

Requested by SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

**PROPOSED AMENDMENTS TO
SENATE BILL 1567**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating
2 new provisions; amending ORS 469A.415 and 659A.885;”.

3 Delete lines 4 through 24 and delete pages 2 through 7 and insert:

4 **“SECTION 1. Sections 2 to 6 of this 2022 Act are added to and made
5 a part of ORS chapter 468B.**

6 **“SECTION 2. (1) As used in sections 2 to 6 of this 2022 Act, ‘bulk
7 oils or liquid fuels terminal’ means an industrial facility located in
8 Columbia, Multnomah or Lane Counties that is primarily engaged in
9 the transport or bulk storage of oils or liquid fuel products and is
10 characterized by having:**

11 **“(a) Marine, pipeline, railroad or vehicular transport access;**

12 **“(b) Transloading facilities for transferring shipments of oils or
13 liquid fuel products between transportation modes; and**

14 **“(c) One or more bulk storage tanks with a combined capacity of
15 two million gallons of liquid fuel products or more.**

16 **“(2) An owner or operator of a bulk oils or liquid fuels terminal
17 shall conduct and submit to the Department of Environmental Quality
18 a comprehensive seismic vulnerability assessment for the entire bulk
19 oils or liquid fuels terminal. A seismic vulnerability assessment sub-
20 mitted to the department under this section must:**

21 **“(a) Include a seismic risk assessment, or a series of seismic risk**

1 assessments, conducted by qualified professionals using the most re-
2 cent industry standards for assessing seismic risk to:

3 “(A) Buildings, structures and ancillary components;

4 “(B) Pipelines, pipeline configurations, pipeline pathways and pipe-
5 line components, including connections, valves and racks;

6 “(C) Bulk storage tanks;

7 “(D) Spill containment structures;

8 “(E) Transloading facilities, including wharves, piers, moorings and
9 retaining structures;

10 “(F) Loading racks;

11 “(G) Control equipment; and

12 “(H) Any other structures and related or supporting facilities that
13 constitute the bulk oils or liquid fuels terminal;

14 “(b) Include a determination of the bulk oils or liquid fuels
15 terminal’s vulnerability to liquefaction triggering and liquefaction
16 consequences, such as lateral spreading and coseismic settlement, us-
17 ing standards in accordance with guidance contained in ‘National
18 Academies of Sciences, Engineering and Medicine, State of the Art and
19 Practice in the Assessment of Earthquake-Induced Soil Liquefaction
20 and Its Consequences, 2016’;

21 “(c) Include a determination of whether the existing structures and
22 related or supporting facilities that constitute the bulk oils or liquid
23 fuels terminal have been designed, improved or retrofitted to reduce
24 the potential for significant structural damage to property or harm to
25 people or the environment in or adjacent to the bulk oils or liquid fu-
26 els terminal in the event of a magnitude 9.0 Cascadia Subduction Zone
27 earthquake, including impacts from the expected duration of shaking;
28 and

29 “(d) Include a determination of the structures and related or sup-
30 porting facilities that are most vulnerable to seismic risks and the

1 potential of those structures and facilities to maintain safe operating
2 conditions, or safe shut down procedures, to protect public health, life
3 safety and environmental safety against releases of oils or liquid fuel
4 products, including information about operational procedures during
5 disasters.

6 “(3) The department shall review a seismic vulnerability assessment
7 submitted under this section and approve the assessment if it meets
8 the requirements of subsection (2) of this section and any other re-
9 quirements for seismic vulnerability assessments contained in rules
10 adopted under subsection (4) of this section.

11 “(4)(a) The Environmental Quality Commission, in consultation
12 with the State Department of Geology and Mineral Industries, may
13 adopt by rule requirements for seismic vulnerability assessments sub-
14 mitted to the Department of Environmental Quality under this sec-
15 tion.

16 “(b) Rules adopted by the commission may require the owner or
17 operator of a bulk oils or liquid fuels terminal to submit seismic vul-
18 nerability assessment updates to the department:

19 “(A) Upon the retrofit or reconstruction of all or a part of a bulk
20 oils or liquid fuels terminal; or

21 “(B) Based on new scientific or technical findings, but no more
22 frequently than once every three years.

23 “(c) Notwithstanding subsection (2)(b) of this section, the commis-
24 sion may by rule adopt revised or additional standards for determining
25 a bulk oils or liquid fuels terminal’s vulnerability to liquefaction trig-
26 gering and liquefaction consequences if the commission determines
27 that guidance contained in ‘National Academies of Sciences, Engi-
28 neering and Medicine, State of the Art and Practice in the Assessment
29 of Earthquake-Induced Soil Liquefaction and Its Consequences, 2016’
30 no longer represents the most recent industry standards for deter-

1 mining vulnerability to soil liquefaction triggering and liquefaction
2 consequences.

3 **“SECTION 3. (1) The owner or operator of a bulk oils or liquid fuels**
4 **terminal shall properly implement a seismic risk mitigation imple-**
5 **mentation plan that has been approved by the Department of Envi-**
6 **ronmental Quality. A seismic risk mitigation implementation plan**
7 **must, at a minimum, identify actions, with timelines, to protect public**
8 **health, life safety and environmental safety within the facility, in**
9 **areas adjacent to the facility and in other areas that may be affected**
10 **as a result of damages to the facility. A seismic risk mitigation im-**
11 **plementation plan, as a risk-based assessment, must include consid-**
12 **eration of the likelihood of a magnitude 9.0 Cascadia Subduction Zone**
13 **earthquake, the potential consequences of that event and the re-**
14 **sources needed to respond to that event.**

15 **“(2) The Environmental Quality Commission, in consultation with**
16 **the State Department of Geology and Mineral Industries, shall adopt**
17 **by rule a seismic risk mitigation implementation program for bulk oils**
18 **or liquid fuels terminals that is based on risk. To the extent feasible**
19 **and appropriate, the program adopted under this section shall be con-**
20 **sistent and coordinated with the program established under ORS**
21 **468B.345 to 468B.415. Rules adopted under this section shall include, but**
22 **not be limited to:**

23 **“(a) Rules for the required content of seismic risk mitigation im-**
24 **plementation plans and rules for approval by the Department of En-**
25 **vironmental Quality of seismic risk mitigation implementation plans.**

26 **“(b) Provisions for training, response exercises, external peer re-**
27 **views, inspections and tests in order to verify the ability of the facility**
28 **to sustain safe conditions and respond to uncontrolled releases of**
29 **hazardous materials from the bulk oils or liquid fuels terminal due to**
30 **an earthquake.**

1 **“(c) Requirements to minimize harmful impacts to local communi-**
2 **ties and natural resources due to uncontrolled releases of hazardous**
3 **materials from the bulk oils or liquid fuels terminal due to an earth-**
4 **quake and its associated direct and indirect impacts, including fires**
5 **and flooding.**

6 **“(d) Requirements for the inspection of bulk storage tanks at bulk**
7 **oils or liquid fuels terminals.**

8 **“(e) Design and construction standards for new bulk storage tanks**
9 **constructed at bulk oils or liquid fuels terminals.**

10 **“(f) Design and construction standards for seismic mitigation of**
11 **existing bulk storage tanks, piping and related structures constructed**
12 **at bulk oils or liquid fuels terminals.**

13 **“(g) Provisions requiring the proper installation of seismically cer-**
14 **tified generators to power critical operations, or at a minimum, the**
15 **installation of electrical hookups for emergency generators.**

16 **“(h) Provisions for the review of seismic vulnerability assessments**
17 **required under section 2 of this 2022 Act and seismic risk mitigation**
18 **implementation plans required under subsection (1) of this section by**
19 **state agencies with expertise in earthquake hazards, risk mitigation**
20 **or emergency preparedness or management.**

21 **“(i) Provisions requiring the owner or operator of a bulk oils or**
22 **liquid fuels terminal to submit seismic vulnerability mitigation im-**
23 **plementation plan updates to the department:**

24 **“(A) According to a schedule established by the commission;**

25 **“(B) Upon the retrofit or reconstruction of all or a part of a bulk**
26 **oils or liquid fuels terminal; and**

27 **“(C) Based on new scientific or technical findings, but no more**
28 **frequently than once every three years.**

29 **“(j) Provisions establishing a fee calculated to cover the costs to the**
30 **department of reviewing seismic risk mitigation implementation plans**

1 submitted under this section and seismic risk assessments submitted
2 under section 2 of this 2022 Act, less any federal funds received by the
3 department for those purposes. Fees received by the department under
4 this paragraph shall be deposited in the Seismic Risk Mitigation Fund
5 established under section 6 of this 2022 Act.

6 “(k) Provisions establishing grants or other financial assistance to
7 owners or operators of bulk oils or liquid fuels terminals for improve-
8 ments to existing infrastructure, provided that federal funds are made
9 available to the department for that purpose.

10 “SECTION 4. Confidential business information submitted to the
11 Department of Environmental Quality by the owner or operator of a
12 bulk oils or liquid fuels terminal under section 2 or 3 of this 2022 Act
13 is confidential and not subject to public disclosure under ORS 192.311
14 to 192.478, except that the department may disclose summarized in-
15 formation or aggregated data if the information or data does not di-
16 rectly or indirectly identify the confidential business information.

17 “SECTION 5. (1) It is an unlawful employment practice for the
18 owner or operator of a bulk oils or liquid fuels terminal to discharge,
19 demote, suspend or in any manner discriminate or retaliate against
20 an employee of the bulk oils or liquid fuels terminal with regard to
21 promotion, compensation or other terms, conditions or privileges of
22 employment because the employee has in good faith:

23 “(a) Reported information that the employee believes is evidence
24 of a violation of a state or federal law, rule or regulation; or

25 “(b) Provided information regarding a public health, life safety or
26 environmental safety risk at the bulk oils or liquid fuels terminal to
27 a federal, state or local government official or a person conducting a
28 seismic risk assessment under section 2 of this 2022 Act.

29 “(2) This section is subject to enforcement under ORS chapter 659A.

30 “(3) The remedies provided by ORS chapter 659A are in addition to

1 any common law remedy or other remedy that may be available to an
2 employee for the conduct constituting a violation of this section.

3 **“SECTION 6. (1) The Seismic Risk Mitigation Fund is established**
4 **in the State Treasury, separate and distinct from the General Fund.**
5 **Interest earned by the Seismic Risk Mitigation Fund shall be credited**
6 **to the fund.**

7 **“(2) Moneys in the Seismic Risk Mitigation Fund shall consist of:**

8 **“(a) Money appropriated to the fund by the Legislative Assembly;**

9 **“(b) Fees deposited in the fund under section 3 of this 2022 Act;**

10 **“(c) Moneys transferred to the fund from the federal or state gov-**
11 **ernment; or**

12 **“(d) Gifts, grants and donations received from any source.**

13 **“(3) All moneys in the Seismic Risk Mitigation Fund are contin-**
14 **uously appropriated to the Department of Environmental Quality for**
15 **the purposes of:**

16 **“(a) Reviewing seismic risk mitigation implementation plans sub-**
17 **mitted under section 3 of this 2022 Act and seismic risk assessments**
18 **submitted under section 2 of this 2022 Act; and**

19 **“(b) Providing grants or other financial assistance to owners or**
20 **operators of bulk oils or liquid fuels terminals under section 3 (2)(k)**
21 **of this 2022 Act.**

22 **“SECTION 7. ORS 659A.885 is amended to read:**

23 **“659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-**
24 **tice specified in subsection (2) of this section may file a civil action in cir-**
25 **cuit court. In any action under this subsection, the court may order**
26 **injunctive relief and any other equitable relief that may be appropriate, in-**
27 **cluding but not limited to reinstatement or the hiring of employees with or**
28 **without back pay. A court may order back pay in an action under this sub-**
29 **section only for the two-year period immediately preceding the filing of a**
30 **complaint under ORS 659A.820 with the Commissioner of the Bureau of La-**

1 bor and Industries, or if a complaint was not filed before the action was
2 commenced, the two-year period immediately preceding the filing of the
3 action. In any action under this subsection, the court may allow the pre-
4 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
5 cept as provided in subsection (3) of this section:

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

8 “(b) Upon any appeal of a judgment in an action under this subsection,
9 the appellate court shall review the judgment pursuant to the standard es-
10 tablished by ORS 19.415 (3).

11 “(2) An action may be brought under subsection (1) of this section alleg-
12 ing a violation of:

13 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),
14 475C.285, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
15 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,
16 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147,
17 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
18 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290,
19 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343,
20 659A.355, 659A.370 or 659A.421 **or section 5 of this 2022 Act**; or

21 “(b) ORS 653.470, except an action may not be brought for a claim relating
22 to ORS 653.450.

23 “(3) In any action under subsection (1) of this section alleging a violation
24 of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 659.852,
25 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to
26 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
27 659A.290, 659A.318, 659A.343, 659A.355, 659A.370 or 659A.421:

28 “(a) The court may award, in addition to the relief authorized under
29 subsection (1) of this section, compensatory damages or \$200, whichever is
30 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
3 shall review the judgment pursuant to the standard established by ORS
4 19.415 (1); and

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

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

9 “(a) It is proved by clear and convincing evidence that an employer has
10 engaged in fraud, acted with malice or acted with willful and wanton mis-
11 conduct; or

12 “(b) An employer was previously adjudicated in a proceeding under this
13 section or under ORS 659A.850 for a violation of ORS 652.220.

14 “(5) In any action under subsection (1) of this section alleging a violation
15 of ORS 653.060 or 659A.147, the court may award, in addition to the relief
16 authorized under subsection (1) of this section, compensatory damages or
17 \$200, whichever is greater.

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

22 “(7) In any action under subsection (1) of this section alleging a violation
23 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-
24 thorized under subsection (1) of this section, a civil penalty in the amount
25 of \$720.

26 “(8) Any individual against whom any distinction, discrimination or re-
27 striction on account of race, color, religion, sex, sexual orientation, gender
28 identity, national origin, marital status or age, if the individual is 18 years
29 of age or older, has been made by any place of public accommodation, as
30 defined in ORS 659A.400, by any employee or person acting on behalf of the

1 place or by any person aiding or abetting the place or person in violation
2 of ORS 659A.406 may bring an action against the operator or manager of the
3 place, the employee or person acting on behalf of the place or the aider or
4 abettor of the place or person. Notwithstanding subsection (1) of this sec-
5 tion, in an action under this subsection:

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

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

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

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

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

18 “(f) Upon any appeal of a judgment under this subsection, the appellate
19 court shall review the judgment pursuant to the standard established by ORS
20 19.415 (1).

21 “(9) When the commissioner or the Attorney General has reasonable cause
22 to believe that a person or group of persons is engaged in a pattern or
23 practice of resistance to the rights protected by ORS 659A.145 or 659A.421
24 or federal housing law, or that a group of persons has been denied any of the
25 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
26 commissioner or the Attorney General may file a civil action on behalf of
27 the aggrieved persons in the same manner as a person or group of persons
28 may file a civil action under this section. In a civil action filed under this
29 subsection, the court may assess against the respondent, in addition to the
30 relief authorized under subsections (1) and (3) of this section, a civil penalty:

1 “(a) In an amount not exceeding \$50,000 for a first violation; and
2 “(b) In an amount not exceeding \$100,000 for any subsequent violation.
3 “(10) In any action under subsection (1) of this section alleging a vio-
4 lation of ORS 659A.145 or 659A.421 or alleging discrimination under federal
5 housing law, when the commissioner is pursuing the action on behalf of an
6 aggrieved complainant, the court shall award reasonable attorney fees to the
7 commissioner if the commissioner prevails in the action. The court may
8 award reasonable attorney fees and expert witness fees incurred by a de-
9 fendant that prevails in the action if the court determines that the commis-
10 sioner had no objectively reasonable basis for asserting the claim or for
11 appealing an adverse decision of the trial court.
12 “(11) In an action under subsection (1) or (9) of this section alleging a
13 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-
14 ing law:
15 “(a) ‘Aggrieved person’ includes a person who believes that the person:
16 “(A) Has been injured by an unlawful practice or discriminatory housing
17 practice; or
18 “(B) Will be injured by an unlawful practice or discriminatory housing
19 practice that is about to occur.
20 “(b) An aggrieved person in regard to issues to be determined in an action
21 may intervene as of right in the action. The Attorney General may intervene
22 in the action if the Attorney General certifies that the case is of general
23 public importance. The court may allow an intervenor prevailing party costs
24 and reasonable attorney fees at trial and on appeal.
25 “**SECTION 8.** ORS 659A.885, as amended by section 10, chapter 197,
26 Oregon Laws 2017, section 6, chapter 139, Oregon Laws 2019, section 8,
27 chapter 343, Oregon Laws 2019, section 8, chapter 463, Oregon Laws 2019,
28 section 13, chapter 701, Oregon Laws 2019, and section 45, chapter 367,
29 Oregon Laws 2021, is amended to read:
30 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-

1 tice specified in subsection (2) of this section may file a civil action in cir-
2 cuit court. In any action under this subsection, the court may order
3 injunctive relief and any other equitable relief that may be appropriate, in-
4 cluding but not limited to reinstatement or the hiring of employees with or
5 without back pay. A court may order back pay in an action under this sub-
6 section only for the two-year period immediately preceding the filing of a
7 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-
8 bor and Industries, or if a complaint was not filed before the action was
9 commenced, the two-year period immediately preceding the filing of the
10 action. In any action under this subsection, the court may allow the pre-
11 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
12 cept as provided in subsection (3) of this section:

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

15 “(b) Upon any appeal of a judgment in an action under this subsection,
16 the appellate court shall review the judgment pursuant to the standard es-
17 tablished by ORS 19.415 (3).

18 “(2) An action may be brought under subsection (1) of this section alleg-
19 ing a violation of:

20 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),
21 475C.285, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
22 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,
23 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147,
24 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
25 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290,
26 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343,
27 659A.355, 659A.357, 659A.370 or 659A.421 **or section 5 of this 2022 Act**; or

28 “(b) ORS 653.470, except an action may not be brought for a claim relating
29 to ORS 653.450.

30 “(3) In any action under subsection (1) of this section alleging a violation

1 of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 659.852,
2 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to
3 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
4 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

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

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

9 “(c) Upon appeal of any judgment finding a violation, the appellate court
10 shall review the judgment pursuant to the standard established by ORS
11 19.415 (1); and

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

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

16 “(a) It is proved by clear and convincing evidence that an employer has
17 engaged in fraud, acted with malice or acted with willful and wanton mis-
18 conduct; or

19 “(b) An employer was previously adjudicated in a proceeding under this
20 section or under ORS 659A.850 for a violation of ORS 652.220.

21 “(5) In any action under subsection (1) of this section alleging a violation
22 of ORS 653.060 or 659A.147, the court may award, in addition to the relief
23 authorized under subsection (1) of this section, compensatory damages or
24 \$200, whichever is greater.

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

29 “(7) In any action under subsection (1) of this section alleging a violation
30 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-

1 thORIZED under subsection (1) of this section, a civil penalty in the amount
2 of \$720.

3 “(8) Any individual against whom any distinction, discrimination or re-
4 striction on account of race, color, religion, sex, sexual orientation, gender
5 identity, national origin, marital status or age, if the individual is 18 years
6 of age or older, has been made by any place of public accommodation, as
7 defined in ORS 659A.400, by any employee or person acting on behalf of the
8 place or by any person aiding or abetting the place or person in violation
9 of ORS 659A.406 may bring an action against the operator or manager of the
10 place, the employee or person acting on behalf of the place or the aider or
11 abettor of the place or person. Notwithstanding subsection (1) of this sec-
12 tion, in an action under this subsection:

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

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

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

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

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

25 “(f) Upon any appeal of a judgment under this subsection, the appellate
26 court shall review the judgment pursuant to the standard established by ORS
27 19.415 (1).

28 “(9) When the commissioner or the Attorney General has reasonable cause
29 to believe that a person or group of persons is engaged in a pattern or
30 practice of resistance to the rights protected by ORS 659A.145 or 659A.421

1 or federal housing law, or that a group of persons has been denied any of the
2 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
3 commissioner or the Attorney General may file a civil action on behalf of
4 the aggrieved persons in the same manner as a person or group of persons
5 may file a civil action under this section. In a civil action filed under this
6 subsection, the court may assess against the respondent, in addition to the
7 relief authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

10 “(10) In any action under subsection (1) of this section alleging a vio-
11 lation of ORS 659A.145 or 659A.421 or alleging discrimination under federal
12 housing law, when the commissioner is pursuing the action on behalf of an
13 aggrieved complainant, the court shall award reasonable attorney fees to the
14 commissioner if the commissioner prevails in the action. The court may
15 award reasonable attorney fees and expert witness fees incurred by a de-
16 fendant that prevails in the action if the court determines that the commis-
17 sioner had no objectively reasonable basis for asserting the claim or for
18 appealing an adverse decision of the trial court.

19 “(11) In an action under subsection (1) or (9) of this section alleging a
20 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-
21 ing law:

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

23 “(A) Has been injured by an unlawful practice or discriminatory housing
24 practice; or

25 “(B) Will be injured by an unlawful practice or discriminatory housing
26 practice that is about to occur.

27 “(b) An aggrieved person in regard to issues to be determined in an action
28 may intervene as of right in the action. The Attorney General may intervene
29 in the action if the Attorney General certifies that the case is of general
30 public importance. The court may allow an intervenor prevailing party costs

1 and reasonable attorney fees at trial and on appeal.

2 **“SECTION 9.** ORS 659A.885, as amended by section 10, chapter 197,
3 Oregon Laws 2017, section 6, chapter 139, Oregon Laws 2019, section 8,
4 chapter 343, Oregon Laws 2019, section 8, chapter 463, Oregon Laws 2019,
5 section 58, chapter 700, Oregon Laws 2019, section 13, chapter 701, Oregon
6 Laws 2019, and section 46, chapter 367, Oregon Laws 2021, is amended to
7 read:

8 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-
9 tice specified in subsection (2) of this section may file a civil action in cir-
10 cuit court. In any action under this subsection, the court may order
11 injunctive relief and any other equitable relief that may be appropriate, in-
12 cluding but not limited to reinstatement or the hiring of employees with or
13 without back pay. A court may order back pay in an action under this sub-
14 section only for the two-year period immediately preceding the filing of a
15 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-
16 bor and Industries, or if a complaint was not filed before the action was
17 commenced, the two-year period immediately preceding the filing of the
18 action. In any action under this subsection, the court may allow the pre-
19 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-
20 cept as provided in subsection (3) of this section:

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

23 “(b) Upon any appeal of a judgment in an action under this subsection,
24 the appellate court shall review the judgment pursuant to the standard es-
25 tablished by ORS 19.415 (3).

26 “(2) An action may be brought under subsection (1) of this section alleg-
27 ing a violation of:

28 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),
29 475C.285, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
30 653.549, 653.601 to 653.661, 657B.060 and 657B.070, 659.852, 659A.030, 659A.040,

1 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
2 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203,
3 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262,
4 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318,
5 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421 **or section 5 of**
6 **this 2022 Act**; or

7 “(b) ORS 653.470, except an action may not be brought for a claim relating
8 to ORS 653.450.

9 “(3) In any action under subsection (1) of this section alleging a violation
10 of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 657B.060 and
11 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082,
12 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to
13 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or
14 659A.421:

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

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

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

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

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

26 “(a) It is proved by clear and convincing evidence that an employer has
27 engaged in fraud, acted with malice or acted with willful and wanton mis-
28 conduct; or

29 “(b) An employer was previously adjudicated in a proceeding under this
30 section or under ORS 659A.850 for a violation of ORS 652.220.

1 “(5) In any action under subsection (1) of this section alleging a violation
2 of ORS 653.060 or 659A.147, the court may award, in addition to the relief
3 authorized under subsection (1) of this section, compensatory damages or
4 \$200, whichever is greater.

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

9 “(7) In any action under subsection (1) of this section alleging a violation
10 of ORS 10.090 or 10.092, the court may award, in addition to the relief au-
11 thorized under subsection (1) of this section, a civil penalty in the amount
12 of \$720.

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

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

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

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

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

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

5 “(f) Upon any appeal of a judgment under this subsection, the appellate
6 court shall review the judgment pursuant to the standard established by ORS
7 19.415 (1).

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

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

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

20 “(10) In any action under subsection (1) of this section alleging a vio-
21 lation of ORS 659A.145 or 659A.421 or alleging discrimination under federal
22 housing law, when the commissioner is pursuing the action on behalf of an
23 aggrieved complainant, the court shall award reasonable attorney fees to the
24 commissioner if the commissioner prevails in the action. The court may
25 award reasonable attorney fees and expert witness fees incurred by a de-
26 fendant that prevails in the action if the court determines that the commis-
27 sioner had no objectively reasonable basis for asserting the claim or for
28 appealing an adverse decision of the trial court.

29 “(11) In an action under subsection (1) or (9) of this section alleging a
30 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-

1 ing law:

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

3 “(A) Has been injured by an unlawful practice or discriminatory housing
4 practice; or

5 “(B) Will be injured by an unlawful practice or discriminatory housing
6 practice that is about to occur.

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

12 **“SECTION 10. A person who owns or operates an existing bulk oils
13 or liquid fuels terminal on the effective date of this 2022 Act shall
14 submit the seismic vulnerability assessment required by section 2 of
15 this 2022 Act no later than June 1, 2024.**

16 **“SECTION 11. (1) Section 3 of this 2022 Act becomes operative June
17 1, 2024.**

18 **“(2) The Environmental Quality Commission, the Department of
19 Environmental Quality, and the State Department of Geology and
20 Mineral Industries may adopt rules and take any action before the
21 operative date specified in subsection (1) of this section that is neces-
22 sary to enable the commission, the Department of Environmental
23 Quality and the State Department of Geology and Mineral Industries,
24 on and after the operative date specified in subsection (1) of this sec-
25 tion, to exercise all of the duties, powers and functions conferred on
26 the commission, the Department of Environmental Quality and the
27 State Department of Geology and Mineral Industries by section 3 of
28 this 2022 Act.**

29 **“SECTION 12. (1) The State Department of Energy shall develop an
30 energy security plan. The energy security plan must meet the re-**

1 **quirements for a state energy security plan described in 42 U.S.C. 6326.**

2 **“(2) To the extent consistent with the requirements of 42 U.S.C.**
3 **6326, the energy security plan must align with strategies in the Oregon**
4 **Fuel Action Plan developed by the department and must include, but**
5 **need not be limited to:**

6 **“(a) An evaluation of the state’s ability to recover quickly from**
7 **physical threats, including a magnitude 9.0 Cascadia Subduction Zone**
8 **earthquake, and cybersecurity threats.**

9 **“(b) Recommendations for increasing the geographic diversity of**
10 **fuel storage capacity throughout this state.**

11 **“(c) An assessment of the seismic resilience of existing fuel storage**
12 **facilities throughout this state.**

13 **“(d) Consistent with state programs to reduce greenhouse gas**
14 **emissions associated with transportation fuels, an assessment of the**
15 **use of renewable fuels and other innovative alternatives to improve**
16 **disaster resilience.**

17 **“(e) An evaluation of strategies for mitigating barriers to imple-**
18 **menting a geographically distributed fuel network throughout this**
19 **state, including:**

20 **“(A) Adoption of Oregon Fuel Action Plan criteria for predesignated**
21 **fuel points of distribution for receiving emergency fuel supplies at se-**
22 **lected fuel diversification sites.**

23 **“(B) Strategies for expanding storage capacities at public facilities**
24 **with existing capability to store and dispense unleaded, diesel or avi-**
25 **ation fuel, including an evaluation of whether fuel storage sites con-**
26 **tain properly installed seismically certified generators and adequate**
27 **on-site fuel storage capacity to power backup generators so that in-**
28 **dependent operations can be maintained for three or more weeks after**
29 **a Cascadia Subduction Zone earthquake.**

30 **“(C) Partnerships with private-sector companies to build fuel stor-**

1 age capacity at identified, prioritized locations, especially private-
2 sector companies that provide an emergency or essential service
3 mission to save or sustain life or support the restoration of critical
4 lifelines and services in support of the state’s overall response and
5 recovery effort.

6 “(D) Strategies for increasing geographically distributed fuel stor-
7 age that prioritize areas of this state that are expected to be most
8 vulnerable to a Cascadia Subduction Zone earthquake, including local
9 or regional islanding effects that would isolate a region from the rest
10 of this state as a result of road or bridge damage.

11 “(E) An evaluation of potential impacts to communities adjacent
12 to potential locations for emergency fuel storage or expanded fuel
13 storage, including consultation and outreach with those communities.

14 “(3) In developing and implementing the energy security plan, the
15 department shall consult with:

16 “(a) Relevant state government agencies, including the Public Util-
17 ity Commission, the Department of Environmental Quality, the De-
18 partment of Transportation, the Oregon Department of Aviation, the
19 Office of Emergency Management, the State Department of Geology
20 and Mineral Industries and the Environmental Justice Task Force;

21 “(b) Local governments;

22 “(c) Tribal governments;

23 “(d) Consumer-owned and investor-owned electric utilities;

24 “(e) Natural gas utilities;

25 “(f) Fuel suppliers;

26 “(g) Qualified technical experts in disaster resilience; and

27 “(h) Any other person with relevant knowledge or experience.

28 “(4) No later than September 15 of each even-numbered year, the
29 State Department or Energy shall provide to the interim committees
30 of the Legislative Assembly related to energy a report in the manner

1 **provided under ORS 192.245 describing the implementation or revision**
2 **of the energy security plan developed under this section.**

3 **“SECTION 13.** Section 12 of this 2022 Act is amended to read:

4 **“Sec. 12.** (1) The State Department of Energy shall develop an energy
5 security plan. The energy security plan must meet the requirements for a
6 state energy security plan described in 42 U.S.C. 6326.

7 “(2) To the extent consistent with the requirements of 42 U.S.C. 6326, the
8 energy security plan must align with strategies in the Oregon Fuel Action
9 Plan developed by the department and must include, but need not be limited
10 to:

11 “(a) An evaluation of the state’s ability to recover quickly from physical
12 threats, including a magnitude 9.0 Cascadia Subduction Zone earthquake,
13 and cybersecurity threats.

14 “(b) Recommendations for increasing the geographic diversity of fuel
15 storage capacity throughout this state.

16 “(c) An assessment of the seismic resilience of existing fuel storage fa-
17 cilities throughout this state.

18 “(d) Consistent with state programs to reduce greenhouse gas emissions
19 associated with transportation fuels, an assessment of the use of renewable
20 fuels and other innovative alternatives to improve disaster resilience.

21 “(e) An evaluation of strategies for mitigating barriers to implementing
22 a geographically distributed fuel network throughout this state, including:

23 “(A) Adoption of Oregon Fuel Action Plan criteria for predesignated fuel
24 points of distribution for receiving emergency fuel supplies at selected fuel
25 diversification sites.

26 “(B) Strategies for expanding storage capacities at public facilities with
27 existing capability to store and dispense unleaded, diesel or aviation fuel,
28 including an evaluation of whether fuel storage sites contain properly in-
29 stalled seismically certified generators and adequate on-site fuel storage ca-
30 pacity to power backup generators so that independent operations can be

1 maintained for three or more weeks after a Cascadia Subduction Zone
2 earthquake.

3 “(C) Partnerships with private-sector companies to build fuel storage ca-
4 pacity at identified, prioritized locations, especially private-sector companies
5 that provide an emergency or essential service mission to save or sustain life
6 or support the restoration of critical lifelines and services in support of the
7 state’s overall response and recovery effort.

8 “(D) Strategies for increasing geographically distributed fuel storage that
9 prioritize areas of this state that are expected to be most vulnerable to a
10 Cascadia Subduction Zone earthquake, including local or regional islanding
11 effects that would isolate a region from the rest of this state as a result of
12 road or bridge damage.

13 “(E) An evaluation of potential impacts to communities adjacent to po-
14 tential locations for emergency fuel storage or expanded fuel storage, in-
15 cluding consultation and outreach with those communities.

16 “(3) In developing and implementing the energy security plan, the de-
17 partment shall consult with:

18 “(a) Relevant state government agencies, including the Public Utility
19 Commission, the Oregon Department of Environmental Quality, the Depart-
20 ment of Transportation, the Department of Aviation, the [Office] **Oregon**
21 **Department** of Emergency Management, the State Department of Geology
22 and Mineral Industries and the Environmental Justice Task Force;

23 “(b) Local governments;

24 “(c) Tribal governments;

25 “(d) Consumer-owned and investor-owned electric utilities;

26 “(e) Natural gas utilities;

27 “(f) Fuel suppliers;

28 “(g) Qualified technical experts in disaster resilience; and

29 “(h) Any other person with relevant knowledge or experience.

30 “(4) No later than September 15 of each even-numbered year, the State

1 Department of Energy shall provide to the interim committees of the Legis-
2 lative Assembly related to energy a report in the manner provided under
3 ORS 192.245 describing the implementation or revision of the energy security
4 plan developed under this section.

5 **“SECTION 14. The amendments to section 12 of this 2022 Act by**
6 **section 13 of this 2022 Act become operative on July 1, 2022.**

7 **“SECTION 15. ORS 469A.415 is amended to read:**

8 “469A.415. (1) An electric company shall develop a clean energy plan for
9 meeting the clean energy targets set forth in ORS 469A.410 concurrent with
10 the development of each integrated resource plan.

11 “(2) The electric company shall submit the clean energy plan to the Public
12 Utility Commission and the Department of Environmental Quality.

13 “(3)(a) A clean energy plan must be based on or included in an integrated
14 resource plan filing made no earlier than January 1, 2022, and filed no later
15 than 180 days after the integrated resource plan is filed, or developed within
16 an integrated resource planning process and incorporated into the integrated
17 resource plan filed with the commission.

18 “(b) Notwithstanding paragraph (a) of this subsection, a clean energy plan
19 developed by a multistate jurisdictional electric company must be based on
20 or contained in other information developed consistent with a cost-allocation
21 methodology approved by the commission.

22 “(4) A clean energy plan must:

23 “(a) Incorporate the clean energy targets set forth in ORS 469A.410;

24 “(b) Include annual goals set by the electric company for actions that
25 make progress towards meeting the clean energy targets set forth in ORS
26 469A.410, including acquisition of nonemitting generation resources, energy
27 efficiency measures and acquisition and use of demand response resources;

28 “(c) Include a risk-based examination of resiliency opportunities that in-
29 cludes costs, consequences, outcomes and benefits based on reasonable and
30 prudent industry resiliency standards and guidelines established by the

1 Public Utility Commission;

2 “(d) Examine the costs and opportunities of offsetting energy generated
3 from fossil fuels with community-based renewable energy;

4 “(e) Demonstrate the electric company is making continual progress
5 within the planning period towards meeting the clean energy targets set
6 forth in ORS 469A.410, including demonstrating a projected reduction of an-
7 nual greenhouse gas emissions; [*and*]

8 **“(f) Examine opportunities for integrating offshore wind energy and
9 renewable hydrogen production into the electric system; and**

10 **“[(f)] (g) Result in an affordable, reliable and clean electric system.**

11 “(5) Actions and investments proposed in a clean energy plan may include
12 the development or acquisition of clean energy resources, acquisition of en-
13 ergy efficiency and demand response, including an acquisition required by
14 ORS 757.054, development of new transmission and other supporting
15 infrastructure, retirement of existing generating facilities, changes in system
16 operation and any other necessary action.

17 “(6) The commission shall ensure that an electric company demonstrates
18 continual progress as described in subsection (4)(e) of this section and is
19 taking actions as soon as practicable that facilitate rapid reduction of
20 greenhouse gas emissions at reasonable costs to retail electricity consumers.

21 **“(7) As used in this section, ‘renewable hydrogen’ means hydrogen
22 produced by electrolysis, using renewable resources or nonemitting
23 electricity both as the source for the hydrogen and the source for the
24 energy input into the production process.**

25 **“SECTION 16. No later than November 1, 2024, the Department of
26 Environmental Quality shall provide a report, including recommen-
27 dations for legislation, to the interim committees of the Legislative
28 Assembly related to energy, in the manner provided under ORS 192.245.
29 The report required under this section must include:**

30 **“(1) A summary of information received by the department under**

1 section 2 of this 2022 Act; and

2 “(2) Policy recommendations for making the provisions of sections
3 2 to 6 of this 2022 Act applicable to additional regions of this state,
4 based on the risk to each additional region from an earthquake or
5 tsunami.

6 “SECTION 17. The State Department of Energy shall submit the
7 energy security plan developed under section 12 of this 2022 Act in a
8 report to the interim committees of the Legislative Assembly related
9 to energy, in the manner provided under ORS 192.245, no later than
10 June 1, 2024.

11 “SECTION 18. Sections 16 and 17 of this 2022 Act are repealed on
12 January 2, 2025.

13 “SECTION 19. This 2022 Act takes effect on the 91st day after the
14 date on which the 2022 regular session of the Eighty-first Legislative
15 Assembly adjourns sine die.”.

16
