

Senate Bill 997

Sponsored by Senator STEINER HAYWARD

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes penalty to be imposed by Department of Consumer and Business Services on employers that offer health insurance coverage to employees but that have employees working at least 20 hours per week who receive health care coverage through medical assistance program. Appropriates penalties collected by department to Oregon Health Authority for specified purposes.

Establishes remedy for employee who is retaliated against by employer for applying for or receiving medical assistance.

Takes effect on the 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to health care for low-income workers; creating new provisions; amending ORS 657.660,
3 657.665 and 659A.885; and prescribing an effective date.

4 Whereas working Oregonians should have affordable, comprehensive health insurance coverage;
5 and

6 Whereas most working Oregonians obtain their health insurance coverage through their em-
7 ployment, but some working Oregonians receive coverage of their health care costs through the
8 medical assistance program; and

9 Whereas employers who fail to provide affordable coverage to low-wage workers who are cov-
10 ered by medical assistance shift the cost of health care coverage from the employer to the taxpayer;
11 and

12 Whereas workers who face low wages, work part-time or both are too often eligible for
13 taxpayer-funded medical assistance instead of affordable, employer-based coverage; and

14 Whereas persons who are covered by health insurance have better health outcomes than those
15 who lack coverage; and

16 Whereas persons without health insurance coverage are more likely to be in poor health, more
17 likely to miss needed medications and treatment and more likely to have chronic conditions that are
18 not properly managed; and

19 Whereas persons without health insurance coverage are at risk of financial ruin because med-
20 ical debt is the second most common cause of personal bankruptcy in the United States; and

21 Whereas taxpayers, through state and local governments, fund county clinics, community clinics
22 and other safety net providers that provide care to those working people whose employers fail to
23 provide affordable health insurance coverage to their employees as well as to other uninsured per-
24 sons; and

25 Whereas controlling health care costs can be more readily achieved if a greater share of work-
26 ing people and their families have employer-sponsored health insurance so that cost shifting is
27 minimized; and

28 Whereas the social and economic burden created by the lack of health insurance coverage for

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 some workers and the coverage of other workers through the medical assistance program creates
2 a burden on other employers, the state, affected workers and the families of affected workers who
3 suffer ill health and risk financial ruin; now, therefore,

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

5 **SECTION 1. The purpose of sections 1 to 7 of this 2017 Act is to:**

6 (1) **Ensure that employers pay a fair share penalty for health care coverage provided to**
7 **their employees through the medical assistance program.**

8 (2) **Encourage employers to provide affordable health insurance coverage to low-wage**
9 **employees who would otherwise be enrolled in the medical assistance program.**

10 (3) **Protect employees who receive medical assistance from retaliation by their employers**
11 **for seeking or obtaining medical assistance.**

12 (4) **Pay the state's share of the costs of medical assistance provided to working adults**
13 **who lack affordable employer-sponsored health insurance, improve reimbursement to the**
14 **health care providers who care for these workers and support the safety net providers that**
15 **care for the remaining uninsured workers.**

16 **SECTION 2. As used in sections 1 to 6 of this 2017 Act:**

17 (1)(a) **"Covered employee" means an individual who meets all of the following conditions:**

18 (A) **The individual is 18 to 64 years of age.**

19 (B) **The individual is employed for an average of at least 20 hours per week by an em-**
20 **ployer that offers health insurance coverage to its employees.**

21 (C) **The individual is enrolled in medical assistance on the basis of the individual's income**
22 **and not by reason of a disability or being over 65 years of age.**

23 (b) **"Covered employee" includes a leased employee or other individual under the direction**
24 **and control of the employer.**

25 (2)(a) **"Employer" means an employing unit as defined in ORS 657.020 that employed an**
26 **average of at least 50 full-time employees on business days during the preceding calendar**
27 **year.**

28 (b) **"Employer" includes all of the members of a controlled group of corporations. As used**
29 **in this paragraph, "controlled group of corporations" means a controlled group of corpo-**
30 **rations as defined in section 1563(a) of the Internal Revenue Code, except that "more than**
31 **50 percent" shall be substituted for "at least 80 percent" each place it appears in section**
32 **1563(a)(1) of the Internal Revenue Code, and the determination shall be made without regard**
33 **to sections 1563(a)(4) and 1563(e)(3)(C) of the Internal Revenue Code.**

34 (c) **"Employer" does not include a public employer as defined in ORS 243.650.**

35 (3) **"Medical assistance" has the meaning given that term in ORS 414.025.**

36 (4) **"Safety net provider" means any provider of comprehensive primary care or acute**
37 **hospital inpatient services that provides these services to a significant number of medical**
38 **assistance and medically indigent patients in relation to the total number of patients served**
39 **by the provider.**

40 (5) **"Wages" means wages as defined in ORS 657.105 paid directly to an individual by the**
41 **individual's employer.**

42 **SECTION 3. (1) Except as otherwise provided in section 4 of this 2017 Act, every employer**
43 **shall pay to the Department of Consumer and Business Services an employer responsibility**
44 **penalty for each covered employee, as determined under subsection (3) of this section.**

45 (2) **Each year the department shall determine the average cost of a full year of coverage**

1 under a group health benefit plan that has an actuarial value of 70 percent.

2 (3) For each employer, the department shall:

3 (a) Multiply the amount determined under subsection (2) of this section by the number
4 of the employer's employees who are covered employees;

5 (b) Multiply the product calculated in paragraph (a) of this subsection by 0.9; and

6 (c) Impose an employer responsibility penalty on the employer that is equal to the prod-
7 uct calculated in paragraph (b) of this subsection.

8 (4) All moneys collected pursuant to this section shall be deposited in the Employer Re-
9 sponsibility for Medical Assistance Trust Fund created in section 5 of this 2017 Act.

10 **SECTION 4.** (1) The Department of Consumer and Business Services has the power and
11 duties necessary to administer the collection and enforcement of employer responsibility
12 penalties required to be remitted by employers under this section and section 3 of this 2017
13 Act, including but not limited to the power to:

14 (a) Adopt rules to administer and enforce sections 1 to 6 of this 2017 Act;

15 (b) Subpoena documents and subpoena witnesses to testify under oath; and

16 (c) Institute or prosecute actions for the enforcement of sections 1 to 6 of this 2017 Act.

17 (2) An employer shall pay to the department, for deposit into the Employer Responsibility
18 for Medical Assistance Trust Fund, any penalties imposed on the employer pursuant to sec-
19 tion 3 of this 2017 Act.

20 (3) The department shall annually send to each employer subject to an employer respon-
21 sibility penalty under section 3 of this 2017 Act a notice of any employer responsibility pen-
22 alty imposed and the date on which payment is due. The amount of the penalty shall become
23 conclusive and binding upon the employer unless, within 20 days after the mailing of the
24 notice to the last-known address of the employer as shown on the records of the department,
25 or in the absence of mailing, within 20 days after the delivery of the notice, the employer
26 files a request for hearing. Hearings shall be conducted in accordance with ORS chapter 183.

27 (4) Interest shall be assessed on employer responsibility penalties not paid on or before
28 payment is due at 10 percent per annum. Interest shall begin to accrue the day after the date
29 the payment is due and shall be deposited into the Employer Responsibility for Medical As-
30 sistance Trust Fund.

31 (5) If an employer responsibility penalty payment is more than 60 days overdue, a penalty
32 equal to the interest charged as described in subsection (4) of this section shall be assessed
33 and due for each month, or part thereof, that the employer responsibility penalty payment
34 is not received.

35 (6) All penalties shall be paid to and collected by the department at such times and in
36 such manner as the department may prescribe and upon collection shall be deposited in the
37 Employer Responsibility for Medical Assistance Trust Fund.

38 (7) An employer shall provide information to all newly hired and existing employees re-
39 garding the availability of medical assistance for low-income employees and regarding the
40 employees' rights under section 7 of this 2017 Act. The department, in consultation with the
41 Oregon Health Authority, shall develop a simple, uniform notice containing the information.

42 **SECTION 5.** (1) The Employer Responsibility for Medical Assistance Trust Fund is cre-
43 ated in the State Treasury, separate and distinct from the General Fund, and consists of
44 moneys collected under section 4 of this 2017 Act. Interest earned by the Employer Respon-
45 sibility for Medical Assistance Trust Fund shall be credited to the fund.

1 **(2) Moneys in the fund are appropriated to the Oregon Health Authority to be used for**
 2 **the following purposes:**

3 **(a) To provide payment for the state's share of medical assistance costs for covered**
 4 **employees.**

5 **(b) To increase reimbursement to health care providers located in health profession**
 6 **shortage areas or medically underserved areas as designated by the Office of Rural Health.**
 7 **The supplemental payments shall be for both fee-for-service medical assistance and care**
 8 **provided by coordinated care organizations.**

9 **(c) To make supplemental medical assistance payments to providers in practice settings**
 10 **in which 30 percent or more of the patients are medical assistance recipients or uninsured.**

11 **(d) To provide reimbursement to safety net providers that provide care without expecta-**
 12 **tion of compensation to those Oregonians who do not have health insurance.**

13 **(e) To fund medical residency programs.**

14 **(3) All costs to implement and administer sections 1 to 6 of this 2017 Act shall be paid**
 15 **from moneys deposited in the fund, including any necessary costs incurred by the authority,**
 16 **the Department of Consumer and Business Services or any other state government agency.**

17 **SECTION 6. (1) The Oregon Health Authority shall collaborate with the Employment**
 18 **Department, the Department of Consumer and Business Services and the Department of**
 19 **Revenue to exchange data, in accordance with federal requirements, as necessary to deter-**
 20 **mine if individuals enrolled in the medical assistance program are covered employees as de-**
 21 **defined in section 2 of this 2017 Act and to administer sections 1 to 6 of this 2017 Act, including**
 22 **by requesting from a federal agency any necessary waiver of federal requirements.**

23 **(2) The authority shall provide to the Department of Consumer and Business Services**
 24 **information about employers who have employees who receive medical assistance in order**
 25 **to permit the department to determine and collect the employer responsibility penalty im-**
 26 **posed pursuant to section 3 of this 2017 Act.**

27 **(3) Any and all shared data related to enrollees in the medical assistance program are**
 28 **subject to the confidentiality requirements of ORS 413.171 and 657.665.**

29 **SECTION 7. (1) As used in this section:**

30 **(a) "Employer" has the meaning given that term in section 2 of this 2017 Act.**

31 **(b) "Health insurance exchange" has the meaning give that term in ORS 741.300.**

32 **(c) "Medical assistance" has the meaning given that term in ORS 414.025.**

33 **(d) "Premium tax credits" means tax credits provided under section 36B of the Internal**
 34 **Revenue Code to a person who is enrolled in a qualified health plan through a health insur-**
 35 **ance exchange.**

36 **(2) It is an unlawful employment practice for an employer to refuse to hire, discharge,**
 37 **demote, suspend, retaliate or otherwise discriminate against an employee who applies for or**
 38 **receives medical assistance or premium tax credits.**

39 **(3) An employee who alleges a violation of subsection (2) of this section may bring a civil**
 40 **action under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of**
 41 **Labor and Industries in the manner provided by ORS 659A.820.**

42 **SECTION 8. ORS 657.660 is amended to read:**

43 657.660. (1) Every employing unit shall keep true and accurate records of all persons employed
 44 by it and such records of hours worked, wages paid and other statistics as prescribed by the Di-
 45 rector of the Employment Department for the administration of this chapter **and section 6 of this**

1 **2017 Act.**

2 (2) Such records shall be open to inspection by the director or an authorized representative of
3 the director at any reasonable time. No person shall refuse to allow the director or authorized
4 representative to inspect the payroll or other records or documents relative to the enforcement of
5 this chapter **and section 6 of this 2017 Act.**

6 (3) The director may require from any employing unit such reports on the wages, hours, em-
7 ployment, unemployment and related matters concerning its employees as the director deems nec-
8 essary to the effective administration of this chapter **and section 6 of this 2017 Act.**

9 (4) Every employing unit shall fully, correctly and promptly furnish the director all information
10 required by the director to carry out the purposes and provisions of this chapter **and section 6 of**
11 **this 2017 Act.**

12 **SECTION 9.** ORS 657.665 is amended to read:

13 657.665. (1) Except as provided in subsections (2) to (5) of this section, all information in the
14 records of the Employment Department pertaining to the administration of the unemployment in-
15 surance, employment service and labor market information programs:

16 (a) Is confidential and for the exclusive use and information of the Director of the Employment
17 Department in administering the unemployment insurance, employment service and labor market
18 information programs in Oregon.

19 (b) May not be used in any court action or in any proceeding pending in the court unless the
20 director or the state is a party to the action or proceeding or unless the proceeding concerns the
21 establishment, enforcement or modification of a support obligation and support services are being
22 provided by the Division of Child Support or the district attorney pursuant to ORS 25.080.

23 (c) Is exempt from disclosure under ORS 192.410 to 192.505.

24 (2) The Employment Department shall disclose information:

25 (a) To any claimant or legal representative, at a hearing before an administrative law judge, to
26 the extent necessary for the proper presentation of an unemployment insurance claim.

27 (b) Upon request to the United States Secretary of Labor. The Employment Department shall
28 disclose the information in a form and containing the information that the United States Secretary
29 of Labor may require. The information disclosed is confidential and may not be used for any other
30 purpose.

31 (c) Pursuant to section 303(a)(7) of the Social Security Act, upon request to any agency of the
32 United States charged with the administration of public works or assistance through public em-
33 ployment. Under this paragraph, the Employment Department shall disclose the name, address, or-
34 dinary occupation and employment status of each recipient of unemployment insurance benefits and
35 a statement of the recipient's right to further benefits under this chapter. The information disclosed
36 is confidential and may not be used for any other purpose.

37 (d) Pursuant to section 303(c)(1) of the Social Security Act, to the Railroad Retirement Board.
38 Under this paragraph, the Employment Department shall disclose unemployment insurance records.
39 The information disclosed is confidential and may not be used for any other purpose. The costs of
40 disclosing information under this paragraph shall be paid by the board.

41 (e) Pursuant to section 303(d) of the Social Security Act, upon request to officers and employees
42 of the United States Department of Agriculture and to officers or employees of any state Supple-
43 mental Nutrition Assistance Program agency for the purpose of determining an individual's eligibil-
44 ity for or the amount of supplemental nutrition assistance. The information disclosed is confidential
45 and may not be used for any other purpose. The costs of disclosing information under this paragraph

1 shall be paid by the United States Department of Agriculture.

2 (f) Pursuant to section 303(e)(1) and (2)(A)(ii) of the Social Security Act, to state or local child
3 support enforcement agencies enforcing child support obligations under Title IV-D of the Social Se-
4 curity Act for the purposes of establishing child support obligations, locating individuals owing child
5 support obligations and collecting child support obligations from those individuals. The information
6 disclosed is confidential and may not be used for any other purpose. The costs of disclosing infor-
7 mation under this paragraph shall be paid by the child support enforcement agency.

8 (g) Pursuant to sections 303(f) and 1137 of the Social Security Act, to agencies participating in
9 the income and eligibility verification system for the purpose of verifying an individual's eligibility
10 for benefits, or the amount of benefits, under unemployment insurance, temporary assistance for
11 needy families, Medicaid, the Supplemental Nutrition Assistance Program, Supplemental Security
12 Income, child support enforcement or Social Security programs. The information disclosed is confi-
13 dential and may not be used for any other purpose. The costs of disclosing information under this
14 paragraph shall be paid by the requesting agency.

15 (h) Pursuant to section 303(h) of the Social Security Act and section 3304(a)(16)(B) of the Federal
16 Unemployment Tax Act, to the United States Department of Health and Human Services National
17 Directory of New Hires. The information disclosed is confidential and may not be used for any other
18 purpose. The costs of disclosing information under this paragraph shall be paid by the United States
19 Department of Health and Human Services.

20 (i) Pursuant to section 303(i) of the Social Security Act, to officers and employees of the United
21 States Department of Housing and Urban Development and to representatives of a public housing
22 agency for the purpose of determining an individual's eligibility for benefits, or the amount of ben-
23 efits, under a housing assistance program of the United States Department of Housing and Urban
24 Development. The information disclosed is confidential and may not be used for any other purpose.
25 The costs of disclosing information under this paragraph shall be paid by the United States De-
26 partment of Housing and Urban Development or the public housing agency.

27 (j) Pursuant to regulations of the United States Secretary of Health and Human Services issued
28 under section 3304(a)(16)(A) of the Federal Unemployment Tax Act, and except as required by sec-
29 tion 303 of the Social Security Act, to the state, a political subdivision or a federally recognized
30 Indian tribe that has signed an agreement with the Department of Human Services to administer
31 Part A of Title IV of the Social Security Act for the purpose of determining an individual's eligibility
32 for assistance, or the amount of assistance, under a program funded under Part A of Title IV of the
33 Social Security Act. The information disclosed is confidential and may not be used for any other
34 purpose.

35 (k) Upon request, to the United States Attorney's Office. Under this paragraph, the Employment
36 Department may disclose an individual's employment and wage information in response to a federal
37 grand jury subpoena or for the purpose of collecting civil and criminal judgments, including
38 restitution and special assessment fees. The information disclosed is confidential and may not be
39 used for any other purpose. The costs of disclosing information under this paragraph shall be paid
40 by the United States Attorney's Office.

41 (3) The Employment Department may disclose information secured from employing units:

42 (a) To agencies of this state, federal agencies and local government agencies to the extent nec-
43 essary to properly carry out governmental planning, performance measurement, program analysis,
44 socioeconomic analysis and policy analysis functions performed under applicable law. The informa-
45 tion disclosed is confidential and may not be disclosed by the agencies in any manner that would

1 identify individuals, claimants, employees or employing units. If the information disclosed under this
2 paragraph is not prepared for the use of the Employment Department, the costs of disclosing the
3 information shall be paid by the agency requesting the information.

4 (b) As part of a geographic information system. Points on a map may be used to represent eco-
5 nomic data, including the location, employment size class and industrial classification of businesses
6 in Oregon. Information presented as part of a geographic information system may not give specific
7 details regarding a business's address, actual employment or proprietary information. If the infor-
8 mation disclosed under this paragraph is not prepared for the use of the Employment Department,
9 the costs of disclosing the information shall be paid by the party requesting the information.

10 (c) In accordance with ORS 657.673.

11 (4) The Employment Department may:

12 (a) Disclose information to public employees in the performance of their duties under state or
13 federal laws relating to the payment of unemployment insurance benefits, the provision of employ-
14 ment services and the provision of labor market information.

15 (b) At the discretion of the Director of the Employment Department and subject to an intera-
16 gency agreement, disclose information to public officials in the performance of their official duties
17 administering or enforcing laws within their authority and to the agents or contractors of public
18 officials. The public official shall agree to assume responsibility for misuse of the information by
19 the official's agent or contractor.

20 (c) Disclose information pursuant to an informed consent, received from an employer or claim-
21 ant, to disclose the information.

22 (d) Disclose information to partners under the federal Workforce Investment Act of 1998 for the
23 purpose of administering state workforce programs under the Act. The information disclosed is
24 confidential and may not be used for any other purpose. The costs of disclosing information under
25 this paragraph shall be paid by the requesting partner.

26 (e) Disclose the names and addresses of employing units to the Bureau of Labor and Industries
27 for the purpose of disseminating information to employing units. The names and addresses disclosed
28 are confidential and may not be used for any other purpose. If the information disclosed under this
29 paragraph is not prepared for the use of the Employment Department, the costs of disclosing the
30 information shall be paid by the bureau.

31 (f) Disclose information to the Commissioner of the Bureau of Labor and Industries for the
32 purpose of performing duties under ORS 279C.800 to 279C.870, 658.005 to 658.245 or 658.405 to
33 658.503 or ORS chapter 652, 653 or 659A. The information disclosed may include the names and ad-
34 dresses of employers and employees and payroll data of employers and employees. The information
35 disclosed is confidential and may not be used for any other purpose. If the information disclosed
36 under this paragraph is not prepared for the use of the Employment Department, the costs of dis-
37 closing the information shall be paid by the bureau.

38 (g) Disclose information required under ORS 657.660 (3) and (4) to the Public Employees Re-
39 tirement System for the purpose of determining the eligibility of members of the retirement system
40 for disability retirement allowances under ORS chapter 238. The information disclosed is confiden-
41 tial and may not be used for any other purpose. The costs of disclosing information under this par-
42 agraph shall be paid by the Public Employees Retirement System.

43 (h) Disclose to the Oregon Business Development Commission information required by the com-
44 mission in performing its duty under ORS 285A.050 to verify changes in employment levels following
45 direct employer participation in Oregon Business Development Department programs or indirect

1 participation through municipalities under ORS 285B.410 to 285B.482. The information disclosed to
2 the commission may include an employer's employment level, total subject wages payroll and whole
3 hours worked. The information disclosed is confidential and may not be used for any other purpose.
4 The commission may not disclose the information in any manner that would identify an employing
5 unit or employee except to the extent necessary to carry out the commission's duty under ORS
6 285A.050. If the information disclosed under this paragraph is not prepared for the use of the Em-
7 ployment Department, the costs of disclosing the information shall be paid by the commission.

8 (i) Disclose information to the Department of Revenue for the purpose of performing its duties
9 under ORS 293.250 or under the revenue and tax laws of this state. The information disclosed may
10 include the names and addresses of employers and employees and payroll data of employers and
11 employees. The information disclosed is confidential and may not be disclosed by the Department
12 of Revenue in any manner that would identify an employing unit or employee except to the extent
13 necessary to carry out the department's duties under ORS 293.250 or in auditing or reviewing any
14 report or return required or permitted to be filed under the revenue and tax laws administered by
15 the department. The Department of Revenue may not disclose any information received to any pri-
16 vate collection agency or for any other purpose. If the information disclosed under this paragraph
17 is not prepared for the use of the Employment Department, the costs of disclosing the information
18 shall be paid by the Department of Revenue.

19 (j) Disclose information to the Department of Consumer and Business Services for the purpose
20 of performing its duties under ORS chapters 654 and 656 **and sections 1 to 6 of this 2017 Act**. The
21 information disclosed may include the name, address, number of employees and industrial classi-
22 fication code of an employer and payroll data of employers and employees. The information disclosed
23 is confidential and may not be disclosed by the Department of Consumer and Business Services in
24 any manner that would identify an employing unit or employee except to the extent necessary to
25 carry out the department's duties under ORS chapters 654 and 656 **and sections 1 to 6 of this 2017**
26 **Act**, including administrative hearings and court proceedings in which the Department of Consumer
27 and Business Services is a party. If the information disclosed under this paragraph is not prepared
28 for the use of the Employment Department, the costs of disclosing the information shall be paid by
29 the Department of Consumer and Business Services.

30 (k) Disclose information to the Construction Contractors Board for the purpose of performing
31 its duties under ORS chapter 701. The information disclosed to the board may include the names and
32 addresses of employers and status of their compliance with this chapter. If the information disclosed
33 under this paragraph is not prepared for the use of the Employment Department, the costs of dis-
34 closing the information shall be paid by the board.

35 (L) Disclose information to the State Fire Marshal to assist the State Fire Marshal in carrying
36 out duties under ORS 453.307 to 453.414. The information disclosed may include the name, address,
37 telephone number and industrial classification code of an employer. The information disclosed is
38 confidential and may not be disclosed by the State Fire Marshal in any manner that would identify
39 an employing unit except to the extent necessary to carry out duties under ORS 453.307 to 453.414.
40 If the information disclosed under this paragraph is not prepared for the use of the Employment
41 Department, the costs of disclosing the information shall be paid by the office of the State Fire
42 Marshal.

43 (m) Disclose information to the Higher Education Coordinating Commission for the purpose of
44 performing the commission's duties under ORS chapter 348 and Title IV of the Higher Education
45 Act of 1965. The information disclosed may include the names and addresses of employers and em-

1 ployees and payroll data of employers and employees. The information disclosed is confidential and
2 may not be disclosed by the commission in any manner that would identify an employing unit or
3 employee except to the extent necessary to carry out the commission's duties under ORS chapter
4 348 or Title IV of the Higher Education Act of 1965. If the information disclosed under this para-
5 graph is not prepared for the use of the Employment Department, the costs of disclosing the infor-
6 mation shall be paid by the commission.

7 (n) Disclose information to the Department of Transportation to assist the Department of
8 Transportation in carrying out the duties of the Department of Transportation relating to collection
9 of delinquent and liquidated debts, including taxes, under ORS 184.610 to 184.656, 184.670 to 184.733
10 and 805.263, ORS chapter 319 and the Oregon Vehicle Code. The information disclosed may include
11 the names and addresses of employers and employees and payroll data of employers and employees.
12 The information disclosed is confidential and may not be disclosed by the Department of Transpor-
13 tation in any manner that would identify an employing unit or employee except to the extent nec-
14 essary to carry out the Department of Transportation's duties relating to collection of delinquent
15 and liquidated debts or in auditing or reviewing any report or return required or permitted to be
16 filed under the revenue and tax laws administered by the Department of Transportation. The De-
17 partment of Transportation may not disclose any information received to any private collection
18 agency or for any other purpose. If the information disclosed under this paragraph is not prepared
19 for the use of the Employment Department, the costs of disclosing the information shall be paid by
20 the Department of Transportation.

21 (o) Disclose information to the Department of Human Services and the Oregon Health Authority
22 to assist the Department of Human Services and the Oregon Health Authority in the collection of
23 debts that the Department of Human Services and the Oregon Health Authority are authorized by
24 law to collect. The information disclosed may include the names, addresses and payroll data of em-
25 ployers and employees. The information disclosed is confidential and may not be disclosed by the
26 Department of Human Services or the Oregon Health Authority in a manner that would identify an
27 employing unit or employee except to the extent necessary for the collection of debts as described
28 in this paragraph. The Department of Human Services and the Oregon Health Authority may not
29 disclose information received under this paragraph to a private collection agency or use the infor-
30 mation for a purpose other than the collection of debts as described in this paragraph. If the infor-
31 mation disclosed under this paragraph is not prepared for the use of the Employment Department,
32 the costs of disclosing the information shall be paid by the Department of Human Services or the
33 Oregon Health Authority.

34 (p) Disclose to the Alcohol and Drug Policy Commission information required by the commission
35 in evaluating and measuring the performance of alcohol and drug prevention and treatment pro-
36 grams under ORS 430.242 or the impact of the programs on employment. The information disclosed
37 to the commission may include total subject wages payroll and whole hours worked. The information
38 disclosed under this paragraph is confidential and may not be used for any other purpose. The
39 commission may not disclose the information in any manner that would identify an employing unit
40 or employee except to the extent necessary to carry out the commission's duties under ORS 430.242.
41 If the information disclosed under this paragraph is not prepared for the use of the Employment
42 Department, the costs of disclosing the information shall be paid by the commission.

43 (q) Disclose to any person establishment level information secured pursuant to this chapter from
44 federal, state and local government employing units. If the information disclosed under this para-
45 graph is not prepared for the use of the Employment Department, the costs of disclosing the infor-

1 mation shall be paid by the party requesting the information.

2 (r) Disclose to any person the industrial classification code assigned to an employing unit. If the
3 information disclosed under this paragraph is not prepared for the use of the Employment Depart-
4 ment, the costs of disclosing the information shall be paid by the party requesting the information.

5 (5) The Employment Department may make public all decisions of the Employment Appeals
6 Board.

7 (6) Any officer appointed by or any employee of the Director of the Employment Department
8 who discloses confidential information, except with the authority of the director, pursuant to rules
9 or as otherwise required by law, may be disqualified from holding any appointment or employment
10 with the Employment Department.

11 (7) Any person or any officer or employee of an entity to whom information is disclosed by the
12 Employment Department under this section who divulges or uses the information for any purpose
13 other than that specified in the provision of law or agreement authorizing the use or disclosure may
14 be disqualified from performing any service under contract or disqualified from holding any ap-
15 pointment or employment with the state agency that engaged or employed that person, officer or
16 employee. The Employment Department may immediately cancel or modify any information sharing
17 agreement with an entity when a person or an officer or employee of that entity discloses confi-
18 dential information, other than as specified in law or agreement.

19 **SECTION 10.** ORS 659A.885, as amended by section 5, chapter 73, Oregon Laws 2016, is
20 amended to read:

21 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
22 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
23 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
24 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
25 court may order back pay in an action under this subsection only for the two-year period imme-
26 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
27 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
28 year period immediately preceding the filing of the action. In any action under this subsection, the
29 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
30 cept as provided in subsection (3) of this section:

31 (a) The judge shall determine the facts in an action under this subsection; and

32 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
33 review the judgment pursuant to the standard established by ORS 19.415 (3).

34 (2) An action may be brought under subsection (1) of this section alleging a violation of ORS
35 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 475B.233, 476.574, 652.355, 653.060, 653.601
36 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088,
37 659A.103 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
38 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
39 659A.309, 659A.315, 659A.318, 659A.320, 659A.355, 659A.421, 653.547 or 653.549 **or section 7 of this**
40 **2017 Act.**

41 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
42 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199,
43 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.421, 653.547 or 653.549:

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

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

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

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

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

8 (5) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574
9 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this
10 section, compensatory damages or \$250, whichever is greater.

11 (6) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
12 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
13 penalty in the amount of \$720.

14 (7) Any individual against whom any distinction, discrimination or restriction on account of
15 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
16 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
17 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
18 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
19 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
20 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
21 section:

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

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

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

28 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

29 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
30 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
31 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
32 and

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

35 (8) When the commissioner or the Attorney General has reasonable cause to believe that a
36 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
37 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
38 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
39 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same
40 manner as a person or group of persons may file a civil action under this section. In a civil action
41 filed under this subsection, the court may assess against the respondent, in addition to the relief
42 authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

45 (9) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or

1 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
 2 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
 3 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
 4 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
 5 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
 6 appealing an adverse decision of the trial court.

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

9 (a) "Aggrieved person" includes a person who believes that the person:

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

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

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

17 **SECTION 11. Sections 1 to 7 of this 2017 Act become operative on January 1, 2019.**

18 **SECTION 12. The Department of Consumer and Business Services, the Employment De-**
 19 **partment, the Oregon Health Authority and the Department of Revenue may take any action**
 20 **prior to the operative date specified in section 11 of this 2017 Act that is necessary to carry**
 21 **out sections 1 to 7 of this 2017 Act on the operative date specified in section 11 of this 2017**
 22 **Act.**

23 **SECTION 13. This 2017 Act takes effect on the 91st day after the date on which the 2017**
 24 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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