

Requested by Senator TAYLOR

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2005**

1 On page 1 of the printed A-engrossed bill, line 2, after the semicolon de-
2 lete the rest of the line and insert “creating new provisions; amending ORS
3 652.210, 652.220, 652.230, 659A.820, 659A.825, 659A.830, 659A.875 and 659A.885;
4 and prescribing an effective date.”.

5 Delete lines 4 through 20 and delete pages 2 through 6 and insert:

6 **“SECTION 1.** ORS 652.210 is amended to read:

7 “652.210. As used in ORS 652.210 to 652.230, unless the context requires
8 otherwise:

9 **“(1) ‘Compensation’ includes wages, salary, bonuses, benefits, fringe**
10 **benefits and equity-based compensation.**

11 “[~~1~~] **(2)** ‘Employee’ means any individual who, otherwise than as a
12 copartner of the employer, as an independent contractor or as a participant
13 in a work training program administered under the state or federal assist-
14 ance laws, renders personal services wholly or partly in this state to an
15 employer who pays or agrees to pay such individual at a fixed rate. However,
16 when services are rendered only partly in this state, an individual is not an
17 employee unless the contract of employment of the employee has been en-
18 tered into, or payments thereunder are ordinarily made or to be made, within
19 this state.

20 “[~~2~~] **(3)(a)** ‘Employer’ means any person employing one or more em-
21 ployees, including the State of Oregon or any political subdivision thereof

1 or any county, city, district, authority, public corporation or entity and any
2 of their instrumentalities organized and existing under law or charter.

3 “(b) ‘Employer’ does not include the federal government.

4 “(4) ‘Equal-pay analysis’ means an evaluation process to assess and
5 correct wage disparities among employees who perform work of com-
6 parable character.

7 “(5) ‘Protected class’ means a group of persons distinguished by
8 race, color, religion, sex, sexual orientation, national origin, marital
9 status, veteran status, disability or age.

10 “[3] (6) ‘Rate’ with reference to wages means:

11 “(a) The basis of compensation for services by an employee for an em-
12 ployer [*and*];

13 “(b) [*includes*] Compensation based on the time spent in the performance
14 of the services, on the number of operations accomplished or on the quantity
15 produced or handled.

16 “(7) ‘Sexual orientation’ has the meaning given that term in ORS
17 174.100.

18 “[4] (8) ‘Unpaid wages’ means the difference between the wages actually
19 paid to an employee and the wages required under ORS 652.220 to be paid
20 to the employee.

21 “(9) ‘Veteran status’ means an individual is a veteran as defined in
22 ORS 408.225.

23 “[5] (10) ‘Wages’ means all compensation for performance of service by
24 an employee for an employer, whether paid by the employer or another per-
25 son, [*including*] or paid in cash or any medium other than cash [*cash*
26 *value of all compensation paid in any medium other than cash*].

27 “(11) ‘Working conditions’ includes work environment, hours, time
28 of day, physical surroundings and potential hazards encountered by
29 an employee.

30 “(12) ‘Work of comparable character’ means work that requires

1 substantially similar knowledge, skill, effort, responsibility and work-
2 ing conditions in the performance of work, regardless of job de-
3 scription or job title.

4 **“SECTION 2.** ORS 652.220 is amended to read:

5 “652.220. (1) [*No employer shall:*] **It is an unlawful employment prac-**
6 **tice under ORS chapter 659A for an employer to:**

7 “(a) In any manner discriminate between [*the sexes*] **employees on the**
8 **basis of a protected class** in the payment of wages **or other compensation**
9 for work of comparable character[, *the performance of which requires compa-*
10 *rable skills*].

11 “(b) Pay wages **or other compensation** to any employee at a rate [*less*]
12 **greater** than that at which the employer pays wages **or other compen-**
13 **sation** to employees of [*the opposite sex*] **a protected class** for work of
14 comparable character[, *the performance of which requires comparable skills*].

15 “(c) **Screen job applicants based on current or past compensation.**

16 “(d) **Determine compensation for a position based on current or**
17 **past compensation of a prospective employee. This paragraph is not**
18 **intended to prevent an employer from considering the compensation**
19 **of a current employee of the employer during a transfer, move or hire**
20 **of the employee to a new position with the same employer.**

21 “[*(2) Subsection (1) of this section does not apply where:*]

22 “[*(a) Payment is made pursuant to a seniority or merit system which does*
23 *not discriminate on the basis of sex.*]

24 “[*(b) A differential in wages between employees is based in good faith on*
25 *factors other than sex.*]

26 “(2) **Notwithstanding subsection (1) of this section, an employer**
27 **may pay employees for work of comparable character at different**
28 **compensation levels if the different compensation levels are based on:**

29 “(a) **A seniority system;**

30 “(b) **A merit system;**

1 “(c) A system that measures earnings by quantity or quality of
2 production, including piece-rate work;

3 “(d) Workplace locations;

4 “(e) Travel, if travel is necessary and regular for the employee and
5 accounts for the entire compensation differential;

6 “(f) A differential based on a bona fide factor including education,
7 training or experience, if the employer can reasonably demonstrate
8 that the factor:

9 “(A) Is not based on or derived from a protected class;

10 “(B) Is not based on perceptions of traditional or appropriate roles
11 associated with a protected class;

12 “(C) Is job-related to the position in question; and

13 “(D) Is based on a business necessity; or

14 “(g) Any combination of the factors described in this subsection, if
15 the combination of factors accounts for the entire compensation dif-
16 ferential.

17 “(3) [No employer shall] **An employer may not** in any manner discrimi-
18 nate in the payment of wages **or compensation** against any employee be-
19 cause the employee has filed a complaint **under ORS 659A.820 or** in a
20 proceeding under ORS 652.210 to 652.230[,] **or 659A.885** or has testified, or
21 is about to testify, or because the employer believes that the employee may
22 testify, in any investigation or proceedings pursuant to ORS 652.210 to
23 652.230, **659A.830 or 659A.885** or in a criminal action pursuant to ORS
24 652.210 to 652.230.

25 “(4) **An employer may not reduce the compensation level of an**
26 **employee to comply with the provisions of this section.**

27 “(5) **Amounts owed to an employee because of the failure of the**
28 **employer to comply with the requirements of this section are unpaid**
29 **wages.**

30 “(6) **An employee who asserts a violation under this section may file**

1 a complaint with the Commissioner of the Bureau of Labor and In-
2 dustries under ORS 659A.820, a civil action under ORS 652.230 or a civil
3 action under 659A.885.

4 “(7) An employer shall post a notice of the requirements of this
5 section in every establishment where employees work. The Bureau of
6 Labor and Industries shall make available to employers a template
7 that meets the required notice provisions of this section.

8 “SECTION 3. ORS 652.230 is amended to read:

9 “652.230. (1) Any employee whose compensation is at a rate that is in vi-
10 olation of ORS 652.220 shall have a right of action against the employer for
11 the recovery of:

12 “(a) The amount of the unpaid wages to which the employee is entitled
13 for the one year period preceding the commencement of the action; and

14 “(b) An additional amount as liquidated damages equal to the amount
15 referred to in paragraph (a) of this subsection.

16 “(2) The court shall award reasonable attorney fees to the prevailing
17 plaintiff in an action under this section. The court may award reasonable
18 attorney fees and expert witness fees incurred by a defendant who prevails
19 in the action if the court determines that the plaintiff had no objectively
20 reasonable basis for asserting a claim or no objectively reasonable basis for
21 appealing an adverse decision of a trial court.

22 “(3) The action for the unpaid wages and liquidated damages may be
23 maintained by one or more employees on behalf of themselves or other em-
24 ployees similarly situated.

25 “(4) No agreement for compensation at a rate less than the rate to which
26 such employee is entitled under ORS 652.210 to 652.230 is a defense to any
27 action under ORS 652.210 to 652.230.

28 “(5) **For the purpose of time limitations, a compensation practice**
29 **that is unlawful under ORS 652.220 occurs each time compensation is**
30 **paid pursuant to a discriminatory compensation decision or other**

1 **practice.**

2 “(6) An action under this section alleging a violation of ORS 652.220
3 must be commenced within one year after the occurrence of the un-
4 lawful practice.

5 “SECTION 4. It is an unlawful practice under ORS chapter 659A for
6 an employer to seek the salary history of an applicant or employee
7 from a current or former employer. This section is not intended to
8 prevent an employer from requesting from a prospective employee
9 written authorization to confirm prior compensation after the em-
10 ployer makes an offer of employment to the prospective employee that
11 includes an amount of compensation.

12 “SECTION 5. ORS 659A.820 is amended to read:

13 “659A.820. (1) As used in this section, for purposes of a complaint alleging
14 an unlawful practice under ORS **652.220**, 659A.145 or 659A.421 or discrimi-
15 nation under federal housing law, ‘aggrieved person’ includes a person who
16 believes that the person:

17 “(a) Has been injured by an unlawful practice or a discriminatory housing
18 practice; or

19 “(b) Will be injured by an unlawful practice or a discriminatory housing
20 practice that is about to occur.

21 “(2) [*Any person claiming to be aggrieved by an alleged unlawful*
22 *practice*] **An aggrieved person** may file with the Commissioner of the Bu-
23 reau of Labor and Industries a verified written complaint that states the
24 name and address of the person alleged to have committed the unlawful
25 practice. The complaint must be signed by the complainant. The complaint
26 must set forth the acts or omissions alleged to be an unlawful practice. The
27 complainant may be required to set forth in the complaint such other infor-
28 mation as the commissioner may require. Except as provided in ORS 654.062,
29 a complaint under this section must be filed no later than one year after the
30 alleged unlawful practice.

1 “(3)(a) Except as provided in paragraph (b) of this subsection, a complaint
2 may not be filed under this section if a civil action has been commenced in
3 state or federal court alleging the same matters.

4 “(b) The prohibition described in paragraph (a) of this subsection does not
5 apply to a complaint alleging an unlawful practice under ORS 659A.145 or
6 659A.421 or alleging discrimination under federal housing law.

7 “(4) If an employer has one or more employees who refuse or threaten to
8 refuse to abide by the provisions of this chapter or to cooperate in carrying
9 out the purposes of this chapter, the employer may file with the commis-
10 sioner a verified complaint requesting assistance by conciliation or other
11 remedial action.

12 “(5) Except as provided in subsection (6) of this section, the commissioner
13 shall notify the person against whom a complaint is made within 30 days of
14 the filing of the complaint. The commissioner shall include in the notice the
15 date, place and circumstances of the alleged unlawful practice.

16 “(6) The commissioner shall notify the person against whom a complaint
17 alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimi-
18 nation under federal housing law is made within 10 days of the filing of the
19 complaint. The commissioner shall include in the notice:

20 “(a) The date, place and circumstances of the alleged unlawful practice;
21 and

22 “(b) A statement that the person against whom the complaint is made may
23 file an answer to the complaint.

24 “**SECTION 6.** ORS 659A.825 is amended to read:

25 “659A.825. (1)(a) If the Attorney General or the Commissioner of the Bu-
26 reau of Labor and Industries has reason to believe that any person has
27 committed an unlawful practice, the Attorney General or the commissioner
28 may file a complaint in the same manner as provided for a complaint filed
29 by [a] **an aggrieved** person under ORS 659A.820.

30 “(b) If the Attorney General or the commissioner has reason to believe

1 that a violation of ORS 659A.403, 659A.406 or 659A.409 has occurred, the
2 Attorney General or the commissioner may file a complaint under this sec-
3 tion against any person acting on behalf of a place of public accommodation
4 and against any person who has aided or abetted in that violation.

5 “(c) If the Attorney General or the commissioner has reason to believe
6 that an unlawful practice under ORS 659A.145 or 659A.421 or discrimination
7 under federal housing law has occurred or is about to occur, the Attorney
8 General or the commissioner may file a complaint in the same manner as
9 [a] **an aggrieved** person filing a complaint under ORS 659A.820.

10 “(2) If the commissioner files a complaint under this section alleging an
11 unlawful practice other than an unlawful employment practice, or if a person
12 files a complaint under ORS 659A.820 alleging an unlawful practice under
13 ORS **652.220**, 659A.145 or 659A.421 or discrimination under federal housing
14 law, the commissioner may also issue a temporary cease and desist order
15 requiring any respondent named in the complaint to refrain from the un-
16 lawful practice alleged. A temporary cease and desist order under this sec-
17 tion may contain any provision that could be included in a cease and desist
18 order issued after a hearing under ORS 659A.850.

19 “**SECTION 7.** ORS 659A.830 is amended to read:

20 “659A.830. (1) Except as provided in subsection (5) of this section, all au-
21 thority of the Commissioner of the Bureau of Labor and Industries to con-
22 duct investigations or other proceedings to resolve a complaint filed under
23 ORS 659A.820 ceases upon the filing of a civil action by the complainant
24 alleging the same matters that are the basis of the complaint under ORS
25 659A.820.

26 “(2)(a) Except as provided in paragraph (b) of this subsection, the com-
27 missioner may dismiss a complaint at any time after the complaint is filed.
28 Upon the written request of the **aggrieved** person who filed the complaint
29 under ORS 659A.820, the commissioner shall dismiss the complaint. Upon
30 dismissal of the complaint, the commissioner shall issue a 90-day notice if

1 notice is required under ORS 659A.880.

2 “(b) Paragraph (a) of this subsection does not apply to a complaint al-
3 leging an unlawful practice under ORS 659A.145 or 659A.421 or discrimi-
4 nation under federal housing law. The commissioner shall dismiss a
5 complaint alleging an unlawful practice under ORS 659A.145 or 659A.421 or
6 discrimination under federal housing law if the commissioner finds no sub-
7 stantial evidence that an unlawful practice or discriminatory housing prac-
8 tice has occurred or is about to occur.

9 “(3) Except as provided in this section, all authority of the commissioner
10 to conduct investigations or other proceedings to resolve a complaint filed
11 under ORS 659A.820 ceases one year after the complaint is filed unless the
12 commissioner has issued a finding of substantial evidence under ORS
13 659A.835 during the one-year period. Unless it is impracticable to do so, the
14 commissioner shall make a final administrative disposition of a complaint
15 alleging an unlawful practice under ORS 659A.145 or 659A.421 or discrimi-
16 nation under federal housing law no later than one year after receipt of the
17 complaint.

18 “(4) The authority of the commissioner to conduct investigations or other
19 proceedings to resolve a complaint filed under ORS 659A.820 alleging an
20 unlawful practice under ORS **652.220**, 659A.403 or 659A.406 continues until
21 the filing of a civil action by the complainant or until the commissioner
22 dismisses the proceedings, enters into a settlement agreement or enters a
23 final order in the matter after a hearing under ORS 659A.850.

24 “(5) The authority of the commissioner to conduct investigations or other
25 proceedings to resolve a complaint filed under ORS 659A.820 alleging an
26 unlawful practice under ORS 659A.145 or 659A.421 or discrimination under
27 federal housing law does not cease upon the filing of a civil action by the
28 complainant, but ceases upon the commencement of a trial in the civil
29 action.

30 “(6) The authority of the commissioner to conduct investigations or other

1 proceedings to resolve a complaint filed under ORS 659A.820 alleging a vio-
2 lation of ORS 659A.145 or 659A.421 or 659A.406 does not cease under sub-
3 section (3) of this section if the issuance of a finding of substantial evidence
4 under ORS 659A.835 within the time allowed under subsection (3) of this
5 section is not practicable. The commissioner shall notify the parties in
6 writing of the reasons that the issuance of substantial evidence cannot be
7 made within the time allowed.

8 “(7) Nothing in this section affects the ability of the commissioner to
9 enforce any order entered by the commissioner or to enforce any settlement
10 agreement signed by a representative of the commissioner.

11 **“SECTION 8.** ORS 659A.875 is amended to read:

12 “659A.875. (1) Except as provided in subsection (2) of this section, a civil
13 action under ORS 659A.885 alleging an unlawful employment practice must
14 be commenced within one year after the occurrence of the unlawful employ-
15 ment practice unless a complaint has been timely filed under ORS 659A.820.

16 “(2) A person who has filed a complaint under ORS 659A.820 must com-
17 mence a civil action under ORS 659A.885 within 90 days after a 90-day notice
18 is mailed to the complainant under ORS 659A.880. This subsection does not
19 apply to a complainant alleging an unlawful practice under ORS 659A.145
20 or 659A.421 or discrimination under federal housing law.

21 “(3) A civil action alleging a violation of ORS 659A.145 or 659A.421 must
22 be commenced not later than two years after the occurrence or the termi-
23 nation of the unlawful practice, or within two years after the breach of any
24 settlement agreement entered into under ORS 659A.840, whichever occurs
25 last. The two-year period shall not include any time during which an ad-
26 ministrative proceeding was pending with respect to the unlawful practice.

27 “(4) A civil action under ORS 659A.885 alleging an unlawful practice in
28 violation of ORS 659A.403 or 659A.406 must be commenced within one year
29 of the occurrence of the unlawful practice.

30 “(5) The notice of claim required under ORS 30.275 must be given in any

1 civil action under ORS 659A.885 against a public body, as defined in ORS
2 30.260, or any officer, employee or agent of a public body as defined in ORS
3 30.260.

4 “(6) Notwithstanding ORS 30.275 (9), a civil action under ORS 659A.885
5 against a public body, as defined in ORS 30.260, or any officer, employee or
6 agent of a public body as defined in ORS 30.260, based on an unlawful em-
7 ployment practice must be commenced within one year after the occurrence
8 of the unlawful employment practice unless a complaint has been timely filed
9 under ORS 659A.820.

10 **“(7) For the purpose of time limitations, a compensation practice**
11 **that is unlawful under ORS 652.220 occurs each time compensation is**
12 **paid under a discriminatory compensation decision or other practice.**

13 **“SECTION 9.** ORS 659A.885, as amended by section 5, chapter 73, Oregon
14 Laws 2016, is amended to read:

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

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

30 “(b) Upon any appeal of a judgment in an action under this subsection,

1 the appellate court shall review the judgment pursuant to the standard es-
2 tablished by ORS 19.415 (3).

3 “(2) An action may be brought under subsection (1) of this section alleg-
4 ing a violation of ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237
5 (2), 475B.233, 476.574, **652.220**, 652.355, 653.060, 653.601 to 653.661, 659.852,
6 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082,
7 659A.088, 659A.103 to 659A.145, 659A.150 to 659A.186, 659A.194, 659A.199,
8 659A.203, 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to
9 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315,
10 659A.318, 659A.320, 659A.355, 659A.421, 653.547 or 653.549 **or section 4 of this**
11 **2017 Act.**

12 “(3) In any action under subsection (1) of this section alleging a violation
13 of ORS 25.337, 25.424, **652.220**, **652.355**, 659.852, 659A.030, 659A.040, 659A.043,
14 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203,
15 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, **659A.355**,
16 659A.421, 653.547 or 653.549 **or section 4 of this 2017 Act:**

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

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

21 “(c) Upon appeal of any judgment finding a violation, the appellate court
22 shall review the judgment pursuant to the standard established by ORS
23 19.415 (1); and

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

25 “(4) **Notwithstanding ORS 31.730, in an action under subsection (1)**
26 **of this section alleging a violation of ORS 652.220, the court may award**
27 **punitive damages if:**

28 “(a) **It is proved by clear and convincing evidence that an employer**
29 **has engaged in fraud, acted with malice or acted with willful and**
30 **wanton misconduct; or**

1 **“(b) An employer was previously found in a proceeding under this**
2 **section or under ORS 659A.850 to have violated ORS 652.220.**

3 **“(5) In any action under subsection (1) of this section alleging a**
4 **violation of ORS 652.220, the court may award back pay only for the**
5 **two-year period immediately preceding the filing of the action and may**
6 **allow the costs and reasonable attorney fees, but may not award**
7 **compensatory or punitive damages, if an employer can show that**
8 **within three years before the date that the employee filed the action,**
9 **the employer:**

10 **“(a) Completed an equal-pay analysis of its pay practices in good**
11 **faith that was:**

12 **“(A) Reasonable in detail and in scope in light of the size of the**
13 **employer; and**

14 **“(B) Related to the protected class asserted by the plaintiff in the**
15 **action; and**

16 **“(b) Eliminated wage differentials for the protected class asserted**
17 **by the plaintiff and any other protected class identified during the**
18 **equal-pay analysis.**

19 **“(6) Evidence of an equal-pay analysis undertaken in accordance**
20 **with subsection (5) of this section is inadmissible in any other pro-**
21 **ceeding.**

22 **“(7) Information that an employer has not completed an equal-pay**
23 **analysis may not be used as evidence of a violation of ORS 652.220 in**
24 **an action under subsection (1) of this section alleging a violation of**
25 **ORS 652.220.**

26 **“[(4)] (8) In any action under subsection (1) of this section alleging a vi-**
27 **olation of ORS [652.355 or] 653.060, the court may award, in addition to the**
28 **relief authorized under subsection (1) of this section, compensatory damages**
29 **or \$200, whichever is greater.**

30 **“[(5)] (9) In any action under subsection (1) of this section alleging a vi-**

1 olation of ORS 171.120, 476.574 or 659A.218, the court may award, in addition
2 to the relief authorized under subsection (1) of this section, compensatory
3 damages or \$250, whichever is greater.

4 “[6] (10) In any action under subsection (1) of this section alleging a
5 violation of ORS 10.090 or 10.092, the court may award, in addition to the
6 relief authorized under subsection (1) of this section, a civil penalty in the
7 amount of \$720.

8 “[7] (11) Any individual against whom any distinction, discrimination
9 or restriction on account of race, color, religion, sex, sexual orientation,
10 national origin, marital status or age, if the individual is 18 years of age or
11 older, has been made by any place of public accommodation, as defined in
12 ORS 659A.400, by any employee or person acting on behalf of the place or
13 by any person aiding or abetting the place or person in violation of ORS
14 659A.406 may bring an action against the operator or manager of the place,
15 the employee or person acting on behalf of the place or the aider or abettor
16 of the place or person. Notwithstanding subsection (1) of this section, in an
17 action under this subsection:

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

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

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

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

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

30 “(f) Upon any appeal of a judgment under this subsection, the appellate

1 court shall review the judgment pursuant to the standard established by ORS
2 19.415 (1).

3 “[8] (12) When the commissioner or the Attorney General has reasonable
4 cause to believe that a person or group of persons is engaged in a pattern
5 or practice of resistance to the rights protected by ORS 659A.145 or 659A.421
6 or federal housing law, or that a group of persons has been denied any of the
7 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
8 commissioner or the Attorney General may file a civil action on behalf of
9 the aggrieved persons in the same manner as a person or group of persons
10 may file a civil action under this section. In a civil action filed under this
11 subsection, the court may assess against the respondent, in addition to the
12 relief authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

15 “[9] (13) In any action under subsection (1) of this section alleging a
16 violation of ORS 659A.145 or 659A.421 or alleging discrimination under fed-
17 eral housing law, when the commissioner is pursuing the action on behalf
18 of an aggrieved complainant, the court shall award reasonable attorney fees
19 to the commissioner if the commissioner prevails in the action. The court
20 may award reasonable attorney fees and expert witness fees incurred by a
21 defendant that prevails in the action if the court determines that the com-
22 missioner had no objectively reasonable basis for asserting the claim or for
23 appealing an adverse decision of the trial court.

24 “[10] (14) In an action under subsection (1) or [(8)] (12) of this section
25 alleging a violation of ORS 659A.145 or 659A.421 or discrimination under
26 federal housing law:

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

28 “(A) Has been injured by an unlawful practice or discriminatory housing
29 practice; or

30 “(B) Will be injured by an unlawful practice or discriminatory housing

1 practice that is about to occur.

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

7 **“SECTION 10. The amendments to ORS 652.210, 652.220, 652.230,
8 659A.820, 659A.825, 659A.830, 659A.875 and 659A.885 by sections 1 to 3 and
9 5 to 9 of this 2017 Act become operative on January 1, 2019.**

10 **“SECTION 11. This 2017 Act takes effect on the 91st day after the
11 date on which the 2017 regular session of the Seventy-ninth Legislative
12 Assembly adjourns sine die.”.**

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