

House Bill 4107

Sponsored by Representative BYNUM, Senator FREDERICK, Representatives SMITH G, ALONSO LEON, PILUSO, Senator MANNING JR; Representatives BARKER, CLEM, DOHERTY, GOMBERG, GORSEK, GREENLICK, HELM, HOLVEY, KENY-GUYER, LEIF, LIVELY, MARSH, MEEK, MITCHELL, NATHANSON, NERON, NOSSE, POWER, PRUSAK, RAYFIELD, SALINAS, SANCHEZ, SCHOUTEN, SMITH DB, SMITH WARNER, SOLLMAN, WILDE, WILLIAMS, WITT, Senators BEYER, DEMBROW, GELSER, KNOPP, PROZANSKI, ROBLAN, STEINER HAYWARD, TAYLOR, WAGNER (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Makes unlawful practice for place of public accommodation to refuse to accept United States coins or currency as payment for goods and services. Creates limited exceptions. Allows person to file complaint with Commissioner of Bureau of Labor and Industries and civil action alleging unlawful practice against operator or person acting on behalf of place of public accommodation.

Limits authority of school district to become member of voluntary organization that administers interscholastic activities unless organization implements policy that prohibits discrimination based on race, color or national origin.

Clarifies meaning of race to include natural hair, hair texture, hair type and protective hairstyles for purposes of prohibited discrimination under antidiscrimination statutes.

Clarifies that valid dress code or policy may not have disproportionate adverse impact on members of protected class to extent that is greater than impact on persons generally.

A BILL FOR AN ACT

1
2 Relating to discrimination; creating new provisions; amending ORS 332.075, 659.850, 659A.001,
3 659A.030 and 659A.885.

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

PROTECTION AGAINST PAYMENT DISCRIMINATION

7
8 **SECTION 1.** (1) Except as provided in subsection (2) of this section, it is an unlawful
9 practice for a place of public accommodation, as defined in ORS 659A.400, offering goods or
10 services, or any person acting on behalf of such place, to:

11 (a) Refuse to accept from a customer or patron United States coins and currency, in-
12 cluding federal reserve bank notes and circulating notes of federal reserve banks and na-
13 tional banks, as payment for goods and services.

14 (b) Make any distinction, discrimination or restriction because a customer or patron of-
15 fers United States coins and currency, including federal reserve bank notes and circulating
16 notes of federal reserve banks and national banks, as payment for goods and services.

17 (2) Notwithstanding subsection (1) of this section, a place of public accommodation, or
18 any person acting on behalf of such place, may refuse to accept as payment for goods and
19 services:

20 (a) United States coins, in any combination, that are greater than or equal to \$100; or

21 (b) United States currency in denominations of \$50 or \$100.

22 (3) This section does not apply to:

23 (a) A place of public accommodation that is owned or maintained by a public body, as

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 **defined in ORS 174.109;**

2 **(b) Any service to the public that is provided by a public body, as defined in ORS 174.109;**

3 **(c) Farmers' markets or roadside stands;**

4 **(d) Mobile food and beverage units licensed under ORS 624.010 to 624.121;**

5 **(e) A business engaged in commercial activities or services that occur in a restricted**
6 **access area of a commercial service airport;**

7 **(f) Transactions for goods or services involving a place or service offering goods, ser-**
8 **vices, lodgings or transportation, when the transaction requires a customer or patron to**
9 **deposit moneys or sign a rental agreement;**

10 **(g) Any establishment that is owned by or operated under the control of the United**
11 **States Government or an agency of the United States;**

12 **(h) Retail transactions that occur entirely over the telephone, mail or Internet; or**

13 **(i) The purchase of Class 1 flammable liquids at a filling station, service station, garage**
14 **or other dispensary where Class 1 flammable liquids are dispensed.**

15 **(4) Nothing in this section may be construed to prohibit, restrict, or otherwise interfere**
16 **with the ability of a place of public accommodation to accept, in addition to the forms of**
17 **payment described under subsection (1) of this section, as payment for goods or services, any**
18 **other form of payment provided that such payment is not prohibited under federal or state**
19 **law.**

20 **(5) A person who alleges a violation of subsection (1) of this section may bring a civil**
21 **action under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of**
22 **Labor and Industries in the manner provided by ORS 659A.820.**

23 **(6) As used in this section, "restricted access area" has the meaning given that term in**
24 **ORS 164.885.**

25
26 **PROTECTION AGAINST HAIR DISCRIMINATION**
27

28 **SECTION 2.** ORS 332.075 is amended to read:

29 332.075. (1) Any district school board may:

30 (a) Fix the days of the year and the hours of the day when schools shall be in session.

31 (b) Adopt textbooks and other instructional materials as provided in ORS 337.120 and 337.141
32 and courses of study for the use of such schools as provided in ORS 336.035.

33 (c) Authorize the use of the schools for purposes of training students of an approved educator
34 preparation provider, as defined in ORS 342.120, and for such purposes may enter into contracts
35 with the approved educator preparation provider on such terms as may be agreed upon. Such con-
36 tracts as they relate to student teachers shall have the same effect and be subject to the same
37 regulations as a contract between a licensed teacher and a district school board.

38 (d) Develop and operate with other school districts or community college districts secondary
39 career and technical education programs for pupils of more than one district and fix by agreement
40 the duration of the district's obligation to continue such activity, subject to the availability of funds
41 therefor.

42 (e) Authorize the school district to be a member of and pay fees, if any, to any voluntary or-
43 ganization that administers interscholastic activities or that facilitates the scheduling and pro-
44 gramming of interscholastic activities only if the organization:

45 (A) Implements policies that:

1 (i) Address the use of derogatory or inappropriate names, insults, verbal assaults, profanity or
 2 ridicule that occurs at an interscholastic activity, including by spectators of the interscholastic ac-
 3 tivity; **and**

4 **(ii) Prohibit discrimination based on race, color or national origin;**

5 (B) Maintains a transparent complaint process that:

6 (i) Has a reporting system to allow participants of interscholastic activities or members of the
 7 public to make complaints about student, coach or spectator behavior;

8 (ii) Responds to a complaint made under sub-subparagraph (i) of this subparagraph within 48
 9 hours of the complaint being received; and

10 (iii) Strives to resolve a complaint received under sub-subparagraph (i) of this subparagraph
 11 within 30 days of the complaint being received;

12 (C) Develops and implements a system of sanctions against schools, students, coaches and spec-
 13 tators if a complaint made under subparagraph (B) of this paragraph is verified; and

14 (D) Performs an annual survey of students and their parents to understand and respond to po-
 15 tential violations of policies adopted under subparagraph (A) of this paragraph or violations of ORS
 16 659.850.

17 (f) Accept money or property donated for the use or benefit of the school district and, consistent
 18 with the laws of this state, use such money or property for the purpose for which it was donated.

19 (g) Enter into an approved written agreement with the governing body of a federally recognized
 20 Native American tribe in Oregon to allow the use of a mascot that represents, is associated with
 21 or is significant to the Native American tribe entering into the agreement. An agreement entered
 22 into under this paragraph must:

23 (A) Describe the acceptable uses of the mascot;

24 (B) Comply with rules adopted by the State Board of Education that:

25 (i) Are adopted after consultation with the federally recognized tribes in Oregon pursuant to
 26 ORS 182.164 (3); and

27 (ii) Prescribe the requirements for approval; and

28 (C) Be approved by the State Board of Education, which the board must provide if the agreement
 29 meets the requirements of this paragraph and the rules adopted under this paragraph.

30 (2) All contracts of the school district must be approved by the district school board before an
 31 order can be drawn for payment. If a contract is made without the authority of the district school
 32 board, the individual making such contract shall be personally liable.

33 (3) Notwithstanding subsection (2) of this section, a district school board may, by resolution or
 34 policy, authorize its superintendent or the superintendent's designee to enter into and approve pay-
 35 ment on contracts for products, materials, supplies, capital outlay, equipment and services that are
 36 within appropriations made by the district school board pursuant to ORS 294.456. A district school
 37 board may not authorize its superintendent or the superintendent's designee under this subsection
 38 to enter into and approve payment on contracts that are collective bargaining agreements or service
 39 contracts that include the provision of labor performed by employees of the school district.

40 **(4) As used in this section, "race" includes physical characteristics that are historically**
 41 **associated with race, including but not limited to natural hair, hair texture, hair type and**
 42 **protective hairstyles as defined in ORS 659A.001.**

43 **SECTION 3.** ORS 659.850 is amended to read:

44 659.850. (1) As used in this section[,]:

45 **(a)(A)** "Discrimination" means any act that unreasonably differentiates treatment, intended or

1 unintended, or any act that is fair in form but discriminatory in operation, either of which is based
2 on race, color, religion, sex, sexual orientation, national origin, marital status, age or disability.

3 **(B) “Discrimination” does not include enforcement of an otherwise valid dress code or policy,**
4 **as long as the code or policy:**

5 **(i) Provides, on a case-by-case basis, for reasonable accommodation of an individual based on the**
6 **health and safety needs of the individual; and**

7 **(ii) Does not have a disproportionate adverse impact on members of a protected class to**
8 **a greater extent than the policy impacts persons generally.**

9 **(b) “Race” includes physical characteristics that are historically associated with race,**
10 **including but not limited to natural hair, hair texture, hair type and protective hairstyles**
11 **as defined in ORS 659A.001.**

12 (2) A person may not be subjected to discrimination in any public elementary, secondary or
13 community college education program or service, school or interschool activity or in any higher
14 education program or service, school or interschool activity where the program, service, school or
15 activity is financed in whole or in part by moneys appropriated by the Legislative Assembly.

16 (3) The State Board of Education and the Higher Education Coordinating Commission shall es-
17 tablish rules necessary to ensure compliance with subsection (2) of this section in the manner re-
18 quired by ORS chapter 183.

19 **SECTION 4.** ORS 659A.001 is amended to read:

20 659A.001. As used in this chapter:

21 (1) “Bureau” means the Bureau of Labor and Industries.

22 (2) “Commissioner” means the Commissioner of the Bureau of Labor and Industries.

23 (3) “Employee” does not include any individual employed by the individual’s parents, spouse or
24 child or in the domestic service of any person.

25 (4)(a) “Employer” means any person who in this state, directly or through an agent, engages or
26 uses the personal service of one or more employees, reserving the right to control the means by
27 which such service is or will be performed.

28 (b) For the purposes of employee protections described in ORS 659A.350, “employer” means any
29 person who, in this state, is in an employment relationship with an intern as described in ORS
30 659A.350.

31 (5) “Employment agency” includes any person undertaking to procure employees or opportu-
32 nities to work.

33 (6)(a) “Familial status” means the relationship between one or more individuals who have not
34 attained 18 years of age and who are domiciled with:

35 (A) A parent or another person having legal custody of the individual; or

36 (B) The designee of the parent or other person having such custody, with the written permission
37 of the parent or other person.

38 (b) “Familial status” includes any individual, regardless of age or domicile, who is pregnant or
39 is in the process of securing legal custody of an individual who has not attained 18 years of age.

40 (7) “Labor organization” includes any organization which is constituted for the purpose, in
41 whole or in part, of collective bargaining or in dealing with employers concerning grievances, terms
42 or conditions of employment or of other mutual aid or protection in connection with employees.

43 (8) “National origin” includes ancestry.

44 (9) “Person” includes:

45 (a) One or more individuals, partnerships, associations, labor organizations, limited liability

1 companies, joint stock companies, corporations, legal representatives, trustees, trustees in bank-
 2 ruptcy or receivers.

3 (b) A public body as defined in ORS 30.260.

4 (c) For purposes of ORS 659A.145 and 659A.421 and the application of any federal housing law,
 5 a fiduciary, mutual company, trust or unincorporated organization.

6 **(10) “Protective hairstyle” means a hairstyle, hair color or manner of wearing hair that**
 7 **includes, but is not limited to, braids, regardless of whether the braids are created with ex-**
 8 **tensions or styled with adornments, locs and twists.**

9 **(11) “Race” includes physical characteristics that are historically associated with race,**
 10 **including but not limited to natural hair, hair texture, hair type and protective hairstyles.**

11 [(10)] (12) “Respondent” means any person against whom a complaint or charge of an unlawful
 12 practice is filed with the commissioner or whose name has been added to such complaint or charge
 13 pursuant to ORS 659A.835.

14 [(11)] (13) “Unlawful employment practice” means a practice specifically denominated as an un-
 15 lawful employment practice in this chapter. “Unlawful employment practice” includes a practice that
 16 is specifically denominated in another statute of this state as an unlawful employment practice and
 17 that is specifically made subject to enforcement under this chapter.

18 [(12)] (14) “Unlawful practice” means any unlawful employment practice or any other practice
 19 specifically denominated as an unlawful practice in this chapter. “Unlawful practice” includes a
 20 practice that is specifically denominated in another statute of this state as an unlawful practice and
 21 that is specifically made subject to enforcement under this chapter, or a practice that violates a rule
 22 adopted by the commissioner for the enforcement of the provisions of this chapter.

23 **SECTION 5.** ORS 659A.030 is amended to read:

24 659A.030. (1) It is an unlawful employment practice:

25 (a) For an employer, because of an individual’s race, color, religion, sex, sexual orientation, na-
 26 tional origin, marital status or age if the individual is 18 years of age or older, or because of the
 27 race, color, religion, sex, sexual orientation, national origin, marital status or age of any other
 28 person with whom the individual associates, or because of an individual’s juvenile record that has
 29 been expunged pursuant to ORS 419A.260 and 419A.262, to refuse to hire or employ the individual
 30 or to bar or discharge the individual from employment. However, discrimination is not an unlawful
 31 employment practice if the discrimination results from a bona fide occupational qualification rea-
 32 sonably necessary to the normal operation of the employer’s business.

33 (b) For an employer, because of an individual’s race, color, religion, sex, sexual orientation, na-
 34 tional origin, marital status or age if the individual is 18 years of age or older, or because of the
 35 race, color, religion, sex, sexual orientation, national origin, marital status or age of any other
 36 person with whom the individual associates, or because of an individual’s juvenile record that has
 37 been expunged pursuant to ORS 419A.260 and 419A.262, to discriminate against the individual in
 38 compensation or in terms, conditions or privileges of employment.

39 (c) For a labor organization, because of an individual’s race, color, religion, sex, sexual orien-
 40 tation, national origin, marital status or age if the individual is 18 years of age or older, or because
 41 of an individual’s juvenile record that has been expunged pursuant to ORS 419A.260 and 419A.262,
 42 to exclude or to expel from its membership the individual or to discriminate in any way against the
 43 individual or any other person.

44 (d) For any employer or employment agency to print or circulate or cause to be printed or cir-
 45 culated any statement, advertisement or publication, or to use any form of application for employ-

1 ment or to make any inquiry in connection with prospective employment that expresses directly or
 2 indirectly any limitation, specification or discrimination as to an individual’s race, color, religion,
 3 sex, sexual orientation, national origin, marital status or age if the individual is 18 years of age or
 4 older, or on the basis of an expunged juvenile record, or any intent to make any such limitation,
 5 specification or discrimination, unless based upon a bona fide occupational qualification. Identifica-
 6 tion of prospective employees according to race, color, religion, sex, sexual orientation, national
 7 origin, marital status or age does not violate this section unless the Commissioner of the Bureau
 8 of Labor and Industries, after a hearing conducted pursuant to ORS 659A.805, determines that the
 9 designation expresses an intent to limit, specify or discriminate on the basis of race, color, religion,
 10 sex, sexual orientation, national origin, marital status or age.

11 (e) For an employment agency, because of an individual’s race, color, religion, sex, sexual ori-
 12 entation, national origin, marital status or age if the individual is 18 years of age or older, or be-
 13 cause of the race, color, religion, sex, sexual orientation, national origin, marital status or age of
 14 any other person with whom the individual associates, or because of an individual’s juvenile record
 15 that has been expunged pursuant to ORS 419A.260 and 419A.262, to classify or refer for employment,
 16 or to fail or refuse to refer for employment, or otherwise to discriminate against the individual.
 17 However, it is not an unlawful employment practice for an employment agency to classify or refer
 18 for employment an individual when the classification or referral results from a bona fide occupa-
 19 tional qualification reasonably necessary to the normal operation of the employer’s business.

20 (f) For any person to discharge, expel or otherwise discriminate against any other person be-
 21 cause that other person has opposed any unlawful practice, or because that other person has filed
 22 a complaint, testified or assisted in any proceeding under this chapter or has attempted to do so.

23 (g) For any person, whether an employer or an employee, to aid, abet, incite, compel or coerce
 24 the doing of any of the acts forbidden under this chapter or to attempt to do so.

25 (2) The provisions of this section apply to an apprentice under ORS 660.002 to 660.210, but the
 26 selection of an apprentice on the basis of the ability to complete the required apprenticeship train-
 27 ing before attaining the age of 70 years is not an unlawful employment practice. The commissioner
 28 shall administer this section with respect to apprentices under ORS 660.002 to 660.210 equally with
 29 regard to all employees and labor organizations.

30 (3) The compulsory retirement of employees required by law at any age is not an unlawful em-
 31 ployment practice if lawful under federal law.

32 (4)(a) It is not an unlawful employment practice for an employer or labor organization to provide
 33 or make financial provision for child care services of a custodial or other nature to its employees
 34 or members who are responsible for a minor child.

35 (b) As used in this subsection, “responsible for a minor child” means having custody or legal
 36 guardianship of a minor child or acting in loco parentis to the child.

37 (5) This section does not prohibit an employer from enforcing an otherwise valid dress code or
 38 policy, as long as the employer provides, on a case-by-case basis, for reasonable accommodation of
 39 an individual based on the health and safety needs of the individual **and the dress code or policy**
 40 **does not have a disproportionate adverse impact on members of a protected class to a**
 41 **greater extent than the policy impacts persons generally.**

42
 43 **PENALTIES**
 44

45 **SECTION 6.** ORS 659A.885 is amended to read:

1 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
 2 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
 3 the court may order 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 without back pay. A
 5 court may order back pay in an action under this subsection only for the two-year period imme-
 6 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
 7 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
 8 year period immediately preceding the filing of the action. In any action under this subsection, the
 9 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
 10 cept as provided in subsection (3) of this section:

11 (a) The judge shall determine the facts in an action under this subsection; and

12 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
 13 review the judgment pursuant to the standard established by ORS 19.415 (3).

14 (2) An action may be brought under subsection (1) of this section alleging a violation of:

15 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 475B.281, 476.574, 652.020,
 16 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852, 659A.030,
 17 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145,
 18 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230,
 19 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309,
 20 659A.315, 659A.318, 659A.320, 659A.355 or 659A.421 **or section 1 of this 2020 Act**; or

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

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

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

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

29 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
 30 ment pursuant to the standard established by ORS 19.415 (1); and

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

32 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
 33 olation of ORS 652.220, the court may award punitive damages if:

34 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
 35 with malice or acted with willful and wanton misconduct; or

36 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
 37 659A.850 for a violation of ORS 652.220.

38 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
 39 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
 40 tion, compensatory damages or \$200, whichever is greater.

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

44 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
 45 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil

1 penalty in the amount of \$720.

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

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

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

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

16 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

17 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
 18 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
 19 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
 20 and

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

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

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

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

33 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
 34 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
 35 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
 36 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
 37 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
 38 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
 39 appealing an adverse decision of the trial court.

40 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
 41 or 659A.421 or discrimination under federal housing law:

42 (a) "Aggrieved person" includes a person who believes that the person:

43 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

44 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
 45 occur.

1 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
 2 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
 3 tifies that the case is of general public importance. The court may allow an intervenor prevailing
 4 party costs and reasonable attorney fees at trial and on appeal.

5 **SECTION 7.** ORS 659A.885, as amended by section 7, chapter 343, Oregon Laws 2019, and sec-
 6 tion 7, chapter 463, Oregon Laws 2019, is amended to read:

7 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
 8 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
 9 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
 10 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
 11 court may order back pay in an action under this subsection only for the two-year period imme-
 12 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
 13 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
 14 year period immediately preceding the filing of the action. In any action under this subsection, the
 15 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
 16 cept as provided in subsection (3) of this section:

17 (a) The judge shall determine the facts in an action under this subsection; and

18 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
 19 review the judgment pursuant to the standard established by ORS 19.415 (3).

20 (2) An action may be brought under subsection (1) of this section alleging a violation of:

21 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574,
 22 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
 23 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
 24 659A.145, 659A.147, 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, 659A.300, 659A.306,
 26 659A.309, 659A.315, 659A.318, 659A.320, 659A.355, 659A.370 or 659A.421 **or section 1 of this 2020**
 27 **Act;** or

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

29 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
 30 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
 31 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
 32 659A.290, 659A.318, 659A.355, 659A.370 or 659A.421:

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

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

36 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
 37 ment pursuant to the standard established by ORS 19.415 (1); and

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

39 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
 40 olation of ORS 652.220, the court may award punitive damages if:

41 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
 42 with malice or acted with willful and wanton misconduct; or

43 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
 44 659A.850 for a violation of ORS 652.220.

45 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or

1 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
 2 tion, compensatory damages or \$200, whichever is greater.

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

6 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
 7 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
 8 penalty in the amount of \$720.

9 (8) Any individual against whom any distinction, discrimination or restriction on account of
 10 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
 11 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
 12 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
 13 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
 14 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
 15 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
 16 section:

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

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

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

23 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

24 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
 25 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
 26 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
 27 and

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

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

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

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

40 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
 41 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
 42 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
 43 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
 44 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
 45 determines that the commissioner had no objectively reasonable basis for asserting the claim or for

1 appealing an adverse decision of the trial court.

2 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
3 or 659A.421 or discrimination under federal housing law:

4 (a) “Aggrieved person” includes a person who believes that the person:

5 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

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

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

12 **SECTION 8.** ORS 659A.885, as amended by section 7, chapter 343, Oregon Laws 2019, section
13 7, chapter 463, Oregon Laws 2019, and section 12, chapter 701, Oregon Laws 2019, is amended to
14 read:

15 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
16 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
17 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
18 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
19 court may order back pay in an action under this subsection only for the two-year period imme-
20 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
21 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
22 year period immediately preceding the filing of the action. In any action under this subsection, the
23 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
24 cept as provided in subsection (3) of this section:

25 (a) The judge shall determine the facts in an action under this subsection; and

26 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
27 review the judgment pursuant to the standard established by ORS 19.415 (3).

28 (2) An action may be brought under subsection (1) of this section alleging a violation of:

29 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574,
30 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
31 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
32 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
33 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
34 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.370 or 659A.421 **or section 1 of**
35 **this 2020 Act;** or

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

37 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
38 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
39 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
40 659A.290, 659A.318, 659A.343, 659A.355, 659A.370 or 659A.421:

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

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

44 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
45 ment pursuant to the standard established by ORS 19.415 (1); and

- 1 (d) Any attorney fee agreement shall be subject to approval by the court.
- 2 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
- 3 olation of ORS 652.220, the court may award punitive damages if:
- 4 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
- 5 with malice or acted with willful and wanton misconduct; or
- 6 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
- 7 659A.850 for a violation of ORS 652.220.
- 8 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
- 9 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
- 10 tion, compensatory damages or \$200, whichever is greater.
- 11 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574
- 12 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this
- 13 section, compensatory damages or \$250, whichever is greater.
- 14 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
- 15 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
- 16 penalty in the amount of \$720.
- 17 (8) Any individual against whom any distinction, discrimination or restriction on account of
- 18 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
- 19 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
- 20 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
- 21 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
- 22 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
- 23 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
- 24 section:
- 25 (a) The court may award, in addition to the relief authorized under subsection (1) of this section,
- 26 compensatory and punitive damages;
- 27 (b) The operator or manager of the place of public accommodation, the employee or person
- 28 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
- 29 damages awarded in the action;
- 30 (c) At the request of any party, the action shall be tried to a jury;
- 31 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;
- 32 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
- 33 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
- 34 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
- 35 and
- 36 (f) Upon any appeal of a judgment under this subsection, the appellate court shall review the
- 37 judgment pursuant to the standard established by ORS 19.415 (1).
- 38 (9) When the commissioner or the Attorney General has reasonable cause to believe that a
- 39 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
- 40 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied
- 41 any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner
- 42 or the Attorney General may file a civil action on behalf of the aggrieved persons in the same
- 43 manner as a person or group of persons may file a civil action under this section. In a civil action
- 44 filed under this subsection, the court may assess against the respondent, in addition to the relief
- 45 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 violation of ORS 659A.145 or
 4 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
 5 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
 6 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
 7 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
 8 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
 9 appealing an adverse decision of the trial court.

10 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
 11 or 659A.421 or discrimination under federal housing law:

12 (a) “Aggrieved person” includes a person who believes that the person:

13 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

14 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
 15 occur.

16 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
 17 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
 18 tifies that the case is of general public importance. The court may allow an intervenor prevailing
 19 party costs and reasonable attorney fees at trial and on appeal.

20 **SECTION 9.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section
 21 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463,
 22 Oregon Laws 2019, and section 13, chapter 701, Oregon Laws 2019, is amended to read:

23 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
 24 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
 25 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
 26 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
 27 court may order back pay in an action under this subsection only for the two-year period imme-
 28 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
 29 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
 30 year period immediately preceding the filing of the action. In any action under this subsection, the
 31 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
 32 cept as provided in subsection (3) of this section:

33 (a) The judge shall determine the facts in an action under this subsection; and

34 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
 35 review the judgment pursuant to the standard established by ORS 19.415 (3).

36 (2) An action may be brought under subsection (1) of this section alleging a violation of:

37 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574,
 38 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
 39 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
 40 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
 41 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
 42 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421 **or sec-**
 43 **tion 1 of this 2020 Act;** or

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

45 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,

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

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

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

7 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
 8 ment pursuant to the standard established by ORS 19.415 (1); and

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

10 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
 11 olation of ORS 652.220, the court may award punitive damages if:

12 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
 13 with malice or acted with willful and wanton misconduct; or

14 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
 15 659A.850 for a violation of ORS 652.220.

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

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

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

25 (8) Any individual against whom any distinction, discrimination or restriction on account of
 26 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
 27 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
 28 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
 29 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
 30 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
 31 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
 32 section:

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

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

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

39 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

40 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
 41 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
 42 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
 43 and

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

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

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

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

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

18 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
 19 or 659A.421 or discrimination under federal housing law:

20 (a) "Aggrieved person" includes a person who believes that the person:

21 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

22 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
 23 occur.

24 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
 25 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
 26 tifies that the case is of general public importance. The court may allow an intervenor prevailing
 27 party costs and reasonable attorney fees at trial and on appeal.

28 **SECTION 10.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section
 29 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463,
 30 Oregon Laws 2019, section 58, chapter 700, Oregon Laws 2019, and section 13, chapter 701, Oregon
 31 Laws 2019, is amended to read:

32 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
 33 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
 34 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
 35 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
 36 court may order back pay in an action under this subsection only for the two-year period imme-
 37 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
 38 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
 39 year period immediately preceding the filing of the action. In any action under this subsection, the
 40 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
 41 cept as provided in subsection (3) of this section:

42 (a) The judge shall determine the facts in an action under this subsection; and

43 (b) Upon any appeal of a judgment in an action under this subsection, the appellate court shall
 44 review the judgment pursuant to the standard established by ORS 19.415 (3).

45 (2) An action may be brought under subsection (1) of this section alleging a violation of:

1 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574,
 2 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 657B.060 and
 3 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088,
 4 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218,
 5 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,
 6 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or
 7 659A.421 **or section 1 of this 2020 Act;** or

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

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

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

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

17 (c) Upon appeal of any judgment finding a violation, the appellate court shall review the judg-
 18 ment pursuant to the standard established by ORS 19.415 (1); and

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

20 (4) Notwithstanding ORS 31.730, in an action under subsection (1) of this section alleging a vi-
 21 olation of ORS 652.220, the court may award punitive damages if:

22 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted
 23 with malice or acted with willful and wanton misconduct; or

24 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
 25 659A.850 for a violation of ORS 652.220.

26 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
 27 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
 28 tion, compensatory damages or \$200, whichever is greater.

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

32 (7) In any action under subsection (1) of this section alleging a violation of ORS 10.090 or 10.092,
 33 the court may award, in addition to the relief authorized under subsection (1) of this section, a civil
 34 penalty in the amount of \$720.

35 (8) Any individual against whom any distinction, discrimination or restriction on account of
 36 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual
 37 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
 38 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
 39 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
 40 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
 41 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
 42 section:

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

45 (b) The operator or manager of the place of public accommodation, the employee or person

1 acting on behalf of the place, and any aider or abettor shall be jointly and severally liable for all
 2 damages awarded in the action;

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

4 (d) The court shall award reasonable attorney fees to a prevailing plaintiff;

5 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-
 6 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
 7 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
 8 and

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

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

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

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

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

28 (11) In an action under subsection (1) or (9) of this section alleging a violation of ORS 659A.145
 29 or 659A.421 or discrimination under federal housing law:

30 (a) "Aggrieved person" includes a person who believes that the person:

31 (A) Has been injured by an unlawful practice or discriminatory housing practice; or

32 (B) Will be injured by an unlawful practice or discriminatory housing practice that is about to
 33 occur.

34 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
 35 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
 36 tifies that the case is of general public importance. The court may allow an intervenor prevailing
 37 party costs and reasonable attorney fees at trial and on appeal.

38 **SECTION 11. The unit captions used in this 2020 Act are provided only for the conven-**
 39 **ience of the reader and do not become part of the statutory law of this state or express any**
 40 **legislative intent in the enactment of this 2020 Act.**