

Requested by Senator BENTZ

**PROPOSED AMENDMENTS TO
HOUSE BILL 2020**

1 On page 4 of the printed bill, delete lines 27 through 36 and insert:

2 **SECTION 6. Civil penalties. (1) As used in this section:**

3 **“(a) ‘Intentionally’ means conduct by a person with a conscious**
4 **objective to cause the result of the conduct.**

5 **“(b) ‘Recklessly’ means conduct by a person who is aware of and**
6 **consciously disregards a substantial and unjustifiable risk that the**
7 **result will occur or that the circumstance exists. The risk must be of**
8 **such nature and degree that disregard thereof constitutes a gross de-**
9 **viation from the standard of care a reasonable person would observe**
10 **in that situation.**

11 **“(2) In addition to any other liability or penalty provided by law, the**
12 **Director of the Carbon Policy Office may impose a civil penalty on a**
13 **person for any of the following:**

14 **“(a) A violation of a provision of sections 8 to 26 of this 2019 Act**
15 **or rules adopted under sections 8 to 26 of this 2019 Act.**

16 **“(b) A violation of ORS 468A.280 or rules adopted under ORS**
17 **468A.280.**

18 **“(c) Submitting any record, information or report required by**
19 **sections 8 to 26 of this 2019 Act or ORS 468A.280 or rules adopted under**
20 **sections 8 to 26 of this 2019 Act or ORS 468A.280 that falsifies or con-**
21 **ceals a material fact or makes any false or fraudulent representation.**

1 **“(3) Each day of violation under subsection (2) of this section con-**
2 **stitutes a separate offense.**

3 **“(4)(a) The director shall adopt by rule a schedule of civil penalties**
4 **that may be imposed for violations described in subsection (2) of this**
5 **section. Except as provided in paragraph (b) of this subsection, a civil**
6 **penalty may not exceed \$1,000 per violation. The civil penalty for a**
7 **violation described in subsection (2) of this section may include an**
8 **amount equal to an estimate of the economic benefit received as a**
9 **result of the violation.**

10 **“(b) The civil penalty for a violation described in subsection (2) of**
11 **this section arising from an intentional, reckless or negligent act may**
12 **not exceed \$2,500 per violation.**

13 **“(5) In imposing a civil penalty pursuant to this section, the direc-**
14 **tor shall consider the following factors:**

15 **“(a) The past history of the person incurring the civil penalty in**
16 **taking all feasible steps or procedures necessary or appropriate to**
17 **correct any violation.**

18 **“(b) Any actions taken by the person to mitigate the violation.**

19 **“(c) Any prior act that resulted in a violation described in sub-**
20 **section (2) of this section.**

21 **“(d) The economic and financial conditions of the person incurring**
22 **the civil penalty.**

23 **“(e) The gravity and magnitude of the violation.**

24 **“(f) Whether the violation was repeated or continuous.**

25 **“(g) Whether the cause of the violation was an unavoidable acci-**
26 **dent, negligence or an intentional act.**

27 **“(h) The person’s cooperativeness and efforts to correct the vio-**
28 **lation.**

29 **“(i) Whether the person incurring the civil penalty gained an eco-**
30 **nomical benefit as a result of the violation.**

1 **“(6) Civil penalties under this section must be imposed in the**
2 **manner provided by ORS 183.745. All civil penalties recovered under**
3 **this section shall be paid into the State Treasury and credited to the**
4 **Oregon Climate Action Program Operating Fund established under**
5 **section 26 of this 2019 Act and may be used only pursuant to section**
6 **26 (3) of this 2019 Act.”.**

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