

LC 538
2023 Regular Session
25700-006
10/17/22 (AG/ps)

D R A F T

SUMMARY

Provides State Fire Marshal with certain additional discretionary powers. Establishes certain requirements concerning uniforms, supplies and equipment of Department of the State Fire Marshal.

Prohibits person other than employee of department from wearing, using, ordering to be worn or used, copying or imitating department uniform. Punishes violation by maximum of 364 days' of imprisonment, \$6,250 fine, or both.

Repeals provisions concerning State Fire Marshal regulation of explosives.

A BILL FOR AN ACT

1
2 Relating to the State Fire Marshal; creating new provisions; amending ORS
3 166.382, 166.715, 238.082, 238A.005, 476.033, 476.040, 476.050, 476.060,
4 476.250, 476.720, 476.990, 480.095, 480.460, 480.670 and 480.990; and repeal-
5 ing ORS 480.200, 480.205, 480.210, 480.215, 480.225, 480.230, 480.235, 480.239,
6 480.244, 480.265, 480.270, 480.275, 480.280 and 480.290.

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

8 9 STATE FIRE MARSHAL DISCRETIONARY POWERS

10
11 **SECTION 1.** ORS 476.033 is amended to read:

12 476.033. The State Fire Marshal may:

13 **(1) Establish headquarters and regional offices of the Department**
14 **of the State Fire Marshal at places the State Fire Marshal considers**
15 **advisable for the protection of this state;**

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) Operate, and authorize chief deputy state fire marshals, deputy**
2 **state fire marshals and assistants of the department to own and op-**
3 **erate, emergency response vehicles;**

4 **(3) Use land and buildings for the accommodation of department**
5 **employees and department vehicles and equipment;**

6 [(1)] **(4) Contract or otherwise cooperate with any person or public agency**
7 **for the procurement of necessary services or property, including by enter-**
8 **ing into lease agreements and taking title to real property as neces-**
9 **sary for the performance of the duties of the department;**

10 **(5) As an emergency services agency, control and regulate the ac-**
11 **quisition, operation, use, maintenance and disposal of, and access to,**
12 **motor vehicles and equipment for official state business;**

13 [(2)] **(6) Accept and distribute gifts, grants, donations and funds from any**
14 **source, including services and property, to carry out the duties of the State**
15 **Fire Marshal; and**

16 [(3)] **(7) Perform such other duties as required by law.**

17
18 **UNIFORMS, SUPPLIES AND EQUIPMENT**

19
20 **SECTION 2.** **Sections 3 and 4 of this 2023 Act are added to and made**
21 **a part of ORS chapter 476.**

22 **SECTION 3.** **(1) The Department of the State Fire Marshal shall**
23 **provide department employees with standard uniforms, response ap-**
24 **paratus, motor vehicles and all other emergency supplies and equip-**
25 **ment necessary to carry out the duties of the department.**

26 **(2) The Oregon Department of Administrative Services may sell,**
27 **transfer, recycle or otherwise dispose of surplus, obsolete or unused**
28 **property of the Department of the State Fire Marshal, as described in**
29 **ORS 279A.280.**

30 **(3) The State Fire Marshal shall specify a standard pattern and**
31 **distinctive design for the uniforms described in subsection (1) of this**

1 **section.**

2 **SECTION 4. (1) As used in this section, “person” includes agents,**
3 **officers and officials elected or appointed by any municipality, county**
4 **or special district.**

5 **(2) A person who is not an employee of the Department of the State**
6 **Fire Marshal may not wear, use, order to be worn or used, copy or**
7 **imitate the department uniforms described in section 3 of this 2023**
8 **Act.**

9 **SECTION 5.** ORS 476.990 is amended to read:

10 476.990. (1) **The following are Class A misdemeanors:**

11 (a) Violation of ORS 476.150 (2) [*is a Class A misdemeanor*].

12 [(2)] (b) Violation of ORS 476.380 (1) **or 476.510 to 476.610 or section 4**
13 **of this 2023 Act** [*is a Class A misdemeanor*].

14 [(3)] *Violation of ORS 476.410 to 476.440 is a Class C misdemeanor.*

15 [(4)] *Violation of any provision of ORS 476.510 to 476.610 is a Class A*
16 *misdemeanor.*

17 [(5)] **(2)** Subject to ORS 153.022, violation of ORS 476.710 or 476.715 or of
18 any rule or regulation of the State Parks and Recreation Department
19 promulgated thereunder is a Class B misdemeanor.

20 **(3) Violation of ORS 476.410 to 476.440 is a Class C misdemeanor.**

21 **SECTION 6.** ORS 476.720 is amended to read:

22 476.720. ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270,
23 476.990 [(1)] (1)(a) and 479.168 to 479.190 are remedial in nature and shall
24 be construed liberally.

25

26 **STATE FIRE MARSHAL APPOINTING AUTHORITY**

27

28 **SECTION 7.** ORS 476.040 is amended to read:

29 476.040. The State Fire Marshal shall appoint [*a*] chief deputy state fire
30 [*marshal*] **marshals** and deputy state fire marshals whose duties shall be to
31 assist in carrying into effect the provisions of ORS 476.010 to 476.090 and

1 476.155 to 476.170, 476.210 to 476.270 and 479.168 to 479.190. The State Fire
2 Marshal may also employ such other assistants and employees and incur
3 such other expenses as the State Fire Marshal may deem necessary in car-
4 rying into effect these provisions. The State Fire Marshal may remove any
5 deputies or assistants for cause.

6 **SECTION 8.** ORS 476.050 is amended to read:

7 476.050. The salary of the chief deputy state fire [*marshal,*] **marshals and**
8 deputy state fire marshals, compensation of clerks and other assistants and
9 other expenses of the Department of the State Fire Marshal necessary in the
10 performance of the duties imposed upon the State Fire Marshal shall be paid
11 in the same manner as are other state officers and the expenses of other state
12 departments, and shall not exceed the amount paid to the State Treasurer for
13 the maintenance of the Department of the State Fire Marshal.

14 **SECTION 9.** ORS 476.250 is amended to read:

15 476.250. The district attorney may at the discretion of the district attor-
16 ney, upon the application of the State Fire Marshal or a chief deputy state
17 fire marshal, issue a subpoena to summon the attendance of witnesses before
18 the district attorney to testify in relation to any matter which by law is a
19 subject of inquiry and investigation, and require the production of any books,
20 papers or documents the district attorney deems pertinent to an investigation
21 of or relating to evidence pertaining to the cause of a fire.

22 **SECTION 10.** ORS 238A.005, as amended by section 3, chapter 83, Oregon
23 Laws 2022, is amended to read:

24 238A.005. For the purposes of this chapter:

25 (1) "Active member" means a member of the pension program or the in-
26 dividual account program of the Oregon Public Service Retirement Plan who
27 is actively employed in a qualifying position.

28 (2) "Actuarial equivalent" means a payment or series of payments having
29 the same value as the payment or series of payments replaced, computed on
30 the basis of interest rate and mortality assumptions adopted by the board.

31 (3) "Board" means the Public Employees Retirement Board.

1 (4) “Eligible employee” means a person who performs services for a par-
2 ticipating public employer, including persons considered employees of a par-
3 ticipating public employer under 26 U.S.C. 3121(d)(2), as in effect on January
4 1, 2022, and elected officials other than judges. “Eligible employee” does not
5 include:

6 (a) Persons engaged as independent contractors;

7 (b) Aliens working under a training or educational visa;

8 (c) Persons provided sheltered employment or make-work by a public em-
9 ployer;

10 (d) Persons categorized by a participating public employer as student
11 employees;

12 (e) Any person who is in custody in a state institution;

13 (f) Employees of foreign trade offices of the Oregon Business Development
14 Department who live and perform services in foreign countries under the
15 provisions of ORS 285A.075 (1)(g);

16 (g) An employee actively participating in an alternative retirement pro-
17 gram established under ORS 353.250 or an optional retirement plan estab-
18 lished under ORS 341.551;

19 (h) Employees of a public university listed in ORS 352.002 who are ac-
20 tively participating in an optional retirement plan offered under ORS 243.815;

21 (i) Persons employed in positions classified as post-doctoral scholar posi-
22 tions by a public university listed in ORS 352.002, or by the Oregon Health
23 and Science University, under ORS 350.370;

24 (j) Any employee who belongs to a class of employees that was not eligi-
25 ble on August 28, 2003, for membership in the system under the provisions
26 of ORS chapter 238 or other law;

27 (k) Any person who belongs to a class of employees who are not eligible
28 to become members of the Oregon Public Service Retirement Plan under the
29 provisions of ORS 238A.070 (2);

30 (L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS
31 chapter 238 and who continues to receive retirement benefits while employed;

1 and

2 (m) Judges.

3 (5) “Firefighter” means:

4 (a) A person employed by a local government, as defined in ORS 174.116,
5 whose primary job duties include the fighting of fires;

6 (b) The State Fire Marshal, [*the*] chief deputy state fire [*marshal*]
7 **marshals** and deputy state fire marshals;

8 (c) An employee of the State Fire Marshal whose primary duties include
9 fire investigation, fire prevention, fire safety, fire control or fire suppression;

10 (d) An employee of the State Forestry Department who is certified by the
11 State Forester as a professional wildland firefighter and whose primary du-
12 ties include the abatement of uncontrolled fires as described in ORS 477.064;
13 and

14 (e) An employee of the Oregon Military Department whose primary duties
15 include fighting structural, aircraft, wildland or other fires.

16 (6) “Fund” means the Public Employees Retirement Fund.

17 (7)(a) “Hour of service” means:

18 (A) An hour for which an eligible employee is directly or indirectly paid
19 or entitled to payment by a participating public employer for performance
20 of duties in a qualifying position; and

21 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military
22 duty or authorized leave during which an employee does not perform duties
23 but for which the employee is directly or indirectly paid or entitled to pay-
24 ment by a participating public employer for services in a qualifying position,
25 as long as the hour is within the number of hours regularly scheduled for
26 the performance of duties during the period of vacation, holiday, illness, in-
27 capacity, jury duty, military duty or authorized leave.

28 (b) “Hour of service” does not include any hour for which payment is
29 made or due under a plan maintained solely for the purpose of complying
30 with applicable unemployment compensation laws.

31 (8) “Inactive member” means a member of the pension program or the

1 individual account program of the Oregon Public Service Retirement Plan
2 whose membership has not been terminated, who is not a retired member and
3 who is not employed in a qualifying position.

4 (9) "Individual account program" means the defined contribution individ-
5 ual account program of the Oregon Public Service Retirement Plan estab-
6 lished under ORS 238A.025.

7 (10) "Institution of higher education" means a public university listed in
8 ORS 352.002, the Oregon Health and Science University or a community
9 college, as defined in ORS 341.005.

10 (11) "Member" means an eligible employee who has established member-
11 ship in the pension program or the individual account program of the Oregon
12 Public Service Retirement Plan and whose membership has not been termi-
13 nated under ORS 238A.110 or 238A.310.

14 (12) "Participating public employer" means a public employer as defined
15 in ORS 238.005 that provides retirement benefits for employees of the public
16 employer under the system.

17 (13) "Pension program" means the defined benefit pension program of the
18 Oregon Public Service Retirement Plan established under ORS 238A.025.

19 (14) "Police officer" means a police officer as described in ORS 238.005.

20 (15) "Qualifying position" means one or more jobs with one or more par-
21 ticipating public employers in which an eligible employee performs 600 or
22 more hours of service in a calendar year, excluding any service in a job for
23 which benefits are not provided under the Oregon Public Service Retirement
24 Plan pursuant to ORS 238A.070 (2).

25 (16) "Retired member" means a pension program member who is receiving
26 a pension as provided in ORS 238A.180 to 238A.195.

27 (17)(a) "Salary" means the remuneration paid to an active member in re-
28 turn for services to the participating public employer, including
29 remuneration in the form of living quarters, board or other items of value,
30 to the extent the remuneration is, or would be if the member were an Oregon
31 resident, includable in the employee's taxable income under Oregon law.

1 “Salary” includes the additional amounts specified in paragraph (b) of this
2 subsection, but does not include the amounts specified in paragraph (c) of
3 this subsection, regardless of whether those amounts are includable in taxa-
4 ble income.

5 (b) “Salary” includes the following amounts:

6 (A) Payments of employee and employer money into a deferred compen-
7 sation plan that are made at the election of the employee.

8 (B) Contributions to a tax-sheltered or deferred annuity that are made at
9 the election of the employee.

10 (C) Any amount that is contributed to a cafeteria plan or qualified
11 transportation fringe benefit plan by the employer at the election of the
12 employee and that is not includable in the taxable income of the employee
13 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2021.

14 (D) Any amount that is contributed to a cash or deferred arrangement by
15 the employer at the election of the employee and that is not included in the
16 taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in effect
17 on December 31, 2021.

18 (E) Retroactive payments described in ORS 238.008.

19 (F) The amount of an employee contribution to the individual account
20 program that is paid by the employer and deducted from the compensation
21 of the employee, as provided under ORS 238A.335 (1) and (2)(a).

22 (G) The amount of an employee contribution to the individual account
23 program that is not paid by the employer under ORS 238A.335.

24 (H) Wages of a deceased member paid to a surviving spouse or dependent
25 children under ORS 652.190.

26 (c) “Salary” does not include the following amounts:

27 (A) Travel or any other expenses incidental to employer’s business which
28 is reimbursed by the employer.

29 (B) Payments made on account of an employee’s death.

30 (C) Any lump sum payment for accumulated unused sick leave, vacation
31 leave or other paid leave.

1 (D) Any severance payment, accelerated payment of an employment con-
2 tract for a future period or advance against future wages.

3 (E) Any retirement incentive, retirement bonus or retirement gratuitous
4 payment.

5 (F) Payment for a leave of absence after the date the employer and em-
6 ployee have agreed that no future services in a qualifying position will be
7 performed.

8 (G) Payments for instructional services rendered to public universities
9 listed in ORS 352.002 or the Oregon Health and Science University when
10 those services are in excess of full-time employment subject to this chapter.
11 A person employed under a contract for less than 12 months is subject to this
12 subparagraph only for the months covered by the contract.

13 (H) The amount of an employee contribution to the individual account
14 program that is paid by the employer and is not deducted from the compen-
15 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

16 (I) Compensation described and authorized under ORS 341.556 that is not
17 paid by the community college employing the faculty member.

18 (J) Compensation described and authorized under ORS 352.232 that is not
19 paid by the public university employing the officer or employee.

20 (K) Compensation described and authorized under ORS 353.270 that is not
21 paid by Oregon Health and Science University.

22 (L) For years before 2020, any amount in excess of \$200,000 for a calendar
23 year. If any period over which salary is determined is less than 12 months,
24 the \$200,000 limitation for that period shall be multiplied by a fraction, the
25 numerator of which is the number of months in the determination period and
26 the denominator of which is 12. The board shall adopt rules adjusting this
27 dollar limit to incorporate cost-of-living adjustments authorized by the
28 Internal Revenue Service.

29 (M) For years beginning on or after January 1, 2020, any amount in excess
30 of \$195,000 for a calendar year. If any period over which salary is determined
31 is less than 12 months, the \$195,000 limitation for that period shall be

1 multiplied by a fraction, the numerator of which is the number of months in
2 the determination period and the denominator of which is 12. On January 1
3 of each year, the board shall adjust the dollar limit provided by this sub-
4 paragraph to reflect any percentage changes in the Consumer Price Index for
5 All Urban Consumers, West Region (All Items), as published by the Bureau
6 of Labor Statistics of the United States Department of Labor.

7 (18) "System" means the Public Employees Retirement System.

8 (19) "Workers' compensation benefits" means:

9 (a) Payments made under ORS chapter 656; or

10 (b) Payments provided in lieu of workers' compensation benefits under
11 ORS 656.027 (6).

12

13 **EXCEPTION TO LIMITS ON HOURS WORKED BY RETIRED MEM-**
14 **BERS**

15

16 **SECTION 11.** ORS 238.082 is amended to read:

17 **NOTE:** This section has two SA notes.

18 238.082. (1) Subject to the limitations in this section, any public employer
19 may employ any member who is retired for service if the administrative head
20 of the public employer is satisfied that such employment is in the public in-
21 terest.

22 (2) Except as provided in this section, the period or periods of employment
23 by one or more public employers of a retired member who is reemployed
24 under this section may not total 1,040 hours or more in any calendar year.

25 (3) A retired member who is receiving old-age, survivors or disability in-
26 surance benefits under the federal Social Security Act may be employed un-
27 der this section for the number of hours permitted by subsection (2) of this
28 section, or for the number of hours for which the salary equals the maximum
29 allowed for receipt of the full amount of those benefits to which the person
30 is entitled, whichever is greater.

31 (4) Except as provided in subsection (9) of this section, the limitations on

1 employment imposed by subsections (2) and (3) of this section do not apply
2 to a retired member who is employed as a teacher or as an administrator,
3 as those terms are defined in ORS 342.120, if the retired member is employed
4 by a school district or community college district located within a county
5 with a population of not more than 35,000 inhabitants according to the latest
6 federal decennial census, or is employed by an education service district and
7 the retired member's primary work duties are performed in a county with a
8 population of not more than 35,000 inhabitants according to the latest federal
9 decennial census. A retired member who is employed under this subsection
10 as a teacher, as defined in ORS 342.120, by the same public employer that
11 employed the member at the time of retirement remains in the same collec-
12 tive bargaining unit that included the member before retirement.

13 (5) Except as provided in subsection (9) of this section, the limitations on
14 employment imposed by subsections (2) and (3) of this section do not apply
15 to a retired member who is employed:

16 (a) By the sheriff of a county with a population of fewer than 75,000 in-
17 habitants, according to the latest federal decennial census;

18 (b) By the municipal police department of a city with a population of
19 fewer than 15,000 inhabitants, according to the latest federal decennial cen-
20 sus;

21 (c) By the state or a county for work in a correctional institution located
22 in a county with a population of fewer than 75,000 inhabitants, according to
23 the latest federal decennial census;

24 (d) By the Black Butte Ranch Rural Fire Protection District, the Black
25 Butte Ranch Service District or the Sunriver Service District;

26 (e) By the Oregon State Police for work in a county with a population
27 of fewer than 75,000 inhabitants, according to the latest federal decennial
28 census;

29 (f) As a deputy director or assistant director of the Department of Human
30 Services, if the Governor approves the exemption for the person from the
31 limitations on employment imposed in subsections (2) and (3) of this section;

1 (g) As a deputy director or assistant director of the Oregon Health Au-
2 thority, if the Governor approves the exemption for the person from the
3 limitations on employment imposed in subsections (2) and (3) of this section;

4 (h) As a special campus security officer commissioned by the governing
5 board of a public university listed in ORS 352.002 under ORS 352.118;

6 (i) As a security officer for a community college, as defined in ORS
7 341.005; [or]

8 (j) By the Harney County Health District as a person licensed, registered
9 or certified to provide health services[.]; or

10 **(k) By the Department of the State Fire Marshal for fire pre-**
11 **vention, fire preparedness, fire risk mitigation, firefighting, emergency**
12 **response or other response support functions.**

13 (6) Except as provided in subsection (9) of this section, the limitations on
14 employment imposed by subsections (2) and (3) of this section do not apply
15 to a retired member who is employed to temporarily replace an employee who
16 serves in the National Guard or in a reserve component of the Armed Forces
17 of the United States and who is called to federal active duty.

18 (7) Except as provided in subsection (9) of this section, the limitations on
19 employment imposed by subsections (2) and (3) of this section do not apply
20 to a retired member who is employed by a road assessment district organized
21 under ORS 371.405 to 371.535.

22 (8) Except as provided in subsection (9) of this section, the limitations on
23 employment imposed by subsections (2) and (3) of this section do not apply
24 to a retired member who is a nurse and is employed by a public employer
25 as a nurse or for the purpose of teaching nursing during the period in which
26 a nursing workforce shortage declared by the Legislative Assembly or the
27 Governor is in effect.

28 (9)(a) Except as provided in paragraph (b) of this subsection, subsections
29 (4) to (8) of this section do not apply to any member who retires under the
30 provisions of ORS 238.280 (1), (2) or (3).

31 (b) Subsection (4) of this section applies to a person who retires under the

1 provisions of ORS 238.280 (1), (2) or (3) as long as the person is absent from
2 service with all participating public employers for at least six months before
3 the date the person is employed under subsection (4) of this section.

4 (10) Employment under this section does not affect the status of a person
5 as a retired member of the system and a recipient of retirement benefits un-
6 der this chapter.

7 (11) Hours worked by a person employed under subsections (4) to (8) of
8 this section shall not be counted for the purpose of the limitations on em-
9 ployment imposed by subsections (2) and (3) of this section.

10

11 **REPEAL OF STATE FIRE MARSHAL REGULATION OF EX-**
12 **PLOSIVES**

13

14 **SECTION 12. ORS 480.200, 480.205, 480.210, 480.215, 480.225, 480.230,**
15 **480.235, 480.239, 480.244, 480.265, 480.270, 480.275, 480.280 and 480.290 are**
16 **repealed.**

17 **SECTION 13.** ORS 166.382 is amended to read:

18 166.382. (1) A person commits the crime of unlawful possession of a de-
19 structive device if the person possesses:

20 (a) Any of the following devices with an explosive, incendiary or poison
21 gas component:

22 (A) Bomb;

23 (B) Grenade;

24 (C) Rocket having a propellant charge of more than four ounces;

25 (D) Missile having an explosive or incendiary charge of more than one-
26 quarter ounce; or

27 (E) Mine; or

28 (b) Any combination of parts either designed or intended for use in con-
29 verting any device into any destructive device described in paragraph (a) of
30 this subsection and from which a destructive device may be readily assem-
31 bled.

1 (2) As used in this section:

2 (a) “Destructive device” does not include any device which is designed
3 primarily or redesigned primarily for use as a signaling, pyrotechnic, line
4 throwing, safety or similar device.

5 (b) “Possess” has the meaning given that term in ORS 161.015.

6 (3) This section does not apply to:

7 [(a) *Persons who possess explosives as provided in ORS 480.200 to*
8 *480.290.*]

9 [(b)] (a) The possession of an explosive by a member of the Armed Forces
10 of the United States while on active duty and engaged in the performance
11 of official duties or by a member of a regularly organized fire or police de-
12 partment of a public agency while engaged in the performance of official
13 duties.

14 [(c)] (b) The possession of an explosive in the course of transportation by
15 way of railroad, water, highway or air while under the jurisdiction of, or in
16 conformity with, regulations adopted by the United States Department of
17 Transportation.

18 [(d) *The possession, sale, transfer or manufacture of an explosive by a per-*
19 *son acting in accordance with the provisions of any applicable federal law or*
20 *regulation that provides substantially the same requirements as the comparable*
21 *provisions of ORS 480.200 to 480.290.*]

22 (4) Possession of a destructive device is a Class C felony.

23 **SECTION 14.** ORS 476.060 is amended to read:

24 476.060. [(1)] All fire marshals in those governmental subdivisions having
25 such officers, and where no such officer exists, the chief of the fire depart-
26 ment of every city or rural fire protection district in which a fire department
27 is established, the marshal or chief of police, officer of any city in which no
28 fire department exists, and constables, if any, shall be, by virtue of the of-
29 fices held by them, assistants to the State Fire Marshal without additional
30 recompense, subject to the duties and obligations imposed by law, and shall
31 be subject to the direction of the State Fire Marshal in the execution of the

1 provisions of this section and ORS 476.070, 476.090, 476.150, 476.210 and
2 480.445.

3 *[(2) In addition to other duties under subsection (1) of this section, an in-*
4 *dividual designated as an assistant to the State Fire Marshal shall aid in the*
5 *administration and enforcement of ORS 480.200 to 480.290 and 480.990 (6) upon*
6 *the request of the State Fire Marshal.]*

7 **SECTION 15.** ORS 480.460 is amended to read:

8 480.460. All fees received by the State Fire Marshal under ORS [480.200
9 to 480.290 and] 480.410 to 480.460 shall be paid by the State Fire Marshal to
10 the State Treasurer monthly and shall constitute and be an appropriation to
11 the Department of the State Fire Marshal available for the payment of sal-
12 aries and expenses of deputies and clerical and other assistants of the State
13 Fire Marshal.

14 **SECTION 16.** ORS 480.990 is amended to read:

15 480.990. (1) Violation of [any provision of] ORS 480.010 to 480.040 **or**
16 **480.085** is a Class B violation.

17 *[(2) Violation of any provision of ORS 480.050, 480.060 or 480.290 is a Class*
18 *C misdemeanor.]*

19 *[(3)] (2)* Violation of ORS 480.070 is a Class A misdemeanor.

20 *[(4) Violation of ORS 480.085 is a Class B violation.]*

21 *[(5) Violation of any provision of ORS 480.111 to 480.165 is a Class B*
22 *misdemeanor. Violations thereof may be prosecuted in state or municipal courts*
23 *when violations occur within the municipality served thereby. Justice courts*
24 *shall have concurrent jurisdiction with circuit courts in all proceedings arising*
25 *within ORS 480.111 to 480.165.]*

26 *[(6) Subject to ORS 153.022, violation of any provision of ORS 480.210,*
27 *480.215, 480.235 and 480.265 or of any rule or regulation adopted under ORS*
28 *480.280 (1) is a Class B misdemeanor.]*

29 *[(7) Violation of any provision of ORS 480.420 to 480.460 is a Class B vio-*
30 *lation.]*

31 *[(8)] (3)* Subject to ORS 153.022, violation of [any provision of] ORS 480.510

1 to 480.670, or any rule promulgated pursuant thereto, is a Class A
2 misdemeanor. Whenever the Board of Boiler Rules has reason to believe that
3 any person is liable to punishment under this subsection, it may certify the
4 facts to the Attorney General, who may cause an appropriate proceeding to
5 be brought.

6 **(4) Violation of ORS 480.111 to 480.165 is a Class B misdemeanor.**
7 **Violations thereof may be prosecuted in state or municipal courts**
8 **when violations occur within the municipality served thereby. Justice**
9 **courts shall have concurrent jurisdiction with circuit courts in all**
10 **proceedings arising within ORS 480.111 to 480.165.**

11 **(5) Violation of ORS 480.050 or 480.060 is a Class C misdemeanor.**

12 **SECTION 17.** ORS 480.095 is amended to read:

13 480.095. Persons violating ORS 480.085 are subject to the penalty provided
14 in ORS 480.990 [(4)] (1) and are liable in civil action for damages to any
15 person suffering injury from handling or otherwise coming in contact with
16 unused explosives that are left in an area of use in violation of ORS 480.085,
17 regardless of any negligence or lack of negligence on the part of the de-
18 fendant.

19 **SECTION 18.** ORS 480.670 is amended to read:

20 480.670. The Board of Boiler Rules may impose a civil penalty for a vio-
21 lation of ORS 480.510 to 480.670 or rules adopted for the administration and
22 enforcement of those sections. Moneys received by the Department of Con-
23 sumer and Business Services or the board from civil penalties imposed under
24 this section or ORS 455.895 (1)(c) shall be deposited to the Consumer and
25 Business Services Fund created under ORS 705.145 and used only for the
26 administration and enforcement of ORS 480.510 to 480.670 and 480.990 [(8)]
27 (3).

28 **SECTION 19.** ORS 166.715 is amended to read:

29 166.715. As used in ORS 166.715 to 166.735, unless the context requires
30 otherwise:

31 (1) "Documentary material" means any book, paper, document, writing,

1 drawing, graph, chart, photograph, phonograph record, magnetic tape, com-
2 puter printout, other data compilation from which information can be ob-
3 tained or from which information can be translated into usable form, or
4 other tangible item.

5 (2) "Enterprise" includes any individual, sole proprietorship, partnership,
6 corporation, business trust or other profit or nonprofit legal entity, and in-
7 cludes any union, association or group of individuals associated in fact al-
8 though not a legal entity, and both illicit and licit enterprises and
9 governmental and nongovernmental entities.

10 (3) "Investigative agency" means the Department of Justice or any district
11 attorney.

12 (4) "Pattern of racketeering activity" means engaging in at least two in-
13 cidents of racketeering activity that have the same or similar intents, re-
14 sults, accomplices, victims or methods of commission or otherwise are
15 interrelated by distinguishing characteristics, including a nexus to the same
16 enterprise, and are not isolated incidents, provided at least one of such in-
17 cidents occurred after November 1, 1981, and that the last of such incidents
18 occurred within five years after a prior incident of racketeering activity.
19 Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision
20 of law providing that a previous prosecution is a bar to a subsequent prose-
21 cution, conduct that constitutes an incident of racketeering activity may be
22 used to establish a pattern of racketeering activity without regard to
23 whether the conduct previously has been the subject of a criminal prose-
24 cution or conviction or a juvenile court adjudication, unless the prosecution
25 resulted in an acquittal or the adjudication resulted in entry of an order
26 finding the youth not to be within the jurisdiction of the juvenile court.

27 (5) "Person" means any individual or entity capable of holding a legal or
28 beneficial interest in real or personal property.

29 (6) "Racketeering activity" includes conduct of a person committed both
30 before and after the person attains the age of 18 years, and means to commit,
31 to attempt to commit, to conspire to commit, or to solicit, coerce or intim-

1 idate another person to commit:

2 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under
3 any of the following provisions of the Oregon Revised Statutes:

4 (A) ORS 59.005 to 59.505, 59.710 to 59.830, 59.991 and 59.995, relating to
5 securities;

6 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and
7 perjury;

8 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365,
9 relating to obstructing governmental administration;

10 (D) ORS 162.405 to 162.425, relating to abuse of public office;

11 (E) ORS 162.455, relating to interference with legislative operation;

12 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to crimi-
13 nal homicide;

14 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

15 (H) ORS 163.225 and 163.235, relating to kidnapping;

16 (I) ORS 163.275, relating to coercion;

17 (J) ORS 163.665 to 163.693, relating to sexual conduct of children;

18 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095,
19 164.098, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270, re-
20 lating to theft, burglary, criminal trespass and related offenses;

21 (L) ORS 164.315 to 164.335, relating to arson and related offenses;

22 (M) ORS 164.345 to 164.365, relating to criminal mischief;

23 (N) ORS 164.395 to 164.415, relating to robbery;

24 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful re-
25 cording or labeling of a recording;

26 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, re-
27 lating to forgery and related offenses;

28 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

29 (R) ORS 165.540 and 165.555, relating to communication crimes;

30 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450
31 and 166.470, relating to firearms and other weapons;

1 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007
2 to 167.017, 167.057, 167.062 to 167.080, 167.090, 167.122 to 167.137, 167.147,
3 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439,
4 relating to prostitution, obscenity, sexual conduct, gambling, computer
5 crimes involving the Oregon State Lottery, animal fighting, forcible recovery
6 of a fighting bird and related offenses;

7 (U) ORS 171.990, relating to legislative witnesses;

8 (V) ORS 260.575 and 260.665, relating to election offenses;

9 (W) ORS 314.075, relating to income tax;

10 (X) ORS 180.440 (2) and 180.486 (2) and ORS chapter 323, relating to cig-
11 arette and tobacco products taxes and the directories developed under ORS
12 180.425 and 180.477;

13 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance
14 payments or medical assistance benefits, and ORS 411.990 (2) and (3);

15 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

16 (AA) ORS 463.995, relating to entertainment wrestling and unarmed com-
17 bat sports, as defined in ORS 463.015;

18 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405,
19 471.425, 471.442, 471.445, 471.446, 471.485, 471.490 and 471.675, relating to al-
20 coholic liquor, and any of the provisions of ORS chapter 471 relating to li-
21 censes issued under the Liquor Control Act;

22 (CC) ORS 475C.005 to 475C.525, relating to marijuana items as defined in
23 ORS 475C.009;

24 (DD) ORS 475.005 to 475.285 and 475.752 to 475.980, relating to controlled
25 substances;

26 (EE) ORS 480.070, [480.210, 480.215, 480.235 and 480.265,] relating to ex-
27 plosives;

28 (FF) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor
29 vehicles;

30 (GG) ORS 658.452 or 658.991 (2) to (4), relating to labor contractors;

31 (HH) ORS chapter 706, relating to banking law administration;

- 1 (II) ORS chapter 714, relating to branch banking;
- 2 (JJ) ORS chapter 716, relating to mutual savings banks;
- 3 (KK) ORS chapter 723, relating to credit unions;
- 4 (LL) ORS chapter 726, relating to pawnbrokers;
- 5 (MM) ORS 166.382 and 166.384, relating to destructive devices;
- 6 (NN) ORS 165.074;
- 7 (OO) ORS 86A.095 to 86A.198, relating to mortgage bankers and mortgage
- 8 brokers;
- 9 (PP) ORS chapter 496, 497 or 498, relating to wildlife;
- 10 (QQ) ORS 163.355 to 163.427, relating to sexual offenses;
- 11 (RR) ORS 166.015, relating to riot;
- 12 (SS) ORS 166.155 and 166.165, relating to bias crimes;
- 13 (TT) ORS chapter 696, relating to real estate and escrow;
- 14 (UU) ORS chapter 704, relating to outfitters and guides;
- 15 (VV) ORS 165.692, relating to making a false claim for health care pay-
- 16 ment;
- 17 (WW) ORS 162.117, relating to public investment fraud;
- 18 (XX) ORS 164.170 or 164.172;
- 19 (YY) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;
- 20 (ZZ) ORS 164.886;
- 21 (AAA) ORS 167.312 and 167.388;
- 22 (BBB) ORS 164.889;
- 23 (CCC) ORS 165.800; or
- 24 (DDD) ORS 163.263, 163.264 or 163.266.

25 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961
26 (1)(B), (C), (D) and (E).

27 (7) “Unlawful debt” means any money or other thing of value constituting
28 principal or interest of a debt that is legally unenforceable in the state in
29 whole or in part because the debt was incurred or contracted:

30 (a) In violation of any one of the following:

31 (A) ORS chapter 462, relating to racing;

1 (B) ORS 167.108 to 167.164, relating to gambling; or

2 (C) ORS 82.010 to 82.170, relating to interest and usury.

3 (b) In gambling activity in violation of federal law or in the business of
4 lending money at a rate usurious under federal or state law.

5 (8) Notwithstanding contrary provisions in ORS 174.060, when this section
6 references a statute in the Oregon Revised Statutes that is substantially
7 different in the nature of its essential provisions from what the statute was
8 when this section was enacted, the reference shall extend to and include
9 amendments to the statute.

10 **SECTION 20. The unit captions used in this 2023 Act are provided**
11 **only for the convenience of the reader and do not become part of the**
12 **statutory law of this state or express any legislative intent in the**
13 **enactment of this 2023 Act.**

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