

Minority Report
A-Engrossed
House Bill 4107

Ordered by the House February 17
Including House Minority Report Amendments dated February 17

Sponsored by nonconcurring members of the House Committee on Judiciary: Representatives LEWIS, NOBLE

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.

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. **Becomes operative on July 1, 2021. Allows person to bring civil action alleging unlawful practice against operator or person acting on behalf of place of public accommodation. Becomes operative on January 1, 2022.**

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; and 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:**

5
6 **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 offering goods or services, or any person acting**
10 **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:**

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 (a) United States coins, in any combination, in an amount equal to or greater than \$100;
2 or
3 (b) United States currency in denominations of \$50 or \$100.
4 (3) This section does not apply to:
5 (a) Transactions for goods or services involving a place or service offering goods, ser-
6 vices, transient lodging or transportation, when the transaction or a portion of the trans-
7 action requires a customer or patron to deposit moneys or sign an agreement to rent or
8 lease consumer goods;
9 (b) Any establishment that is owned by or operated under the control of the United
10 States Government or an agency of the United States;
11 (c) Retail transactions that occur entirely over the telephone or by mail;
12 (d) Internet-based transactions;
13 (e) A filling station, service station, garage or other dispensary where Class 1 flammable
14 liquids are dispensed, during the hours in which an owner, operator or other employee is not
15 present to dispense the liquids;
16 (f) Electric vehicle charging stations;
17 (g) Transactions that occur in a micro market, including purchases from a vending ma-
18 chine;
19 (h) Purchases from a vending machine unless the vending machine is located within a
20 concentration or cluster of more than eight vending machines that do not accept coins or
21 currency as payment for purchases;
22 (i) Transactions involving the sale of products for which a license is required by ORS
23 744.053; or
24 (j) A place of public accommodation that provides hospital or medical services and that
25 bills or invoices a person after such services are rendered, provided that the place of public
26 accommodation accepts coins and currency as payment for the bill or invoice by mail or at
27 a designated location other than the location where the services are rendered.
28 (4) Nothing in this section may be construed to prohibit, restrict, or otherwise interfere
29 with the ability of a place of public accommodation to:
30 (a) Accept, in addition to the forms of payment described under subsection (1) of this
31 section, as payment for goods or services, any other form of payment provided that such
32 payment is not prohibited under federal or state law;
33 (b) After services are rendered, invoice or bill a customer or patron, or submit a claim
34 to a third party to receive payment for the services; or
35 (c) Offer a customer or patron an incentive for paying for goods or services in coin or
36 currency.
37 (5) A person who alleges a violation of subsection (1) of this section may file a complaint
38 with the Commissioner of the Bureau of Labor and Industries in the manner provided by
39 ORS 659A.820.
40 (6) As used in this section:
41 (a) "Class I flammable liquids" has the meaning given that term in ORS 480.310.
42 (b) "Consumer goods" has the meaning given that term in ORS 79.0102.
43 (c)(A) "Internet-based transaction" means a transaction that occurs over the Internet
44 and that involves a sale, purchase or reservation of or deposit for goods or services to be
45 picked up by, delivered to or consumed by a customer or patron.

1 **(B) “Internet-based transaction” does not mean an in-person transaction.**

2 **(d) “Micro market” means an unattended retail establishment to which access by the**
3 **general public is restricted that offers whole or fresh-cut fruit and vegetables, packaged**
4 **foods or beverages for purchase through an automated payment processing system.**

5 **(e) “Place of public accommodation” has the meaning given that term in ORS 659A.400.**

6 **(f) “Transient lodging” has the meaning given that term in ORS 699.005.**

7 **(g) “Vending machine” has the meaning given that term in ORS 624.310.**

8 **SECTION 1a.** Section 1 of this 2020 Act is amended to read:

9 **Sec. 1.** (1) Except as provided in subsection (2) of this section, it is an unlawful practice for a
10 place of public accommodation offering goods or services, or any person acting on behalf of such
11 place, to:

12 (a) Refuse to accept from a customer or patron United States coins and currency, including
13 federal reserve bank notes and circulating notes of federal reserve banks and national banks, as
14 payment for goods and services.

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

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

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

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

22 (3) This section does not apply to:

23 (a) Transactions for goods or services involving a place or service offering goods, services,
24 transient lodging or transportation, when the transaction or a portion of the transaction requires
25 a customer or patron to deposit moneys or sign an agreement to rent or lease consumer goods;

26 (b) Any establishment that is owned by or operated under the control of the United States
27 Government or an agency of the United States;

28 (c) Retail transactions that occur entirely over the telephone or by mail;

29 (d) Internet-based transactions;

30 (e) A filling station, service station, garage or other dispensary where Class 1 flammable liquids
31 are dispensed, during the hours in which an owner, operator or other employee is not present to
32 dispense the liquids;

33 (f) Electric vehicle charging stations;

34 (g) Transactions that occur in a micro market, including purchases from a vending machine;

35 (h) Purchases from a vending machine unless the vending machine is located within a concen-
36 tration or cluster of more than eight vending machines that do not accept coins or currency as
37 payment for purchases;

38 (i) Transactions involving the sale of products for which a license is required by ORS 744.053;
39 or

40 (j) A place of public accommodation that provides hospital or medical services and that bills or
41 invoices a person after such services are rendered, provided that the place of public accommodation
42 accepts coins and currency as payment for the bill or invoice by mail or at a designated location
43 other than the location where the services are rendered.

44 (4) Nothing in this section may be construed to prohibit, restrict, or otherwise interfere with the
45 ability of a place of public accommodation to:

1 (a) Accept, in addition to the forms of payment described under subsection (1) of this section,
2 as payment for goods or services, any other form of payment provided that such payment is not
3 prohibited under federal or state law;

4 (b) After services are rendered, invoice or bill a customer or patron, or submit a claim to a third
5 party to receive payment for the services; or

6 (c) Offer a customer or patron an incentive for paying for goods or services in coin or currency.

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

10 (6) As used in this section:

11 (a) "Class I flammable liquids" has the meaning given that term in ORS 480.310.

12 (b) "Consumer goods" has the meaning given that term in ORS 79.0102.

13 (c)(A) "Internet-based transaction" means a transaction that occurs over the Internet and that
14 involves a sale, purchase or reservation of or deposit for goods or services to be picked up by, de-
15 livered to or consumed by a customer or patron.

16 (B) "Internet-based transaction" does not mean an in-person transaction.

17 (d) "Micro market" means an unattended retail establishment to which access by the general
18 public is restricted that offers whole or fresh-cut fruit and vegetables, packaged foods or beverages
19 for purchase through an automated payment processing system.

20 (e) "Place of public accommodation" has the meaning given that term in ORS 659A.400.

21 (f) "Transient lodging" has the meaning given that term in ORS 699.005.

22 (g) "Vending machine" has the meaning given that term in ORS 624.310.

23
24 **PROTECTION AGAINST HAIR DISCRIMINATION**

25
26 **SECTION 2.** ORS 332.075 is amended to read:

27 332.075. (1) Any district school board may:

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

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

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

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

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

43 (A) Implements policies that:

44 (i) Address the use of derogatory or inappropriate names, insults, verbal assaults, profanity or
45 ridicule that occurs at an interscholastic activity, including by spectators of the interscholastic ac-

1 tivity; **and**

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

3 (B) Maintains a transparent complaint process that:

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

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

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

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

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

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

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

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

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

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

25 (ii) Prescribe the requirements for approval; and

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

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

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

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

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

42 659.850. (1) As used in this section[,]:

43 **(a)(A)** "Discrimination" means any act that unreasonably differentiates treatment, intended or
44 unintended, or any act that is fair in form but discriminatory in operation, either of which is based
45 on race, color, religion, sex, sexual orientation, national origin, marital status, age or disability.

1 (B) "Discrimination" does not include enforcement of an otherwise valid dress code or policy,
2 as long as the code or policy:

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

5 (ii) Does not have a disproportionate adverse impact on members of a protected class.

6 (b) "Race" includes physical characteristics that are historically associated with race,
7 including but not limited to natural hair, hair texture, hair type and protective hairstyles
8 as defined in ORS 659A.001.

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

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

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

17 659A.001. As used in this chapter:

18 (1) "Bureau" means the Bureau of Labor and Industries.

19 (2) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

20 (3) "Employee" does not include any individual employed by the individual's parents, spouse or
21 child or in the domestic service of any person.

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

25 (b) For the purposes of employee protections described in ORS 659A.350, "employer" means any
26 person who, in this state, is in an employment relationship with an intern as described in ORS
27 659A.350.

28 (5) "Employment agency" includes any person undertaking to procure employees or opportu-
29 nities to work.

30 (6)(a) "Familial status" means the relationship between one or more individuals who have not
31 attained 18 years of age and who are domiciled with:

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

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

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

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

40 (8) "National origin" includes ancestry.

41 (9) "Person" includes:

42 (a) One or more individuals, partnerships, associations, labor organizations, limited liability
43 companies, joint stock companies, corporations, legal representatives, trustees, trustees in bank-
44 ruptcy or receivers.

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

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

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

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

8 [(10)] (12) “Respondent” means any person against whom a complaint or charge of an unlawful
9 practice is filed with the commissioner or whose name has been added to such complaint or charge
10 pursuant to ORS 659A.835.

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

15 [(12)] (14) “Unlawful practice” means any unlawful employment practice or any other practice
16 specifically denominated as an unlawful practice in this chapter. “Unlawful practice” includes a
17 practice that is specifically denominated in another statute of this state as an unlawful practice and
18 that is specifically made subject to enforcement under this chapter, or a practice that violates a rule
19 adopted by the commissioner for the enforcement of the provisions of this chapter.

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

21 659A.030. (1) It is an unlawful employment practice:

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

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

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

41 (d) For any employer or employment agency to print or circulate or cause to be printed or cir-
42 culated any statement, advertisement or publication, or to use any form of application for employ-
43 ment or to make any inquiry in connection with prospective employment that expresses directly or
44 indirectly any limitation, specification or discrimination as to an individual’s race, color, religion,
45 sex, sexual orientation, national origin, marital status or age if the individual is 18 years of age or

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

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

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

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

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

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

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

32 (b) As used in this subsection, "responsible for a minor child" means having custody or legal
33 guardianship of a minor child or acting in loco parentis to the child.

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

39
40 **PENALTIES**

41
42 **SECTION 6.** ORS 659A.885 is amended to read:

43 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
44 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
45 the court may order injunctive relief and any other equitable relief that may be appropriate, in-

1 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
2 court may order back pay in an action under this subsection only for the two-year period imme-
3 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
4 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
5 year period immediately preceding the filing of the action. In any action under this subsection, the
6 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
7 cept as provided in subsection (3) of this section:

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

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

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

12 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 475B.281, 476.574, 652.020,
13 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852, 659A.030,
14 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145,
15 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230,
16 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306, 659A.309,
17 659A.315, 659A.318, 659A.320, 659A.355 or 659A.421 **or section 1 of this 2020 Act**; or

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

19 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
20 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
21 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
22 659A.290, 659A.318, 659A.355 or 659A.421:

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

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

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

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

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

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

33 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
34 659A.850 for a violation of ORS 652.220.

35 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
36 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
37 tion, compensatory damages or \$200, whichever is greater.

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

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

44 (8) Any individual against whom any distinction, discrimination or restriction on account of
45 race, color, religion, sex, sexual orientation, national origin, marital status or age, if the individual

1 is 18 years of age or older, has been made by any place of public accommodation, as defined in ORS
2 659A.400, by any employee or person acting on behalf of the place or by any person aiding or
3 abetting the place or person in violation of ORS 659A.406 may bring an action against the operator
4 or manager of the place, the employee or person acting on behalf of the place or the aider or abettor
5 of the place or person. Notwithstanding subsection (1) of this section, in an action under this sub-
6 section:

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

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

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

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

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

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

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

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

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

30 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
31 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
32 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
33 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
34 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
35 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
36 appealing an adverse decision of the trial court.

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

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

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

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

43 (b) An aggrieved person in regard to issues to be determined in an action may intervene as of
44 right in the action. The Attorney General may intervene in the action if the Attorney General cer-
45 tifies that the case is of general public importance. The court may allow an intervenor prevailing

1 party costs and reasonable attorney fees at trial and on appeal.

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

4 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice specified in sub-
5 section (2) of this section may file a civil action in circuit court. In any action under this subsection,
6 the court may order injunctive relief and any other equitable relief that may be appropriate, in-
7 cluding but not limited to reinstatement or the hiring of employees with or without back pay. A
8 court may order back pay in an action under this subsection only for the two-year period imme-
9 diately preceding the filing of a complaint under ORS 659A.820 with the Commissioner of the Bureau
10 of Labor and Industries, or if a complaint was not filed before the action was commenced, the two-
11 year period immediately preceding the filing of the action. In any action under this subsection, the
12 court may allow the prevailing party costs and reasonable attorney fees at trial and on appeal. Ex-
13 cept as provided in subsection (3) of this section:

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

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

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

18 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574,
19 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
20 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
21 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
22 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
23 659A.309, 659A.315, 659A.318, 659A.320, 659A.355, 659A.370 or 659A.421 **or section 1 of this 2020**
24 **Act**; or

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

26 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
27 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
28 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
29 659A.290, 659A.318, 659A.355, 659A.370 or 659A.421:

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

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

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

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

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

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

40 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
41 659A.850 for a violation of ORS 652.220.

42 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
43 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
44 tion, compensatory damages or \$200, whichever is greater.

45 (6) In any action under subsection (1) of this section alleging a violation of ORS 171.120, 476.574

1 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this
2 section, compensatory damages or \$250, whichever is greater.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **SECTION 8.** ORS 659A.885, as amended by section 7, chapter 343, Oregon Laws 2019, section
10 7, chapter 463, Oregon Laws 2019, and section 12, chapter 701, Oregon Laws 2019, is amended to
11 read:

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

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

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

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

26 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574,
27 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
28 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
29 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
30 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
31 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.370 or 659A.421 **or section 1 of**
32 **this 2020 Act;** or

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

34 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
35 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
36 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
37 659A.290, 659A.318, 659A.343, 659A.355, 659A.370 or 659A.421:

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

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

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

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

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

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

3 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
4 659A.850 for a violation of ORS 652.220.

5 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
6 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
7 tion, compensatory damages or \$200, whichever is greater.

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

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

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

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

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

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

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

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

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

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

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

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

45 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or

1 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
2 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
3 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
4 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
5 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
6 appealing an adverse decision of the trial court.

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

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

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

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

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

17 **SECTION 9.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section
18 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463,
19 Oregon Laws 2019, and section 13, chapter 701, Oregon Laws 2019, is amended to read:

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

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

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

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

34 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574,
35 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
36 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
37 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
38 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
39 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421 **or sec-**
40 **tion 1 of this 2020 Act;** or

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

42 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
43 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
44 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
45 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (9) When the commissioner or the Attorney General has reasonable cause to believe that a
44 person or group of persons is engaged in a pattern or practice of resistance to the rights protected
45 by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied

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

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

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

8 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
9 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
10 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
11 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
12 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
13 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
14 appealing an adverse decision of the trial court.

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

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

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

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

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

25 **SECTION 10.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section
26 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463,
27 Oregon Laws 2019, section 58, chapter 700, Oregon Laws 2019, and section 13, chapter 701, Oregon
28 Laws 2019, is amended to read:

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

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

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

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

43 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475B.281, 476.574,
44 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 657B.060 and
45 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088,

1 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218,
2 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,
3 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or
4 659A.421 **or section 1 of this 2020 Act**; or

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

6 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
7 243.323, 652.220, 652.355, 653.547, 653.549, 657B.060 and 657B.070, 659.852, 659A.030, 659A.040,
8 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228,
9 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or
10 659A.421:

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

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

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

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

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

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

21 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
22 659A.850 for a violation of ORS 652.220.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
19 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
20 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
21 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
22 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
23 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
24 appealing an adverse decision of the trial court.

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

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

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

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

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

35 **SECTION 11. (1) Section 1 of this 2020 Act becomes operative on July 1, 2021.**

36 **(2) The amendments to section 1 of this 2020 Act and ORS 659A.885 by sections 1a and 6**
37 **to 10 of this 2020 Act become operative on January 1, 2022.**

38 **(3) The Commissioner of the Bureau of Labor and Industries may adopt rules and take**
39 **any action before the operative dates specified in subsections (1) and (2) of this section that**
40 **is necessary for the commissioner to exercise, on or after the operative dates specified in**
41 **subsections (1) and (2) of this section, all the duties, functions and powers conferred on the**
42 **commissioner by section 1 of this 2020 Act and the amendments to section 1 of this 2020 Act**
43 **and ORS 659A.885 by sections 1a and 6 to 10 of this 2020 Act.**

44 **SECTION 12. The unit captions used in this 2020 Act are provided only for the conven-**
45 **ience of the reader and do not become part of the statutory law of this state or express any**

1 **legislative intent in the enactment of this 2020 Act.**

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