resident individual shall be allowed a credit against the
7 taxes otherwise due under this chapter for costs paid or incurred for con-
8 struction or installation of each of one or more alternative energy devices
9 in a dwelling.

10 “(b) A resident individual shall be allowed a credit against the taxes
11 otherwise due under this chapter for costs paid or incurred to modify or
12 purchase an alternative fuel vehicle or related equipment.

13 “(c) A credit against the taxes otherwise due under this chapter is not
14 allowed for an alternative energy device that does not meet or exceed all
15 applicable federal, state and local requirements for energy efficiency, in-
16 cluding equipment codes, the state building code, specialty codes and any
17 other standards.

18 “(2)(a) In the case of a category one alternative energy device that is not
19 an alternative fuel device, the credit shall be based upon the first year en-
20 ergy yield of the alternative energy device that qualifies under ORS 469B.100
21 to 469B.118. The amount of the credit shall be the same whether for collec-
22 tive or noncollective investment.

23 “(b) The credit allowed under this section for each category one alterna-
24 tive energy device for each dwelling may not exceed the lesser of \$1,500 or
25 the first year energy yield in kilowatt hours per year multiplied by 60 cents
26 per dwelling utilizing the alternative energy device used for space heating,
27 cooling, electrical energy or domestic water heating for tax years beginning
28 on or after January 1, 1998.

29 “(c) For each category one alternative energy device used for swimming
30 pool, spa or hot tub heating, the credit allowed under this section shall be

1 based upon 50 percent of the cost of the device or the first year's energy
2 yield in kilowatt hours per year multiplied by 15 cents, whichever is lower,
3 up to \$1,500 for tax years beginning on or after January 1, 1998.

4 “(d) For each alternative fuel device, the credit allowed under this section
5 is 25 percent of the cost of the alternative fuel device but the total credit
6 shall not exceed \$750 if the device is placed in service on or after January
7 1, 1998.

8 “(e)(A) For each category two alternative energy device that is a solar
9 electric system or fuel cell system, the credit allowed under this section may
10 not exceed the lesser of \$3 per watt of installed output or \$6,000. The State
11 Department of Energy may by rule provide for a lesser amount of incentive
12 as market conditions warrant, taking into consideration factors including the
13 availability of bulk purchasing of alternative energy devices.

14 “(B) For each category two alternative energy device that is a wind
15 electric system, the credit allowed under this section may not exceed the
16 lesser of \$6,000 or the first year energy yield in kilowatt hours per year
17 multiplied by \$2.

18 “(C) Notwithstanding subparagraph (A) or (B) of this paragraph, the total
19 amount of the credits allowed in any one tax year may not exceed the tax
20 liability of the taxpayer or \$1,500 for each alternative energy device, which-
21 ever is less. Unused credit amounts may be carried forward as provided in
22 subsection (6) of this section, but may not be carried forward to a tax year
23 that is more than five tax years following the first tax year for which any
24 credit was allowed with respect to the category two alternative energy device
25 that is the basis for the credit.

26 “(D) Notwithstanding subparagraph (A) or (B) of this paragraph, the total
27 amount of the credit for each device allowed under this paragraph may not
28 exceed 50 percent of the total installed cost of the category two alternative
29 energy device.

30 “(3) To qualify for a credit under this section, all of the following are

1 required:

2 “(a) The alternative energy device must be purchased, constructed, in-
3 stalled and operated in accordance with ORS 469B.100 to 469B.118 and a
4 certificate issued thereunder.

5 “(b) The taxpayer who is allowed the credit must be the owner or contract
6 purchaser of the dwelling or dwellings served by the alternative energy de-
7 vice or the tenant of the owner or of the contract purchaser and must:

8 “(A) Use the dwelling or dwellings served by the alternative energy device
9 as a principal or secondary residence; or

10 “(B) Rent or lease, under a residential rental agreement, the dwelling or
11 dwellings to a tenant who uses the dwelling or dwellings as a principal or
12 secondary residence.

13 “(c) In the case of an alternative fuel device, unless the verification form
14 and certificate are transferred as authorized under ORS 469B.106 (9), the
15 taxpayer who is allowed the credit must be the contractor who constructs
16 the dwelling that incorporates the alternative fuel device into the dwelling
17 or installs the fueling station in the dwelling.

18 “(d) The credit must be claimed for the tax year in which the alternative
19 energy device was purchased if the device is operational by April 1 of the
20 next following tax year.

21 “(e) If the alternative fuel vehicle is a gasoline-electric hybrid vehicle not
22 designed for electric plug-in charging, it must be purchased before January
23 1, 2010.

24 “(4) The credit provided by this section does not affect the computation
25 of basis under this chapter.

26 “(5) The total credits allowed under this section in any one year may not
27 exceed the tax liability of the taxpayer.

28 “(6) Any tax credit otherwise allowable under this section that is not used
29 by the taxpayer in a particular year may be carried forward and offset
30 against the taxpayer’s tax liability for the next succeeding tax year. Any

1 credit remaining unused in the next succeeding tax year may be carried
2 forward and used in the second succeeding tax year, and likewise any credit
3 not used in that second succeeding tax year may be carried forward and used
4 in the third succeeding tax year, and any credit not used in that third suc-
5 ceeding tax year may be carried forward and used in the fourth succeeding
6 tax year, and any credit not used in that fourth succeeding tax year may be
7 carried forward and used in the fifth succeeding tax year, but may not be
8 carried forward for any tax year thereafter.

9 “(7) A nonresident shall be allowed the credit under this section in the
10 proportion provided in ORS 316.117.

11 “(8) If a change in the taxable year of a taxpayer occurs as described in
12 ORS 314.085, or if the Department of Revenue terminates the taxpayer’s
13 taxable year under ORS 314.440, the credit allowed by this section shall be
14 prorated or computed in a manner consistent with ORS 314.085.

15 “(9) If a change in the status of a taxpayer from resident to nonresident
16 or from nonresident to resident occurs, the credit allowed by this section
17 shall be determined in a manner consistent with ORS 316.117.

18 “(10) [*A husband and wife*] **Spouses in a marriage** who file separate
19 returns for a taxable year may each claim a share of the tax credit that
20 would have been allowed on a joint return in proportion to the contribution
21 of each. However, a [*husband or wife*] **spouse** living in a separate principal
22 residence may claim the tax credit in the same amount as permitted a single
23 person.

24 “(11) As used in this section, unless the context requires otherwise:

25 “(a) ‘Collective investment’ means an investment by two or more taxpay-
26 ers for the acquisition, construction and installation of an alternative energy
27 device for one or more dwellings.

28 “(b) ‘Noncollective investment’ means an investment by an individual
29 taxpayer for the acquisition, construction and installation of an alternative
30 energy device for one or more dwellings.

1 “(c) ‘Taxpayer’ includes a transferee of a verification form under ORS
2 469B.106 (9).

3 “(12) Notwithstanding any provision of subsection (1) or (2) of this sec-
4 tion, the sum of the credit allowed under subsection (1) of this section plus
5 any similar credit allowed for federal income tax purposes may not exceed
6 the cost for the acquisition, construction and installation of the alternative
7 energy device.

8 “**SECTION 42.** ORS 316.122 is amended to read:

9 “316.122. (1) If the federal taxable income of [*husband and wife*] **spouses**
10 **in a marriage** (one being a part-year resident and the other a nonresident)
11 is determined on a joint federal return, their taxable income in this state
12 shall be separately determined, unless they elect to file a joint return, in
13 which case their tax on their joint income shall be determined in this state
14 pursuant to ORS 316.037 (3).

15 “(2) If the federal taxable income of [*husband and wife*] **spouses in a**
16 **marriage** (one being a full-year resident and the other a part-year resident)
17 is determined on a joint federal return, their taxable income in this state
18 shall be separately determined, unless they elect to file a joint return, in
19 which case their tax on their joint income shall be determined in this state
20 pursuant to ORS 316.037 (2).

21 “(3) If the federal taxable income of [*husband and wife*] **spouses in a**
22 **marriage** (one being a full-year resident and the other a nonresident) is de-
23 termined on a joint federal return, their taxable income in the state shall
24 be separately determined, unless they elect to file a joint return, in which
25 case their tax on their joint income shall be determined in this state pursu-
26 ant to ORS 316.037 (3).

27 “(4) For purposes of computing the tax of [*a husband and wife*] **spouses**
28 under this section, if one of the spouses is a full-year resident individual,
29 then as used in ORS 316.037 (2) or (3), that spouse’s taxable income derived
30 from Oregon sources is that spouse’s entire federal taxable income, defined

1 in the laws of the United States, with the modifications, additions and sub-
2 tractions provided in this chapter and other laws of this state applicable to
3 personal income taxation.

4 “(5) The provisions of ORS 316.367 with respect to joint returns apply if
5 both [*husband and wife*] **spouses** are part-year residents or full-year non-
6 residents.

7 **“SECTION 43.** ORS 316.367 is amended to read:

8 “316.367. [*A husband and wife*] **Spouses in a marriage** may make a joint
9 return with respect to the tax imposed by this chapter even though one of
10 the spouses has neither gross income nor deductions, except that:

11 “(1) No joint return shall be made under this chapter if the spouses are
12 not permitted to file a joint federal income tax return;

13 “(2) If the federal income tax liability of either spouse is determined on
14 a separate federal return, their income tax liabilities under this chapter shall
15 be determined on separate returns;

16 “(3) If the federal income tax liabilities of [*husband and wife*] **the**
17 **spouses** are determined on a joint federal return, they shall file a joint re-
18 turn under this chapter and their tax liabilities shall be joint and several;
19 and

20 “(4) If neither spouse is required to file a federal income tax return and
21 either or both are required to file an income tax return under this chapter,
22 they may elect to file separate or joint returns and pursuant to such election
23 their liabilities shall be separate or joint and several.

24 **“SECTION 44.** ORS 316.567 is amended to read:

25 “316.567. (1) Except as provided in subsection (2) of this section, [*a hus-*
26 *band and wife*] **spouses in a marriage** may make a single declaration
27 jointly under ORS 316.557 to 316.589. The liability of the [*husband and*
28 *wife*] **spouses** making such a declaration shall be joint and several.

29 “(2) [*A husband and wife*] **Spouses** may not make a joint declaration:

30 “(a) If either [*the husband or the wife*] **spouse** is a nonresident alien;

1 “(b) If [*they*] **the spouses** are separated under a judgment of divorce or
2 of separate maintenance; or

3 “(c) If [*they*] **the spouses** have different taxable years.

4 “(3) If [*a husband and wife*] **spouses** make a joint declaration but not a
5 joint return for the taxable year, the [*husband and wife*] **spouses** may, in
6 such manner as they may agree, and after giving notice of the agreement to
7 the Department of Revenue:

8 “(a) Treat the estimated tax for the year as the estimated tax of either
9 [*the husband or of the wife*] **spouse**; or

10 “(b) Divide the estimated tax between them.

11 “(4) If [*a husband and wife*] **the spouses** fail to agree, or fail to notify
12 the department of the manner in which they agree, to the treatment of esti-
13 mated tax for a taxable year for which they make a joint declaration but not
14 a joint return, the payments shall be allocated between them according to
15 rules adopted by the department. Notwithstanding ORS 314.835, 314.840 or
16 314.991, the department may disclose to either [*the husband or the wife*]
17 **spouse** the information upon which an allocation of estimated tax was made
18 under this section.

19 “**SECTION 45.** ORS 316.690 is amended to read:

20 “316.690. (1) Subject to subsection (2) of this section, in addition to other
21 modifications provided in this chapter, and if a taxpayer elects to take for-
22 eign income taxes imposed for the taxable year by a foreign country as a
23 credit on the federal income tax return or does not itemize personal de-
24 ductions on the federal income tax return, there shall be subtracted from
25 federal taxable income in the computation of state taxable income the
26 amount of foreign income taxes imposed for the taxable year by a foreign
27 country.

28 “(2) The deduction for foreign country income taxes provided by this
29 section shall be limited as follows:

30 “(a) Except as provided in paragraph (b) of this subsection, the sum of

1 foreign country income taxes deducted in computing state taxable income
2 and the modification for federal income taxes authorized by ORS 316.680
3 (1)(b) as limited by ORS 316.695 (3) shall not exceed \$3,000.

4 “(b) In the case of [*a husband and wife*] **spouses in a marriage** filing
5 separate tax returns, the sum described in paragraph (a) of this subsection
6 shall be limited to \$1,500.

7 **“SECTION 46.** ORS 316.695 is amended to read:

8 “316.695. (1) In addition to the modifications to federal taxable income
9 contained in this chapter, there shall be added to or subtracted from federal
10 taxable income:

11 “(a) If, in computing federal income tax for a tax year, the taxpayer de-
12 ducted itemized deductions, as defined in section 63(d) of the Internal Reve-
13 nue Code, the taxpayer shall add the amount of itemized deductions deducted
14 (the itemized deductions less an amount, if any, by which the itemized de-
15 ductions are reduced under section 68 of the Internal Revenue Code).

16 “(b) If, in computing federal income tax for a tax year, the taxpayer de-
17 ducted the standard deduction, as defined in section 63(c) of the Internal
18 Revenue Code, the taxpayer shall add the amount of the standard deduction
19 deducted.

20 “(c)(A) From federal taxable income there shall be subtracted the larger
21 of (i) the taxpayer’s itemized deductions or (ii) a standard deduction. Except
22 as provided in subsection (8) of this section, for purposes of this subpara-
23 graph, ‘standard deduction’ means the sum of the basic standard deduction
24 and the additional standard deduction.

25 “(B) For purposes of subparagraph (A) of this paragraph, the basic
26 standard deduction is:

27 “(i) \$3,280, in the case of joint return filers or a surviving spouse;

28 “(ii) \$1,640, in the case of an individual who is not a married individual
29 and is not a surviving spouse;

30 “(iii) \$1,640, in the case of a married individual who files a separate re-

1 turn; or

2 “(iv) \$2,640, in the case of a head of household.

3 “(C)(i) For purposes of subparagraph (A) of this paragraph for tax years
4 beginning on or after January 1, 2003, the Department of Revenue shall an-
5 nually recompute the basic standard deduction for each category of return
6 filer listed under subparagraph (B) of this paragraph. The basic standard
7 deduction shall be computed by dividing the monthly averaged U.S. City
8 Average Consumer Price Index for the 12 consecutive months ending August
9 31 of the prior calendar year by the average U.S. City Average Consumer
10 Price Index for the second quarter of 2002, then multiplying that quotient
11 by the amount listed under subparagraph (B) of this paragraph for each
12 category of return filer.

13 “(ii) If any change in the maximum household income determined under
14 this subparagraph is not a multiple of \$5, the increase shall be rounded to
15 the next lower multiple of \$5.

16 “(iii) As used in this subparagraph, ‘U.S. City Average Consumer Price
17 Index’ means the U.S. City Average Consumer Price Index for All Urban
18 Consumers (All Items) as published by the Bureau of Labor Statistics of the
19 United States Department of Labor.

20 “(D) For purposes of subparagraph (A) of this paragraph, the additional
21 standard deduction is the sum of each additional amount to which the tax-
22 payer is entitled under subsection (7) of this section.

23 “(E) As used in subparagraph (B) of this paragraph, ‘surviving spouse’ and
24 ‘head of household’ have the [*meaning*] **meanings** given those terms in sec-
25 tion 2 of the Internal Revenue Code.

26 “(F) In the case of the following, the standard deduction referred to in
27 subparagraph (A) of this paragraph shall be zero:

28 “(i) [*A husband or wife*] **One of the spouses in a marriage** filing a
29 separate return where the other spouse has claimed itemized deductions un-
30 der subparagraph (A) of this paragraph;

- 1 “(ii) A nonresident alien individual;
- 2 “(iii) An individual making a return for a period of less than 12 months
- 3 on account of a change in the individual’s annual accounting period;
- 4 “(iv) An estate or trust;
- 5 “(v) A common trust fund; or
- 6 “(vi) A partnership.

7 “(d) For the purposes of paragraph (c)(A) of this subsection, the taxpayer’s

8 itemized deductions are the amount of the taxpayer’s itemized deductions as

9 defined in section 63(d) of the Internal Revenue Code (reduced, if applicable,

10 as described under section 68 of the Internal Revenue Code) minus the de-

11 duction for Oregon income tax (reduced, if applicable, by the proportion that

12 the reduction in federal itemized deductions resulting from section 68 of the

13 Internal Revenue Code bears to the amount of federal itemized deductions

14 as defined for purposes of section 68 of the Internal Revenue Code).

15 “(2)(a) There shall be subtracted from federal taxable income any portion

16 of the distribution of a pension, profit-sharing, stock bonus or other retire-

17 ment plan, representing that portion of contributions which were taxed by

18 the State of Oregon but not taxed by the federal government under laws in

19 effect for tax years beginning prior to January 1, 1969, or for any subsequent

20 year in which the amount that was contributed to the plan under the Inter-

21 nal Revenue Code was greater than the amount allowed under this chapter.

22 “(b) Interest or other earnings on any excess contributions of a pension,

23 profit-sharing, stock bonus or other retirement plan not permitted to be de-

24 ducted under paragraph (a) of this subsection may not be added to federal

25 taxable income in the year earned by the plan and may not be subtracted

26 from federal taxable income in the year received by the taxpayer.

27 “(3)(a) Except as provided in subsection (4) of this section, there shall be

28 added to federal taxable income the amount of any federal income taxes in

29 excess of the amount provided in paragraphs (b) to (d) of this subsection,

30 accrued by the taxpayer during the tax year as described in ORS 316.685, less

1 the amount of any refund of federal taxes previously accrued for which a tax
2 benefit was received.

3 “(b) The limits applicable to this subsection are:

4 “(A) \$5,500, if the federal adjusted gross income of the taxpayer for the
5 tax year is less than \$125,000, or, if reported on a joint return, less than
6 \$250,000.

7 “(B) \$4,400, if the federal adjusted gross income of the taxpayer for the
8 tax year is \$125,000 or more and less than \$130,000, or, if reported on a joint
9 return, \$250,000 or more and less than \$260,000.

10 “(C) \$3,300, if the federal adjusted gross income of the taxpayer for the
11 tax year is \$130,000 or more and less than \$135,000, or, if reported on a joint
12 return, \$260,000 or more and less than \$270,000.

13 “(D) \$2,200, if the federal adjusted gross income of the taxpayer for the
14 tax year is \$135,000 or more and less than \$140,000, or, if reported on a joint
15 return, \$270,000 or more and less than \$280,000.

16 “(E) \$1,100, if the federal adjusted gross income of the taxpayer for the
17 tax year is \$140,000 or more and less than \$145,000, or, if reported on a joint
18 return, \$280,000 or more and less than \$290,000.

19 “(c) If the federal adjusted gross income of the taxpayer is \$145,000 or
20 more for the tax year, or, if reported on a joint return, \$290,000 or more, the
21 limit is zero and the taxpayer is not allowed a subtraction for federal income
22 taxes under ORS 316.680 (1) for the tax year.

23 “(d) In the case of [*a husband and wife*] **spouses in a marriage** filing
24 separate tax returns, the amount added shall be in the amount of any federal
25 income taxes in excess of 50 percent of the amount provided for individual
26 taxpayers under paragraphs (a) to (c) of this subsection, less the amount of
27 any refund of federal taxes previously accrued for which a tax benefit was
28 received.

29 “(e) For purposes of this subsection, the limits applicable to a joint return
30 shall apply to a head of household or a surviving spouse, as defined in sec-

1 tion 2(a) and (b) of the Internal Revenue Code.

2 “(f)(A) For a calendar year beginning on or after January 1, 2008, the
3 Department of Revenue shall make a cost-of-living adjustment to the federal
4 income tax threshold amounts described in paragraphs (b) and (d) of this
5 subsection.

6 “(B) The cost-of-living adjustment for a calendar year is the percentage
7 by which the monthly averaged U.S. City Average Consumer Price Index for
8 the 12 consecutive months ending August 31 of the prior calendar year ex-
9 ceeds the monthly averaged index for the period beginning September 1, 2005,
10 and ending August 31, 2006.

11 “(C) As used in this paragraph, ‘U.S. City Average Consumer Price
12 Index’ means the U.S. City Average Consumer Price Index for All Urban
13 Consumers (All Items) as published by the Bureau of Labor Statistics of the
14 United States Department of Labor.

15 “(D) If any adjustment determined under subparagraph (B) of this para-
16 graph is not a multiple of \$50, the adjustment shall be rounded to the next
17 lower multiple of \$50.

18 “(E) The adjustment shall apply to all tax years beginning in the calendar
19 year for which the adjustment is made.

20 “(4)(a) In addition to the adjustments required by ORS 316.130, a full-year
21 nonresident individual shall add to taxable income a proportion of any ac-
22 crued federal income taxes as computed under ORS 316.685 in excess of the
23 amount provided in subsection (3) of this section in the proportion provided
24 in ORS 316.117.

25 “(b) In the case of [*a husband and wife*] **spouses in a marriage** filing
26 separate tax returns, the amount added under this subsection shall be com-
27 puted in a manner consistent with the computation of the amount to be
28 added in the case of [*a husband and wife*] **spouses in a marriage** filing
29 separate returns under subsection (3) of this section. The method of compu-
30 tation shall be determined by the Department of Revenue by rule.

1 “(5) Subsections (3)(d) and (4)(b) of this section shall not apply to married
2 individuals living apart as defined in section 7703(b) of the Internal Revenue
3 Code.

4 “(6)(a) For tax years beginning on or after January 1, 1981, and prior to
5 January 1, 1983, income or loss taken into account in determining federal
6 taxable income by a shareholder of an S corporation pursuant to sections
7 1373 to 1375 of the Internal Revenue Code shall be adjusted for purposes of
8 determining Oregon taxable income, to the extent that as income or loss of
9 the S corporation, they were required to be adjusted under the provisions
10 of ORS chapter 317.

11 “(b) For tax years beginning on or after January 1, 1983, items of income,
12 loss or deduction taken into account in determining federal taxable income
13 by a shareholder of an S corporation pursuant to sections 1366 to 1368 of the
14 Internal Revenue Code shall be adjusted for purposes of determining Oregon
15 taxable income, to the extent that as items of income, loss or deduction of
16 the shareholder the items are required to be adjusted under the provisions
17 of this chapter.

18 “(c) The tax years referred to in paragraphs (a) and (b) of this subsection
19 are those of the S corporation.

20 “(d) As used in paragraph (a) of this subsection, an S corporation refers
21 to an electing small business corporation.

22 “(7)(a) The taxpayer shall be entitled to an additional amount, as referred
23 to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

24 “(A) For the taxpayer if the taxpayer has attained age 65 before the close
25 of the taxpayer’s tax year; and

26 “(B) For the spouse of the taxpayer if the spouse has attained age 65 be-
27 fore the close of the tax year and an additional exemption is allowable to
28 the taxpayer for such spouse for federal income tax purposes under section
29 151(b) of the Internal Revenue Code.

30 “(b) The taxpayer shall be entitled to an additional amount, as referred

1 to in subsection (1)(c)(A) and (D) of this section, of \$1,000:

2 “(A) For the taxpayer if the taxpayer is blind at the close of the tax year;
3 and

4 “(B) For the spouse of the taxpayer if the spouse is blind as of the close
5 of the tax year and an additional exemption is allowable to the taxpayer for
6 such spouse for federal income tax purposes under section 151(b) of the
7 Internal Revenue Code. For purposes of this subparagraph, if the spouse dies
8 during the tax year, the determination of whether such spouse is blind shall
9 be made immediately prior to death.

10 “(c) In the case of an individual who is not married and is not a surviving
11 spouse, paragraphs (a) and (b) of this subsection shall be applied by substi-
12 tuting ‘\$1,200’ for ‘\$1,000.’

13 “(d) For purposes of this subsection, an individual is blind only if the
14 individual’s central visual acuity does not exceed 20/200 in the better eye
15 with correcting lenses, or if the individual’s visual acuity is greater than
16 20/200 but is accompanied by a limitation in the fields of vision such that
17 the widest diameter of the visual field subtends an angle no greater than 20
18 degrees.

19 “(8) In the case of an individual with respect to whom a deduction under
20 section 151 of the Internal Revenue Code is allowable for federal income tax
21 purposes to another taxpayer for a tax year beginning in the calendar year
22 in which the individual’s tax year begins, the basic standard deduction (re-
23 ferred to in subsection (1)(c)(B) of this section) applicable to such individual
24 for such individual’s tax year shall equal the lesser of:

25 “(a) The amount allowed to the individual under section 63(c)(5) of the
26 Internal Revenue Code for federal income tax purposes for the tax year for
27 which the deduction is being claimed; or

28 “(b) The amount determined under subsection (1)(c)(B) of this section.

29 **“SECTION 47. ORS 408.730 is amended to read:**

30 “408.730. (1) The commander or executive head of any veterans organiza-

1 tion organized under a charter issued by an Act of Congress, proposing to
2 undertake the relief provided for in ORS 408.720, shall file with the county
3 clerk of the county in which the veterans organization may be situated, the
4 names of its commander or executive head and its relief committee, if any.
5 The commander or executive head shall also file a notice in writing that
6 such veterans organization will undertake the relief of the indigent persons
7 provided for in ORS 408.720, and by the fourth Monday in January of each
8 year shall file with the county clerk a similar notice, and render and file a
9 detailed statement of the relief furnished during the preceding year, includ-
10 ing the amount thereof, the names of the persons to whom furnished and on
11 whose recommendation, and such other facts and suggestions as are deemed
12 material.

13 “(2) The commander or executive head shall also file a bond, with one or
14 more sureties, to be approved by the county court or judge thereof, or board
15 of county commissioners, in a sum not less than \$100 and not more than
16 \$1,000. The amount of the bond shall be fixed by the court, judge or board.
17 It shall run to the county, and be conditioned by stating that if said
18 commander or executive head faithfully applies all funds that come into the
19 hands of the commander or executive head for that purpose, to the relief of
20 the indigent persons named in ORS 408.720, it is void. If the bond is enforced
21 there shall be recovered from the principal and sureties thereon the amount
22 which is found to be misappropriated, which shall be paid into the county
23 treasury.

24 “(3) If the county operates on a fiscal year ending on June 30, the notice,
25 statement and bond required by this section may be filed on the fourth
26 Monday in July of each year rather than on the fourth Monday of January.
27 If the statement required by subsection (1) of this section is filed at the time
28 provided in this subsection, this statement shall cover the preceding fiscal
29 year.

30 “(4) On the approval and filing of the bond, and on the recommendation

1 of the relief committee of any such veterans organization, orders shall be
2 drawn in favor of the commander or executive head in the same manner as
3 orders are now drawn for the relief of the poor. The orders shall designate
4 thereon the names of the persons for whom the relief is intended and, in like
5 manner, a sum not exceeding \$100 may be drawn to pay the funeral expenses
6 of an indigent veteran, and the indigent [*wives, widows and the*] **spouses and**
7 **surviving spouses in marriages and** minor children of such veterans.

8 **“SECTION 48.** ORS 418.210 is amended to read:

9 “418.210. ORS 418.205 to 418.325 shall not apply to:

10 “(1) Homes established and maintained by fraternal organizations wherein
11 only members, their [*wives, widows*] **spouses and surviving spouses in**
12 **marriages** and children are admitted as residents;

13 “(2) Any family foster home that is subject to ORS 418.625 to 418.645;

14 “(3) Any child care facility that is subject to ORS 329A.030 and 329A.250
15 to 329A.450;

16 “(4) Any individual, or home of an individual, providing respite services,
17 as defined in ORS 418.205, for parents pursuant to a properly executed power
18 of attorney under ORS 109.056;

19 “(5) Any private agency or organization facilitating the provision of re-
20 spite services, as defined in ORS 418.205, for parents pursuant to a properly
21 executed power of attorney under ORS 109.056; or

22 “(6) A private residential boarding school as defined in ORS 418.205 (5)(b).

23 **“SECTION 49.** ORS 419B.040 is amended to read:

24 “419B.040. (1) In the case of abuse of a child, the privileges created in
25 ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the
26 physician-patient privilege, the privileges extended to nurses, to staff mem-
27 bers of schools and to regulated social workers and the [*husband-wife*]
28 **spousal** privilege, shall not be a ground for excluding evidence regarding a
29 child’s abuse, or the cause thereof, in any judicial proceeding resulting from
30 a report made pursuant to ORS 419B.010 to 419B.050.

1 “(2) In any judicial proceedings resulting from a report made pursuant to
2 ORS 419B.010 to 419B.050, either spouse shall be a competent and
3 compellable witness against the other.

4 “**SECTION 50.** ORS 432.088, as amended by section 51, chapter 45, Oregon
5 Laws 2014, is amended to read:

6 “432.088. (1) A report of live birth for each live birth that occurs in this
7 state shall be submitted to the Center for Health Statistics, or as otherwise
8 directed by the State Registrar of the Center for Health Statistics, within
9 five calendar days after the live birth and shall be registered if the report
10 has been completed and filed in accordance with this section.

11 “(2) The physician, institution or other person providing prenatal care
12 related to a live birth shall provide prenatal care information as required
13 by the state registrar by rule to the institution where the delivery is ex-
14 pected to occur not less than 30 calendar days prior to the expected delivery
15 date.

16 “(3) When a live birth occurs in an institution or en route to an institu-
17 tion, the person in charge of the institution or an authorized designee shall
18 obtain all data required by the state registrar, prepare the report of live
19 birth, certify either by signature or electronic signature that the child was
20 born alive at the place and time and on the date stated and submit the report
21 as described in subsection (1) of this section.

22 “(4) In obtaining the information required for the report of live birth, an
23 institution shall use information gathering procedures provided or approved
24 by the state registrar. Institutions may establish procedures to transfer,
25 electronically or otherwise, information required for the report from other
26 sources, provided that the procedures are reviewed and approved by the state
27 registrar prior to the implementation of the procedures to ensure that the
28 information being transferred is the same as the information being requested.

29 “(5)(a) When a live birth occurs outside an institution, the information
30 for the report of live birth shall be submitted within five calendar days of

1 the live birth in a format adopted by the state registrar by rule in the fol-
2 lowing order of priority:

3 “(A) By an institution where the mother and child are examined, if ex-
4 amination occurs within 24 hours of the live birth;

5 “(B) By a physician in attendance at the live birth;

6 “(C) By a direct entry midwife licensed under ORS 687.405 to 687.495 in
7 attendance at the live birth;

8 “(D) By a person not described in subparagraphs (A) to (C) of this para-
9 graph and not required by law to be licensed to practice midwifery who is
10 registered with the Center for Health Statistics to submit reports of live
11 birth and who was in attendance at the live birth; or

12 “(E) By the father, the mother or, in the absence of the father and the
13 inability of the mother, the person in charge of the premises where the live
14 birth occurred.

15 “(b) The state registrar may establish by rule the manner of submitting
16 the information for the report of live birth by a person described in para-
17 graph (a)(D) of this subsection or a physician or licensed direct entry
18 midwife who attends the birth of his or her own child, grandchild, niece or
19 nephew.

20 “(6) When a report of live birth is submitted that does not include the
21 minimum acceptable documentation required by this section or any rules
22 adopted under this section, or when the state registrar has cause to question
23 the validity or adequacy of the documentation, the state registrar, in the
24 state registrar’s discretion, may refuse to register the live birth and shall
25 enter an order to that effect stating the reasons for the action. The state
26 registrar shall advise the applicant of the right to appeal under ORS 183.484.

27 “(7) When a live birth occurs on a moving conveyance:

28 “(a) Within the United States and the child is first removed from the
29 conveyance in this state, the live birth shall be registered in this state and
30 the place where it is first removed shall be considered the place of live birth.

1 “(b) While in international waters or air space or in a foreign country
2 or its air space and the child is first removed from the conveyance in this
3 state, the birth shall be registered in this state but the report of live birth
4 shall show the actual place of birth insofar as can be determined.

5 “(8) For purposes of making a report of live birth and live birth regis-
6 tration, the woman who gives live birth is the live birth mother. If a court
7 of competent jurisdiction determines that a woman other than the live birth
8 mother is the biological or genetic mother, the court may order the state
9 registrar to amend the record of live birth. The record of live birth shall then
10 be placed under seal.

11 “(9)(a) If the mother is married at the time of either conception or live
12 birth, or within 300 days before the live birth, the name of the [*husband*]
13 **mother’s spouse in a marriage** shall be entered on the report of live birth
14 as the [*father*] **parent** of **the** child unless parentage has been determined
15 otherwise by a court of competent jurisdiction.

16 “(b) If the mother is not married at the time of either conception or live
17 birth, or within 300 days before the live birth, the name of the [*father*] **par-**
18 **ent** shall not be entered on the report of live birth unless a voluntary ac-
19 knowledgment of paternity form or other form prescribed under ORS 432.098
20 is:

21 “(A) Signed by the mother and the person to be named as the [*father*]
22 **parent**; and

23 “(B) Filed with the state registrar.

24 “(c) If the mother is a partner in a domestic partnership registered by the
25 state at the time of either conception or live birth, or between conception
26 and live birth, the name of the mother’s partner shall be entered on the re-
27 port of live birth as a parent of the child, unless parentage has been deter-
28 mined otherwise by a court of competent jurisdiction.

29 “(d) In any case in which paternity of a child is determined by a court
30 of competent jurisdiction, or by an administrative determination of paternity,

1 the Center for Health Statistics shall enter the name of the *[father]* **parent**
2 on the new record of live birth. The Center for Health Statistics shall change
3 the surname of the child if so ordered by the court or, in a proceeding under
4 ORS 416.430, by the administrator as defined in ORS 25.010.

5 “(e) If a biological parent is not named on the report of live birth, infor-
6 mation other than the identity of the biological parent may be entered on
7 the report.

8 “(10) A parent of the child, or other informant as determined by the state
9 registrar by rule, shall verify the accuracy of the personal data to be entered
10 on a report of live birth in time to permit submission of the report within
11 the five calendar days of the live birth.

12 “(11) A report of live birth submitted after five calendar days, but within
13 one year after the date of live birth, shall be registered in the manner pre-
14 scribed in this section. The record shall not be marked ‘Delayed.’

15 “(12) The state registrar may require additional evidence in support of the
16 facts of live birth.

17 **“SECTION 51.** ORS 496.146 is amended to read:

18 “496.146. In addition to any other duties or powers provided by law, the
19 State Fish and Wildlife Commission:

20 “(1) May accept, from whatever source, appropriations, gifts or grants of
21 money or other property for the purposes of wildlife management, and use
22 such money or property for wildlife management purposes.

23 “(2) May sell or exchange property owned by the state and used for
24 wildlife management purposes when the commission determines that such
25 sale or exchange would be advantageous to the state wildlife policy and
26 management programs.

27 “(3) May acquire, introduce, propagate and stock wildlife species in such
28 manner as the commission determines will carry out the state wildlife policy
29 and management programs.

30 “(4) May by rule authorize the issuance of such licenses, tags and permits

1 for angling, taking, hunting and trapping and may prescribe such tagging
2 and sealing procedures as the commission determines necessary to carry out
3 the provisions of the wildlife laws or to obtain information for use in wildlife
4 management. Permits issued pursuant to this subsection may include special
5 hunting permits for a person and immediate family members of the person
6 to hunt on land owned by that person in areas where permits for deer or elk
7 are limited by quota. As used in this subsection, ‘immediate family
8 members’ means [*husband, wife, father, mother,*] **spouses in a marriage,**
9 **parents,** brothers, brothers-in-law, sisters, sisters-in-law, sons, daughters,
10 stepchildren and grandchildren. A landowner who is qualified to receive
11 landowner preference tags from the commission may request two additional
12 tags for providing public access and two additional tags for wildlife habitat
13 programs. This request shall be made to the Access and Habitat Board with
14 supporting evidence that the access is significant and the habitat programs
15 benefit wildlife. The board may recommend that the commission grant the
16 request. When a landowner is qualified under landowner preference rules
17 adopted by the commission and receives a controlled hunt tag for that unit
18 or a landowner preference tag for the landowner’s property and does not use
19 the tag during the regular season, the landowner may use that tag to take
20 an antlerless animal, when approved by the State Department of Fish and
21 Wildlife, to alleviate damage that is presently occurring to the landowner’s
22 property.

23 “(5) May by rule prescribe procedures requiring the holder of any license,
24 tag or permit issued pursuant to the wildlife laws to keep records and make
25 reports concerning the time, manner and place of taking wildlife, the quan-
26 tities taken and such other information as the commission determines nec-
27 essary for proper enforcement of the wildlife laws or to obtain information
28 for use in wildlife management.

29 “(6) May establish special hunting and angling areas or seasons in which
30 only persons less than 18 years of age or over 65 years of age are permitted

1 to hunt or angle.

2 “(7) May acquire by purchase, lease, agreement or gift real property and
3 all appropriate interests therein for wildlife management and wildlife-
4 oriented recreation purposes.

5 “(8) May acquire by purchase, lease, agreement, gift, exercise of eminent
6 domain or otherwise real property and all interests therein and establish,
7 operate and maintain thereon public hunting areas.

8 “(9) May establish and develop wildlife refuge and management areas and
9 prescribe rules governing the use of such areas and the use of wildlife refuge
10 and management areas established and developed pursuant to any other
11 provision of law.

12 “(10) May by rule prescribe fees for licenses, tags, permits and applica-
13 tions issued or required pursuant to the wildlife laws, and user charges for
14 angling, hunting or other recreational uses of lands owned or managed by
15 the commission, unless such fees or user charges are otherwise prescribed
16 by law. Except for licenses issued pursuant to subsection (14) of this section,
17 no fee or user charge prescribed by the commission pursuant to this sub-
18 section shall exceed \$100.

19 “(11) May enter into contracts with any person or governmental agency
20 for the development and encouragement of wildlife research and management
21 programs and projects.

22 “(12) May perform such acts as may be necessary for the establishment
23 and implementation of cooperative wildlife management programs with
24 agencies of the federal government.

25 “(13) May offer and pay rewards for the arrest and conviction of any
26 person who has violated any of the wildlife laws. No such reward shall ex-
27 ceed \$100 for any one arrest and conviction.

28 “(14) May by rule prescribe fees for falconry licenses issued pursuant to
29 the wildlife laws, unless such fees are otherwise prescribed by law. Fees
30 prescribed by the commission pursuant to this subsection shall be based on

1 actual or projected costs of administering falconry regulations and shall not
2 exceed \$250.

3 “(15) May establish special fishing and hunting seasons and bag limits
4 applicable only to persons with disabilities.

5 “(16) May adopt optimum populations for deer and elk consistent with
6 ORS 496.012. These population levels shall be reviewed at least once every
7 five years.

8 “(17) Shall establish a preference system so that individuals who are un-
9 successful in controlled hunt permit drawings for deer and elk hunting have
10 reasonable assurance of success in those drawings in subsequent years. In
11 establishing the preference system, the commission shall consider giving ad-
12 ditional preference points to persons who have been issued a resident pioneer
13 hunting license pursuant to ORS 497.102.

14 “(18) May sell advertising in State Department of Fish and Wildlife pub-
15 lications, including annual hunting and angling regulation publications.

16 “(19) May, notwithstanding the fees required by ORS 497.112, provide free
17 hunting tags to an organization that sponsors hunting trips for terminally
18 ill children.

19 “(20) Shall, after consultation with the State Department of Agriculture,
20 adopt rules prohibiting the use of the World Wide Web, other Internet pro-
21 tocols or broadcast or closed circuit media to remotely control a weapon for
22 the purpose of hunting any game bird, wildlife, game mammal or other
23 mammal. The rules may exempt the State Department of Fish and Wildlife
24 or agents of the department from the prohibition.

25 “(21) May adopt rules establishing a schedule of civil penalties, not to
26 exceed \$6,500 per violation, for violations of provisions of the wildlife laws
27 or rules adopted by the commission under the wildlife laws. Civil penalties
28 established under this subsection must be imposed in the manner provided
29 by ORS 183.745 and must be deposited in the State Wildlife Fund established
30 under ORS 496.300.

1 “(22) May by rule impose a surcharge not to exceed \$25 for the renewal
2 of a hunting license on any person who fails to comply with mandatory
3 hunting reporting requirements. Amounts collected as surcharges under this
4 subsection must be deposited in the State Wildlife Fund established under
5 ORS 496.300.

6 “(23) May by rule establish annual and daily Columbia Basin salmon,
7 steelhead and sturgeon recreational fishing endorsements with a fee not to
8 exceed \$9.75 per annual license and \$1 per day per daily license. An
9 endorsement is required to fish for salmon, steelhead or sturgeon in the
10 Columbia Basin and is in addition to and not in lieu of angling licenses and
11 tags required under the wildlife laws. Amounts collected as fees under this
12 subsection must be deposited in the Columbia River Fisheries Enhancement
13 Fund established under section 7, chapter 672, Oregon Laws 2013.

14 “(24) May by rule establish multiyear licenses and may prescribe fees for
15 such licenses. Fees prescribed by the commission for multiyear licenses may
16 provide for a discount from the annual license fees that would otherwise be
17 payable for the period of time covered by the multiyear license.

18 **“SECTION 52.** ORS 496.146, as amended by section 10, chapter 672,
19 Oregon Laws 2013, is amended to read:

20 “496.146. In addition to any other duties or powers provided by law, the
21 State Fish and Wildlife Commission:

22 “(1) May accept, from whatever source, appropriations, gifts or grants of
23 money or other property for the purposes of wildlife management, and use
24 such money or property for wildlife management purposes.

25 “(2) May sell or exchange property owned by the state and used for
26 wildlife management purposes when the commission determines that such
27 sale or exchange would be advantageous to the state wildlife policy and
28 management programs.

29 “(3) May acquire, introduce, propagate and stock wildlife species in such
30 manner as the commission determines will carry out the state wildlife policy

1 and management programs.

2 “(4) May by rule authorize the issuance of such licenses, tags and permits
3 for angling, taking, hunting and trapping and may prescribe such tagging
4 and sealing procedures as the commission determines necessary to carry out
5 the provisions of the wildlife laws or to obtain information for use in wildlife
6 management. Permits issued pursuant to this subsection may include special
7 hunting permits for a person and immediate family members of the person
8 to hunt on land owned by that person in areas where permits for deer or elk
9 are limited by quota. As used in this subsection, ‘immediate family
10 members’ means [*husband, wife, father, mother,*] **spouses in a marriage,**
11 **parents,** brothers, brothers-in-law, sisters, sisters-in-law, sons, daughters,
12 stepchildren and grandchildren. A landowner who is qualified to receive
13 landowner preference tags from the commission may request two additional
14 tags for providing public access and two additional tags for wildlife habitat
15 programs. This request shall be made to the Access and Habitat Board with
16 supporting evidence that the access is significant and the habitat programs
17 benefit wildlife. The board may recommend that the commission grant the
18 request. When a landowner is qualified under landowner preference rules
19 adopted by the commission and receives a controlled hunt tag for that unit
20 or a landowner preference tag for the landowner’s property and does not use
21 the tag during the regular season, the landowner may use that tag to take
22 an antlerless animal, when approved by the State Department of Fish and
23 Wildlife, to alleviate damage that is presently occurring to the landowner’s
24 property.

25 “(5) May by rule prescribe procedures requiring the holder of any license,
26 tag or permit issued pursuant to the wildlife laws to keep records and make
27 reports concerning the time, manner and place of taking wildlife, the quan-
28 tities taken and such other information as the commission determines nec-
29 essary for proper enforcement of the wildlife laws or to obtain information
30 for use in wildlife management.

1 “(6) May establish special hunting and angling areas or seasons in which
2 only persons less than 18 years of age or over 65 years of age are permitted
3 to hunt or angle.

4 “(7) May acquire by purchase, lease, agreement or gift real property and
5 all appropriate interests therein for wildlife management and wildlife-
6 oriented recreation purposes.

7 “(8) May acquire by purchase, lease, agreement, gift, exercise of eminent
8 domain or otherwise real property and all interests therein and establish,
9 operate and maintain thereon public hunting areas.

10 “(9) May establish and develop wildlife refuge and management areas and
11 prescribe rules governing the use of such areas and the use of wildlife refuge
12 and management areas established and developed pursuant to any other
13 provision of law.

14 “(10) May by rule prescribe fees for licenses, tags, permits and applica-
15 tions issued or required pursuant to the wildlife laws, and user charges for
16 angling, hunting or other recreational uses of lands owned or managed by
17 the commission, unless such fees or user charges are otherwise prescribed
18 by law. Except for licenses issued pursuant to subsection (14) of this section,
19 no fee or user charge prescribed by the commission pursuant to this sub-
20 section shall exceed \$100.

21 “(11) May enter into contracts with any person or governmental agency
22 for the development and encouragement of wildlife research and management
23 programs and projects.

24 “(12) May perform such acts as may be necessary for the establishment
25 and implementation of cooperative wildlife management programs with
26 agencies of the federal government.

27 “(13) May offer and pay rewards for the arrest and conviction of any
28 person who has violated any of the wildlife laws. No such reward shall ex-
29 ceed \$100 for any one arrest and conviction.

30 “(14) May by rule prescribe fees for falconry licenses issued pursuant to

1 the wildlife laws, unless such fees are otherwise prescribed by law. Fees
2 prescribed by the commission pursuant to this subsection shall be based on
3 actual or projected costs of administering falconry regulations and shall not
4 exceed \$250.

5 “(15) May establish special fishing and hunting seasons and bag limits
6 applicable only to persons with disabilities.

7 “(16) May adopt optimum populations for deer and elk consistent with
8 ORS 496.012. These population levels shall be reviewed at least once every
9 five years.

10 “(17) Shall establish a preference system so that individuals who are un-
11 successful in controlled hunt permit drawings for deer and elk hunting have
12 reasonable assurance of success in those drawings in subsequent years. In
13 establishing the preference system, the commission shall consider giving ad-
14 ditional preference points to persons who have been issued a resident pioneer
15 hunting license pursuant to ORS 497.102.

16 “(18) May sell advertising in State Department of Fish and Wildlife pub-
17 lications, including annual hunting and angling regulation publications.

18 “(19) May, notwithstanding the fees required by ORS 497.112, provide free
19 hunting tags to an organization that sponsors hunting trips for terminally
20 ill children.

21 “(20) Shall, after consultation with the State Department of Agriculture,
22 adopt rules prohibiting the use of the World Wide Web, other Internet pro-
23 tocols or broadcast or closed circuit media to remotely control a weapon for
24 the purpose of hunting any game bird, wildlife, game mammal or other
25 mammal. The rules may exempt the State Department of Fish and Wildlife
26 or agents of the department from the prohibition.

27 “(21) May adopt rules establishing a schedule of civil penalties, not to
28 exceed \$6,500 per violation, for violations of provisions of the wildlife laws
29 or rules adopted by the commission under the wildlife laws. Civil penalties
30 established under this subsection must be imposed in the manner provided

1 by ORS 183.745 and must be deposited in the State Wildlife Fund established
2 under ORS 496.300.

3 “(22) May by rule impose a surcharge not to exceed \$25 for the renewal
4 of a hunting license on any person who fails to comply with mandatory
5 hunting reporting requirements. Amounts collected as surcharges under this
6 subsection must be deposited in the State Wildlife Fund established under
7 ORS 496.300.

8 “(23) May by rule establish multiyear licenses and may prescribe fees for
9 such licenses. Fees prescribed by the commission for multiyear licenses may
10 provide for a discount from the annual license fees that would otherwise be
11 payable for the period of time covered by the multiyear license.

12 **“SECTION 53.** ORS 656.005 is amended to read:

13 “656.005. (1) ‘Average weekly wage’ means the Oregon average weekly
14 wage in covered employment, as determined by the Employment Department,
15 for the last quarter of the calendar year preceding the fiscal year in which
16 the injury occurred.

17 “(2) ‘Beneficiary’ means an injured worker, and the [*husband, wife*]
18 **spouse in a marriage**, child or dependent of a worker, who is entitled to
19 receive payments under this chapter. ‘Beneficiary’ does not include:

20 “(a) A spouse of an injured worker living in a state of abandonment for
21 more than one year at the time of the injury or subsequently. A spouse who
22 has lived separate and apart from the worker for a period of two years and
23 who has not during that time received or attempted by process of law to
24 collect funds for support or maintenance is considered living in a state of
25 abandonment.

26 “(b) A person who intentionally causes the compensable injury to or death
27 of an injured worker.

28 “(3) ‘Board’ means the Workers’ Compensation Board.

29 “(4) ‘Carrier-insured employer’ means an employer who provides workers’
30 compensation coverage with the State Accident Insurance Fund Corporation

1 or an insurer authorized under ORS chapter 731 to transact workers' com-
2 pensation insurance in this state.

3 “(5) ‘Child’ includes a posthumous child, a child legally adopted prior to
4 the injury, a child toward whom the worker stands in loco parentis, a child
5 born out of wedlock and a stepchild, if such stepchild was, at the time of the
6 injury, a member of the worker’s family and substantially dependent upon
7 the worker for support. A dependent child who is an invalid is a child, for
8 purposes of benefits, regardless of age, so long as the child was an invalid
9 at the time of the accident and thereafter remains an invalid substantially
10 dependent on the worker for support. For purposes of this chapter, a de-
11 pendent child who is an invalid is considered to be a child under 18 years
12 of age.

13 “(6) ‘Claim’ means a written request for compensation from a subject
14 worker or someone on the worker’s behalf, or any compensable injury of
15 which a subject employer has notice or knowledge.

16 “(7)(a) A ‘compensable injury’ is an accidental injury, or accidental injury
17 to prosthetic appliances, arising out of and in the course of employment re-
18 quiring medical services or resulting in disability or death; an injury is ac-
19 cidental if the result is an accident, whether or not due to accidental means,
20 if it is established by medical evidence supported by objective findings, sub-
21 ject to the following limitations:

22 “(A) No injury or disease is compensable as a consequence of a
23 compensable injury unless the compensable injury is the major contributing
24 cause of the consequential condition.

25 “(B) If an otherwise compensable injury combines at any time with a
26 preexisting condition to cause or prolong disability or a need for treatment,
27 the combined condition is compensable only if, so long as and to the extent
28 that the otherwise compensable injury is the major contributing cause of the
29 disability of the combined condition or the major contributing cause of the
30 need for treatment of the combined condition.

1 “(b) ‘Compensable injury’ does not include:

2 “(A) Injury to any active participant in assaults or combats which are
3 not connected to the job assignment and which amount to a deviation from
4 customary duties;

5 “(B) Injury incurred while engaging in or performing, or as the result of
6 engaging in or performing, any recreational or social activities primarily for
7 the worker’s personal pleasure; or

8 “(C) Injury the major contributing cause of which is demonstrated to be
9 by a preponderance of the evidence the injured worker’s consumption of al-
10 coholic beverages or the unlawful consumption of any controlled substance,
11 unless the employer permitted, encouraged or had actual knowledge of such
12 consumption.

13 “(c) A ‘disabling compensable injury’ is an injury which entitles the
14 worker to compensation for disability or death. An injury is not disabling
15 if no temporary benefits are due and payable, unless there is a reasonable
16 expectation that permanent disability will result from the injury.

17 “(d) A ‘nondisabling compensable injury’ is any injury which requires
18 medical services only.

19 “(8) ‘Compensation’ includes all benefits, including medical services, pro-
20 vided for a compensable injury to a subject worker or the worker’s benefi-
21 ciaries by an insurer or self-insured employer pursuant to this chapter.

22 “(9) ‘Department’ means the Department of Consumer and Business Ser-
23 vices.

24 “(10) ‘Dependent’ means any of the following-named relatives of a worker
25 whose death results from any injury: [*Father, mother, grandfather, grand-*
26 *mother, stepfather, stepmother*] **Parent, grandparent, stepparent**, grandson,
27 granddaughter, brother, sister, half sister, half brother, niece or nephew, who
28 at the time of the accident, are dependent in whole or in part for their sup-
29 port upon the earnings of the worker. Unless otherwise provided by treaty,
30 aliens not residing within the United States at the time of the accident other

1 than [*father, mother, husband, wife*] **parent, spouse in a marriage** or chil-
2 dren are not included within the term ‘dependent.’

3 “(11) ‘Director’ means the Director of the Department of Consumer and
4 Business Services.

5 “(12)(a) ‘Doctor’ or ‘physician’ means a person duly licensed to practice
6 one or more of the healing arts in any country or in any state, territory or
7 possession of the United States within the limits of the license of the
8 licentiate.

9 “(b) Except as otherwise provided for workers subject to a managed care
10 contract, ‘attending physician’ means a doctor, physician or physician as-
11 sistant who is primarily responsible for the treatment of a worker’s
12 compensable injury and who is:

13 “(A) A medical doctor or doctor of osteopathy licensed under ORS 677.100
14 to 677.228 by the Oregon Medical Board, or a podiatric physician and sur-
15 geon licensed under ORS 677.805 to 677.840 by the Oregon Medical Board,
16 an oral and maxillofacial surgeon licensed by the Oregon Board of Dentistry
17 or a similarly licensed doctor in any country or in any state, territory or
18 possession of the United States; or

19 “(B) For a cumulative total of 60 days from the first visit on the initial
20 claim or for a cumulative total of 18 visits, whichever occurs first, to any
21 of the medical service providers listed in this subparagraph, a:

22 “(i) Doctor or physician licensed by the State Board of Chiropractic Ex-
23 aminers for the State of Oregon under ORS chapter 684 or a similarly li-
24 censed doctor or physician in any country or in any state, territory or
25 possession of the United States;

26 “(ii) Physician assistant licensed by the Oregon Medical Board in ac-
27 cordance with ORS 677.505 to 677.525 or a similarly licensed physician as-
28 sistant in any country or in any state, territory or possession of the United
29 States; or

30 “(iii) Doctor of naturopathy or naturopathic physician licensed by the

1 Oregon Board of Naturopathic Medicine under ORS chapter 685 or a simi-
2 larly licensed doctor or physician in any country or in any state, territory
3 or possession of the United States.

4 “(c) Except as otherwise provided for workers subject to a managed care
5 contract, ‘attending physician’ does not include a physician who provides
6 care in a hospital emergency room and refers the injured worker to a pri-
7 mary care physician for follow-up care and treatment.

8 “(d) ‘Consulting physician’ means a doctor or physician who examines a
9 worker or the worker’s medical record to advise the attending physician or
10 nurse practitioner authorized to provide compensable medical services under
11 ORS 656.245 regarding treatment of a worker’s compensable injury.

12 “(13)(a) ‘Employer’ means any person, including receiver, administrator,
13 executor or trustee, and the state, state agencies, counties, municipal corpo-
14 rations, school districts and other public corporations or political subdi-
15 visions, who contracts to pay a remuneration for and secures the right to
16 direct and control the services of any person.

17 “(b) Notwithstanding paragraph (a) of this subsection, for purposes of this
18 chapter, the client of a temporary service provider is not the employer of
19 temporary workers provided by the temporary service provider.

20 “(c) As used in paragraph (b) of this subsection, ‘temporary service pro-
21 vider’ has the meaning for that term provided in ORS 656.850.

22 “(14) ‘Insurer’ means the State Accident Insurance Fund Corporation or
23 an insurer authorized under ORS chapter 731 to transact workers’ compen-
24 sation insurance in this state or an assigned claims agent selected by the
25 director under ORS 656.054.

26 “(15) ‘Consumer and Business Services Fund’ means the fund created by
27 ORS 705.145.

28 “(16) ‘Invalid’ means one who is physically or mentally incapacitated from
29 earning a livelihood.

30 “(17) ‘Medically stationary’ means that no further material improvement

1 would reasonably be expected from medical treatment, or the passage of time.

2 “(18) ‘Noncomplying employer’ means a subject employer who has failed
3 to comply with ORS 656.017.

4 “(19) ‘Objective findings’ in support of medical evidence are verifiable
5 indications of injury or disease that may include, but are not limited to,
6 range of motion, atrophy, muscle strength and palpable muscle spasm. ‘Ob-
7 jective findings’ does not include physical findings or subjective responses
8 to physical examinations that are not reproducible, measurable or observa-
9 ble.

10 “(20) ‘Palliative care’ means medical service rendered to reduce or mod-
11 erate temporarily the intensity of an otherwise stable medical condition, but
12 does not include those medical services rendered to diagnose, heal or per-
13 manently alleviate or eliminate a medical condition.

14 “(21) ‘Party’ means a claimant for compensation, the employer of the in-
15 jured worker at the time of injury and the insurer, if any, of such employer.

16 “(22) ‘Payroll’ means a record of wages payable to workers for their ser-
17 vices and includes commissions, value of exchange labor and the reasonable
18 value of board, rent, housing, lodging or similar advantage received from the
19 employer. However, ‘payroll’ does not include overtime pay, vacation pay,
20 bonus pay, tips, amounts payable under profit-sharing agreements or bonus
21 payments to reward workers for safe working practices. Bonus pay is limited
22 to payments which are not anticipated under the contract of employment and
23 which are paid at the sole discretion of the employer. The exclusion from
24 payroll of bonus payments to reward workers for safe working practices is
25 only for the purpose of calculations based on payroll to determine premium
26 for workers’ compensation insurance, and does not affect any other calcu-
27 lation or determination based on payroll for the purposes of this chapter.

28 “(23) ‘Person’ includes partnership, joint venture, association, limited li-
29 ability company and corporation.

30 “(24)(a) ‘Preexisting condition’ means, for all industrial injury claims, any

1 injury, disease, congenital abnormality, personality disorder or similar con-
2 dition that contributes to disability or need for treatment, provided that:

3 “(A) Except for claims in which a preexisting condition is arthritis or an
4 arthritic condition, the worker has been diagnosed with such condition, or
5 has obtained medical services for the symptoms of the condition regardless
6 of diagnosis; and

7 “(B)(i) In claims for an initial injury or omitted condition, the diagnosis
8 or treatment precedes the initial injury;

9 “(ii) In claims for a new medical condition, the diagnosis or treatment
10 precedes the onset of the new medical condition; or

11 “(iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the
12 diagnosis or treatment precedes the onset of the worsened condition.

13 “(b) ‘Preexisting condition’ means, for all occupational disease claims, any
14 injury, disease, congenital abnormality, personality disorder or similar con-
15 dition that contributes to disability or need for treatment and that precedes
16 the onset of the claimed occupational disease, or precedes a claim for wors-
17 ening in such claims pursuant to ORS 656.273 or 656.278.

18 “(c) For the purposes of industrial injury claims, a condition does not
19 contribute to disability or need for treatment if the condition merely renders
20 the worker more susceptible to the injury.

21 “(25) ‘Self-insured employer’ means an employer or group of employers
22 certified under ORS 656.430 as meeting the qualifications set out by ORS
23 656.407.

24 “(26) ‘State Accident Insurance Fund Corporation’ and ‘corporation’ mean
25 the State Accident Insurance Fund Corporation created under ORS 656.752.

26 “(27) ‘Subject employer’ means an employer who is subject to this chapter
27 as provided by ORS 656.023.

28 “(28) ‘Subject worker’ means a worker who is subject to this chapter as
29 provided by ORS 656.027.

30 “(29) ‘Wages’ means the money rate at which the service rendered is

1 recompensed under the contract of hiring in force at the time of the accident,
2 including reasonable value of board, rent, housing, lodging or similar ad-
3 vantage received from the employer, and includes the amount of tips required
4 to be reported by the employer pursuant to section 6053 of the Internal
5 Revenue Code of 1954, as amended, and the regulations promulgated pursuant
6 thereto, or the amount of actual tips reported, whichever amount is greater.
7 The State Accident Insurance Fund Corporation may establish assumed
8 minimum and maximum wages, in conformity with recognized insurance
9 principles, at which any worker shall be carried upon the payroll of the
10 employer for the purpose of determining the premium of the employer.

11 “(30) ‘Worker’ means any person, including a minor whether lawfully or
12 unlawfully employed, who engages to furnish services for a remuneration,
13 subject to the direction and control of an employer and includes salaried,
14 elected and appointed officials of the state, state agencies, counties, cities,
15 school districts and other public corporations, but does not include any per-
16 son whose services are performed as an inmate or ward of a state institution
17 or as part of the eligibility requirements for a general or public assistance
18 grant. For the purpose of determining entitlement to temporary disability
19 benefits or permanent total disability benefits under this chapter, ‘worker’
20 does not include a person who has withdrawn from the workforce during the
21 period for which such benefits are sought.

22 “(31) ‘Independent contractor’ has the meaning for that term provided in
23 ORS 670.600.

24 “**SECTION 54.** ORS 656.204 is amended to read:

25 “656.204. If death results from the accidental injury, payments shall be
26 made as follows:

27 “(1)(a) The cost of final disposition of the body and funeral expenses, in-
28 cluding but not limited to transportation of the body, shall be paid, not to
29 exceed 20 times the average weekly wage in any case.

30 “(b) The insurer or self-insured employer shall pay bills submitted for

1 disposition and funeral expenses up to the benefit limit established in para-
2 graph (a) of this subsection. If any part of the benefit remains unpaid 60 days
3 after claim acceptance, the insurer or self-insured employer shall pay the
4 unpaid amount to the estate of the worker.

5 “(2)(a) If the worker is survived by a spouse, monthly benefits shall be
6 paid in an amount equal to 4.35 times $66\frac{2}{3}$ percent of the average weekly
7 wage to the surviving spouse until remarriage. The payment shall cease at
8 the end of the month in which the remarriage occurs.

9 “(b) If the worker is survived by a spouse, monthly benefits also shall be
10 paid in an amount equal to 4.35 times 10 percent of the average weekly wage
11 for each child of the deceased who is substantially dependent on the spouse
12 for support, until such child becomes 18 years of age.

13 “(c) If the worker is survived by a spouse, monthly benefits also shall be
14 paid in an amount equal to 4.35 times 25 percent of the average weekly wage
15 for each child of the deceased who is not substantially dependent on the
16 spouse for support, until such child becomes 18 years of age.

17 “(d) If a surviving spouse receiving monthly payments dies, leaving a
18 child who is entitled to compensation on account of the death of the worker,
19 a monthly benefit equal to 4.35 times 25 percent of the average weekly wage
20 shall be paid to each such child until the child becomes 18 years of age or
21 the child’s entitlement to benefits under subsection (8) of this section ceases,
22 whichever is later.

23 “(e) If a child who has become 18 years of age is a full-time high school
24 student, benefits shall be paid as provided in subsection (8) of this section.

25 “(f) In no event shall the total monthly benefits provided for in this sub-
26 section exceed 4.35 times $133\frac{1}{3}$ percent of the average weekly wage. If the
27 sum of the individual benefits exceeds this maximum, the benefit for each
28 child will be reduced proportionally.

29 “(3)(a) Upon remarriage, a surviving spouse shall be paid 36 times the
30 monthly benefit in a lump sum as final payment of the claim, but the

1 monthly payments for each child shall continue as before.

2 “(b) If, after the date of the subject worker’s death, the surviving spouse
3 cohabits with another person for an aggregate period of more than one year
4 and a child has resulted from the relationship, the surviving spouse shall be
5 paid 36 times the monthly benefit in a lump sum as final payment of the
6 claim, but the monthly payment for any child who is entitled to compen-
7 sation on account of the death of the worker shall continue as before.

8 “(4)(a) If the worker [*leaves neither wife nor husband,*] **does not leave a**
9 **spouse** but **leaves** a child under 18 years of age, a monthly benefit equal to
10 4.35 times 25 percent of the average weekly wage shall be paid to each such
11 child until the child becomes 18 years of age.

12 “(b) If a child who has become 18 years of age is a full-time high school
13 student, benefits shall be paid as provided in subsection (8) of this section.

14 “(c) In no event shall the total benefits provided for in this subsection
15 exceed 4.35 times 133-1/3 percent of the average weekly wage. If the sum of
16 the individual benefits exceeds this maximum, the benefit for each child will
17 be reduced proportionally.

18 “(5)(a) If the worker leaves a dependent other than a surviving spouse or
19 a child, a monthly payment shall be made to each dependent equal to 50
20 percent of the average monthly support actually received by such dependent
21 from the worker during the 12 months next preceding the occurrence of the
22 accidental injury. If a dependent is under the age of 18 years at the time of
23 the accidental injury, the payment to the dependent shall cease when such
24 dependent becomes 18 years of age. The payment to any dependent shall
25 cease under the same circumstances that would have terminated the de-
26 pendency had the injury not happened.

27 “(b) If the dependent who has become 18 years of age is a full-time high
28 school student, benefits shall be paid as provided in subsection (8) of this
29 section.

30 “(c) In no event shall the total benefits provided for in this subsection

1 exceed 4.35 times 10 percent of the average weekly wage. If the sum of the
2 individual benefits exceeds this maximum, the benefit for each dependent will
3 be reduced proportionally.

4 “(6) If a child is an invalid at the time the child otherwise becomes inel-
5 ible for benefits under this section, the payment to the child shall continue
6 while the child remains an invalid. If a person is entitled to payment because
7 the person is an invalid, payment shall terminate when the person ceases to
8 be an invalid.

9 “(7) If, at the time of the death of a worker, the child of the worker or
10 dependent has become 17 years of age but is under 18 years of age, the child
11 or dependent shall receive the payment provided in this section for a period
12 of one year from the date of the death. However, if after such period the
13 child is a full-time high school student, benefits shall be paid as provided in
14 subsection (8) of this section.

15 “(8)(a) Benefits under this section which are to be paid as provided in this
16 subsection shall be paid for the child or dependent until the child or de-
17 pendent becomes 19 years of age. If, however, the child or dependent is at-
18 tending higher education or begins attending higher education within six
19 months of the date the child or dependent leaves high school, benefits shall
20 be paid until the child or dependent becomes 23 years of age, ceases attend-
21 ing higher education or graduates from an approved institute or program,
22 whichever is earlier.

23 “(b) If a child or dependent who is eligible for benefits under this sub-
24 section has no surviving parent, the child or dependent shall receive 4.35
25 times 66-2/3 percent of the average weekly wage until the child or dependent
26 becomes 23 years of age, ceases attending higher education or graduates from
27 an approved institute or program, whichever is earlier.

28 “(c) As used in this subsection, ‘attending higher education’ means regu-
29 larly attending community college, college or university, or regularly at-
30 tending a course of vocational or technical training designed to prepare the

1 participant for gainful employment. A child or dependent enrolled in an ed-
2 ucational course load of less than one-half of that determined by the educa-
3 tional facility to constitute ‘full-time’ enrollment is not ‘attending higher
4 education.’

5 “(9) As used in this section, ‘average weekly wage’ has the meaning for
6 that term provided in ORS 656.211.

7 **“SECTION 55.** ORS 656.226 is amended to read:

8 “656.226. In case [*an unmarried man and an unmarried woman*] **two un-**
9 **married individuals** have cohabited in this state [*as husband and wife*] **as**
10 **spouses who are married to each other** for over one year prior to the date
11 of an accidental injury received by one or the other as a subject worker, and
12 children are living as a result of that relation, the surviving cohabitant and
13 the children are entitled to compensation under this chapter the same as if
14 the [*man and woman*] **individuals** had been legally married.

15 **“SECTION 56.** ORS 659A.309 is amended to read:

16 “659A.309. (1) Except as provided in subsection (2) of this section, it is
17 an unlawful employment practice for an employer solely because another
18 member of an individual’s family works or has worked for that employer to:

19 “(a) Refuse to hire or employ an individual;

20 “(b) Bar or discharge from employment an individual; or

21 “(c) Discriminate against an individual in compensation or in terms,
22 conditions or privileges of employment.

23 “(2) An employer is not required to hire or employ and is not prohibited
24 from barring or discharging an individual if such action:

25 “(a) Would constitute a violation of any law of this state or of the United
26 States, or any rule promulgated pursuant thereto, with which the employer
27 is required to comply;

28 “(b) Would constitute a violation of the conditions of eligibility for re-
29 ceipt by the employer of financial assistance from the government of this
30 state or the United States;

1 “(c) Would place the individual in a position of exercising supervisory,
2 appointment or grievance adjustment authority over a member of the
3 individual’s family or in a position of being subject to such authority which
4 a member of the individual’s family exercises; or

5 “(d) Would cause the employer to disregard a bona fide occupational re-
6 quirement reasonably necessary to the normal operation of the employer’s
7 business.

8 “(3) As used in this section, ‘member of an individual’s family’ means the
9 [*wife, husband*] **spouse in a marriage**, son, daughter, [*mother, father,*] **par-**
10 **ent**, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law,
11 [*mother-in-law, father-in-law,*] **parent-in-law**, aunt, uncle, niece, nephew,
12 stepparent or stepchild of the individual.

13 **“SECTION 57.** ORS 677.365 is amended to read:

14 “677.365. (1) Artificial insemination shall not be performed upon a woman
15 without her prior written request and consent and, if she is married, the
16 prior written request and consent of her [*husband*] **spouse**.

17 “(2) Whenever a child is born who may have been conceived by the use
18 of semen of a donor who is not the woman’s [*husband*] **spouse**, a copy of the
19 request and consent required under subsection (1) of this section shall be
20 filed by the physician who performs the artificial insemination with the State
21 Registrar of the Center for Health Statistics. The state registrar shall pre-
22 scribe the form of reporting.

23 “(3) The information filed under subsection (2) of this section shall be
24 sealed by the state registrar and may be opened only upon an order of a
25 court of competent jurisdiction.

26 “(4) If the physician who performs the artificial insemination does not
27 deliver the child conceived as a result of the use of semen of a donor who
28 is not the woman’s [*husband*] **spouse**, it is the duty of the woman and the
29 [*husband*] **spouse** who consented pursuant to subsection (1) of this section
30 to give that physician notice of the child’s birth. The physician who performs

1 the artificial insemination shall be relieved of all liability for noncompliance
2 with subsection (2) of this section if the noncompliance results from lack of
3 notice to the physician about the birth.

4 **“SECTION 58.** ORS 726.990 is amended to read:

5 “726.990. (1) Violation, or participation in the violation, of any provision
6 of this chapter by any pawnbroker or any agent, member, officer or employee
7 thereof, or any other person is a Class B misdemeanor.

8 “(2) Upon conviction under subsection (1) of this section, no license shall
9 be granted to such person, nor to the [*husband or wife*] **spouse in a mar-**
10 **riage** of such person, nor to any partnership, association or corporation of
11 which the person is an agent or member, until two years after the date of
12 the conviction.

13 **“SECTION 59.** ORS 742.504, as amended by section 76, chapter 45, Oregon
14 Laws 2014, is amended to read:

15 “742.504. Every policy required to provide the coverage specified in ORS
16 742.502 shall provide uninsured motorist coverage that in each instance is
17 no less favorable in any respect to the insured or the beneficiary than if the
18 following provisions were set forth in the policy. However, nothing contained
19 in this section requires the insurer to reproduce in the policy the particular
20 language of any of the following provisions:

21 “(1)(a) Notwithstanding ORS 30.260 to 30.300, the insurer will pay all
22 sums that the insured, the heirs or the legal representative of the insured is
23 legally entitled to recover as general and special damages from the owner
24 or operator of an uninsured vehicle because of bodily injury sustained by the
25 insured caused by accident and arising out of the ownership, maintenance
26 or use of the uninsured vehicle. Determination as to whether the insured, the
27 insured’s heirs or the insured’s legal representative is legally entitled to re-
28 cover such damages, and if so, the amount thereof, shall be made by agree-
29 ment between the insured and the insurer, or, in the event of disagreement,
30 may be determined by arbitration as provided in subsection (10) of this sec-

1 tion.

2 “(b) No judgment against any person or organization alleged to be legally
3 responsible for bodily injury, except for proceedings instituted against the
4 insurer as provided in this policy, shall be conclusive, as between the insured
5 and the insurer, on the issues of liability of the person or organization or
6 of the amount of damages to which the insured is legally entitled.

7 “(2) As used in this policy:

8 “(a) ‘Bodily injury’ means bodily injury, sickness or disease, including
9 death resulting therefrom.

10 “(b) ‘Hit-and-run vehicle’ means a vehicle that causes bodily injury to an
11 insured arising out of physical contact of the vehicle with the insured or
12 with a vehicle the insured is occupying at the time of the accident, provided:

13 “(A) The identity of either the operator or the owner of the hit-and-run
14 vehicle cannot be ascertained;

15 “(B) The insured or someone on behalf of the insured reported the acci-
16 dent within 72 hours to a police, peace or judicial officer, to the Department
17 of Transportation or to the equivalent department in the state where the
18 accident occurred, and filed with the insurer within 30 days thereafter a
19 statement under oath that the insured or the legal representative of the in-
20 sured has a cause or causes of action arising out of the accident for damages
21 against a person or persons whose identities are unascertainable, and setting
22 forth the facts in support thereof; and

23 “(C) At the insurer’s request, the insured or the legal representative of
24 the insured makes available for inspection the vehicle the insured was oc-
25 cupying at the time of the accident.

26 “(c) ‘Insured,’ when unqualified and when applied to uninsured motorist
27 coverage, means:

28 “(A) The named insured as stated in the policy and any person designated
29 as named insured in the schedule and, while residents of the same household,
30 the spouse of any named insured and relatives of either, provided that nei-

1 ther the relative nor the spouse is the owner of a vehicle not described in
2 the policy and that, if the named insured as stated in the policy is other than
3 an individual or [*husband and wife*] **spouses in a marriage** who are resi-
4 dents of the same household, the named insured shall be only a person so
5 designated in the schedule;

6 “(B) Any child residing in the household of the named insured if the in-
7 sured has performed the duties of a parent to the child by rearing the child
8 as the insured’s own although the child is not related to the insured by
9 blood, marriage or adoption; and

10 “(C) Any other person while occupying an insured vehicle, provided the
11 actual use thereof is with the permission of the named insured.

12 “(d) ‘Insured vehicle,’ except as provided in paragraph (e) of this pro-
13 vision, means:

14 “(A) The vehicle described in the policy or a newly acquired or substitute
15 vehicle, as each of those terms is defined in the public liability coverage of
16 the policy, insured under the public liability provisions of the policy; or

17 “(B) A nonowned vehicle operated by the named insured or spouse if a
18 resident of the same household, provided that the actual use thereof is with
19 the permission of the owner of the vehicle and the vehicle is not owned by
20 nor furnished for the regular or frequent use of the insured or any member
21 of the same household.

22 “(e) ‘Insured vehicle’ does not include a trailer of any type unless the
23 trailer is a described vehicle in the policy.

24 “(f) ‘Occupying’ means in or upon or entering into or alighting from.

25 “(g) ‘Phantom vehicle’ means a vehicle that causes bodily injury to an
26 insured arising out of a motor vehicle accident that is caused by a vehicle
27 that has no physical contact with the insured or the vehicle the insured is
28 occupying at the time of the accident, provided:

29 “(A) The identity of either the operator or the owner of the phantom ve-
30 hicle cannot be ascertained;

1 “(B) The facts of the accident can be corroborated by competent evidence
2 other than the testimony of the insured or any person having an uninsured
3 motorist claim resulting from the accident; and

4 “(C) The insured or someone on behalf of the insured reported the acci-
5 dent within 72 hours to a police, peace or judicial officer, to the Department
6 of Transportation or to the equivalent department in the state where the
7 accident occurred, and filed with the insurer within 30 days thereafter a
8 statement under oath that the insured or the legal representative of the in-
9 sured has a cause or causes of action arising out of the accident for damages
10 against a person or persons whose identities are unascertainable, and setting
11 forth the facts in support thereof.

12 “(h) ‘State’ includes the District of Columbia, a territory or possession
13 of the United States and a province of Canada.

14 “(i) ‘Stolen vehicle’ means an insured vehicle that causes bodily injury
15 to the insured arising out of a motor vehicle accident if:

16 “(A) The vehicle is operated without the consent of the insured;

17 “(B) The operator of the vehicle does not have collectible motor vehicle
18 bodily injury liability insurance;

19 “(C) The insured or someone on behalf of the insured reported the acci-
20 dent within 72 hours to a police, peace or judicial officer or to the equivalent
21 department in the state where the accident occurred; and

22 “(D) The insured or someone on behalf of the insured cooperates with the
23 appropriate law enforcement agency in the prosecution of the theft of the
24 vehicle.

25 “(j) ‘Sums that the insured, the heirs or the legal representative of the
26 insured is legally entitled to recover as general and special damages from the
27 owner or operator of an uninsured vehicle’ means the amount of damages
28 that:

29 “(A) A claimant could have recovered in a civil action from the owner
30 or operator at the time of the injury after determination of fault or com-

1 parative fault and resolution of any applicable defenses;

2 “(B) Are calculated without regard to the tort claims limitations of ORS
3 30.260 to 30.300; and

4 “(C) Are no larger than benefits payable under the terms of the policy
5 as provided in subsection (7) of this section.

6 “(k) ‘Uninsured vehicle,’ except as provided in paragraph (L) of this pro-
7 vision, means:

8 “(A) A vehicle with respect to the ownership, maintenance or use of
9 which there is no collectible motor vehicle bodily injury liability insurance,
10 in at least the amounts or limits prescribed for bodily injury or death under
11 ORS 806.070 applicable at the time of the accident with respect to any person
12 or organization legally responsible for the use of the vehicle, or with respect
13 to which there is collectible bodily injury liability insurance applicable at
14 the time of the accident but the insurance company writing the insurance
15 denies coverage or the company writing the insurance becomes voluntarily
16 or involuntarily declared bankrupt or for which a receiver is appointed or
17 becomes insolvent. It shall be a disputable presumption that a vehicle is
18 uninsured in the event the insured and the insurer, after reasonable efforts,
19 fail to discover within 90 days from the date of the accident, the existence
20 of a valid and collectible motor vehicle bodily injury liability insurance ap-
21 plicable at the time of the accident.

22 “(B) A hit-and-run vehicle.

23 “(C) A phantom vehicle.

24 “(D) A stolen vehicle.

25 “(E) A vehicle that is owned or operated by a self-insurer:

26 “(i) That is not in compliance with ORS 806.130 (1)(c); or

27 “(ii) That provides recovery to an insured in an amount that is less than
28 the limits for uninsured motorist coverage of the insured.

29 “(L) ‘Uninsured vehicle’ does not include:

30 “(A) An insured vehicle, unless the vehicle is a stolen vehicle;

1 “(B) Except as provided in paragraph (k)(E) of this subsection, a vehicle
2 that is owned or operated by a self-insurer within the meaning of any motor
3 vehicle financial responsibility law, motor carrier law or any similar law;

4 “(C) A vehicle that is owned by the United States of America, Canada, a
5 state, a political subdivision of any such government or an agency of any
6 such government;

7 “(D) A land motor vehicle or trailer, if operated on rails or crawler-treads
8 or while located for use as a residence or premises and not as a vehicle;

9 “(E) A farm-type tractor or equipment designed for use principally off
10 public roads, except while actually upon public roads; or

11 “(F) A vehicle owned by or furnished for the regular or frequent use of
12 the insured or any member of the household of the insured.

13 “(m) ‘Vehicle’ means every device in, upon or by which any person or
14 property is or may be transported or drawn upon a public highway, but does
15 not include devices moved by human power or used exclusively upon sta-
16 tionary rails or tracks.

17 “(3) This coverage applies only to accidents that occur on and after the
18 effective date of the policy, during the policy period and within the United
19 States of America, its territories or possessions, or Canada.

20 “(4)(a) This coverage does not apply to bodily injury of an insured with
21 respect to which the insured or the legal representative of the insured shall,
22 without the written consent of the insurer, make any settlement with or
23 prosecute to judgment any action against any person or organization who
24 may be legally liable therefor.

25 “(b) This coverage does not apply to bodily injury to an insured while
26 occupying a vehicle, other than an insured vehicle, owned by, or furnished
27 for the regular use of, the named insured or any relative resident in the same
28 household, or through being struck by the vehicle.

29 “(c) This coverage does not apply so as to inure directly or indirectly to
30 the benefit of any workers’ compensation carrier, any person or organization

1 qualifying as a self-insurer under any workers' compensation or disability
2 benefits law or any similar law or the State Accident Insurance Fund Cor-
3 poration.

4 “(d) This coverage does not apply with respect to underinsured motorist
5 benefits unless:

6 “(A) The limits of liability under any bodily injury liability insurance
7 applicable at the time of the accident regarding the injured person have been
8 exhausted by payment of judgments or settlements to the injured person or
9 other injured persons;

10 “(B) The described limits have been offered in settlement, the insurer has
11 refused consent under paragraph (a) of this subsection and the insured pro-
12 tects the insurer's right of subrogation to the claim against the tortfeasor;

13 “(C) The insured gives credit to the insurer for the unrealized portion of
14 the described liability limits as if the full limits had been received if less
15 than the described limits have been offered in settlement, and the insurer
16 has consented under paragraph (a) of this subsection; or

17 “(D) The insured gives credit to the insurer for the unrealized portion of
18 the described liability limits as if the full limits had been received if less
19 than the described limits have been offered in settlement and, if the insurer
20 has refused consent under paragraph (a) of this subsection, the insured pro-
21 tects the insurer's right of subrogation to the claim against the tortfeasor.

22 “(e) When seeking consent under paragraph (a) or (d) of this subsection,
23 the insured shall allow the insurer a reasonable time in which to collect and
24 evaluate information related to consent to the proposed offer of settlement.
25 The insured shall provide promptly to the insurer any information that is
26 reasonably requested by the insurer and that is within the custody and con-
27 trol of the insured. Consent will be presumed to be given if the insurer does
28 not respond within a reasonable time. For purposes of this paragraph, a
29 ‘reasonable time’ is no more than 30 days from the insurer's receipt of a
30 written request for consent, unless the insured and the insurer agree other-

1 wise.

2 “(5)(a) As soon as practicable, the insured or other person making claim
3 shall give to the insurer written proof of claim, under oath if required, in-
4 cluding full particulars of the nature and extent of the injuries, treatment
5 and other details entering into the determination of the amount payable
6 hereunder. The insured and every other person making claim hereunder shall
7 submit to examinations under oath by any person named by the insurer and
8 subscribe the same, as often as may reasonably be required. Proof of claim
9 shall be made upon forms furnished by the insurer unless the insurer fails
10 to furnish the forms within 15 days after receiving notice of claim.

11 “(b) Upon reasonable request of and at the expense of the insurer, the
12 injured person shall submit to physical examinations by physicians, physi-
13 cian assistants or nurse practitioners selected by the insurer and shall, upon
14 each request from the insurer, execute authorization to enable the insurer
15 to obtain medical reports and copies of records.

16 “(6) If, before the insurer makes payment of loss hereunder, the insured
17 or the legal representative of the insured institutes any legal action for
18 bodily injury against any person or organization legally responsible for the
19 use of a vehicle involved in the accident, a copy of the summons and com-
20 plaint or other process served in connection with the legal action shall be
21 forwarded immediately to the insurer by the insured or the legal represen-
22 tative of the insured.

23 “(7)(a) The limit of liability stated in the declarations as applicable to
24 ‘each person’ is the limit of the insurer’s liability for all damages because
25 of bodily injury sustained by one person as the result of any one accident
26 and, subject to the above provision respecting each person, the limit of li-
27 ability stated in the declarations as applicable to ‘each accident’ is the total
28 limit of the company’s liability for all damages because of bodily injury
29 sustained by two or more persons as the result of any one accident.

30 “(b) Any payment made under this coverage to or for an insured shall be

1 applied in reduction of any amount that the insured may be entitled to re-
2 cover from any person who is an insured under the bodily injury liability
3 coverage of this policy.

4 “(c) Any amount payable under the terms of this coverage because of
5 bodily injury sustained in an accident by a person who is an insured under
6 this coverage shall be reduced by:

7 “(A) All sums paid on account of the bodily injury by or on behalf of the
8 owner or operator of the uninsured vehicle and by or on behalf of any other
9 person or organization jointly or severally liable together with the owner
10 or operator for the bodily injury, including all sums paid under the bodily
11 injury liability coverage of the policy; and

12 “(B) The amount paid and the present value of all amounts payable on
13 account of the bodily injury under any workers’ compensation law, disability
14 benefits law or any similar law.

15 “(d) Any amount payable under the terms of this coverage because of
16 bodily injury sustained in an accident by a person who is an insured under
17 this coverage shall be reduced by the credit given to the insurer pursuant
18 to subsection (4)(d)(C) or (D) of this section.

19 “(e) The amount payable under the terms of this coverage may not be
20 reduced by the amount of liability proceeds offered, described in subsection
21 (4)(d)(B) or (D) of this section, that has not been paid to the injured person.
22 If liability proceeds have been offered and not paid, the amount payable un-
23 der the terms of the coverage shall include the amount of liability limits
24 offered but not accepted due to the insurer’s refusal to consent. The insured
25 shall cooperate so as to permit the insurer to proceed by subrogation or as-
26 signment to prosecute the claim against the uninsured motorist.

27 “(8) No action shall lie against the insurer unless, as a condition
28 precedent thereto, the insured or the legal representative of the insured has
29 fully complied with all the terms of this policy.

30 “(9)(a) With respect to bodily injury to an insured:

1 “(A) While occupying a vehicle owned by a named insured under this
2 coverage, the insurance under this coverage is primary.

3 “(B) While occupying a vehicle not owned by a named insured under this
4 coverage, the insurance under this coverage shall apply only as excess in-
5 surance over any primary insurance available to the occupant that is similar
6 to this coverage, and this excess insurance shall then apply only in the
7 amount by which the applicable limit of liability of this excess coverage ex-
8 ceeds the sum of the applicable limits of liability of all primary insurance
9 available to the occupant.

10 “(b) If an insured is an insured under other primary or excess insurance
11 available to the insured that is similar to this coverage, then the insured’s
12 damages are deemed not to exceed the higher of the applicable limits of li-
13 ability of this insurance or the additional primary or excess insurance
14 available to the insured, and the insurer is not liable under this coverage for
15 a greater proportion of the insured’s damages than the applicable limit of
16 liability of this coverage bears to the sum of the applicable limits of liability
17 of this insurance and other primary or excess insurance available to the in-
18 sured.

19 “(c) With respect to bodily injury to an insured while occupying any
20 motor vehicle used as a public or livery conveyance, the insurance under this
21 coverage shall apply only as excess insurance over any other insurance
22 available to the insured that is similar to this coverage, and this insurance
23 shall then apply only in the amount by which the applicable limit of liability
24 of this coverage exceeds the sum of the applicable limits of liability of all
25 other insurance.

26 “(10) If any person making claim hereunder and the insurer do not agree
27 that the person is legally entitled to recover damages from the owner or
28 operator of an uninsured vehicle because of bodily injury to the insured, or
29 do not agree as to the amount of payment that may be owing under this
30 coverage, then, in the event the insured and the insurer elect by mutual

1 agreement at the time of the dispute to settle the matter by arbitration, the
2 arbitration shall take place as described in ORS 742.505. Any judgment upon
3 the award rendered by the arbitrators may be entered in any court having
4 jurisdiction thereof, provided, however, that the costs to the insured of the
5 arbitration proceeding do not exceed \$100 and that all other costs of arbi-
6 tration are borne by the insurer. 'Costs' as used in this provision does not
7 include attorney fees or expenses incurred in the production of evidence or
8 witnesses or the making of transcripts of the arbitration proceedings. The
9 person and the insurer each agree to consider themselves bound and to be
10 bound by any award made by the arbitrators pursuant to this coverage in the
11 event of such election. At the election of the insured, the arbitration shall
12 be held:

13 “(a) In the county and state of residence of the insured;

14 “(b) In the county and state where the insured’s cause of action against
15 the uninsured motorist arose; or

16 “(c) At any other place mutually agreed upon by the insured and the
17 insurer.

18 “(11) In the event of payment to any person under this coverage:

19 “(a) The insurer shall be entitled to the extent of the payment to the
20 proceeds of any settlement or judgment that may result from the exercise of
21 any rights of recovery of the person against any uninsured motorist legally
22 responsible for the bodily injury because of which payment is made;

23 “(b) The person shall hold in trust for the benefit of the insurer all rights
24 of recovery that the person shall have against such other uninsured person
25 or organization because of the damages that are the subject of claim made
26 under this coverage, but only to the extent that the claim is made or paid
27 herein;

28 “(c) If the insured is injured by the joint or concurrent act or acts of two
29 or more persons, one or more of whom is uninsured, the insured shall have
30 the election to receive from the insurer any payment to which the insured

1 would be entitled under this coverage by reason of the act or acts of the
2 uninsured motorist, or the insured may, with the written consent of the
3 insurer, proceed with legal action against any or all persons claimed to be
4 liable to the insured for the injuries. If the insured elects to receive payment
5 from the insurer under this coverage, then the insured shall hold in trust for
6 the benefit of the insurer all rights of recovery the insured shall have
7 against any other person, firm or organization because of the damages that
8 are the subject of claim made under this coverage, but only to the extent of
9 the actual payment made by the insurer;

10 “(d) The person shall do whatever is proper to secure and shall do nothing
11 after loss to prejudice such rights;

12 “(e) If requested in writing by the insurer, the person shall take, through
13 any representative not in conflict in interest with the person, designated by
14 the insurer, such action as may be necessary or appropriate to recover pay-
15 ment as damages from such other uninsured person or organization, such
16 action to be taken in the name of the person, but only to the extent of the
17 payment made hereunder. In the event of a recovery, the insurer shall be
18 reimbursed out of the recovery for expenses, costs and attorney fees incurred
19 by the insurer in connection therewith; and

20 “(f) The person shall execute and deliver to the insurer any instruments
21 and papers as may be appropriate to secure the rights and obligations of the
22 person and the insurer established by this provision.

23 “(12)(a) The parties to this coverage agree that no cause of action shall
24 accrue to the insured under this coverage unless within two years from the
25 date of the accident:

26 “(A) Agreement as to the amount due under the policy has been con-
27 cluded;

28 “(B) The insured or the insurer has formally instituted arbitration pro-
29 ceedings;

30 “(C) The insured has filed an action against the insurer; or

1 “(D) Suit for bodily injury has been filed against the uninsured motorist
2 and, within two years from the date of settlement or final judgment against
3 the uninsured motorist, the insured has formally instituted arbitration pro-
4 ceedings or filed an action against the insurer.

5 “(b) For purposes of this subsection:

6 “(A) ‘Date of settlement’ means the date on which a written settlement
7 agreement or release is signed by an insured or, in the absence of these
8 documents, the date on which the insured or the attorney for the insured
9 receives payment of any sum required by the settlement agreement. An ad-
10 vance payment as defined in ORS 31.550 shall not be deemed a payment of
11 a settlement for purposes of the time limitation in this subsection.

12 “(B) ‘Final judgment’ means a judgment that has become final by lapse
13 of time for appeal or by entry in an appellate court of an appellate judgment.

14 **“SECTION 60.** ORS 743.027 is amended to read:

15 “743.027. A life or health insurance policy upon an individual, except a
16 policy of group life insurance or of group or blanket health insurance, may
17 not be made or effectuated unless at the time of the making of the policy the
18 individual insured, being of competent legal capacity to contract, applies
19 therefor or has consented thereto in writing, except in the following cases:

20 “(1) A spouse may effectuate such insurance upon the other spouse.

21 “(2) Any person having an insurable interest in the life of a minor, or any
22 person upon whom a minor is dependent for support and maintenance, may
23 effectuate insurance upon the life of or pertaining to such minor.

24 “(3) Family policies may be issued insuring any two or more members of
25 a family on an application signed by either parent, a stepparent[, *or by a*
26 *husband or wife*] **or a spouse in a marriage.**

27 “(4) A person may effectuate insurance that provides for the funeral ex-
28 penses of an adult who is dependent upon the person for support and main-
29 tenance.

30 “(5) A person may effectuate insurance that provides for the funeral ex-

1 penses of an adult if the person:

2 “(a) Is closely related to the adult by blood or by law or has a substantial
3 interest in the adult engendered by love and affection; and

4 “(b) Has a lawful and substantial interest in having the life, health and
5 bodily safety of the adult continue.

6 **“SECTION 61.** ORS 743A.084 is amended to read:

7 “743A.084. Each policy of health insurance shall provide:

8 “(1) The same payments for costs of maternity to unmarried women that
9 it provides to married women, including the [*wives*] **spouses in marriages**
10 of insured persons choosing family coverage; and

11 “(2) The same coverage for the child of an unmarried woman that the
12 child of an insured married person choosing family coverage receives.”.

13
