

House Bill 2245

Sponsored by Representative BOSHART DAVIS (Presession 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**.

Prohibits Department of State Lands from imposing civil penalty for violation of removal-fill laws in wetland if wetland was not listed on wetlands inventory and person committing violation did not have actual knowledge that site was wetland.

A BILL FOR AN ACT

1
2 Relating to violations of removal-fill laws; amending ORS 196.900.

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

4 **SECTION 1.** ORS 196.900 is amended to read:

5 196.900. (1) The Director of the Department of State Lands shall adopt by rule the amount of
6 civil penalty that may be imposed for a particular violation.

7 (2) In imposing a penalty under the schedule adopted under subsection (1) of this section, the
8 director shall consider the following factors:

9 (a) The past history of the person incurring a penalty in taking all feasible steps or procedures
10 necessary or appropriate to correct any violation.

11 (b) Any prior violations of statutes, rules, orders and permits pertaining to waters of the state.

12 (c) The impact of the violation on public interests in fishery, navigation and recreation.

13 (d) Any other factors determined by the director to be relevant and consistent with the policy
14 of ORS 196.805.

15 (3) The penalty imposed under this section may be remitted or mitigated upon such terms and
16 conditions as the director determines to be proper and consistent with the policy of ORS 196.805.
17 Upon the request of the person incurring the penalty, the director shall consider evidence of the
18 economic and financial condition of the person in determining whether a penalty shall be remitted
19 or mitigated.

20 (4) **The director may not impose a civil penalty under ORS 196.890 for a violation of ORS**
21 **196.810 if:**

22 (a) **The violation is related to removing material from or placing fill in a wetland;**

23 (b) **The person who committed the violation had no actual knowledge that the removal**
24 **or fill site was a wetland; and**

25 (c) **At the time the violation occurred, the removal or fill site was not identified as a**
26 **wetland on:**

27 (A) **The National Wetlands Inventory prepared by the United States Department of the**
28 **Interior, Fish and Wildlife Service;**

29 (B) **The Statewide Wetlands Inventory; or**

30 (C) **A wetlands inventory developed by a local government.**
31

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.