

B-Engrossed
Senate Bill 1567

Ordered by the Senate February 25
Including Senate Amendments dated February 15 and February 25

Sponsored by Senators DEMBROW, MANNING JR, FREDERICK, Representatives DEXTER, EVANS, GRAYBER, PHAM; Senators ARMITAGE, GELSER BLOUIN, GORSEK, JAMA, LAWRENCE SPENCE, TAYLOR, WAGNER, Representatives GOMBERG, HELM, HUDSON, NOSSE, POWER, REARDON, REYNOLDS, RUIZ, SANCHEZ, SCHOUTEN, WITT (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.

Requires owners or operators of bulk oils and liquid fuels terminals located in Columbia, Multnomah or Lane County to conduct and submit to Department of Environmental Quality seismic vulnerability assessments. Requires department to review and approve seismic vulnerability assessments. Requires owner or operator of existing bulk oils or liquid fuels terminal to submit seismic vulnerability assessment by June 1, 2024. Requires department to submit report on seismic vulnerability assessments and make recommendations on expansion of program to interim committees of Legislative Assembly by November 1, 2024.

Requires owner or operator of bulk oils or liquid fuels terminal to properly implement seismic risk mitigation implementation plan approved by department. Directs Environmental Quality Commission to, by rule, adopt seismic risk mitigation implementation program for bulk oils or liquid fuels terminals.

Prohibits owner or operator of bulk oils or liquid fuels terminal from retaliating against employee who provides information regarding violation of law or safety risks.

Establishes Seismic Risk Mitigation Fund.

Requires State Department of Energy to develop energy security plan by June 1, 2024, and provide report on implementation or revision of plan to interim committees of Legislative Assembly by September 15 of each even-numbered year.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to energy infrastructure resilience; creating new provisions; amending ORS 659A.885; and
3 prescribing an effective date.

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

5 **SECTION 1. Sections 2 to 6 of this 2022 Act are added to and made a part of ORS chapter**
6 **468B.**

7 **SECTION 2. (1) As used in sections 2 to 6 of this 2022 Act, "bulk oils or liquid fuels ter-**
8 **minal" means an industrial facility located in Columbia, Multnomah or Lane County that is**
9 **primarily engaged in the transport or bulk storage of oils or liquid fuel products and is**
10 **characterized by having:**

11 (a) **Marine, pipeline, railroad or vehicular transport access;**

12 (b) **Transloading facilities for transferring shipments of oils or liquid fuel products be-**
13 **tween transportation modes; and**

14 (c) **One or more bulk storage tanks with a combined capacity of two million gallons or**
15 **more.**

16 (2) **An owner or operator of a bulk oils or liquid fuels terminal shall conduct and submit**
17 **to the Department of Environmental Quality a comprehensive seismic vulnerability assess-**

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 **ment for the entire bulk oils or liquid fuels terminal. A seismic vulnerability assessment**
2 **submitted to the department under this section must:**

3 **(a) Include a seismic risk assessment, or a series of seismic risk assessments, conducted**
4 **by qualified professionals using the most recent industry standards for assessing seismic risk**
5 **to:**

6 **(A) Buildings, structures and ancillary components;**

7 **(B) Bulk storage tanks;**

8 **(C) Spill containment structures;**

9 **(D) Transloading facilities, including wharves, piers, moorings and retaining structures;**

10 **(E) Loading racks;**

11 **(F) Control equipment; and**

12 **(G) Any other structures and related or supporting facilities that constitute the bulk oils**
13 **or liquid fuels terminal;**

14 **(b) Include a determination of the bulk oils or liquid fuels terminal's vulnerability to**
15 **liquefaction triggering and liquefaction consequences, such as lateral spreading and**
16 **coseismic settlement, using standards in accordance with guidance contained in "National**
17 **Academies of Sciences, Engineering and Medicine, State of the Art and Practice in the As-**
18 **essment of Earthquake-Induced Soil Liquefaction and Its Consequences, 2016";**

19 **(c) Include a determination of whether the existing structures and related or supporting**
20 **facilities that constitute the bulk oils or liquid fuels terminal have been designed, improved**
21 **or retrofitted to reduce the potential for significant structural damage to property or harm**
22 **to people or the environment in or adjacent to the bulk oils or liquid fuels terminal in the**
23 **event of a magnitude 9.0 Cascadia Subduction Zone earthquake, including impacts from the**
24 **expected duration of shaking; and**

25 **(d) Include a determination of the structures and related or supporting facilities that are**
26 **most vulnerable to seismic risks and the potential of those structures and facilities to**
27 **maintain safe operating conditions, or safe shutdown procedures, to protect public health,**
28 **life safety and environmental safety against releases of oils or liquid fuel products, including**
29 **information about operational procedures during disasters.**

30 **(3) The department shall review a seismic vulnerability assessment submitted under this**
31 **section and approve the assessment if it meets the requirements of subsection (2) of this**
32 **section and any other requirements for seismic vulnerability assessments contained in rules**
33 **adopted under subsection (4) of this section.**

34 **(4)(a) The Environmental Quality Commission, in consultation with the State Department**
35 **of Geology and Mineral Industries, may adopt by rule requirements for seismic vulnerability**
36 **assessments submitted to the Department of Environmental Quality under this section.**

37 **(b) Rules adopted by the commission may require the owner or operator of a bulk oils**
38 **or liquid fuels terminal to submit seismic vulnerability assessment updates to the depart-**
39 **ment:**

40 **(A) Upon the retrofit or reconstruction of all or a part of a bulk oils or liquid fuels ter-**
41 **terminal; or**

42 **(B) Based on new scientific or technical findings, but no more frequently than once every**
43 **three years.**

44 **(c) Notwithstanding subsection (2)(b) of this section, the commission may by rule adopt**
45 **revised or additional standards for determining a bulk oils or liquid fuels terminal's vulner-**

1 ability to liquefaction triggering and liquefaction consequences if the commission determines
2 that guidance contained in “National Academies of Sciences, Engineering and Medicine, State
3 of the Art and Practice in the Assessment of Earthquake-Induced Soil Liquefaction and Its
4 Consequences, 2016” no longer represents the most recent industry standards for determin-
5 ing vulnerability to soil liquefaction triggering and liquefaction consequences.

6 **SECTION 3.** (1) The owner or operator of a bulk oils or liquid fuels terminal shall prop-
7 erly implement a seismic risk mitigation implementation plan that has been approved by the
8 Department of Environmental Quality. A seismic risk mitigation implementation plan must,
9 at a minimum, identify actions, with timelines, to protect public health, life safety and en-
10 vironmental safety within the facility, in areas adjacent to the facility and in other areas
11 that may be affected as a result of damages to the facility. A seismic risk mitigation imple-
12 mentation plan, as a risk-based assessment, must include consideration of the likelihood of
13 a magnitude 9.0 Cascadia Subduction Zone earthquake, the potential consequences of that
14 event and the resources needed to respond to that event.

15 (2) The Environmental Quality Commission, in consultation with the State Department
16 of Geology and Mineral Industries, shall adopt by rule a seismic risk mitigation implemen-
17 tation program for bulk oils or liquid fuels terminals that is based on risk. To the extent
18 feasible and appropriate, the program adopted under this section shall be consistent and co-
19 ordinated with the program established under ORS 468B.345 to 468B.415. Rules adopted under
20 this section shall include, but not be limited to:

21 (a) Rules for the required content of seismic risk mitigation implementation plans and
22 rules for approval by the Department of Environmental Quality of seismic risk mitigation
23 implementation plans.

24 (b) Provisions for training, response exercises, external peer reviews, inspections and
25 tests in order to verify the ability of the facility to sustain safe conditions and respond to
26 uncontrolled releases of hazardous materials from the bulk oils or liquid fuels terminal due
27 to an earthquake.

28 (c) Requirements to minimize harmful impacts to local communities and natural re-
29 sources due to uncontrolled releases of hazardous materials from the bulk oils or liquid fuels
30 terminal due to an earthquake and its associated direct and indirect impacts, including fires
31 and flooding.

32 (d) Requirements for the inspection of bulk storage tanks at bulk oils or liquid fuels
33 terminals.

34 (e) Design and construction standards for new bulk storage tanks constructed at bulk
35 oils or liquid fuels terminals.

36 (f) Design and construction standards for seismic mitigation of existing bulk storage
37 tanks, piping and related structures constructed at bulk oils or liquid fuels terminals.

38 (g) Provisions requiring the proper installation of seismically certified generators to
39 power critical operations, or at a minimum, the installation of electrical hookups for emer-
40 gency generators.

41 (h) Provisions for the review of seismic vulnerability assessments required under section
42 2 of this 2022 Act and seismic risk mitigation implementation plans required under sub-
43 section (1) of this section by state agencies with expertise in earthquake hazards, risk miti-
44 gation or emergency preparedness or management.

45 (i) Provisions requiring the owner or operator of a bulk oils or liquid fuels terminal to

1 submit seismic vulnerability mitigation implementation plan updates to the department:

2 (A) According to a schedule established by the commission;

3 (B) Upon the retrofit or reconstruction of all or a part of a bulk oils or liquid fuels terminal; and

4 (C) Based on new scientific or technical findings, but no more frequently than once every
5 three years.

6 (j) Provisions establishing a fee calculated to cover the costs to the department of reviewing seismic risk mitigation implementation plans submitted under this section and seismic risk assessments submitted under section 2 of this 2022 Act, less any federal funds received by the department for those purposes. Fees received by the department under this paragraph shall be deposited in the Seismic Risk Mitigation Fund established under section 6 of this 2022 Act.

7 (k) Provisions establishing grants or other financial assistance to owners or operators of bulk oils or liquid fuels terminals for improvements to existing infrastructure, provided that federal funds are made available to the department for that purpose.

8 **SECTION 3a.** The requirements of sections 2 to 6 of this 2022 Act do not apply to a bulk oils or liquid fuels terminal to the extent those requirements are preempted by the federal Pipeline Safety Improvement Act of 2002, 49 U.S.C. 60101 et seq.

9 **SECTION 4.** Confidential business information submitted to the Department of Environmental Quality by the owner or operator of a bulk oils or liquid fuels terminal under section 2 or 3 of this 2022 Act is confidential and not subject to public disclosure under ORS 192.311 to 192.478, except that the department may disclose summarized information or aggregated data if the information or data does not directly or indirectly identify the confidential business information.

10 **SECTION 5.** (1) It is an unlawful employment practice for the owner or operator of a bulk oils or liquid fuels terminal to discharge, demote, suspend or in any manner discriminate or retaliate against an employee of the bulk oils or liquid fuels terminal with regard to promotion, compensation or other terms, conditions or privileges of employment because the employee has in good faith:

11 (a) Reported information that the employee believes is evidence of a violation of a state or federal law, rule or regulation; or

12 (b) Provided information regarding a public health, life safety or environmental safety risk at the bulk oils or liquid fuels terminal to a federal, state or local government official or a person conducting a seismic risk assessment under section 2 of this 2022 Act.

13 (2) This section is subject to enforcement under ORS chapter 659A.

14 (3) The remedies provided by ORS chapter 659A are in addition to any common law remedy or other remedy that may be available to an employee for the conduct constituting a violation of this section.

15 **SECTION 6.** (1) The Seismic Risk Mitigation Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Seismic Risk Mitigation Fund shall be credited to the fund.

16 (2) Moneys in the Seismic Risk Mitigation Fund shall consist of:

17 (a) Money appropriated to the fund by the Legislative Assembly;

18 (b) Fees deposited in the fund under section 3 of this 2022 Act;

19 (c) Moneys transferred to the fund from the federal or state government; or

1 (d) Gifts, grants and donations received from any source.

2 (3) All moneys in the Seismic Risk Mitigation Fund are continuously appropriated to the
3 Department of Environmental Quality for the purposes of:

4 (a) Reviewing seismic risk mitigation implementation plans submitted under section 3 of
5 this 2022 Act and seismic risk assessments submitted under section 2 of this 2022 Act; and

6 (b) Providing grants or other financial assistance to owners or operators of bulk oils or
7 liquid fuels terminals under section 3 (2)(k) of this 2022 Act.

8 **SECTION 7.** ORS 659A.885 is amended to read:

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

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

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

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

23 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475C.285, 476.574,
24 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
25 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
26 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
27 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
28 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.370 or 659A.421 **or section 5 of**
29 **this 2022 Act;** or

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

31 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
32 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
33 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
34 659A.290, 659A.318, 659A.343, 659A.355, 659A.370 or 659A.421:

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

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

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

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

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

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

45 (b) An employer was previously adjudicated in a proceeding under this section or under ORS

1 659A.850 for a violation of ORS 652.220.

2 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
3 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
4 tion, compensatory damages or \$200, whichever is greater.

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

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

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

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

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

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

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

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

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

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

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

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

42 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
43 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
44 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
45 the commissioner if the commissioner prevails in the action. The court may award reasonable at-

1 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
2 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
3 appealing an adverse decision of the trial court.

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

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

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

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

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

14 **SECTION 8.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section
15 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463,
16 Oregon Laws 2019, section 13, chapter 701, Oregon Laws 2019, and section 45, chapter 367, Oregon
17 Laws 2021, is amended to read:

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

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

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

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

32 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475C.285, 476.574,
33 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 659.852,
34 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
35 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
36 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300, 659A.306,
37 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421 **or sec-**
38 **tion 5 of this 2022 Act;** or

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

40 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
41 243.323, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069,
42 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
43 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

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

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

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

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

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

5 (a) It is proved by clear and convincing evidence that an employer has engaged in fraud, acted 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 659A.850 for a violation of ORS 652.220.

7 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this section, 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 or 659A.218, the court may award, in addition to the relief authorized under subsection (1) of this section, compensatory damages or \$250, whichever is greater.

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

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

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

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

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

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

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

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

17 (9) When the commissioner or the Attorney General has reasonable cause to believe that a person or group of persons is engaged in a pattern or practice of resistance to the rights protected by ORS 659A.145 or 659A.421 or federal housing law, or that a group of persons has been denied any of the rights protected by ORS 659A.145 or 659A.421 or federal housing law, the commissioner or the Attorney General may file a civil action on behalf of the aggrieved persons in the same

1 manner as a person or group of persons may file a civil action under this section. In a civil action
 2 filed under this subsection, the court may assess against the respondent, in addition to the relief
 3 authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

6 (10) In any action under subsection (1) of this section alleging a violation of ORS 659A.145 or
 7 659A.421 or alleging discrimination under federal housing law, when the commissioner is pursuing
 8 the action on behalf of an aggrieved complainant, the court shall award reasonable attorney fees to
 9 the commissioner if the commissioner prevails in the action. The court may award reasonable at-
 10 torney fees and expert witness fees incurred by a defendant that prevails in the action if the court
 11 determines that the commissioner had no objectively reasonable basis for asserting the claim or for
 12 appealing an adverse decision of the trial court.

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

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

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

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

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

23 **SECTION 9.** ORS 659A.885, as amended by section 10, chapter 197, Oregon Laws 2017, section
 24 6, chapter 139, Oregon Laws 2019, section 8, chapter 343, Oregon Laws 2019, section 8, chapter 463,
 25 Oregon Laws 2019, section 58, chapter 700, Oregon Laws 2019, section 13, chapter 701, Oregon Laws
 26 2019, and section 46, chapter 367, Oregon Laws 2021, is amended to read:

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

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

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

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

41 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2), 475C.285, 476.574,
 42 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549, 653.601 to 653.661, 657B.060 and
 43 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088,
 44 659A.103 to 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218,
 45 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,

1 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or
2 659A.421 or **section 5 of this 2022 Act**; or

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

4 (3) In any action under subsection (1) of this section alleging a violation of ORS 25.337, 25.424,
5 243.323, 652.220, 652.355, 653.547, 653.549, 657B.060 and 657B.070, 659.852, 659A.030, 659A.040,
6 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228,
7 659A.230, 659A.250 to 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or
8 659A.421:

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

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

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

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

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

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

19 (b) An employer was previously adjudicated in a proceeding under this section or under ORS
20 659A.850 for a violation of ORS 652.220.

21 (5) In any action under subsection (1) of this section alleging a violation of ORS 653.060 or
22 659A.147, the court may award, in addition to the relief authorized under subsection (1) of this sec-
23 tion, compensatory damages or \$200, whichever is greater.

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

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

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

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

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

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

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

45 (e) The court may award reasonable attorney fees and expert witness fees incurred by a de-

1 fendant who prevails only if the court determines that the plaintiff had no objectively reasonable
2 basis for asserting a claim or no reasonable basis for appealing an adverse decision of a trial court;
3 and

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

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

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

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

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

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

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

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

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

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

33 **SECTION 10. A person who owns or operates an existing bulk oils or liquid fuels terminal**
34 **on the effective date of this 2022 Act shall submit the seismic vulnerability assessment re-**
35 **quired by section 2 of this 2022 Act no later than June 1, 2024.**

36 **SECTION 11. (1) Section 3 of this 2022 Act becomes operative June 1, 2024.**

37 **(2) The Environmental Quality Commission, the Department of Environmental Quality,**
38 **and the State Department of Geology and Mineral Industries may adopt rules and take any**
39 **action before the operative date specified in subsection (1) of this section that is necessary**
40 **to enable the commission, the Department of Environmental Quality and the State Depart-**
41 **ment of Geology and Mineral Industries, on and after the operative date specified in sub-**
42 **section (1) of this section, to exercise all of the duties, powers and functions conferred on**
43 **the commission, the Department of Environmental Quality and the State Department of**
44 **Geology and Mineral Industries by section 3 of this 2022 Act.**

45 **SECTION 12. (1) The State Department of Energy shall develop an energy security plan.**

1 The energy security plan must meet the requirements for a state energy security plan de-
2 scribed in 42 U.S.C. 6326.

3 (2) To the extent consistent with the requirements of 42 U.S.C. 6326, the energy security
4 plan must align with strategies in the Oregon Fuel Action Plan developed by the department
5 and must include, but need not be limited to:

6 (a) An evaluation of the state's ability to recover quickly from physical threats, including
7 a magnitude 9.0 Cascadia Subduction Zone earthquake, and cybersecurity threats.

8 (b) Recommendations for increasing the geographic diversity of fuel storage capacity
9 throughout this state.

10 (c) An assessment of the seismic resilience of existing fuel storage facilities throughout
11 this state.

12 (d) Consistent with state programs to reduce greenhouse gas emissions associated with
13 transportation fuels, an assessment of the use of renewable fuels and other innovative al-
14 ternatives to improve disaster resilience.

15 (e) An evaluation of strategies for mitigating barriers to implementing a geographically
16 distributed fuel network throughout this state, including:

17 (A) Adoption of Oregon Fuel Action Plan criteria for predesignated fuel points of dis-
18 tribution for receiving emergency fuel supplies at selected fuel diversification sites.

19 (B) Strategies for expanding storage capacities at public facilities with existing capability
20 to store and dispense unleaded, diesel or aviation fuel, including an evaluation of whether
21 fuel storage sites contain properly installed seismically certified generators and adequate
22 on-site fuel storage capacity to power backup generators so that independent operations can
23 be maintained for three or more weeks after a Cascadia Subduction Zone earthquake.

24 (C) Partnerships with private-sector companies to build fuel storage capacity at identi-
25 fied, prioritized locations, especially private-sector companies that provide an emergency or
26 essential service mission to save or sustain life or support the restoration of critical lifelines
27 and services in support of the state's overall response and recovery effort.

28 (D) Strategies for increasing geographically distributed fuel storage that prioritize areas
29 of this state that are expected to be most vulnerable to a Cascadia Subduction Zone earth-
30 quake, including local or regional islanding effects that would isolate a region from the rest
31 of this state as a result of road or bridge damage.

32 (E) An evaluation of potential impacts to communities adjacent to potential locations for
33 emergency fuel storage or expanded fuel storage, including consultation and outreach with
34 those communities.

35 (3) In developing and implementing the energy security plan, the department shall con-
36 sult with:

37 (a) Relevant state government agencies, including the Public Utility Commission, the
38 Department of Environmental Quality, the Department of Transportation, the Oregon De-
39 partment of Aviation, the Office of Emergency Management, the State Department of
40 Geology and Mineral Industries and the Environmental Justice Task Force;

41 (b) Local governments;

42 (c) Tribal governments;

43 (d) Consumer-owned and investor-owned electric utilities;

44 (e) Natural gas utilities;

45 (f) Fuel suppliers;

1 (g) Qualified technical experts in disaster resilience; and

2 (h) Any other person with relevant knowledge or experience.

3 (4) No later than September 15 of each even-numbered year, the State Department or
4 Energy shall provide to the interim committees of the Legislative Assembly related to energy
5 a report in the manner provided under ORS 192.245 describing the implementation or revision
6 of the energy security plan developed under this section.

7 **SECTION 13.** Section 12 of this 2022 Act is amended to read:

8 **Sec. 12.** (1) The State Department of Energy shall develop an energy security plan. The energy
9 security plan must meet the requirements for a state energy security plan described in 42 U.S.C.
10 6326.

11 (2) To the extent consistent with the requirements of 42 U.S.C. 6326, the energy security plan
12 must align with strategies in the Oregon Fuel Action Plan developed by the department and must
13 include, but need not be limited to:

14 (a) An evaluation of the state's ability to recover quickly from physical threats, including a
15 magnitude 9.0 Cascadia Subduction Zone earthquake, and cybersecurity threats.

16 (b) Recommendations for increasing the geographic diversity of fuel storage capacity throughout
17 this state.

18 (c) An assessment of the seismic resilience of existing fuel storage facilities throughout this
19 state.

20 (d) Consistent with state programs to reduce greenhouse gas emissions associated with trans-
21 portation fuels, an assessment of the use of renewable fuels and other innovative alternatives to
22 improve disaster resilience.

23 (e) An evaluation of strategies for mitigating barriers to implementing a geographically distrib-
24 uted fuel network throughout this state, including:

25 (A) Adoption of Oregon Fuel Action Plan criteria for predesignated fuel points of distribution
26 for receiving emergency fuel supplies at selected fuel diversification sites.

27 (B) Strategies for expanding storage capacities at public facilities with existing capability to
28 store and dispense unleaded, diesel or aviation fuel, including an evaluation of whether fuel storage
29 sites contain properly installed seismically certified generators and adequate on-site fuel storage
30 capacity to power backup generators so that independent operations can be maintained for three
31 or more weeks after a Cascadia Subduction Zone earthquake.

32 (C) Partnerships with private-sector companies to build fuel storage capacity at identified, pri-
33 oritized locations, especially private-sector companies that provide an emergency or essential ser-
34 vice mission to save or sustain life or support the restoration of critical lifelines and services in
35 support of the state's overall response and recovery effort.

36 (D) Strategies for increasing geographically distributed fuel storage that prioritize areas of this
37 state that are expected to be most vulnerable to a Cascadia Subduction Zone earthquake, including
38 local or regional islanding effects that would isolate a region from the rest of this state as a result
39 of road or bridge damage.

40 (E) An evaluation of potential impacts to communities adjacent to potential locations for emer-
41 gency fuel storage or expanded fuel storage, including consultation and outreach with those com-
42 munities.

43 (3) In developing and implementing the energy security plan, the department shall consult with:

44 (a) Relevant state government agencies, including the Public Utility Commission, the Oregon
45 Department of Environmental Quality, the Department of Transportation, the Department of Avi-

1 ation, the [Office] **Oregon Department** of Emergency Management, the State Department of
2 Geology and Mineral Industries and the Environmental Justice Task Force;

- 3 (b) Local governments;
- 4 (c) Tribal governments;
- 5 (d) Consumer-owned and investor-owned electric utilities;
- 6 (e) Natural gas utilities;
- 7 (f) Fuel suppliers;
- 8 (g) Qualified technical experts in disaster resilience; and
- 9 (h) Any other person with relevant knowledge or experience.

10 (4) No later than September 15 of each even-numbered year, the State Department of Energy
11 shall provide to the interim committees of the Legislative Assembly related to energy a report in
12 the manner provided under ORS 192.245 describing the implementation or revision of the energy
13 security plan developed under this section.

14 **SECTION 14. The amendments to section 12 of this 2022 Act by section 13 of this 2022**
15 **Act become operative on July 1, 2022.**

16 **SECTION 15. No later than November 1, 2024, the Department of Environmental Quality**
17 **shall provide a report, including recommendations for legislation, to the interim committees**
18 **of the Legislative Assembly related to energy, in the manner provided under ORS 192.245.**
19 **The report required under this section must include:**

20 (1) A summary of information received by the department under section 2 of this 2022
21 Act; and

22 (2) Policy recommendations for making the provisions of sections 2 to 6 of this 2022 Act
23 applicable to additional regions of this state, based on the risk to each additional region from
24 an earthquake or tsunami.

25 **SECTION 16. The State Department of Energy shall submit the energy security plan de-**
26 **veloped under section 12 of this 2022 Act in a report to the interim committees of the Leg-**
27 **islative Assembly related to energy, in the manner provided under ORS 192.245, no later than**
28 **June 1, 2024.**

29 **SECTION 17. Sections 15 and 16 of this 2022 Act are repealed on January 2, 2025.**

30 **SECTION 18. (1) Notwithstanding any other provision of law, the General Fund appro-**
31 **propriation made to the Department of Environmental Quality by section 1 (3), chapter 673,**
32 **Oregon Laws 2021, for the biennium ending June 30, 2023, for land quality, is increased by**
33 **\$712,318 for implementation of the provisions of sections 2 to 6 and 15 of this 2022 Act.**

34 (2) Notwithstanding any other law limiting expenditures, the limitation on expenditures
35 established by section 4, chapter 423, Oregon Laws 2021, for the biennium ending June 30,
36 2023, as the maximum limit for payment of expenses from federal funds collected or received
37 by the State Department of Energy, is increased by \$327,996 for implementation of the pro-
38 visions of sections 12 and 16 of this 2022 Act.

39 **SECTION 19. This 2022 Act takes effect on the 91st day after the date on which the 2022**
40 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**