

# D R A F T

## SUMMARY

Provides that person that carries on, conducts or transacts business in county of this state under assumed business name that person has not registered or for which person does not maintain registration lacks standing in courts of this state to maintain action on behalf of business. Provides that court shall dismiss action without prejudice.

Permits Secretary of State to investigate violations of registration requirement. Directs Secretary of State to investigate complaints that allege ascertainable loss of money or property as result of violation. Permits Secretary of State to impose civil penalty of not more than \$100 for each day of violation. Specifies use to which Secretary of State shall dedicate proceeds of civil penalties.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to violations of a requirement to register assumed business names; amending ORS 648.135 and 648.990; and prescribing an effective date.

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

**SECTION 1.** ORS 648.135 is amended to read:

648.135. (1) A person who carries on, conducts or transacts business in violation of ORS 648.007 [*shall lack*] **lacks** standing before the courts of this state to maintain a cause of action for the benefit of the business[.], **and a court shall dismiss the person's action without prejudice. The person may not bring a new action or refile or amend a complaint until the person cures the incapacity by complying with ORS 648.007.** [*The person may cure the incapacity at any time by complying with ORS 648.007. Nothing in*] This section [*shall*] **does not** extend any statute of limitations.

(2) In any action or suit in which the cause of action arises out of busi-

ness that the defendant carried on, conducted or transacted in violation of ORS 648.007, the plaintiff *[shall be entitled to]* **may** recover \$500 or the actual costs that the court determines that the plaintiff reasonably incurred to ascertain the real and true name of the defendant, whichever is greater. The court may award reasonable attorney fees to the prevailing party in an action under this subsection.

**(3) The Secretary of State, at the Secretary of State's own initiative, may investigate a violation of this chapter. The Secretary of State shall investigate a complaint that alleges an ascertainable loss of a person's money or property as a result of a violation of this chapter and may impose a penalty under ORS 688.990 if the Secretary of State determines that the complaint is valid and warranted.**

*[(3)]* **(4)** Except as provided in this section, *[nothing in]* this chapter *[shall]* **does not** abrogate or limit the law as to unfair competition or unfair trade practices or derogate from the common law, the principles of equity or the statutes of this state or of the United States with respect to the right to acquire and to protect trade names.

**SECTION 2.** ORS 648.990 is amended to read:

648.990. *[(1) Violation of any of the provisions of this chapter is punishable by a civil penalty not exceeding \$100.]*

*[(2) A penalty imposed under this section is in addition to any other penalty which may be imposed by the state or a political subdivision of this state under any other civil or criminal statute.]*

**(1)(a) The Secretary of State may impose a civil penalty of not more than \$100 for each day in which a person carries on, conducts or transacts business in a county of this state under an assumed business name that the person has not registered, or for which the person does not maintain a registration, under ORS 648.007. The Secretary of State shall impose the civil penalty in accordance with ORS 183.745.**

**(b) The Secretary of State shall deposit the proceeds of penalties the Secretary of State imposes under this section into a subaccount within**

1 the Operating Account established under ORS 56.041. The Secretary  
2 of State shall use the moneys in the subaccount for the exclusive  
3 purpose of paying expenses that the Office of Small Business Assist-  
4 ance incurs in providing support to small businesses that veterans own  
5 and operate.

6 (c) The Secretary of State may reduce or waive a penalty otherwise  
7 due under paragraph (a) of this subsection in cases of hardship or for  
8 other good cause shown.

9 (2) A penalty that the Secretary of State imposes under subsection  
10 (1) of this section is in addition to any other penalty that the state or  
11 a political subdivision of this state may impose under any other civil  
12 or criminal statute.

13 SECTION 3. This 2023 Act takes effect on the 91st day after the date  
14 on which the 2023 regular session of the Eighty-second Legislative  
15 Assembly adjourns sine die.