

DRAFT

SUMMARY

Makes unlawful practice for place of public accommodation to refuse to accept United States coins or currency as payment for goods and services. Creates limited exceptions. Allows person to file complaint with Commissioner of Bureau of Labor and Industries and civil action alleging unlawful practice against operator or person acting on behalf of place of public accommodation.

Limits authority of school district to become member of voluntary organization that administers interscholastic activities unless organization implements policy that prohibits discrimination based on race, color or national origin.

Clarifies meaning of race to include natural hair, hair texture, hair type and protective hairstyles for purposes of prohibited discrimination under antidiscrimination statutes.

Clarifies that valid dress code or policy may not have disproportionate adverse impact on members of protected class to extent that is greater than impact on persons generally.

A BILL FOR AN ACT

1
2 Relating to discrimination; creating new provisions; amending ORS 332.075,
3 659.850, 659A.001, 659A.030 and 659A.885.

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

5 6 PROTECTION AGAINST PAYMENT DISCRIMINATION

7
8 **SECTION 1. (1) Except as provided in subsection (2) of this section,**
9 **it is an unlawful practice for a place of public accommodation, as de-**
10 **defined in ORS 659A.400, offering goods or services, or any person acting**
11 **on behalf of such place, to:**

1 (a) Refuse to accept from a customer or patron United States coins
2 and currency, including federal reserve bank notes and circulating
3 notes of federal reserve banks and national banks, as payment for
4 goods and services.

5 (b) Make any distinction, discrimination or restriction because a
6 customer or patron offers United States coins and currency, including
7 federal reserve bank notes and circulating notes of federal reserve
8 banks and national banks, as payment for goods and services.

9 (2) Notwithstanding subsection (1) of this section, a place of public
10 accommodation, or any person acting on behalf of such place, may
11 refuse to accept as payment for goods and services:

12 (a) United States coins, in any combination, that are greater than
13 or equal to \$100; or

14 (b) United States currency in denominations of \$50 or \$100.

15 (3) This section does not apply to:

16 (a) A place of public accommodation that is owned or maintained
17 by a public body, as defined in ORS 174.109;

18 (b) Any service to the public that is provided by a public body, as
19 defined in ORS 174.109;

20 (c) Farmers' markets or roadside stands;

21 (d) Mobile food and beverage units licensed under ORS 624.010 to
22 624.121;

23 (e) A business engaged in commercial activities or services that
24 occur in a restricted access area of a commercial service airport;

25 (f) Transactions for goods or services involving a place or service
26 offering goods, services, lodgings or transportation, when the trans-
27 action requires a customer or patron to deposit moneys or sign a
28 rental agreement;

29 (g) Any establishment that is owned by or operated under the con-
30 trol of the United States Government or an agency of the United
31 States;

1 **(h) Retail transactions that occur entirely over the telephone, mail**
2 **or Internet; or**

3 **(i) The purchase of Class 1 flammable liquids at a filling station,**
4 **service station, garage or other dispensary where Class 1 flammable**
5 **liquids are dispensed.**

6 **(4) Nothing in this section may be construed to prohibit, restrict,**
7 **or otherwise interfere with the ability of a place of public accommo-**
8 **dation to accept, in addition to the forms of payment described under**
9 **subsection (1) of this section, as payment for goods or services, any**
10 **other form of payment provided that such payment is not prohibited**
11 **under federal or state law.**

12 **(5) A person who alleges a violation of subsection (1) of this section**
13 **may bring a civil action under ORS 659A.885 or may file a complaint**
14 **with the Commissioner of the Bureau of Labor and Industries in the**
15 **manner provided by ORS 659A.820.**

16 **(6) As used in this section, “restricted access area” has the meaning**
17 **given that term in ORS 164.885.**

18

19 **PROTECTION AGAINST HAIR DISCRIMINATION**

20

21 **SECTION 2.** ORS 332.075 is amended to read:

22 332.075. (1) Any district school board may:

23 (a) Fix the days of the year and the hours of the day when schools shall
24 be in session.

25 (b) Adopt textbooks and other instructional materials as provided in ORS
26 337.120 and 337.141 and courses of study for the use of such schools as pro-
27 vided in ORS 336.035.

28 (c) Authorize the use of the schools for purposes of training students of
29 an approved educator preparation provider, as defined in ORS 342.120, and
30 for such purposes may enter into contracts with the approved educator
31 preparation provider on such terms as may be agreed upon. Such contracts

1 as they relate to student teachers shall have the same effect and be subject
2 to the same regulations as a contract between a licensed teacher and a dis-
3 trict school board.

4 (d) Develop and operate with other school districts or community college
5 districts secondary career and technical education programs for pupils of
6 more than one district and fix by agreement the duration of the district's
7 obligation to continue such activity, subject to the availability of funds
8 therefor.

9 (e) Authorize the school district to be a member of and pay fees, if any,
10 to any voluntary organization that administers interscholastic activities or
11 that facilitates the scheduling and programming of interscholastic activities
12 only if the organization:

13 (A) Implements policies that:

14 (i) Address the use of derogatory or inappropriate names, insults, verbal
15 assaults, profanity or ridicule that occurs at an interscholastic activity, in-
16 cluding by spectators of the interscholastic activity; **and**

17 **(ii) Prohibit discrimination based on race, color or national origin;**

18 (B) Maintains a transparent complaint process that:

19 (i) Has a reporting system to allow participants of interscholastic activ-
20 ities or members of the public to make complaints about student, coach or
21 spectator behavior;

22 (ii) Responds to a complaint made under sub-subparagraph (i) of this
23 subparagraph within 48 hours of the complaint being received; and

24 (iii) Strives to resolve a complaint received under sub-subparagraph (i)
25 of this subparagraph within 30 days of the complaint being received;

26 (C) Develops and implements a system of sanctions against schools, stu-
27 dents, coaches and spectators if a complaint made under subparagraph (B)
28 of this paragraph is verified; and

29 (D) Performs an annual survey of students and their parents to under-
30 stand and respond to potential violations of policies adopted under subpara-
31 graph (A) of this paragraph or violations of ORS 659.850.

1 (f) Accept money or property donated for the use or benefit of the school
2 district and, consistent with the laws of this state, use such money or prop-
3 erty for the purpose for which it was donated.

4 (g) Enter into an approved written agreement with the governing body
5 of a federally recognized Native American tribe in Oregon to allow the use
6 of a mascot that represents, is associated with or is significant to the Native
7 American tribe entering into the agreement. An agreement entered into un-
8 der this paragraph must:

9 (A) Describe the acceptable uses of the mascot;

10 (B) Comply with rules adopted by the State Board of Education that:

11 (i) Are adopted after consultation with the federally recognized tribes in
12 Oregon pursuant to ORS 182.164 (3); and

13 (ii) Prescribe the requirements for approval; and

14 (C) Be approved by the State Board of Education, which the board must
15 provide if the agreement meets the requirements of this paragraph and the
16 rules adopted under this paragraph.

17 (2) All contracts of the school district must be approved by the district
18 school board before an order can be drawn for payment. If a contract is made
19 without the authority of the district school board, the individual making
20 such contract shall be personally liable.

21 (3) Notwithstanding subsection (2) of this section, a district school board
22 may, by resolution or policy, authorize its superintendent or the
23 superintendent's designee to enter into and approve payment on contracts for
24 products, materials, supplies, capital outlay, equipment and services that are
25 within appropriations made by the district school board pursuant to ORS
26 294.456. A district school board may not authorize its superintendent or the
27 superintendent's designee under this subsection to enter into and approve
28 payment on contracts that are collective bargaining agreements or service
29 contracts that include the provision of labor performed by employees of the
30 school district.

31 **(4) As used in this section, "race" includes physical characteristics**

1 **that are historically associated with race, including but not limited to**
2 **natural hair, hair texture, hair type and protective hairstyles as de-**
3 **defined in ORS 659A.001.**

4 **SECTION 3.** ORS 659.850 is amended to read:

5 659.850. (1) As used in this section[,]:

6 **(a)(A)** “Discrimination” means any act that unreasonably differentiates
7 treatment, intended or unintended, or any act that is fair in form but
8 discriminatory in operation, either of which is based on race, color, religion,
9 sex, sexual orientation, national origin, marital status, age or disability.

10 **(B)** “Discrimination” does not include enforcement of an otherwise valid
11 dress code or policy, as long as the code or policy:

12 **(i)** Provides, on a case-by-case basis, for reasonable accommodation of an
13 individual based on the health and safety needs of the individual; **and**

14 **(ii) Does not have a disproportionate adverse impact on members**
15 **of a protected class to a greater extent than the policy impacts persons**
16 **generally.**

17 **(b) “Race” includes physical characteristics that are historically**
18 **associated with race, including but not limited to natural hair, hair**
19 **texture, hair type and protective hairstyles as defined in ORS 659A.001.**

20 (2) A person may not be subjected to discrimination in any public ele-
21 mentary, secondary or community college education program or service,
22 school or interschool activity or in any higher education program or service,
23 school or interschool activity where the program, service, school or activity
24 is financed in whole or in part by moneys appropriated by the Legislative
25 Assembly.

26 (3) The State Board of Education and the Higher Education Coordinating
27 Commission shall establish rules necessary to ensure compliance with sub-
28 section (2) of this section in the manner required by ORS chapter 183.

29 **SECTION 4.** ORS 659A.001 is amended to read:

30 659A.001. As used in this chapter:

31 (1) “Bureau” means the Bureau of Labor and Industries.

1 (2) "Commissioner" means the Commissioner of the Bureau of Labor and
2 Industries.

3 (3) "Employee" does not include any individual employed by the
4 individual's parents, spouse or child or in the domestic service of any person.

5 (4)(a) "Employer" means any person who in this state, directly or through
6 an agent, engages or uses the personal service of one or more employees,
7 reserving the right to control the means by which such service is or will be
8 performed.

9 (b) For the purposes of employee protections described in ORS 659A.350,
10 "employer" means any person who, in this state, is in an employment re-
11 lationship with an intern as described in ORS 659A.350.

12 (5) "Employment agency" includes any person undertaking to procure
13 employees or opportunities to work.

14 (6)(a) "Familial status" means the relationship between one or more in-
15 dividuals who have not attained 18 years of age and who are domiciled with:

16 (A) A parent or another person having legal custody of the individual;
17 or

18 (B) The designee of the parent or other person having such custody, with
19 the written permission of the parent or other person.

20 (b) "Familial status" includes any individual, regardless of age or
21 domicile, who is pregnant or is in the process of securing legal custody of
22 an individual who has not attained 18 years of age.

23 (7) "Labor organization" includes any organization which is constituted
24 for the purpose, in whole or in part, of collective bargaining or in dealing
25 with employers concerning grievances, terms or conditions of employment
26 or of other mutual aid or protection in connection with employees.

27 (8) "National origin" includes ancestry.

28 (9) "Person" includes:

29 (a) One or more individuals, partnerships, associations, labor organiza-
30 tions, limited liability companies, joint stock companies, corporations, legal
31 representatives, trustees, trustees in bankruptcy or receivers.

1 (b) A public body as defined in ORS 30.260.

2 (c) For purposes of ORS 659A.145 and 659A.421 and the application of any
3 federal housing law, a fiduciary, mutual company, trust or unincorporated
4 organization.

5 **(10) “Protective hairstyle” means a hairstyle, hair color or manner**
6 **of wearing hair that includes, but is not limited to, braids, regardless**
7 **of whether the braids are created with extensions or styled with**
8 **adornments, locs and twists.**

9 **(11) “Race” includes physical characteristics that are historically**
10 **associated with race, including but not limited to natural hair, hair**
11 **texture, hair type and protective hairstyles.**

12 [(10)] **(12)** “Respondent” means any person against whom a complaint or
13 charge of an unlawful practice is filed with the commissioner or whose name
14 has been added to such complaint or charge pursuant to ORS 659A.835.

15 [(11)] **(13)** “Unlawful employment practice” means a practice specifically
16 denominated as an unlawful employment practice in this chapter. “Unlawful
17 employment practice” includes a practice that is specifically denominated in
18 another statute of this state as an unlawful employment practice and that
19 is specifically made subject to enforcement under this chapter.

20 [(12)] **(14)** “Unlawful practice” means any unlawful employment practice
21 or any other practice specifically denominated as an unlawful practice in
22 this chapter. “Unlawful practice” includes a practice that is specifically de-
23 nominated in another statute of this state as an unlawful practice and that
24 is specifically made subject to enforcement under this chapter, or a practice
25 that violates a rule adopted by the commissioner for the enforcement of the
26 provisions of this chapter.

27 **SECTION 5.** ORS 659A.030 is amended to read:

28 659A.030. (1) It is an unlawful employment practice:

29 (a) For an employer, because of an individual’s race, color, religion, sex,
30 sexual orientation, national origin, marital status or age if the individual is
31 18 years of age or older, or because of the race, color, religion, sex, sexual

1 orientation, national origin, marital status or age of any other person with
2 whom the individual associates, or because of an individual's juvenile record
3 that has been expunged pursuant to ORS 419A.260 and 419A.262, to refuse to
4 hire or employ the individual or to bar or discharge the individual from
5 employment. However, discrimination is not an unlawful employment prac-
6 tice if the discrimination results from a bona fide occupational qualification
7 reasonably necessary to the normal operation of the employer's business.

8 (b) For an employer, because of an individual's race, color, religion, sex,
9 sexual orientation, national origin, marital status or age if the individual is
10 18 years of age or older, or because of the race, color, religion, sex, sexual
11 orientation, national origin, marital status or age of any other person with
12 whom the individual associates, or because of an individual's juvenile record
13 that has been expunged pursuant to ORS 419A.260 and 419A.262, to discrim-
14 inate against the individual in compensation or in terms, conditions or
15 privileges of employment.

16 (c) For a labor organization, because of an individual's race, color, reli-
17 gion, sex, sexual orientation, national origin, marital status or age if the
18 individual is 18 years of age or older, or because of an individual's juvenile
19 record that has been expunged pursuant to ORS 419A.260 and 419A.262, to
20 exclude or to expel from its membership the individual or to discriminate in
21 any way against the individual or any other person.

22 (d) For any employer or employment agency to print or circulate or cause
23 to be printed or circulated any statement, advertisement or publication, or
24 to use any form of application for employment or to make any inquiry in
25 connection with prospective employment that expresses directly or indirectly
26 any limitation, specification or discrimination as to an individual's race,
27 color, religion, sex, sexual orientation, national origin, marital status or age
28 if the individual is 18 years of age or older, or on the basis of an expunged
29 juvenile record, or any intent to make any such limitation, specification or
30 discrimination, unless based upon a bona fide occupational qualification.
31 Identification of prospective employees according to race, color, religion, sex,

1 sexual orientation, national origin, marital status or age does not violate
2 this section unless the Commissioner of the Bureau of Labor and Industries,
3 after a hearing conducted pursuant to ORS 659A.805, determines that the
4 designation expresses an intent to limit, specify or discriminate on the basis
5 of race, color, religion, sex, sexual orientation, national origin, marital sta-
6 tus or age.

7 (e) For an employment agency, because of an individual's race, color, re-
8 ligion, sex, sexual orientation, national origin, marital status or age if the
9 individual is 18 years of age or older, or because of the race, color, religion,
10 sex, sexual orientation, national origin, marital status or age of any other
11 person with whom the individual associates, or because of an individual's
12 juvenile record that has been expunged pursuant to ORS 419A.260 and
13 419A.262, to classify or refer for employment, or to fail or refuse to refer for
14 employment, or otherwise to discriminate against the individual. However,
15 it is not an unlawful employment practice for an employment agency to
16 classify or refer for employment an individual when the classification or re-
17 ferral results from a bona fide occupational qualification reasonably neces-
18 sary to the normal operation of the employer's business.

19 (f) For any person to discharge, expel or otherwise discriminate against
20 any other person because that other person has opposed any unlawful prac-
21 tice, or because that other person has filed a complaint, testified or assisted
22 in any proceeding under this chapter or has attempted to do so.

23 (g) For any person, whether an employer or an employee, to aid, abet,
24 incite, compel or coerce the doing of any of the acts forbidden under this
25 chapter or to attempt to do so.

26 (2) The provisions of this section apply to an apprentice under ORS
27 660.002 to 660.210, but the selection of an apprentice on the basis of the
28 ability to complete the required apprenticeship training before attaining the
29 age of 70 years is not an unlawful employment practice. The commissioner
30 shall administer this section with respect to apprentices under ORS 660.002
31 to 660.210 equally with regard to all employees and labor organizations.

1 (3) The compulsory retirement of employees required by law at any age
2 is not an unlawful employment practice if lawful under federal law.

3 (4)(a) It is not an unlawful employment practice for an employer or labor
4 organization to provide or make financial provision for child care services
5 of a custodial or other nature to its employees or members who are respon-
6 sible for a minor child.

7 (b) As used in this subsection, “responsible for a minor child” means
8 having custody or legal guardianship of a minor child or acting in loco
9 parentis to the child.

10 (5) This section does not prohibit an employer from enforcing an other-
11 wise valid dress code or policy, as long as the employer provides, on a
12 case-by-case basis, for reasonable accommodation of an individual based on
13 the health and safety needs of the individual **and the dress code or policy**
14 **does not have a disproportionate adverse impact on members of a**
15 **protected class to a greater extent than the policy impacts persons**
16 **generally.**

17
18 **PENALTIES**
19

20 **SECTION 6.** ORS 659A.885 is amended to read:

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

1 reasonable attorney fees at trial and on appeal. Except as provided in sub-
2 section (3) of this section:

3 (a) The judge shall determine the facts in an action under this subsection;
4 and

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

8 (2) An action may be brought under subsection (1) of this section alleging
9 a violation of:

10 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 408.230, 408.237 (2), 475B.281,
11 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547, 653.549,
12 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.063,
13 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147, 659A.150 to
14 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228, 659A.230,
15 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290, 659A.300,
16 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.355 or 659A.421 **or**
17 **section 1 of this 2020 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, 652.220, 652.355, 653.547, 653.549, 659.852, 659A.030,
22 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to 659A.145,
23 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262, 659A.290,
24 659A.318, 659A.355 or 659A.421:

25 (a) The court may award, in addition to the relief authorized under sub-
26 section (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
31 19.415 (1); and

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

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

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

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

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

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

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

22 (8) Any individual against whom any distinction, discrimination or re-
23 striction on account of race, color, religion, sex, sexual orientation, national
24 origin, marital status or age, if the individual is 18 years of age or older,
25 has been made by any place of public accommodation, as defined in ORS
26 659A.400, by any employee or person acting on behalf of the place or by any
27 person aiding or abetting the place or person in violation of ORS 659A.406
28 may bring an action against the operator or manager of the place, the em-
29 ployee or person acting on behalf of the place or the aider or abettor of the
30 place or person. Notwithstanding subsection (1) of this section, in an action
31 under this subsection:

1 (a) The court may award, in addition to the relief authorized under sub-
2 section (1) of this section, compensatory and punitive damages;

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

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

7 (d) The court shall award reasonable attorney fees to a prevailing
8 plaintiff;

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

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

16 (9) When the commissioner or the Attorney General has reasonable cause
17 to believe that a person or group of persons is engaged in a pattern or
18 practice of resistance to the rights protected by ORS 659A.145 or 659A.421
19 or federal housing law, or that a group of persons has been denied any of the
20 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
21 commissioner or the Attorney General may file a civil action on behalf of
22 the aggrieved persons in the same manner as a person or group of persons
23 may file a civil action under this section. In a civil action filed under this
24 subsection, the court may assess against the respondent, in addition to the
25 relief authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

28 (10) In any action under subsection (1) of this section alleging a violation
29 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing
30 law, when the commissioner is pursuing the action on behalf of an aggrieved
31 complainant, the court shall award reasonable attorney fees to the commis-

1 sioner if the commissioner prevails in the action. The court may award rea-
2 sonable attorney fees and expert witness fees incurred by a defendant that
3 prevails in the action if the court determines that the commissioner had no
4 objectively reasonable basis for asserting the claim or for appealing an ad-
5 verse decision of the trial court.

6 (11) In an action under subsection (1) or (9) of this section alleging a vi-
7 olation of ORS 659A.145 or 659A.421 or discrimination under federal housing
8 law:

9 (a) “Aggrieved person” includes a person who believes that the person:

10 (A) Has been injured by an unlawful practice or discriminatory housing
11 practice; or

12 (B) Will be injured by an unlawful practice or discriminatory housing
13 practice that is about to occur.

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

19 **SECTION 7.** ORS 659A.885, as amended by section 7, chapter 343, Oregon
20 Laws 2019, and section 7, chapter 463, Oregon Laws 2019, is amended to read:

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

1 reasonable attorney fees at trial and on appeal. Except as provided in sub-
2 section (3) of this section:

3 (a) The judge shall determine the facts in an action under this subsection;
4 and

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

8 (2) An action may be brought under subsection (1) of this section alleging
9 a violation of:

10 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),
11 475B.281, 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.355, 659A.370
17 or 659A.421 **or section 1 of this 2020 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.355, 659A.370 or 659A.421:

25 (a) The court may award, in addition to the relief authorized under sub-
26 section (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
31 19.415 (1); and

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

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

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

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

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

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

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

22 (8) Any individual against whom any distinction, discrimination or re-
23 striction on account of race, color, religion, sex, sexual orientation, national
24 origin, marital status or age, if the individual is 18 years of age or older,
25 has been made by any place of public accommodation, as defined in ORS
26 659A.400, by any employee or person acting on behalf of the place or by any
27 person aiding or abetting the place or person in violation of ORS 659A.406
28 may bring an action against the operator or manager of the place, the em-
29 ployee or person acting on behalf of the place or the aider or abettor of the
30 place or person. Notwithstanding subsection (1) of this section, in an action
31 under this subsection:

1 (a) The court may award, in addition to the relief authorized under sub-
2 section (1) of this section, compensatory and punitive damages;

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

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

7 (d) The court shall award reasonable attorney fees to a prevailing
8 plaintiff;

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

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

16 (9) When the commissioner or the Attorney General has reasonable cause
17 to believe that a person or group of persons is engaged in a pattern or
18 practice of resistance to the rights protected by ORS 659A.145 or 659A.421
19 or federal housing law, or that a group of persons has been denied any of the
20 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
21 commissioner or the Attorney General may file a civil action on behalf of
22 the aggrieved persons in the same manner as a person or group of persons
23 may file a civil action under this section. In a civil action filed under this
24 subsection, the court may assess against the respondent, in addition to the
25 relief authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

28 (10) In any action under subsection (1) of this section alleging a violation
29 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing
30 law, when the commissioner is pursuing the action on behalf of an aggrieved
31 complainant, the court shall award reasonable attorney fees to the commis-

1 sioner if the commissioner prevails in the action. The court may award rea-
2 sonable attorney fees and expert witness fees incurred by a defendant that
3 prevails in the action if the court determines that the commissioner had no
4 objectively reasonable basis for asserting the claim or for appealing an ad-
5 verse decision of the trial court.

6 (11) In an action under subsection (1) or (9) of this section alleging a vi-
7 olation of ORS 659A.145 or 659A.421 or discrimination under federal housing
8 law:

9 (a) “Aggrieved person” includes a person who believes that the person:

10 (A) Has been injured by an unlawful practice or discriminatory housing
11 practice; or

12 (B) Will be injured by an unlawful practice or discriminatory housing
13 practice that is about to occur.

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

19 **SECTION 8.** ORS 659A.885, as amended by section 7, chapter 343, Oregon
20 Laws 2019, section 7, chapter 463, Oregon Laws 2019, and section 12, chapter
21 701, Oregon Laws 2019, is amended to read:

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

1 under this subsection, the court may allow the prevailing party costs and
2 reasonable attorney fees at trial and on appeal. Except as provided in sub-
3 section (3) of this section:

4 (a) The judge shall determine the facts in an action under this subsection;
5 and

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

9 (2) An action may be brought under subsection (1) of this section alleging
10 a violation of:

11 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),
12 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
13 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,
14 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147,
15 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
16 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290,
17 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343,
18 659A.355, 659A.370 or 659A.421 **or section 1 of this 2020 Act**; or

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

21 (3) In any action under subsection (1) of this section alleging a violation
22 of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 659.852,
23 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to
24 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
25 659A.290, 659A.318, 659A.343, 659A.355, 659A.370 or 659A.421:

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

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

30 (c) Upon appeal of any judgment finding a violation, the appellate court
31 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, national
25 origin, marital status or age, if the individual is 18 years of age or older,
26 has been made by any place of public accommodation, as defined in ORS
27 659A.400, by any employee or person acting on behalf of the place or by any
28 person aiding or abetting the place or person in violation of ORS 659A.406
29 may bring an action against the operator or manager of the place, the em-
30 ployee or person acting on behalf of the place or the aider or abettor of the
31 place or person. Notwithstanding subsection (1) of this section, in an action

1 under this subsection:

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

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

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

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

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

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

17 (9) When the commissioner or the Attorney General has reasonable cause
18 to believe that a person or group of persons is engaged in a pattern or
19 practice of resistance to the rights protected by ORS 659A.145 or 659A.421
20 or federal housing law, or that a group of persons has been denied any of the
21 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
22 commissioner or the Attorney General may file a civil action on behalf of
23 the aggrieved persons in the same manner as a person or group of persons
24 may file a civil action under this section. In a civil action filed under this
25 subsection, the court may assess against the respondent, in addition to the
26 relief authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

29 (10) In any action under subsection (1) of this section alleging a violation
30 of ORS 659A.145 or 659A.421 or alleging discrimination under federal housing
31 law, when the commissioner is pursuing the action on behalf of an aggrieved

1 complainant, the court shall award reasonable attorney fees to the commis-
2 sioner if the commissioner prevails in the action. The court may award rea-
3 sonable attorney fees and expert witness fees incurred by a defendant that
4 prevails in the action if the court determines that the commissioner had no
5 objectively reasonable basis for asserting the claim or for appealing an ad-
6 verse decision of the trial court.

7 (11) In an action under subsection (1) or (9) of this section alleging a vi-
8 olation of ORS 659A.145 or 659A.421 or discrimination under federal housing
9 law:

10 (a) "Aggrieved person" includes a person who believes that the person:

11 (A) Has been injured by an unlawful practice or discriminatory housing
12 practice; or

13 (B) Will be injured by an unlawful practice or discriminatory housing
14 practice that is about to occur.

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

20 **SECTION 9.** ORS 659A.885, as amended by section 10, chapter 197,
21 Oregon Laws 2017, section 6, chapter 139, Oregon Laws 2019, section 8,
22 chapter 343, Oregon Laws 2019, section 8, chapter 463, Oregon Laws 2019, and
23 section 13, chapter 701, Oregon Laws 2019, is amended to read:

24 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice
25 specified in subsection (2) of this section may file a civil action in circuit
26 court. In any action under this subsection, the court may order injunctive
27 relief and any other equitable relief that may be appropriate, including but
28 not limited to reinstatement or the hiring of employees with or without back
29 pay. A court may order back pay in an action under this subsection only for
30 the two-year period immediately preceding the filing of a complaint under
31 ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries,

1 or if a complaint was not filed before the action was commenced, the two-
2 year period immediately preceding the filing of the action. In any action
3 under this subsection, the court may allow the prevailing party costs and
4 reasonable attorney fees at trial and on appeal. Except as provided in sub-
5 section (3) of this section:

6 (a) The judge shall determine the facts in an action under this subsection;
7 and

8 (b) Upon any appeal of a judgment in an action under this subsection, the
9 appellate court shall review the judgment pursuant to the standard estab-
10 lished by ORS 19.415 (3).

11 (2) An action may be brought under subsection (1) of this section alleging
12 a violation of:

13 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),
14 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
15 653.549, 653.601 to 653.661, 659.852, 659A.030, 659A.040, 659A.043, 659A.046,
16 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to 659A.145, 659A.147,
17 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203, 659A.218, 659A.228,
18 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262, 659A.277, 659A.290,
19 659A.300, 659A.306, 659A.309, 659A.315, 659A.318, 659A.320, 659A.343,
20 659A.355, 659A.357, 659A.370 or 659A.421 **or section 1 of this 2020 Act**; or

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

23 (3) In any action under subsection (1) of this section alleging a violation
24 of ORS 25.337, 25.424, 243.323, 652.220, 652.355, 653.547, 653.549, 659.852,
25 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082, 659A.103 to
26 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to 659A.262,
27 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421:

28 (a) The court may award, in addition to the relief authorized under sub-
29 section (1) of this section, compensatory damages or \$200, whichever is
30 greater, and punitive damages;

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

1 (c) Upon appeal of any judgment finding a violation, the appellate court
2 shall review the judgment pursuant to the standard established by ORS
3 19.415 (1); and

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

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

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

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

13 (5) In any action under subsection (1) of this section alleging a violation
14 of ORS 653.060 or 659A.147, the court may award, in addition to the relief
15 authorized under subsection (1) of this section, compensatory damages or
16 \$200, whichever is greater.

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

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

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

1 ployee or person acting on behalf of the place or the aider or abettor of the
2 place or person. Notwithstanding subsection (1) of this section, in an action
3 under this subsection:

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

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

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

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

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

16 (f) Upon any appeal of a judgment under this subsection, the appellate
17 court shall review the judgment pursuant to the standard established by ORS
18 19.415 (1).

19 (9) When the commissioner or the Attorney General has reasonable cause
20 to believe that a person or group of persons is engaged in a pattern or
21 practice of resistance to the rights protected by ORS 659A.145 or 659A.421
22 or federal housing law, or that a group of persons has been denied any of the
23 rights protected by ORS 659A.145 or 659A.421 or federal housing law, the
24 commissioner or the Attorney General may file a civil action on behalf of
25 the aggrieved persons in the same manner as a person or group of persons
26 may file a civil action under this section. In a civil action filed under this
27 subsection, the court may assess against the respondent, in addition to the
28 relief authorized under subsections (1) and (3) of this section, a civil penalty:

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

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

31 (10) In any action under subsection (1) of this section alleging a violation

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

9 (11) In an action under subsection (1) or (9) of this section alleging a vi-
10 olation of ORS 659A.145 or 659A.421 or discrimination under federal housing
11 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 10.** 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 58, chapter 700, Oregon Laws 2019, and section 13, chapter 701,
26 Oregon Laws 2019, is amended to read:

27 659A.885. (1) Any person claiming to be aggrieved by an unlawful practice
28 specified in subsection (2) of this section may file a civil action in circuit
29 court. In any action under this subsection, the court may order injunctive
30 relief and any other equitable relief that may be appropriate, including but
31 not limited to reinstatement or the hiring of employees with or without back

1 pay. A court may order back pay in an action under this subsection only for
2 the two-year period immediately preceding the filing of a complaint under
3 ORS 659A.820 with the Commissioner of the Bureau of Labor and Industries,
4 or if a complaint was not filed before the action was commenced, the two-
5 year period immediately preceding the filing of the action. In any action
6 under this subsection, the court may allow the prevailing party costs and
7 reasonable attorney fees at trial and on appeal. Except as provided in sub-
8 section (3) of this section:

9 (a) The judge shall determine the facts in an action under this subsection;
10 and

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

14 (2) An action may be brought under subsection (1) of this section alleging
15 a violation of:

16 (a) ORS 10.090, 10.092, 25.337, 25.424, 171.120, 243.323, 408.230, 408.237 (2),
17 475B.281, 476.574, 652.020, 652.220, 652.355, 653.060, 653.263, 653.265, 653.547,
18 653.549, 653.601 to 653.661, 657B.060 and 657B.070, 659.852, 659A.030, 659A.040,
19 659A.043, 659A.046, 659A.063, 659A.069, 659A.082, 659A.088, 659A.103 to
20 659A.145, 659A.147, 659A.150 to 659A.186, 659A.194, 659A.199, 659A.203,
21 659A.218, 659A.228, 659A.230, 659A.233, 659A.236, 659A.250 to 659A.262,
22 659A.277, 659A.290, 659A.300, 659A.306, 659A.309, 659A.315, 659A.318,
23 659A.320, 659A.343, 659A.355, 659A.357, 659A.370 or 659A.421 **or section 1 of**
24 **this 2020 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, 657B.060 and
29 657B.070, 659.852, 659A.030, 659A.040, 659A.043, 659A.046, 659A.069, 659A.082,
30 659A.103 to 659A.145, 659A.199, 659A.203, 659A.228, 659A.230, 659A.250 to
31 659A.262, 659A.290, 659A.318, 659A.343, 659A.355, 659A.357, 659A.370 or

1 659A.421:

2 (a) The court may award, in addition to the relief authorized under sub-
3 section (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-
31 striction on account of race, color, religion, sex, sexual orientation, national

1 origin, marital status or age, if the individual is 18 years of age or older,
2 has been made by any place of public accommodation, as defined in ORS
3 659A.400, by any employee or person acting on behalf of the place or by any
4 person aiding or abetting the place or person in violation of ORS 659A.406
5 may bring an action against the operator or manager of the place, the em-
6 ployee or person acting on behalf of the place or the aider or abettor of the
7 place or person. Notwithstanding subsection (1) of this section, in an action
8 under this subsection:

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

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

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

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

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

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

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

1 subsection, the court may assess against the respondent, in addition to the
2 relief authorized under subsections (1) and (3) of this section, a civil penalty:

- 3 (a) In an amount not exceeding \$50,000 for a first violation; and
- 4 (b) In an amount not exceeding \$100,000 for any subsequent violation.

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

14 (11) In an action under subsection (1) or (9) of this section alleging a vi-
15 olation of ORS 659A.145 or 659A.421 or discrimination under federal housing
16 law:

- 17 (a) “Aggrieved person” includes a person who believes that the person:
 - 18 (A) Has been injured by an unlawful practice or discriminatory housing
 - 19 practice; or
 - 20 (B) Will be injured by an unlawful practice or discriminatory housing
 - 21 practice that is about to occur.

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

27 **SECTION 11. The unit captions used in this 2020 Act are provided**
28 **only for the convenience of the reader and do not become part of the**
29 **statutory law of this state or express any legislative intent in the**
30 **enactment of this 2020 Act.**

31