

Senate Bill 383

Sponsored by Senator WALKER (at the request of Randy Gurchin) (Pre-session filed.)

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 **as introduced**.

Requires person that operates service station, business or other place for purpose of retailing and delivering gasoline, diesel or other fuel into tanks of motor vehicles to sell only in whole cents. Prescribes method for rounding wholesale prices set in fractions of cents. Requires display of certain information in signs visible from street. Makes violation of pricing provisions unlawful trade practice.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to motor vehicle fuel prices; creating new provisions; amending ORS 646.608 and 646.930;
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 646.930 is amended to read:

6 646.930. (1) A person [*who*] **that** operates a service station, business or other place for the pur-
7 pose of retailing and delivering gasoline, diesel or other fuel into the tanks of motor vehicles **shall**
8 **sell the gasoline, diesel or other fuel at a price denominated only in whole cents per unit of**
9 **measurement and shall display the price only in whole cents on any dispensing device used**
10 **for delivering the fuel. If the wholesale price per unit of measurement includes a fraction**
11 **of a cent, the person shall round the retail price to the nearest whole cent so that a price**
12 **above and including 0.5 of a cent becomes the next highest whole cent and a price below 0.5**
13 **of a cent becomes the next lowest whole cent.**

14 (2) A person that operates a service station, business or other place for the purpose of
15 retailing and delivering gasoline, diesel or other fuel into the tanks of motor vehicles may
16 display on a sign visible from the street the lowest cash prices charged for the sale of all grades
17 of gasoline, diesel or other fuel.

18 [(2)] (3) The following apply to a sign displaying prices under this section:

19 (a) **The price per unit of measurement shall be displayed only in whole cents.**

20 [(a)] (b) The price per unit of measurement and the unit of measurement for a particular kind
21 of fuel must be the same on the sign as on any dispensing device used for delivering that kind of fuel
22 into the tanks of motor vehicles.

23 [(b)] (c) If a cash price displayed on a sign is available only under some conditions, the sign and
24 the dispensing device must clearly state the conditions.

25 [(c)] (d) If a price displayed on a sign is available only in a certain area of the service station
26 or business, the area where the price displayed is available must be clearly identified.

27 (4) **A person that displays a fuel price in accordance with subsection (3) of this section**
28 **shall also state on a sign visible from the street that all fuel prices are displayed in whole**
29 **cents.**

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 [(3)] (5) A person [*who*] **that** displays a cash price that is available only under some conditions
 2 may not require, as a condition of buying fuel at the displayed price, that the buyer fill the fuel tank
 3 of the buyer's vehicle.

4 **(6) The Department of Justice may adopt rules necessary to implement and enforce this**
 5 **section.**

6 **SECTION 2.** ORS 646.608 is amended to read:

7 646.608. (1) A person engages in an unlawful practice when in the course of the person's busi-
 8 ness, vocation or occupation the person does any of the following:

9 (a) Passes off real estate, goods or services as those of another.

10 (b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-
 11 proval, or certification of real estate, goods or services.

12 (c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-
 13 ciation with, or certification by, another.

14 (d) Uses deceptive representations or designations of geographic origin in connection with real
 15 estate, goods or services.

16 (e) Represents that real estate, goods or services have sponsorship, approval, characteristics,
 17 ingredients, uses, benefits, quantities or qualities that they do not have or that a person has a
 18 sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

19 (f) Represents that real estate or goods are original or new if they are deteriorated, altered,
 20 reconditioned, reclaimed, used or secondhand.

21 (g) Represents that real estate, goods or services are of a particular standard, quality, or grade,
 22 or that real estate or goods are of a particular style or model, if they are of another.

23 (h) Disparages the real estate, goods, services, property or business of a customer or another
 24 by false or misleading representations of fact.

25 (i) Advertises real estate, goods or services with intent not to provide them as advertised, or
 26 with intent not to supply reasonably expectable public demand, unless the advertisement discloses
 27 a limitation of quantity.

28 (j) Makes false or misleading representations of fact concerning the reasons for, existence of,
 29 or amounts of price reductions.

30 (k) Makes false or misleading representations concerning credit availability or the nature of the
 31 transaction or obligation incurred.

32 (L) Makes false or misleading representations relating to commissions or other compensation to
 33 be paid in exchange for permitting real estate, goods or services to be used for model or demon-
 34 stration purposes or in exchange for submitting names of potential customers.

35 (m) Performs service on or dismantles any goods or real estate when not authorized by the
 36 owner or apparent owner thereof.

37 (n) Solicits potential customers by telephone or door to door as a seller unless the person pro-
 38 vides the information required under ORS 646.611.

39 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give
 40 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
 41 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or
 42 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,
 43 discount or other value is contingent upon occurrence of an event subsequent to the time the cus-
 44 tomer enters into the transaction.

45 (p) Makes any false or misleading statement about a prize, contest or promotion used to publi-

1 cize a product, business or service.

2 (q) Promises to deliver real estate, goods or services within a certain period of time with intent
3 not to deliver them as promised.

4 (r) Organizes or induces or attempts to induce membership in a pyramid club.

5 (s) Makes false or misleading representations of fact concerning the offering price of, or the
6 person's cost for real estate, goods or services.

7 (t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any
8 known material defect or material nonconformity.

9 (u) Engages in any other unfair or deceptive conduct in trade or commerce.

10 (v) Violates any of the provisions relating to auction sales, auctioneers or auction marts under
11 ORS 698.640, whether in a commercial or noncommercial situation.

12 (w) Manufactures mercury fever thermometers.

13 (x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal
14 law, or is:

15 (A) Prescribed by a person licensed under ORS chapter 677; and

16 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and
17 on the proper cleanup of mercury should breakage occur.

18 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to
19 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be
20 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
21 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
22 graph, "thermostat" means a device commonly used to sense and, through electrical communication
23 with heating, cooling or ventilation equipment, control room temperature.

24 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains
25 mercury light switches.

26 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

27 (bb) Violates ORS 646.850 (1).

28 (cc) Violates any requirement of ORS 646.661 to 646.686.

29 (dd) Violates the provisions of ORS 128.801 to 128.898.

30 (ee) Violates ORS 646.883 or 646.885.

31 (ff) Violates any provision of ORS 646.195.

32 (gg) Violates ORS 646.569.

33 (hh) Violates the provisions of ORS 646.859.

34 (ii) Violates ORS 759.290.

35 (jj) Violates ORS 646.872.

36 (kk) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.

37 (LL) Violates ORS 646.563.

38 (mm) Violates ORS 759.690 or any rule adopted pursuant thereto.

39 (nn) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
40 thereto.

41 (oo) Violates ORS 646.892 or 646.894.

42 (pp) Violates any provision of ORS 646.249 to 646.259.

43 (qq) Violates ORS 646.384.

44 (rr) Violates ORS 646.871.

45 (ss) Violates ORS 822.046.

- 1 (tt) Violates ORS 128.001.
- 2 (uu) Violates ORS 646.649 (2) to (4).
- 3 (vv) Violates ORS 646.877 (2) to (4).
- 4 (ww) Violates ORS 87.686.
- 5 (xx) Violates ORS 646.651.
- 6 (yy) Violates ORS 646.879.
- 7 (zz) Violates ORS 646.402 or any rule adopted under ORS 646.402 or 646.404.
- 8 (aaa) Violates ORS 180.440 (1).
- 9 (bbb) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 10 (ccc) Violates ORS 87.007 (2) or (3).
- 11 (ddd) Violates ORS 92.405 (1), (2) or (3).
- 12 (eee) Engages in an unlawful practice under ORS 646.648.
- 13 **(fff) Violates a provision of ORS 646.930.**
- 14 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
- 15 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
- 16 (3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney
- 17 need not prove competition between the parties or actual confusion or misunderstanding.
- 18 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
- 19 torney General has first established a rule in accordance with the provisions of ORS chapter 183
- 20 declaring the conduct to be unfair or deceptive in trade or commerce.
- 21 (5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought
- 22 under subsection (1)(aaa) of this section by a person other than a prosecuting attorney, relief is
- 23 limited to an injunction and the prevailing party may be awarded reasonable attorney fees.
- 24 **SECTION 3. The Department of Justice may take any action before January 1, 2008, that**
- 25 **is necessary to enable the department to exercise, on and after January 1, 2008, all the du-**
- 26 **ties, functions and powers conferred on the department by the amendments to ORS 646.930**
- 27 **by section 1 of this 2007 Act.**
- 28 **SECTION 4. The amendments to ORS 646.608 and 646.930 by sections 1 and 2 of this 2007**
- 29 **Act apply to all retail sales of gasoline, diesel and other motor vehicle fuel on or after Jan-**
- 30 **uary 1, 2008.**
- 31 **SECTION 5. The amendments to ORS 646.608 and 646.930 by sections 1 and 2 of this 2007**
- 32 **Act become operative January 1, 2008.**
- 33 **SECTION 6. This 2007 Act being necessary for the immediate preservation of the public**
- 34 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
- 35 **on its passage.**
- 36