

Senate Bill 56

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Department of Environmental Quality)

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**.

Authorizes Department of Environmental Quality to include amount estimated to equal economic benefit of violation when imposing civil penalty for violation of rule pertaining to a program to cap and reduce greenhouse gas emissions from large stationary sources, transportation fuels or other liquid and gaseous fuels, including natural gas.

Confers original jurisdiction on Supreme Court to review rules pertaining to program to cap and reduce greenhouse gas emissions from large stationary sources, transportation fuels or other liquid and gaseous fuels, including natural gas.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to greenhouse gas emissions; creating new provisions; amending ORS 468.140; and pre-
3 scribing an effective date.

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

5 **SECTION 1.** ORS 468.140 is amended to read:

6 468.140. (1) In addition to any other penalty provided by law, any person who violates any of the
7 following shall incur a civil penalty for each day of violation in the amount prescribed by the
8 schedule adopted under ORS 468.130:

9 (a) The terms or conditions of any permit required or authorized by law and issued by the De-
10 partment of Environmental Quality or a regional air quality control authority.

11 (b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to
12 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A
13 and 468B.

14 (c) Any rule or standard or order of the Environmental Quality Commission adopted or issued
15 pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755
16 and 783.625 to 783.640 and ORS chapter 467 and ORS chapters 468, 468A and 468B.

17 (d) Any term or condition of a variance granted by the commission or department pursuant to
18 ORS 467.060.

19 (e) Any rule or standard or order of a regional authority adopted or issued under authority of
20 ORS 468A.135.

21 (f) The financial assurance requirement under ORS 468B.390 and 468B.485 or any rule related
22 to the financial assurance requirement under ORS 468B.390.

23 (2) Each day of violation under subsection (1) of this section constitutes a separate offense.

24 (3)(a) In addition to any other penalty provided by law, any person who intentionally or
25 negligently causes or permits the discharge of oil or hazardous material into the waters of the state
26 or intentionally or negligently fails to clean up a spill or release of oil or hazardous material into
27 the waters of the state as required by ORS 466.645 shall incur a civil penalty not to exceed the

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 amount of \$100,000 for each violation.

2 (b) In addition to any other penalty provided by law, the following persons shall incur a civil
3 penalty not to exceed the amount of \$25,000 for each day of violation:

4 (A) Any person who violates the terms or conditions of a permit authorizing waste discharge
5 into the air or waters of the state.

6 (B) Any person who violates any law, rule, order or standard in ORS 448.305, 454.010 to 454.040,
7 454.205 to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS chapters
8 468, 468A and 468B relating to air or water pollution.

9 (C) Any person who violates the provisions of a rule adopted or an order issued under ORS
10 459A.590.

11 **(c) Notwithstanding paragraph (b) of this subsection and in addition to any other penalty**
12 **provided by law, the civil penalty for a violation of a rule adopted by the commission under**
13 **ORS chapters 468 or 468A pertaining to a program to cap and reduce greenhouse gas emis-**
14 **sions from large stationary sources, transportation fuels or other liquid and gaseous fuels,**
15 **including natural gas, may include an amount equal to an estimate of the economic benefit**
16 **received as a result of the violation.**

17 (4) In addition to any other penalty provided by law, any person who violates the provisions of
18 ORS 468B.130 shall incur a civil penalty not to exceed the amount of \$1,000 for each day of vio-
19 lation.

20 (5) Notwithstanding subsection (1)(c) and (e) of this section, the owner or lessee of a motor ve-
21 hicle may not incur a civil penalty for a violation of the requirement that the owner or lessee obtain
22 a motor vehicle pollution control system certificate of compliance issued under ORS 468A.380.

23 (6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any other penalty provided
24 by law, any person who intentionally or negligently causes or permits open field burning contrary
25 to the provisions of ORS 468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed
26 by the department a civil penalty of at least \$20 but not more than \$40 for each acre so burned.
27 Any amounts collected by the department pursuant to this subsection shall be deposited with the
28 State Treasurer to the credit of the General Fund and shall be available for general governmental
29 expense. As used in this subsection, "open field burning" does not include propane flaming of mint
30 stubble.

31 **SECTION 2. (1) Original jurisdiction is conferred upon the Supreme Court to determine**
32 **the validity of any rule adopted by the Environmental Quality Commission under ORS chap-**
33 **ters 468 or 468A pertaining to a program to cap and reduce greenhouse gas emissions from**
34 **large stationary sources, transportation fuels or other liquid and gaseous fuels, including**
35 **natural gas.**

36 **(2)(a) Any person interested in or affected or aggrieved by or who will be affected or**
37 **aggrieved by a rule described in subsection (1) of this section may petition for judicial review**
38 **under this section. A petition for review must be filed within 60 days after the date the rule**
39 **becomes effective under ORS 183.335.**

40 **(b) Each petition shall state facts showing how the petitioner is or will be interested,**
41 **affected or aggrieved and the grounds upon which the petition is based.**

42 **(3) Each petitioner shall serve a copy of the petition by registered or certified mail upon**
43 **the Department of Environmental Quality, the Environmental Quality Commission, the At-**
44 **torney General and the Governor.**

45 **(4) Except as provided in this section, the review by the Supreme Court shall otherwise**

1 be the same as the review by the Court of Appeals described in ORS 183.400.

2 (5) Proceedings for review under this section shall be given priority over all other mat-
3 ters before the Supreme Court.

4 (6) In the event the Supreme Court determines that there are factual issues in a petition
5 filed under this section, the Supreme Court may appoint a special master to hear evidence
6 and to prepare recommended findings of fact.

7 **SECTION 3.** Petitions for review under section 2 of this 2021 Act must be filed before
8 January 1, 2026.

9 **SECTION 4.** This 2021 Act takes effect on the 91st day after the date on which the 2021
10 regular session of the Eighty-first Legislative Assembly adjourns sine die.

11