

Requested by Senator DEMBROW

**PROPOSED AMENDMENTS TO  
SENATE BILL 1567**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating  
2 new provisions; amending ORS 659A.885;”.

3 Delete lines 4 through 24 and delete pages 2 through 7 and insert:

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

6 **“SECTION 2. (1) As used in sections 2 to 6 of this 2022 Act, ‘bulk  
7 oils or liquid fuels terminal’ means an industrial facility located in this  
8 state that is primarily engaged in the transport or bulk storage of oils  
9 or liquid fuel products and is characterized by having:**

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

11 **“(b) Transloading facilities for transferring shipments of oils or  
12 liquid fuel products between transportation modes; and**

13 **“(c) One or more bulk storage tanks with a combined capacity of  
14 two million gallons of liquid fuel products or more.**

15 **“(2) An owner or operator of a bulk oils or liquid fuels terminal  
16 shall conduct and submit to the Department of Environmental Quality  
17 a comprehensive seismic vulnerability assessment for the entire bulk  
18 oils or liquid fuels terminal. A seismic vulnerability assessment sub-  
19 mitted to the department under this section must:**

20 **“(a) Include a seismic risk assessment, or a series of seismic risk  
21 assessments, conducted by qualified professionals using the most re-**

1 **cent industry standards for assessing seismic risk to:**

2 **“(A) Buildings, structures and ancillary components;**

3 **“(B) Pipelines, pipeline configurations, pipeline pathways and pipe-**

4 **line components, including connections, valves and racks;**

5 **“(C) Bulk storage tanks;**

6 **“(D) Spill containment structures;**

7 **“(E) Transloading facilities, including wharves, piers, moorings and**

8 **retaining structures;**

9 **“(F) Loading racks;**

10 **“(G) Control equipment; and**

11 **“(H) Any other structures and related or supporting facilities that**

12 **constitute the bulk oils or liquid fuels terminal;**

13 **“(b) Include a determination of the bulk oils or liquid fuels**

14 **terminal’s vulnerability to liquefaction triggering and liquefaction**

15 **consequences, such as lateral spreading and coseismic settlement, us-**

16 **ing standards in accordance with guidance contained in ‘National**

17 **Academies of Sciences, Engineering and Medicine, State of the Art and**

18 **Practice in the Assessment of Earthquake-Induced Soil Liquefaction**

19 **and Its Consequences, 2016’;**

20 **“(c) Include a determination of whether the existing structures and**

21 **related or supporting facilities that constitute the bulk oils or liquid**

22 **fuels terminal have been designed, improved or retrofitted to reduce**

23 **the potential for significant structural damage to property or harm to**

24 **people or the environment in or adjacent to the bulk oils or liquid fu-**

25 **els terminal in the event of a magnitude 9.0 Cascadia Subduction Zone**

26 **earthquake, including impacts from the expected duration of shaking;**

27 **and**

28 **“(d) Include a determination of the structures and related or sup-**

29 **porting facilities that are most vulnerable to seismic risks and the**

30 **potential of those structures and facilities to maintain safe operating**

1 conditions, or safe shut down procedures, to protect public health, life  
2 safety and environmental safety against releases of oils or liquid fuel  
3 products, including information about operational procedures during  
4 disasters.

5 “(3) The department shall review a seismic vulnerability assessment  
6 submitted under this section and approve the assessment if it meets  
7 the requirements of subsection (2) of this section and any other re-  
8 quirements for seismic vulnerability assessments contained in rules  
9 adopted under subsection (4) of this section.

10 “(4)(a) The Environmental Quality Commission, in consultation  
11 with the State Department of Geology and Mineral Industries, may  
12 adopt by rule requirements for seismic vulnerability assessments sub-  
13 mitted to the Department of Environmental Quality under this sec-  
14 tion.

15 “(b) Rules adopted by the commission may require the owner or  
16 operator of a bulk oils or liquid fuels terminal to submit seismic vul-  
17 nerability assessment updates to the department:

18 “(A) Upon the retrofit or reconstruction of all or a part of a bulk  
19 oils or liquid fuels terminal; or

20 “(B) Based on new scientific or technical findings, but no more  
21 frequently than once every three years.

22 “(c) Notwithstanding subsection (2)(b) of this section, the commis-  
23 sion may by rule adopt revised or additional standards for determining  
24 a bulk oils or liquid fuels terminal’s vulnerability to liquefaction trig-  
25 gering and liquefaction consequences if the commission determines  
26 that guidance contained in ‘National Academies of Sciences, Engi-  
27 neering and Medicine, State of the Art and Practice in the Assessment  
28 of Earthquake-Induced Soil Liquefaction and Its Consequences, 2016’  
29 no longer represents the most recent industry standards for deter-  
30 mining vulnerability to soil liquefaction triggering and liquefaction

1 consequences.

2 **“SECTION 3. (1) The owner or operator of a bulk oils or liquid fuels**  
3 **terminal shall properly implement a seismic risk mitigation imple-**  
4 **mentation plan that has been approved by the Department of Envi-**  
5 **ronmental Quality. A seismic risk mitigation implementation plan**  
6 **must, at a minimum, identify actions, with timelines, to protect public**  
7 **health, life safety and environmental safety within the facility, in**  
8 **areas adjacent to the facility and in other areas that may be affected**  
9 **as a result of damages to the facility. A seismic risk mitigation im-**  
10 **plementation plan, as a risk-based assessment, must include consid-**  
11 **eration of the likelihood of a magnitude 9.0 Cascadia Subduction Zone**  
12 **earthquake, the potential consequences of that event and the re-**  
13 **sources needed to respond to that event.**

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

21 **“(a) Rules for the required content of seismic risk mitigation im-**  
22 **plementation plans and rules for approval by the Department of En-**  
23 **vironmental Quality of seismic risk mitigation implementation plans.**

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

29 **“(c) Requirements to minimize harmful impacts to local communi-**  
30 **ties and natural resources due to uncontrolled releases of hazardous**

1 materials from the bulk oils or liquid fuels terminal due to an earth-  
2 quake and its associated direct and indirect impacts, including fires  
3 and flooding.

4 “(d) Requirements for the inspection of bulk storage tanks at bulk  
5 oils or liquid fuels terminals.

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

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

11 “(g) Provisions requiring the proper installation of seismically cer-  
12 tified generators to power critical operations, or at a minimum, the  
13 installation of electrical hookups for emergency generators.

14 “(h) Provisions for the review of seismic vulnerability assessments  
15 required under section 2 of this 2022 Act and seismic risk mitigation  
16 implementation plans required under subsection (1) of this section by  
17 state agencies with expertise in earthquake hazards, risk mitigation  
18 or emergency preparedness or management.

19 “(i) Provisions requiring the owner or operator of a bulk oils or  
20 liquid fuels terminal to submit seismic vulnerability mitigation im-  
21 plementation plan updates to the department:

22 “(A) Upon the retrofit or reconstruction of all or a part of a bulk  
23 oils or liquid fuels terminal; or

24 “(B) Based on new scientific or technical findings, but no more  
25 frequently than once every three years.

26 “(j) Provisions establishing a fee calculated to cover the costs to the  
27 department of reviewing seismic risk mitigation implementation plans  
28 submitted under this section and seismic risk assessments submitted  
29 under section 2 of this 2022 Act, less any federal funds received by the  
30 department for those purposes. Fees received by the department under

1 this paragraph shall be deposited in the Seismic Risk Mitigation Fund  
2 established under section 6 of this 2022 Act.

3 “(k) Provisions establishing grants or other financial assistance to  
4 owners or operators of bulk oils or liquid fuels terminals for improve-  
5 ments to existing infrastructure, provided that federal funds are made  
6 available to the department for that purpose.

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

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

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

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

26 **“(2) This section is subject to enforcement under ORS chapter 659A.**

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

30 **“SECTION 6. (1) The Seismic Risk Mitigation Fund is established**

1 in the State Treasury, separate and distinct from the General Fund.  
2 Interest earned by the Seismic Risk Mitigation Fund shall be credited  
3 to the fund.

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

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

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

7 “(c) Moneys transferred to the fund from the federal or state gov-  
8 ernment; or

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

10 “(3) All moneys in the Seismic Risk Mitigation Fund are contin-  
11 uously appropriated to the Department of Environmental Quality for  
12 the purposes of:

13 “(a) Reviewing seismic risk mitigation implementation plans sub-  
14 mitted under section 3 of this 2022 Act and seismic risk assessments  
15 submitted under section 2 of this 2022 Act; and

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

19 “SECTION 7. ORS 659A.885 is amended to read:

20 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-  
21 tice specified in subsection (2) of this section may file a civil action in cir-  
22 cuit court. In any action under this subsection, the court may order  
23 injunctive relief and any other equitable relief that may be appropriate, in-  
24 cluding but not limited to reinstatement or the hiring of employees with or  
25 without back pay. A court may order back pay in an action under this sub-  
26 section only for the two-year period immediately preceding the filing of a  
27 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-  
28 bor and Industries, or if a complaint was not filed before the action was  
29 commenced, the two-year period immediately preceding the filing of the  
30 action. In any action under this subsection, the court may allow the pre-

1 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-  
2 cept as provided in subsection (3) of this section:

3 “(a) The judge shall determine the facts in an action under this sub-  
4 section; and

5 “(b) Upon any appeal of a judgment in an action under this subsection,  
6 the appellate court shall review the judgment pursuant to the standard es-  
7 tablished by ORS 19.415 (3).

8 “(2) An action may be brought under subsection (1) of this section alleg-  
9 ing a violation of:

10 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),  
11 475C.285, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,  
12 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,  
13 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147,  
14 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,  
15 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290,  
16 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343,  
17 659A.355, 659A.370 or 659A.421 **or section 5 of this 2022 Act**; or

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

20 “(3) In any action under subsection (1) of this section alleging a violation  
21 of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 659.852,  
22 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to  
23 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,  
24 659A.290, 659A.318, 659A.343, 659A.355, 659A.370 or 659A.421:

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

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

29 “(c) Upon appeal of any judgment finding a violation, the appellate court  
30 shall review the judgment pursuant to the standard established by ORS



1 19.415 (1); and

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

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

6 “(a) It is proved by clear and convincing evidence that an employer has  
7 engaged in fraud, acted with malice or acted with willful and wanton mis-  
8 conduct; or

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

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

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

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

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

1 abettor of the place or person. Notwithstanding subsection (1) of this sec-  
2 tion, in an action under this subsection:

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

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

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

9 “(d) The court shall award reasonable attorney fees to a prevailing  
10 plaintiff;

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

15 “(f) Upon any appeal of a judgment under this subsection, the appellate  
16 court shall review the judgment pursuant to the standard established by ORS  
17 19.415 (1).

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

1 lation of ORS 659A.145 or 659A.421 or alleging discrimination under federal  
2 housing law, when the commissioner is pursuing the action on behalf of an  
3 aggrieved complainant, the court shall award reasonable attorney fees to the  
4 commissioner if the commissioner prevails in the action. The court may  
5 award reasonable attorney fees and expert witness fees incurred by a de-  
6 fendant that prevails in the action if the court determines that the commis-  
7 sioner had no objectively reasonable basis for asserting the claim or for  
8 appealing an adverse decision of the trial court.

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

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

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

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

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

22 “**SECTION 8.** ORS 659A.885, as amended by section 10, chapter 197,  
23 Oregon Laws 2017, section 6, chapter 139, Oregon Laws 2019, section 8,  
24 chapter 343, Oregon Laws 2019, section 8, chapter 463, Oregon Laws 2019,  
25 section 13, chapter 701, Oregon Laws 2019, and section 45, chapter 367,  
26 Oregon Laws 2021, is amended to read:

27 “659A.885. (1) Any person claiming to be aggrieved by an unlawful prac-  
28 tice specified in subsection (2) of this section may file a civil action in cir-  
29 cuit court. In any action under this subsection, the court may order  
30 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  
2 without back pay. A court may order back pay in an action under this sub-  
3 section only for the two-year period immediately preceding the filing of a  
4 complaint under ORS 659A.820 with the Commissioner of the Bureau of La-  
5 bor and Industries, or if a complaint was not filed before the action was  
6 commenced, the two-year period immediately preceding the filing of the  
7 action. In any action under this subsection, the court may allow the pre-  
8 vailing party costs and reasonable attorney fees at trial and on appeal. Ex-  
9 cept as provided in subsection (3) of this section:

10 “(a) The judge shall determine the facts in an action under this sub-  
11 section; and

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

15 “(2) An action may be brought under subsection (1) of this section alleg-  
16 ing a violation of:

17 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),  
18 475C.285, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,  
19 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,  
20 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147,  
21 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,  
23 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343,  
24 659A.355, 659A.357, 659A.370 or 659A.421 **or section 5 of this 2022 Act**; or

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

27 “(3) In any action under subsection (1) of this section alleging a violation  
28 of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 659.852,  
29 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to  
30 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,

1 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

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

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

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

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

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

13 “(a) It is proved by clear and convincing evidence that an employer has  
14 engaged in fraud, acted with malice or acted with willful and wanton mis-  
15 conduct; or

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

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

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

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

30 “(8) Any individual against whom any distinction, discrimination or re-

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

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

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

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

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

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

22 “(f) Upon any appeal of a judgment under this subsection, the appellate  
23 court shall review the judgment pursuant to the standard established by ORS  
24 19.415 (1).

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

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

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

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

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

16 “(11) In an action under subsection (1) or (9) of this section alleging a  
17 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-  
18 ing law:

19 “(a) ‘Aggrieved person’ includes a person who believes that the person:

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

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

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

29 **“SECTION 9.** ORS 659A.885, as amended by section 10, chapter 197,  
30 Oregon Laws 2017, section 6, chapter 139, Oregon Laws 2019, section 8,

1 chapter 343, Oregon Laws 2019, section 8, chapter 463, Oregon Laws 2019,  
2 section 58, chapter 700, Oregon Laws 2019, section 13, chapter 701, Oregon  
3 Laws 2019, and section 46, chapter 367, Oregon Laws 2021, is amended to  
4 read:

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

18 “(a) The judge shall determine the facts in an action under this sub-  
19 section; and

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

23 “(2) An action may be brought under subsection (1) of this section alleg-  
24 ing a violation of:

25 “(a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),  
26 475C.285, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,  
27 653.549, 653.601 to 653.661, 657B.060 and 657B.070, 659.852, 659A.030, 659A.040,  
28 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,  
30 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262,



1 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318,  
2 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421 **or section 5 of**  
3 **this 2022 Act; or**

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

6 “(3) In any action under subsection (1) of this section alleging a violation  
7 of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 657B.060 and  
8 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082,  
9 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to  
10 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or  
11 659A.421:

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

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

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

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

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

23 “(a) It is proved by clear and convincing evidence that an employer has  
24 engaged in fraud, acted with malice or acted with willful and wanton mis-  
25 conduct; or

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

28 “(5) In any action under subsection (1) of this section alleging a violation  
29 of ORS 653.060 or 659A.147, the court may award, in addition to the relief  
30 authorized under subsection (1) of this section, compensatory damages or

1 \$200, whichever is greater.

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

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

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

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

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

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

26 “(d) The court shall award reasonable attorney fees to a prevailing  
27 plaintiff;

28 “(e) The court may award reasonable attorney fees and expert witness fees  
29 incurred by a defendant who prevails only if the court determines that the  
30 plaintiff had no objectively reasonable basis for asserting a claim or no

1 reasonable basis for appealing an adverse decision of a trial court; and

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

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

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

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

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

26 “(11) In an action under subsection (1) or (9) of this section alleging a  
27 violation of ORS 659A.145 or 659A.421 or discrimination under federal hous-  
28 ing law:

29 “(a) ‘Aggrieved person’ includes a person who believes that the person:

30 “(A) Has been injured by an unlawful practice or discriminatory housing

1 practice; or

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

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

9 **“SECTION 10. A person who owns or operates an existing bulk oils  
10 or liquid fuels terminal on the effective date of this 2022 Act shall  
11 submit the seismic vulnerability assessment required by section 2 of  
12 this 2022 Act no later than June 1, 2024.**

13 **“SECTION 11. (1) Section 3 of this 2022 Act becomes operative June  
14 1, 2024.**

15 **“(2) The Environmental Quality Commission, the Department of  
16 Environmental Quality, and the State Department of Geology and  
17 Mineral Industries may adopt rules and take any action before the  
18 operative date specified in subsection (1) of this section that is neces-  
19 sary to enable the commission, the Department of Environmental  
20 Quality and the State Department of Geology and Mineral Industries,  
21 on and after the operative date specified in subsection (1) of this sec-  
22 tion, to exercise all of the duties, powers and functions conferred on  
23 the commission, the Department of Environmental Quality and the  
24 State Department of Geology and Mineral Industries by section 3 of  
25 this 2022 Act.**

26 **“SECTION 12. (1) The State Department of Energy shall develop an  
27 energy security plan. The energy security plan must meet the re-  
28 quirements for a state energy security plan described in 42 U.S.C. 6326.**

29 **“(2) To the extent consistent with the requirements of 42 U.S.C.  
30 6326, the energy security plan must align with strategies in the Oregon**

1 **Fuel Action Plan developed by the department and must include, but**  
2 **need not be limited to:**

3 **“(a) An evaluation of the state’s ability to recover quickly from**  
4 **physical threats, including a magnitude 9.0 Cascadia Subduction Zone**  
5 **earthquake, and cybersecurity threats.**

6 **“(b) Recommendations for increasing the geographic diversity of**  
7 **fuel storage capacity throughout this state.**

8 **“(c) An assessment of the seismic resilience of existing fuel storage**  
9 **facilities throughout this state.**

10 **“(d) Consistent with state programs to reduce greenhouse gas**  
11 **emissions associated with transportation fuels, an assessment of the**  
12 **use of renewable fuels and other innovative alternatives to improve**  
13 **disaster resilience.**

14 **“(e) An evaluation of strategies for mitigating barriers to imple-**  
15 **menting a geographically distributed fuel network throughout this**  
16 **state, including:**

17 **“(A) Adoption of Oregon Fuel Action Plan criteria for predesignated**  
18 **fuel points of distribution for receiving emergency fuel supplies at se-**  
19 **lected fuel diversification sites.**

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

27 **“(C) Partnerships with private-sector companies to build fuel stor-**  
28 **age capacity at identified, prioritized locations, especially private-**  
29 **sector companies that provide an emergency or essential service**  
30 **mission to save or sustain life or support the restoration of critical**

1 lifelines and services in support of the state’s overall response and  
2 recovery effort.

3 “(D) Strategies for increasing geographically distributed fuel stor-  
4 age that prioritize areas of this state that are expected to be most  
5 vulnerable to a Cascadia Subduction Zone earthquake, including local  
6 or regional islanding effects that would isolate a region from the rest  
7 of this state as a result of road or bridge damage.

8 “(E) An evaluation of potential impacts to communities adjacent  
9 to potential locations for emergency fuel storage or expanded fuel  
10 storage, including consultation and outreach with those communities.

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

13 “(a) Relevant state government agencies, including the Public Util-  
14 ity Commission, the Department of Environmental Quality, the De-  
15 partment of Transportation, the Oregon Department of Aviation, the  
16 Office of Emergency Management, the State Department of Geology  
17 and Mineral Industries and the Environmental Justice Task Force;

18 “(b) Local governments;

19 “(c) Tribal governments;

20 “(d) Consumer-owned and investor-owned electric utilities;

21 “(e) Natural gas utilities;

22 “(f) Fuel suppliers;

23 “(g) Qualified technical experts in disaster resilience; and

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

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

30 “SECTION 13. Section 12 of this 2022 Act is amended to read:

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

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

8       “(a) An evaluation of the state’s ability to recover quickly from physical  
9 threats, including a magnitude 9.0 Cascadia Subduction Zone earthquake,  
10 and cybersecurity threats.

11       “(b) Recommendations for increasing the geographic diversity of fuel  
12 storage capacity throughout this state.

13       “(c) An assessment of the seismic resilience of existing fuel storage fa-  
14 cilities throughout this state.

15       “(d) Consistent with state programs to reduce greenhouse gas emissions  
16 associated with transportation fuels, an assessment of the use of renewable  
17 fuels and other innovative alternatives to improve disaster resilience.

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

20       “(A) Adoption of Oregon Fuel Action Plan criteria for predesignated fuel  
21 points of distribution for receiving emergency fuel supplies at selected fuel  
22 diversification sites.

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

30       “(C) Partnerships with private-sector companies to build fuel storage ca-

1 capacity at identified, prioritized locations, especially private-sector companies  
2 that provide an emergency or essential service mission to save or sustain life  
3 or support the restoration of critical lifelines and services in support of the  
4 state’s overall response and recovery effort.

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

10 “(E) An evaluation of potential impacts to communities adjacent to po-  
11 tential locations for emergency fuel storage or expanded fuel storage, in-  
12 cluding consultation and outreach with those communities.

13 “(3) In developing and implementing the energy security plan, the de-  
14 partment shall consult with:

15 “(a) Relevant state government agencies, including the Public Utility  
16 Commission, the Oregon Department of Environmental Quality, the Depart-  
17 ment of Transportation, the Department of Aviation, the [*Office*] **Oregon**  
18 **Department** of Emergency Management, the State Department of Geology  
19 and Mineral Industries and the Environmental Justice Task Force;

20 “(b) Local governments;

21 “(c) Tribal governments;

22 “(d) Consumer-owned and investor-owned electric utilities;

23 “(e) Natural gas utilities;

24 “(f) Fuel suppliers;

25 “(g) Qualified technical experts in disaster resilience; and

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

27 “(4) No later than September 15 of each even-numbered year, the State  
28 Department of Energy shall provide to the interim committees of the Legis-  
29 lative Assembly related to energy a report in the manner provided under  
30 ORS 192.245 describing the implementation or revision of the energy security



1 plan developed under this section.

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

4 **“SECTION 15. No later than November 1, 2024, the Department of**  
5 **Environmental Quality shall provide to the interim committees of the**  
6 **Legislative Assembly related to energy, in the manner provided under**  
7 **ORS 192.245, a report summarizing information received by the de-**  
8 **partment under section 2 of this 2022 Act and including recommen-**  
9 **dations for legislation.**

10 **“SECTION 16. The State Department of Energy shall submit the**  
11 **energy security plan developed under section 12 of this 2022 Act in a**  
12 **report to the interim committees of the Legislative Assembly related**  
13 **to energy, in the manner provided under ORS 192.245, no later than**  
14 **June 1, 2024.**

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

17 **“SECTION 18. This 2022 Act takes effect on the 91st day after the**  
18 **date on which the 2022 regular session of the Eighty-first Legislative**  
19 **Assembly adjourns sine die.”.**

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