

Requested by Senator TAYLOR

**PROPOSED AMENDMENTS TO  
SENATE BILL 592**

- 1 On page 1 of the printed bill, line 2, after “ORS” insert “654.005,”.  
2 After line 4, insert:  
3 **“SECTION 1.** ORS 654.005 is amended to read:  
4 “654.005. As used in this chapter, unless the context requires otherwise:  
5 “(1) ‘Board’ means the Workers’ Compensation Board created by ORS  
6 656.712.  
7 “(2) ‘Department’ means the Department of Consumer and Business Ser-  
8 vices.  
9 “(3) ‘Director’ means the Director of the Department of Consumer and  
10 Business Services.  
11 “(4) ‘Employee’ includes:  
12 “(a) Any individual, including a minor whether lawfully or unlawfully  
13 employed, who engages to furnish services for a remuneration, financial or  
14 otherwise, subject to the direction and control of an employer.  
15 “(b) Salaried, elected and appointed officials of the state, state agencies,  
16 counties, cities, school districts and other public corporations.  
17 “(c) Any individual who is provided with workers’ compensation coverage  
18 as a subject worker pursuant to ORS chapter 656, whether by operation of  
19 law or by election.  
20 “(5) ‘Employer’ includes:  
21 “(a) Any person who has one or more employees.

1 “(b) Any sole proprietor or member of a partnership who elects workers’  
2 compensation coverage as a subject worker pursuant to ORS 656.128.

3 “(c) Any successor or assignee of an employer. As used in this paragraph,  
4 ‘successor’ means a business or enterprise that is substantially the same en-  
5 tity as the predecessor employer according to criteria adopted by the de-  
6 partment by rule.

7 “(6) ‘Establishment’ includes any place at which employees do  
8 business, offer services, conduct industrial operations, whether at a  
9 single physical location or, if such activities do not occur at a single  
10 physical location, any main office or branch that is responsible for the  
11 supervision of such activities and other similar locations as deter-  
12 mined by the department by rule.

13 “[6] (7) ‘Owner’ means every person having ownership, control or cus-  
14 tody of any place of employment or of the construction, repair or mainte-  
15 nance of any place of employment.

16 “[7] (8) ‘Person’ means one or more individuals, legal representatives,  
17 partnerships, joint ventures, associations, corporations (whether or not or-  
18 ganized for profit), business trusts, any organized group of persons, the state,  
19 state agencies, counties, municipal corporations, school districts and other  
20 public corporations or subdivisions.

21 “[8](a) (9)(a) ‘Place of employment’ includes:

22 “(A) Every place **and establishment**, whether fixed or movable or mov-  
23 ing, whether indoors or out or underground, and the premises and structures  
24 appurtenant thereto, where either temporarily or permanently an employee  
25 works or is intended to work; and

26 “(B) Every place **and establishment** where there is carried on any pro-  
27 cess, operation or activity related, either directly or indirectly, to an  
28 employer’s industry, trade, business or occupation, including a labor camp,  
29 wherever located, provided by an employer for employees or by another per-  
30 son engaged in providing living quarters or shelters for employees.

1 “(b) ‘Place of employment’ does not include:

2 “(A) Any place where the only employment involves nonsubject workers  
3 employed in or about a private home; and

4 “(B) Any corporate farm where the only employment involves the farm’s  
5 family members, including parents, spouses, sisters, brothers, daughters, sons,  
6 daughters-in-law, sons-in-law, nieces, nephews or grandchildren.”.

7 In line 5, delete “1” and insert “2”.

8 In line 9, delete the second “and”.

9 In line 13, delete the period and insert “; and

10 “(c) To conduct a comprehensive inspection of any place of employment  
11 as deemed necessary by the department based upon the prior violation his-  
12 tory of the place of employment regarding any state occupational safety or  
13 health law, regulation, standard rule, or order, including the severity and  
14 scope of the violations and any actions taken by the place of employment to  
15 correct the violations.

16 “(2) Whenever an occupational death has occurred in a fixed place of  
17 employment, the director shall, in addition to any inspections conducted  
18 pursuant to complaints filed against the place of employment, conduct a  
19 comprehensive inspection of the place of employment and of any other place  
20 of employment that shares a common owner with the place of employment  
21 where the occupational death occurred, within one year following the date  
22 on which the closing conference associated with the occupational death was  
23 held.

24 “(3) Whenever three or more willful or repeated violations occur at a  
25 fixed place of employment within a one-year period, the director shall, in  
26 addition to any inspections conducted pursuant to complaints filed against  
27 the place of employment, conduct a comprehensive inspection of the place  
28 of employment and of any other place of employment that shares a common  
29 owner with the place of employment where the occupational death occurred,  
30 within one year following the date on which the closing conference associ-

1 ated with the most recent willful or repeated violation was held.”.

2 Delete lines 14 through 24.

3 On page 2, delete lines 27 through 45 and delete page 3.

4 On page 4, delete lines 1 through 18 and insert:

5 **“SECTION 3.** ORS 654.086 is amended to read:

6 “654.086. (1) The Director of the Department of Consumer and Business  
7 Services or the authorized representative of the director has the authority  
8 to assess civil penalties as provided by this section for violation of the re-  
9 quirements of a state occupational safety or health statute or the lawful  
10 rules, standards or orders adopted under the statute[. *In setting maximum*  
11 *penalties, the director or the director’s representative shall consider, but may*  
12 *not exceed, the maximum penalties under the federal Occupational Safety and*  
13 *Health Act of 1970 (29 U.S.C. 651 et seq.)*], **as follows:**

14 “(a)(A) Any employer who receives a citation for a serious violation of  
15 such requirements shall be assessed a civil penalty of [*not less than \$50*] **not**  
16 **more than \$15,625, but not less than \$1,116, for each violation.**

17 “(B) **If the serious violation caused or contributed to the death of**  
18 **an employee, the civil penalty amount shall be increased to not more**  
19 **than \$50,000, but not less than \$20,000, for each violation.**

20 “(b) Any employer who receives a citation for a violation of such re-  
21 quirements, and such violation is specifically determined not to be of a se-  
22 rious nature, may be assessed a civil penalty, **not to exceed \$15,625, for**  
23 **each violation.**

24 “(c)(A) Any employer who willfully or repeatedly violates such require-  
25 ments may be assessed a civil penalty of [*not less than the minimum penalty*  
26 *under the federal Occupational Safety and Health Act of 1970 (29 U.S.C. 651*  
27 *et seq.)*] **not more than \$156,259, but not less than \$11,162, for each**  
28 **willful or repeated violation.**

29 “(B) **If an employer’s willful or repeated violation caused or con-**  
30 **tributed to the death of an employee, the civil penalty amount shall**

1 **be increased to not more than \$250,000, but not less than \$50,000, for**  
2 **each willful or repeated violation.**

3 **“(C) In determining whether a violation is repeated for purposes of**  
4 **this subsection, the director shall consider the employer’s history of**  
5 **violating the requirements of a state occupational safety or health**  
6 **statute or the lawful rules, standards or orders adopted under the**  
7 **statute.**

8 “(d) Any employer who receives a citation, as provided in ORS 654.071 (4),  
9 for failure to correct a violation may be assessed a civil penalty, **not to**  
10 **exceed \$15,625**, for each day during which the violation continues.

11 “(e) Any employer who knowingly makes any false statement, represen-  
12 tation or certification regarding the correction of a violation shall be as-  
13 sessed a civil penalty of not less than \$100.

14 “(f) Any employer who violates any of the posting requirements, as pre-  
15 scribed under the provisions of ORS 654.001 to 654.295, 654.412 to 654.423 and  
16 654.750 to 654.780, may be assessed a civil penalty for each violation.

17 “(g) Any person who violates the provisions of ORS 654.082 (2) or (3) shall  
18 be assessed a civil penalty of not less than \$100 for each violation.

19 “(h) Notwithstanding paragraph (b) of this subsection, an employer who  
20 substantially fails to comply with ORS 654.174 (1) shall be assessed a civil  
21 penalty of not less than \$250 for each violation.

22 “(i) Any insurer or self-insured employer who violates any provision of  
23 ORS 654.097, or any rule or order carrying out ORS 654.097, shall be assessed  
24 a civil penalty. Each violation, or each day a violation continues, shall be  
25 considered a separate offense.

26 “(2) For the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and  
27 654.750 to 654.780 a serious violation exists in a place of employment if there  
28 is a substantial probability that death or serious physical harm could result  
29 from a condition which exists, or from one or more practices, means, meth-  
30 ods, operations or processes which have been adopted or are in use, in such

1 place of employment unless the employer did not, and could not with the  
2 exercise of reasonable diligence, know of the presence of the violation.

3 **“(3) Civil penalties assessed by the Department of Consumer and**  
4 **Business Services against an employer for repeated violations of any**  
5 **of the following may not receive a penalty adjustment, based on em-**  
6 **ployer size, that reduces the amount of the civil penalty assessed**  
7 **against the employer, unless the penalty adjustment is conditioned**  
8 **upon the employer agreeing to comply with additional mitigation**  
9 **measures as determined by the department:**

10 **“(a) Willful violations under subsection (1)(c) of this section; and**

11 **“(b) Serious violations resulting in an occupational death.**

12 **“(4) The director shall, not later than January 15 of each year, ad-**  
13 **just the amount of civil penalties that may be imposed under this**  
14 **section to account for the percentage increase or decrease, if any, in**  
15 **the Consumer Price Index for All Urban Consumers, West Region (All**  
16 **Items), as published by the Bureau of Labor Statistics of the United**  
17 **States Department of Labor or its successor.**

18 “[3] (5) When an order assessing a civil penalty becomes final by oper-  
19 ation of law or on appeal, unless the amount of penalty is paid within 20  
20 days after the order becomes final, it constitutes a judgment and may be re-  
21 corded with the county clerk in any county of this state. The clerk shall  
22 thereupon record the name of the person incurring the penalty and the  
23 amount of the penalty in the County Clerk Lien Record. The penalty pro-  
24 vided in the order so recorded shall become a lien upon the title to any in-  
25 terest in property owned by the person against whom the order is entered,  
26 and execution may be issued upon the order in the same manner as execution  
27 upon a judgment of a court of record.

28 “[4] (6) Except as provided in subsection [(5)] (7) of this section, civil  
29 penalties collected under ORS 654.001 to 654.295, 654.412 to 654.423 and  
30 654.750 to 654.780 shall be paid into the Consumer and Business Services

1 Fund.

2 “[5] (7) Civil penalties assessed under this section for a violation of ORS  
3 658.750 shall be credited to the Agricultural Worker Housing Development  
4 Account of the Oregon Housing Fund.

5 **“(8) The director shall submit a report at least annually to the in-  
6 terim committees of the Legislative Assembly related to business and  
7 labor that summarizes:**

8 **“(a) The total number and total amount of penalties assessed by the  
9 department;**

10 **“(b) The total number of appeals of citations, violations and penalty  
11 assessments filed with the department; and**

12 **“(c) The total number of inspections completed by the department,  
13 along with the scope of the inspections and the circumstances that led  
14 to the inspections.”.**

15 In line 19, delete “3” and insert “4”.

16 In line 21, delete “4” and insert “5”.

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