

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2473

By COMMITTEE ON JUDICIARY

May 27

On page 1 of the printed A-engrossed bill, line 2, after “136.583,” insert “161.566, 161.570,”.

On page 9, after line 5, insert:

“**SECTION 5.** ORS 161.566 is amended to read:

“161.566. (1) Except as provided in subsection (4) of this section, a prosecuting attorney may elect to treat any misdemeanor as a Class A violation. The election must be made by the prosecuting attorney orally [*at the time of the first appearance of the defendant*] or in writing [*filed on or before the time scheduled for the first appearance of the defendant*]. If no election is made [*within the time allowed*], the case shall proceed as a misdemeanor.

“(2) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this section, the court shall amend the accusatory instrument to reflect the charged offense as a Class A violation and clearly denominate the offense as a Class A violation in any judgment entered in the matter. Notwithstanding ORS 153.021, the fine that a court may impose upon conviction of a violation under this section may not:

“(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

“(b) Exceed the maximum fine established by ORS 153.018 for a Class A violation.

“(3) If a prosecuting attorney elects to treat a misdemeanor as a Class A violation under this section, and the defendant fails to make any required appearance in the matter, the court may enter a default judgment against the defendant in the manner provided by ORS 153.102. Notwithstanding ORS 153.021, the fine that the court may impose under a default judgment entered pursuant to ORS 153.102 may not:

“(a) Be less than the presumptive fine established by ORS 153.019 for a Class A violation; or

“(b) Exceed the maximum fine established by ORS 153.018 for a Class A violation.

“(4) A prosecuting attorney may not elect to treat misdemeanors created under ORS 811.540 or 813.010 as violations under the provisions of this section.

“(5) The election provided for in this section may be made by a city attorney acting as prosecuting attorney in the case of municipal ordinance offenses, a county counsel acting as prosecuting attorney under a county charter in the case of county ordinance offenses, and the Attorney General acting as prosecuting attorney in those criminal actions or proceedings within the jurisdiction of the Attorney General.

“**SECTION 6.** ORS 161.570 is amended to read:

“161.570. (1) As used in this section, ‘nonperson felony’ has the meaning given that term in the rules of the Oregon Criminal Justice Commission.

“(2) A district attorney may elect to treat a Class C nonperson felony or a violation of ORS 475.752 (7)(b), 475.854 (2)(c) or 475.874 (2)(c) as a Class A misdemeanor. The election must be made by the district attorney orally or in writing [*at the time of the first appearance of the defendant*]. If

1 a district attorney elects to treat a Class C felony or a violation of ORS 475.752 (7)(b), 475.854 (2)(c)
2 or 475.874 (2)(c) as a Class A misdemeanor under this subsection, the court shall amend the
3 accusatory instrument to reflect the charged offense as a Class A misdemeanor.

4 “[3] *If, at some time after the first appearance of a defendant charged with a Class C nonperson*
5 *felony or a violation of ORS 475.752 (7)(b), 475.854 (2)(c) or 475.874 (2)(c), the district attorney and the*
6 *defendant agree to treat the charged offense as a Class A misdemeanor, the court may allow the offense*
7 *to be treated as a Class A misdemeanor by stipulation of the parties.*]

8 “[4] (3) If a Class C felony or a violation of ORS 475.752 (7)(b), 475.854 (2)(c) or 475.874 (2)(c)
9 is treated as a Class A misdemeanor under this section, the court shall clearly denominate the of-
10 fense as a Class A misdemeanor in any judgment entered in the matter.

11 “[5] (4) If no election [*or stipulation*] is made under this section, the case proceeds as a felony.

12 “[6] (5) Before a district attorney may make an election under subsection (2) of this section,
13 the district attorney shall adopt written guidelines for determining when and under what circum-
14 stances the election may be made. The district attorney shall apply the guidelines uniformly.

15 “[7] (6) Notwithstanding ORS 161.635, the fine that a court may impose upon conviction of a
16 misdemeanor under this section may not:

17 “(a) Be less than the minimum fine established by ORS 137.286 for a felony; or

18 “(b) Exceed the amount provided in ORS 161.625 for the class of felony receiving Class A
19 misdemeanor treatment.”.

20 In line 6, delete “5” and insert “7”.

21 After line 9, insert:

22 “(3) The amendments to ORS 161.566 and 161.570 by sections 5 and 6 of this 2025 Act apply to
23 prosecutions commenced on or after the effective date of this 2025 Act.”.

24 In line 10, delete “6” and insert “8”.