

A-Engrossed Senate Bill 863

Ordered by the Senate March 18
Including Senate Amendments dated March 18

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for State Fire Marshal)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act allows the State Fire Marshal to recover costs from persons who start fires. The Act allows certain actions related to cost recovery. (Flesch Readability Score: 64.2).

Authorizes the State Fire Marshal to seek cost recovery for the actual cost of fire abatement.

Authorizes the Attorney General to take certain actions to investigate liability for the actual cost of fire abatement, upon request by the State Fire Marshal.

Authorizes deputy state fire marshals to take certain actions to preserve evidence and investigate liability for the actual cost of fire abatement.

A BILL FOR AN ACT

Relating to cost recovery for fire protection.

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

SECTION 1. Sections 2 to 4 of this 2025 Act are added to and made a part of ORS chapter 476.

SECTION 2. (1) As used in this section, "actual cost" means:

(a) Any costs incurred by the State Fire Marshal in controlling or extinguishing a fire under this chapter, including under ORS 476.510 to 476.610; and

(b) Any payments made by the State Fire Marshal as reimbursement for controlling or extinguishing the fire.

(2) If a person is willful, malicious or negligent in the origin or subsequent spread of a fire:

(a) The State Fire Marshal shall mail to the person a written demand for payment of the actual cost of the fire; and

(b) The person shall pay the actual cost of the fire to the State Fire Marshal not more than 90 days after the written demand for payment is mailed.

(3) If the person does not pay the actual cost of the fire as described in subsection (2) of this section:

(a) The amount of the actual cost of the fire shall bear interest at 10 percent per year from the date on which the first written demand for the payment of the actual cost of the fire was mailed by the State Fire Marshal; and

(b) The actual cost of the fire and any interest may be recovered from the person by an action prosecuted in the name of the State of Oregon.

(4) The actual cost of the fire may, at the discretion of the State Fire Marshal, constitute

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 a general lien upon the real and personal property of the person.

2 (5) A written notice of a lien described in subsection (4) of this section, containing a de-
3 scription of the property and a statement of the actual cost of the fire:

4 (a) Must be certified under oath by the State Fire Marshal and filed in the office of the
5 county clerk of the county in which the property is situated within 12 months after the cal-
6 endar year within which the fire originated; and

7 (b) May be foreclosed in the manner provided by law for foreclosure of liens for labor and
8 material.

9 (6) A lien created under this section shall cease to exist unless suit for foreclosure is
10 instituted within 12 months from the date of filing of the written notice of the lien under
11 subsection (5) of this section.

12 (7) In any proceeding to foreclose a lien created under this section, recovery for the
13 plaintiff shall include, in addition to the amount of the actual cost, interest on such amount
14 at the rate of 10 percent per year from the date of the filing of the written notice of the lien
15 under subsection (5) of this section.

16 (8) Upon request of the State Fire Marshal, the Attorney General shall prosecute an
17 action under this section to recover the actual cost of the fire or foreclose a lien, in the
18 name of the State of Oregon.

19 (9) In an action under this section to recover the actual cost of a fire or foreclose a lien,
20 the court shall:

21 (a) Accept an itemized statement of the actual cost of the fire, certified by the State Fire
22 Marshal, as prima facie evidence of the actual cost of the fire; and

23 (b) At trial and on appeal, award reasonable attorney fees, in addition to costs and dis-
24 bursements, to the prevailing party.

25 **SECTION 3.** (1) At the request of the State Fire Marshal, for the purpose of investigating
26 liability for the actual cost, as defined in section 2 of this 2025 Act, of a fire, the Attorney
27 General may administer oaths and affirmations, take testimony or depositions and by
28 subpoena compel:

29 (a) The attendance of witnesses;

30 (b) The production of documents, including but not limited to writings, drawings, graphs,
31 charts, photographs and other data compilations from which information can be obtained and
32 translated; and

33 (c) The production of any other tangible thing that the Attorney General deems relevant
34 or material to the investigation.

35 (2) Each witness subpoenaed under subsection (1) of this section shall receive the fees
36 and mileage provided in ORS 44.415 (2).

37 (3) If a person fails to comply with a subpoena issued under this section, or if a party
38 or witness refuses to testify on any matter under this section, the State Fire Marshal may
39 petition the circuit court of any county to order the person to show cause why the person
40 has failed to comply with the subpoena and should not be held in contempt.

41 (4) If the State Fire Marshal petitions a circuit court as described in subsection (3) of this
42 section, the State Fire Marshal shall serve the person with the document initiating the
43 contempt action as described in ORS 33.055 (5)(a).

44 (5) If the State Fire Marshal petitions a circuit court as described in subsection (3) of this
45 section and the person does not show good cause why the person has failed to comply with

1 the subpoena, the circuit court shall compel obedience with the subpoena by proceedings for
2 contempt.

3 **SECTION 4.** Under instructions from the State Fire Marshal as to the exercise of state
4 authority, for the purpose of preserving evidence and investigating liability for the actual
5 cost, as defined in section 2 of this 2025 Act, of a fire, a deputy state fire marshal may:

6 (1) Secure the fire origin area at any time; and

7 (2) Control, restrict or prohibit access to the fire origin area by unauthorized persons
8 as long as is reasonably necessary, in the judgment of the deputy state fire marshal.
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