

# House Bill 2271

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Environmental Quality)

## 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**.

Changes punishment for unlawful air pollution in the second degree from specific fine violation to Class A misdemeanor.

Allows assessment of civil penalties for violations of motor vehicle emission standards other than violation of requirement that owner or lessee obtain motor vehicle pollution control system certificate of compliance.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to violations of air quality laws; creating new provisions; amending ORS 468.140 and  
3 468.936; and prescribing an effective date.

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

5 **SECTION 1.** ORS 468.936 is amended to read:

6 468.936. (1) A person commits the crime of unlawful air pollution in the second degree if the  
7 person knowingly violates any applicable requirement of ORS chapter 468A or a permit, rule or or-  
8 der adopted or issued under ORS chapter 468A.

9 (2) Subject to ORS 153.022, unlawful air pollution in the second degree is a [*specific fine*  
10 *violation*] **Class A misdemeanor**, punishable by a fine of not more than \$25,000.

11 **SECTION 2.** ORS 468.140 is amended to read:

12 468.140. (1) In addition to any other penalty provided by law, any person who violates any of the  
13 following shall incur a civil penalty for each day of violation in the amount prescribed by the  
14 schedule adopted under ORS 468.130:

15 (a) The terms or conditions of any permit required or authorized by law and issued by the De-  
16 partment of Environmental Quality or a regional air quality control authority.

17 (b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to  
18 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A  
19 and 468B.

20 (c) Any rule or standard or order of the Environmental Quality Commission adopted or issued  
21 pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755  
22 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

23 (d) Any term or condition of a variance granted by the commission or department pursuant to  
24 ORS 467.060.

25 (e) Any rule or standard or order of a regional authority adopted or issued under authority of  
26 ORS 468A.135.

27 (f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related  
28 to the financial assurance requirement under ORS 468B.390.

**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 (2) Each day of violation under subsection (1) of this section constitutes a separate offense.

2 (3)(a) In addition to any other penalty provided by law, any person who intentionally or  
3 negligently causes or permits the discharge of oil or hazardous material into the waters of the state  
4 or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into  
5 the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the  
6 amount of \$100,000 for each violation.

7 (b) In addition to any other penalty provided by law, the following persons shall incur a civil  
8 penalty not to exceed the amount of \$25,000 for each day of violation:

9 (A) Any person who violates the terms or conditions of a permit authorizing waste discharge  
10 into the air or waters of the state.

11 (B) Any person who violates any law, rule, order or standard in ORS 448.305, 454.010 to 454.040,  
12 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapters  
13 468, 468A and 468B relating to air or water pollution.

14 (C) Any person who violates the provisions of a rule adopted or an order issued under ORS  
15 459A.590.

16 (4) In addition to any other penalty provided by law, any person who violates the provisions of  
17 ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of vio-  
18 lation.

19 *[(5) Subsection (1)(c) and (e) of this section does not apply to violations of motor vehicle emission  
20 standards which are not violations of standards for control of noise emissions.]*

21 **(5) Notwithstanding subsection (1)(c) and (e) of this section, the owner or lessee of a  
22 motor vehicle may not incur a civil penalty for a violation of the requirement that the owner  
23 or lessee obtain a motor vehicle pollution control system certificate of compliance issued  
24 under ORS 468A.380.**

25 (6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided  
26 by law, any person who intentionally or negligently causes or permits open field burning contrary  
27 to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed  
28 by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned.  
29 Any amounts collected by the department pursuant to this subsection shall be deposited with the  
30 State Treasurer to the credit of the General Fund and shall be available for general governmental  
31 expense. As used in this subsection, "open field burning" does not include propane flaming of mint  
32 stubble.

33 **SECTION 3. The amendments to ORS 468.936 by section 1 of this 2019 Act apply to con-  
34 duct occurring on or after the effective date of this 2019 Act.**

35 **SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019  
36 regular session of the Eightieth Legislative Assembly adjourns sine die.**