

Requested by Senator TAYLOR

**PROPOSED AMENDMENTS TO
SENATE BILL 592**

1 On page 1 of the printed bill, delete lines 5 through 27 and delete pages
2 2 through 4 and insert:

3 **“SECTION 1. ORS 654.067 is amended to read:**

4 “654.067. (1) In order to carry out the purposes of ORS 654.001 to 654.295,
5 654.412 to 654.423 and 654.750 to 654.780, the Director of the Department of
6 Consumer and Business Services, upon presenting appropriate credentials to
7 the owner, employer or agent in charge, is authorized:

8 “(a) To enter without delay and at reasonable times any place of em-
9 ployment; [*and*]

10 “(b) To inspect and investigate during regular working hours and at other
11 reasonable times, and within reasonable limits and in a reasonable manner,
12 any such place of employment and all pertinent conditions, structures, ma-
13 chines, apparatus, devices, equipment and materials therein, and to question
14 privately the owner, employer, agents or employees[.]; **and**

15 **“(c) To conduct a comprehensive inspection of any place of em-**
16 **ployment as deemed necessary by the department based upon the prior**
17 **violation history of the place of employment regarding any state oc-**
18 **cupational safety or health law, regulation, standard, rule or order.**

19 **“(2) Whenever an accident investigation reveals that a work-related**
20 **fatality has occurred at a place of employment, the director shall**
21 **conduct a comprehensive inspection of the place of employment within**

1 **one year following the date on which the closing conference associated**
2 **with the work-related fatality was held.**

3 **“(3) Whenever three or more willful or repeated violations occur**
4 **at a place of employment within a one-year period, the director shall**
5 **conduct a comprehensive inspection of the place of employment within**
6 **one year following the date on which the closing conference associated**
7 **with the most recent willful or repeated violation was held.**

8 “[2] (4) No person shall give an owner, employer, agent or employee
9 advance notice of any inspection to be conducted under ORS 654.001 to
10 654.295, 654.412 to 654.423 and 654.750 to 654.780 of any place of employment
11 without authority from the director.

12 “[3] (5) Except in the case of an emergency, or of a place of employment
13 open to the public, if the director is denied access to any place of employ-
14 ment for the purpose of an inspection or investigation, such inspection or
15 investigation shall not be conducted without an inspection warrant obtained
16 pursuant to ORS 654.202 to 654.216, or without such other authority as a
17 court may grant in an appropriate civil proceeding. Nothing contained
18 herein, however, is intended to affect the validity of a constitutionally au-
19 thorized inspection conducted without an inspection warrant.

20 “[4] (6) A representative of the employer and a representative authorized
21 by the employees of the employer shall be given an opportunity to accompany
22 the director during the inspection of any place of employment for the purpose
23 of aiding such inspection. When there is no employee representative, or the
24 employee representative is not an employee of the employer, the director
25 should consult with a reasonable number of employees concerning matters
26 of safety and health in the place of employment.

27 “[5] (7) The representative of the employer may, at the employer’s op-
28 tion, be an attorney retained by the employer.

29 **“(8) As used in this section:**

30 **“(a) ‘Accident investigation’ means an official examination of a**

1 place of employment conducted by a compliance officer who is re-
2 sponsible for carrying out inspections and investigations on behalf of
3 the department, that includes a systematic appraisal of an accident
4 sequence to determine causal factors, corrective actions and preven-
5 tative measures.

6 “(b) ‘Closing conference’ means a process that informs the em-
7 ployer and the employee representatives, if any, of the findings re-
8 sulting from an inspection of a place of employment and any other
9 pertinent issues related to the inspection.

10 “(c) ‘Comprehensive inspection’ means a substantially complete in-
11 spection of a place of employment that, in the professional judgment
12 of the inspector who conducts the inspection, may be deemed com-
13 prehensive although not all potentially hazardous conditions, oper-
14 ations and practices within the place of employment are inspected.

15 “SECTION 2. ORS 654.086 is amended to read:

16 “654.086. (1) The Director of the Department of Consumer and Business
17 Services or the authorized representative of the director has the authority
18 to assess civil penalties as provided by this section for violation of the re-
19 quirements of a state occupational safety or health statute or the lawful
20 rules, standards or orders adopted under the statute[. *In setting maximum*
21 *penalties, the director or the director’s representative shall consider, but may*
22 *not exceed, the maximum penalties under the federal Occupational Safety and*
23 *Health Act of 1970 (29 U.S.C. 651 et seq.)*], **as follows:**

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

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

30 “(b) Any employer who receives a citation for a violation of such re-

1 quirements, and such violation is specifically determined not to be of a se-
2 rious nature, may be assessed a civil penalty, **not to exceed \$15,625, for**
3 **each violation.**

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

9 “(B) **If an employer’s willful or repeated violation caused or con-**
10 **tributed to the death of an employee, the civil penalty amount shall**
11 **be increased to not more than \$250,000, but not less than \$50,000, for**
12 **each willful or repeated violation.**

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

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

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

24 “(f) Any employer who violates any of the posting requirements, as pre-
25 scribed under the provisions of ORS 654.001 to 654.295, 654.412 to 654.423 and
26 654.750 to 654.780, may be assessed a civil penalty for each violation.

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

29 “(h) Notwithstanding paragraph (b) of this subsection, an employer who
30 substantially fails to comply with ORS 654.174 (1) shall be assessed a civil

1 penalty of not less than \$250 for each violation.

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

6 “(2) For the purposes of ORS 654.001 to 654.295, 654.412 to 654.423 and
7 654.750 to 654.780 a serious violation exists in a place of employment if there
8 is a substantial probability that death or serious physical harm could result
9 from a condition which exists, or from one or more practices, means, meth-
10 ods, operations or processes which have been adopted or are in use, in such
11 place of employment unless the employer did not, and could not with the
12 exercise of reasonable diligence, know of the presence of the violation.

13 **“(3) Civil penalties assessed by the Department of Consumer and**
14 **Business Services against an employer for repeated violations of any**
15 **of the following may not receive a penalty adjustment, based on em-**
16 **ployer size, that reduces the amount of the civil penalty assessed**
17 **against the employer, unless the penalty adjustment is conditioned**
18 **upon the employer agreeing to comply with additional abatement**
19 **measures as determined by the department:**

20 **“(a) A willful violation under subsection (1)(c) of this section; and**

21 **“(b) A serious violation resulting in a work-related fatality.**

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

28 “[3] (5) When an order assessing a civil penalty becomes final by oper-
29 ation of law or on appeal, unless the amount of penalty is paid within 20
30 days after the order becomes final, it constitutes a judgment and may be re-

1 corded with the county clerk in any county of this state. The clerk shall
2 thereupon record the name of the person incurring the penalty and the
3 amount of the penalty in the County Clerk Lien Record. The penalty pro-
4 vided in the order so recorded shall become a lien upon the title to any in-
5 terest in property owned by the person against whom the order is entered,
6 and execution may be issued upon the order in the same manner as execution
7 upon a judgment of a court of record.

8 “[4] (6) Except as provided in subsection [(5)] (7) of this section, civil
9 penalties collected under ORS 654.001 to 654.295, 654.412 to 654.423 and
10 654.750 to 654.780 shall be paid into the Consumer and Business Services
11 Fund.

12 “[5] (7) Civil penalties assessed under this section for a violation of ORS
13 658.750 shall be credited to the Agricultural Worker Housing Development
14 Account of the Oregon Housing Fund.

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

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

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

22 **“(c) The total number of inspections completed by the department,
23 along with the scope of the inspections and the circumstances that led
24 to the inspections.**

25 **“SECTION 3. The Director of the Department of Consumer and
26 Business Services shall submit the first report required under ORS
27 654.086 (8) no later than September 15, 2024.**

28 **“SECTION 4. This 2023 Act being necessary for the immediate
29 preservation of the public peace, health and safety, an emergency is
30 declared to exist, and this 2023 Act takes effect on its passage.”.**

