

Senate Bill 431

Sponsored by Senator GORDLY

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**.

Prohibits certain business practices and requires other business practices by towers of motor vehicles. Authorizes Attorney General to adopt rules to implement prohibitions and requirements.

Authorizes enforcement of violation of certain business practices as unlawful trade practices.

Makes violation of certain business practices grounds for loss or suspension of towing business certificate.

Modifies procedure for towing motor vehicle from private property without prior approval or authorization of owner of motor vehicle.

A BILL FOR AN ACT

1
2 Relating to involuntary towing of motor vehicles; creating new provisions; and amending ORS
3 98.805, 98.810, 98.812, 98.830, 98.835, 646.608, 811.620, 819.160 and 822.215.

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

5 **SECTION 1. (1) The Legislative Assembly finds that:**

6 (a) **49 U.S.C. 14501(c)(1) limits the authority of the state and political subdivisions of the**
7 **state to enact or enforce laws or ordinances related to price, route or service of motor car-**
8 **riers with respect to the transportation of property.**

9 (b) **49 U.S.C. 14501(c)(2)(A) exempts, from the limits described in paragraph (a) of this**
10 **subsection, safety regulations with respect to motor vehicles.**

11 (c) **49 U.S.C. 14501(c)(2)(C) exempts, from the limits described in paragraph (a) of this**
12 **subsection, laws or ordinances relating to the price of for-hire motor vehicle transportation**
13 **by a tow truck if the transportation is performed without the prior consent or authorization**
14 **of the owner or operator of the motor vehicle.**

15 **(2) The Legislative Assembly declares that:**

16 (a) **Statutes that assist members of the public in avoiding involuntary loss of use of mo-**
17 **tor vehicles and in expediting recovery of motor vehicles and the personal property in the**
18 **vehicles promote the safety and welfare of members of the public.**

19 (b) **ORS 98.810 to 98.818 do not preempt any authority that a local government, as defined**
20 **in ORS 174.116, may have to regulate the price of for-hire motor vehicle transportation by a**
21 **tow vehicle if the transportation is performed without the prior consent or authorization of**
22 **the owner or operator of the motor vehicle.**

23 **SECTION 2. As used in sections 1 to 6 of this 2007 Act:**

24 (1) **"Consideration" has the meaning given that term in ORS 171.725.**

25 (2) **"Motor vehicle" has the meaning given that term in ORS 801.360.**

26 (3) **"Parking facility" has the meaning given that term in ORS 98.805.**

27 (4) **"Tower" means a person that:**

28 (a) **Owns or operates a tow vehicle for profit; or**

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 (b) Is employed by a person that owns or operates a tow vehicle for profit.

2 (5) "Tow vehicle" has the meaning given that term in ORS 801.530.

3 **SECTION 3.** A tower may not:

4 (1) Tow a motor vehicle without providing to the owner or operator of the motor vehicle
5 the information required under section 4 of this 2007 Act in the manner required under sec-
6 tion 4 of this 2007 Act.

7 (2) Charge more than:

8 (a) The estimated cost of the tow; or

9 (b) A price disclosed under section 4 of this 2007 Act.

10 (3) Solicit towing business at, or within 1,000 feet of, the site of a motor vehicle accident.

11 (4)(a) Except as provided in paragraph (b) of this subsection, park a tow vehicle within
12 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing
13 business.

14 (b) A tower may park a tow vehicle within 1,000 feet of a parking facility for the purpose
15 of monitoring the parking facility for towing business if the tower provides notice of the
16 hours during which monitoring occurs on signs that are clearly readable by an operator of
17 a motor vehicle in each parking stall and at each entrance to the parking facility.

18 (5) Provide consideration to obtain the privilege of towing motor vehicles from a parking
19 facility. Provision of signs by a tower under section 5 of this 2007 Act does not constitute
20 consideration.

21 (6) Require, as a condition of towing a motor vehicle or releasing a motor vehicle or
22 personal property in the motor vehicle, that the owner or operator of the motor vehicle
23 agree not to dispute:

24 (a) The reason for the tow;

25 (b) The validity or amount of charges; or

26 (c) The responsibility of the tower for the condition of the motor vehicle or personal
27 property in the motor vehicle.

28 (7) Hold a towed motor vehicle, including the personal property inside the vehicle, in an
29 unsafe manner.

30 **SECTION 4.** (1) A tower shall disclose to the owner or operator of a motor vehicle in a
31 conspicuous written statement of at least 10-point boldfaced type:

32 (a) The estimated cost of the tow;

33 (b) The prices the tower charges for goods and services;

34 (c) The location where the tower will store the motor vehicle and personal property in
35 the motor vehicle;

36 (d) The telephone number of the tower and any other means of contacting the tower, and
37 the hours of availability at that telephone number and by the other means of contacting the
38 tower; and

39 (e) The methods of payment that the tower accepts.

40 (2) If the owner or operator of the motor vehicle is present when the tower commences,
41 or has commenced, the removal of the motor vehicle by attaching the motor vehicle to the
42 tow vehicle, the tower shall provide the information required under subsection (1) of this
43 section to the owner or operator of the motor vehicle before towing the motor vehicle.

44 (3) If the owner or operator of the motor vehicle is not present when the tower com-
45 mences, or has commenced, the removal of the motor vehicle by attaching the motor vehicle

1 to the tow vehicle, the tower shall:

2 (a) Within 24 hours after towing the motor vehicle, request the name and address of the
 3 owner of the motor vehicle from the motor vehicle agency for the state in which the motor
 4 vehicle is registered.

5 (b) Provide the information required under subsection (1) of this section to the owner of
 6 the motor vehicle by mail or facsimile transmission within 24 hours after the receipt of the
 7 information from the state motor vehicle agency and retain the record of the mailing or
 8 facsimile transmission for three years after the tow.

9 **SECTION 5.** A tower need not provide the written information required under section 4
 10 of this 2007 Act if:

11 (1) The motor vehicle is towed from a parking facility where the tower has provided the
 12 information on signs that are clearly readable by an operator of a motor vehicle in each
 13 parking stall and at each entrance to the parking facility.

14 (2) The tower is hired or otherwise engaged by an agency taking custody of a vehicle
 15 under ORS 819.140.

16 **SECTION 6.** A tower shall permit the owner or operator of a motor vehicle that the
 17 tower has towed to:

18 (1) Redeem the motor vehicle:

19 (a) Immediately between 8 a.m. and 6 p.m., Monday through Friday, except legal holidays;
 20 and

21 (b) At all other hours, within 30 minutes after asking the tower to release the motor
 22 vehicle;

23 (2) Contact the tower at any time to receive information about the location of the motor
 24 vehicle and instructions for obtaining release of the motor vehicle; and

25 (3) Obtain all personal property in the motor vehicle within 24 hours after asking the
 26 tower to release the personal property, without redeeming the motor vehicle.

27 **SECTION 7.** The Attorney General may adopt rules to implement sections 3 to 6 of this
 28 2007 Act.

29 **SECTION 8.** ORS 98.805 is added to and made a part of ORS 98.810 to 98.818.

30 **SECTION 9.** ORS 98.805 is amended to read:

31 98.805. As used in ORS 98.810 to 98.818:

32 (1) **“Motor vehicle” has the meaning given that term in ORS 801.360.**

33 [(1)] (2) “Owner of a parking facility” means:

34 (a) The owner, lessee or person in lawful possession of a private parking facility; or

35 (b) Any officer or agency of this state with authority to control or operate a parking facility.

36 [(2)] (3) “Owner of proscribed property” means the owner, lessee or person in lawful possession
 37 of proscribed property.

38 [(3)] (4) “Parking facility” means any property used for motor vehicle parking, **including resi-**
 39 **dential property with designated parking for more than 10 motor vehicles.**

40 [(4)] (5) “Proscribed property” means any part of private property:

41 (a) [Where] **On which** parking is not normally permitted [at all]; or

42 (b) [That is] Used primarily for [residences, including but not limited to houses and apartments,
 43 where there is] **residential purposes with** designated parking for [not more than] **10 or fewer motor**
 44 **vehicles.**

45 (6) **“Tower” means a person that holds a certificate issued under ORS 822.205.**

1 (7) “Unclaimed motor vehicle” means a motor vehicle that has:

2 (a) Been towed and placed in storage; and

3 (b) Remained in storage for at least seven consecutive days from the date the motor
4 vehicle was towed.

5 **SECTION 10.** ORS 98.810 is amended to read:

6 98.810. [No] A person **may not**, without the permission of:

7 (1) The owner of a parking facility, [shall] leave or park any **motor** vehicle on the parking fa-
8 cility if there is a sign displayed in plain view at the parking facility [*prohibiting public parking*
9 *thereon or restricting parking thereon*] **that describes the prohibition or restriction of parking**
10 **at the parking facility.**

11 (2) The owner of proscribed property, [shall] leave or park any **motor** vehicle on the proscribed
12 property whether or not there is a sign [*prohibiting or restricting parking on the proscribed*
13 *property*] **displayed in plain view on the proscribed property that describes the prohibition or**
14 **restriction of parking on the proscribed property.**

15 **SECTION 11.** ORS 98.812 is amended to read:

16 98.812. (1) If a motor vehicle has been left or parked in violation of ORS 98.810, the owner of
17 the parking facility or the owner of the proscribed property, after notice to the local law enforce-
18 ment agency, may have [*the motor vehicle towed*] **a tower tow the motor vehicle** from the parking
19 facility or the proscribed property and [*placed in storage at a public garage or public parking lot*]
20 **place the motor vehicle in storage.**

21 (2) **A tower may not remove, or commence the removal of, a motor vehicle from a**
22 **parking facility or from proscribed property unless the owner of the parking facility, or the**
23 **owner’s agent, or the owner of proscribed property, or the owner’s agent, is present and**
24 **provides written authorization for the removal.**

25 (3) **A tower who tows a motor vehicle as authorized under subsection (2) of this section**
26 **shall provide to the owner or operator of the motor vehicle the information required under**
27 **section 4 of this 2007 Act in the manner required under section 4 of this 2007 Act.**

28 (4) **A tower may not remove, or commence the removal of, a motor vehicle that is oth-**
29 **erwise properly parked on proscribed property or in a parking facility solely because the**
30 **registration plates are missing or have expired.**

31 [(2)] (5) [*The garagekeeper or public parking operator*] **A tower** is entitled to a lien on [*the*] **an**
32 **unclaimed motor** vehicle and its contents for the [*garagekeeper’s or operator’s*] **tower’s** just and
33 reasonable charges and may retain possession thereof until the just and reasonable charges for the
34 towage, care and storage of the **unclaimed motor** vehicle have been paid if the [*garagekeeper or*
35 *public parking operator*] **tower** complies with the following requirements:

36 (a) The [*garagekeeper or public parking operator*] **tower** shall notify the local law enforcement
37 agency of the location of the **motor** vehicle within one hour after the **motor** vehicle is placed in
38 storage;

39 (b) If the unclaimed **motor** vehicle is registered in Oregon, the [*garagekeeper or public parking*
40 *operator*] **tower** shall give notice, within 15 days after the **motor** vehicle is placed in storage, to the
41 **motor** vehicle owner [*or*] **and** any other person with an interest in the **motor** vehicle, as indicated
42 by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted
43 within the 15-day period, but need not be received within that period, but within a reasonable time.
44 If the [*garagekeeper or public parking operator*] **tower** fails to comply with the notice requirements
45 of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses in-

1 curred within the 15-day period for towage, care and storage of the **motor** vehicle; and

2 (c) If the unclaimed **motor** vehicle is not registered in Oregon, the [*garagekeeper or public*
3 *parking operator*] **tower** shall, within 15 days after the **motor** vehicle is placed in storage, [*notify*
4 *and*] request the title information and the name, address and telephone number of the **motor** vehicle
5 owner from the motor vehicle agency for the state in which the **motor** vehicle is registered. The
6 [*garagekeeper or public parking operator*] **tower** shall have 15 days from the date of receipt of the
7 information from the state motor vehicle agency to notify the **motor** vehicle owner [*or*] **and** any
8 other person with an interest in the **motor** vehicle, as indicated by the certificate of title. If notice
9 under this paragraph is given by mail, it must be transmitted within 15 days [*from*] **after** the receipt
10 of information from the state motor vehicle agency, but need not be received within that period, but
11 within a reasonable time. If the [*garagekeeper or public parking operator*] **tower** fails to comply with
12 the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the
13 reasonable expenses incurred within the period between storage of the **motor** vehicle and receipt
14 of information from the state motor vehicle agency for towage, care and storage of the **motor** ve-
15 hicle.

16 [(3)] (6) The lien created by subsection [(2)] (5) of this section may be foreclosed only in the
17 manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed
18 under ORS 87.152.

19 **SECTION 12.** ORS 98.830 is amended to read:

20 98.830. (1) **As used in this section and ORS 98.835 and 98.840:**

21 (a) **“Motor vehicle” has the meaning given that term in ORS 801.360.**

22 (b) **“Tower” means a person that holds a certificate issued under ORS 822.205.**

23 (c) **“Unclaimed motor vehicle” has the meaning given that term in ORS 98.805.**

24 (2) A person who is the owner, or is in lawful possession, of private property on which a motor
25 vehicle has been abandoned may have [*the motor vehicle towed*] **a tower tow the motor vehicle**
26 from the property if:

27 [(1)] (a) The person affixes a notice to the **motor** vehicle stating that the **motor** vehicle will
28 be towed if it is not removed. The notice required by this [*subsection*] **paragraph** must remain on
29 the **motor** vehicle for 72 hours before the **motor** vehicle may be [*removed*] **towed**.

30 [(2)] (b) The person notifies the local law enforcement agency of the intent to have [*the vehicle*
31 *towed*] **a tower tow the motor vehicle**.

32 [(3)] (c) The person fills out and signs a form that includes:

33 [(a)] (A) A description of the **motor** vehicle to be towed;

34 [(b)] (B) The location of the property from which the **motor** vehicle will be towed; and

35 [(c)] (C) A statement that the person has complied with [*subsections (1) and (2) of this section*]
36 **paragraphs (a) and (b) of this subsection**.

37 **SECTION 13.** ORS 98.835 is amended to read:

38 98.835. (1) [*A person who tows a*] **A tower that tows an abandoned motor** vehicle pursuant
39 to ORS 98.830 is immune from civil liability for towing the **motor** vehicle if the [*person*] **tower** has
40 a form described in ORS 98.830 [(3)] (2)(c), filled out by a person purporting to be the owner or a
41 person in lawful possession of the private property from which the **motor** vehicle is towed. This
42 subsection does not grant immunity for any loss, damage or injury arising out of any negligent or
43 willful damage to, or destruction of, the **motor** vehicle that occurs during the course of the towing.

44 (2) [*The person who tows a*] **A tower that tows an abandoned motor** vehicle pursuant to ORS
45 98.830 is entitled to a lien on [*the*] **an unclaimed motor** vehicle and its contents for the [*person’s*]

1 **tower's** just and reasonable charges. *[and]* **The tower** may retain possession *[thereof]* **of the un-**
 2 **claimed motor vehicle and its contents** until the just and reasonable charges for the towage, care
 3 and storage of the **unclaimed motor** vehicle have been paid if the *[person]* **tower** complies with the
 4 following requirements:

5 (a) The *[person]* **tower** shall notify the local law enforcement agency of the location of the
 6 **motor** vehicle within one hour after the **motor** vehicle is placed in storage;

7 (b) If the unclaimed **motor** vehicle is registered in Oregon, the *[person]* **tower** shall give notice
 8 by certified mail, within 15 days after the **motor** vehicle is placed in storage, to the **motor** vehicle
 9 owner and any other person with an interest in the **motor** vehicle, as indicated by the certificate
 10 of title. If notice under this paragraph is given by mail, it must be transmitted within the 15-day
 11 period, but need not be received within that period, but within a reasonable time. If the *[person who*
 12 *tows the vehicle]* **tower** fails to comply with the notice requirements of this paragraph, the amount
 13 of the lien is limited to a sum equal to the reasonable expenses incurred within the 15-day period
 14 for towage, care and storage of the **motor** vehicle; and

15 (c) If the unclaimed **motor** vehicle is not registered in Oregon, the *[person]* **tower** shall, within
 16 15 days after the **motor** vehicle is placed in storage, *[notify and]* request the title information and
 17 the name, address and telephone number of the **motor** vehicle owner from the motor vehicle agency
 18 for the state in which the **motor** vehicle is registered. The *[person]* **tower** shall have 15 days from
 19 the date of receipt of the information from the state motor vehicle agency to notify the **motor** ve-
 20 hicle owner *[or]* **and** any other person with an interest in the **motor** vehicle, as indicated by the
 21 certificate of title. If notice under this paragraph is given by mail, it must be transmitted within 15
 22 days *[from]* **after** the receipt of information from the state motor vehicle agency, but need not be
 23 received within that period, but within a reasonable time. If the *[person]* **tower** fails to comply with
 24 the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the
 25 reasonable expenses incurred within the period between storage of the **motor** vehicle and receipt
 26 of information from the state motor vehicle agency for towage, care and storage of the **motor** ve-
 27 hicle.

28 (3) The lien created by subsection (2) of this section may be foreclosed only in the manner pro-
 29 vided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS
 30 87.152.

31 **SECTION 14.** ORS 811.620 is amended to read:

32 811.620. If a vehicle is illegally parked in violation of ORS 811.615, the vehicle may be removed
 33 and, if notice required under subsection (3) of this section is given, is subject to costs for the re-
 34 moval and storage of the vehicle as provided under the following:

35 (1) The owner of private property may have the vehicle removed from the property in the man-
 36 ner provided for removal of vehicles under ORS 98.812.

37 (2) Subject to subsection (3) of this section, any state agency or political subdivision of this state
 38 may provide for the removal and storage of the vehicle and the vehicle shall be subject to the fol-
 39 lowing:

40 (a) The state agency or political subdivision may require payment of reasonable costs for re-
 41 moval and storage of the vehicle before the vehicle is released.

42 (b) If the vehicle is not claimed and any fees required under this subsection are not paid within
 43 30 days of the removal, a lien described under ORS 98.812 *[(3)]* attaches to the vehicle and its con-
 44 tents for the reasonable costs for removal and storage of the vehicle and contents.

45 (3) If a vehicle is removed under subsection (2) of this section, the *[garagekeeper or public*

1 *parking operator*] **tower, as defined in ORS 98.805**, removing the vehicle shall:

2 (a) Notify the local law enforcement agency of the location of the vehicle within one hour after
3 the vehicle is placed in storage; and

4 (b) Unless the vehicle is claimed, give notice, within 10 days after the vehicle is placed in
5 storage, to the vehicle owner [*or*] **and** any other person with an interest in the vehicle, as indicated
6 by the title records. If notice under this paragraph is given by mail, it must be mailed within the
7 10-day period, but need not be received within that period.

8 **SECTION 15.** ORS 819.160 is amended to read:

9 819.160. (1) Except as otherwise provided by this section, a person shall have a lien on the ve-
10 hicle and its contents if the person, at the request of an authority described under ORS 819.140, tows
11 any of the following vehicles:

12 (a) An abandoned vehicle appraised at a value of more than \$500 by a person who holds a cer-
13 tificate issued under ORS 819.230.

14 (b) A vehicle taken into custody under ORS 819.110 or 819.120, unless it is an abandoned vehicle
15 appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.230.

16 (c) A vehicle left parked or standing in violation of ORS 811.555 or 811.570.

17 (2) A lien established under this section shall be on the vehicle and its contents for the just and
18 reasonable charges for the towing service performed and any storage provided. However, if the
19 person who tows the vehicle fails to comply with the notice requirements of subsection (3) of this
20 section, the amount of any lien claimed under this [*paragraph*] **section** shall be limited to an amount
21 equal to the just and reasonable charges for the towing service performed and storage provided for
22 a period not exceeding 20 days from the date the vehicle and its contents were placed in storage.
23 The lien shall be subject to the provisions for liens under ORS 98.812 [(3)]. The person holding the
24 lien may retain possession of the vehicle and contents until the charges on which the lien is based
25 are paid. A lien described under this section does not attach:

26 (a) To the contents of any vehicle taken from public property until 15 days after taking the ve-
27 hicle into custody.

28 (b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 or
29 811.570.

30 (3) A person who tows any vehicle at the request of an authority under ORS 819.110 or 819.120
31 shall transmit by certified mail, within 20 days after the vehicle and its contents are placed in
32 storage, written notice, approved by the authority, containing information on the procedures neces-
33 sary to obtain a hearing under ORS 819.190. The notice shall be provided to the owner[, *a person*
34 *entitled to possession or*] **and** any person with an interest recorded on the title to the vehicle. This
35 subsection does not apply to a person who tows an abandoned vehicle that is appraised at a value
36 of \$500 or less by a person who holds a certificate issued under ORS 819.230.

37 **SECTION 16.** ORS 822.215 is amended to read:

38 822.215. The Department of Transportation may deny or refuse to issue any towing business
39 certificate under ORS 822.205 or may suspend, revoke or refuse to renew any towing business cer-
40 tificate issued upon proof that the applicant for or holder of the certificate has done any of the
41 following:

42 (1) Used fraud or deception in securing the certificate.

43 (2) Received in any manner or by any device any rebate or other additional fee for towing or
44 recovery from a person who performs repairs on a vehicle who does not also own the vehicle. This
45 subsection does not prohibit the payment of the towing fee by a person who performs repairs on a

1 vehicle if the fee is included in the charges by that person for repairs on the vehicle.

2 (3) *[Uses]* **Used** vehicles for the purposes of towing or recovering services that *[do]* **did** not meet
 3 the minimum safety standards established by the department.

4 (4) *[Fails]* **Failed** to display special towing business registration plates, stickers or indicia or
 5 identification devices for proportionally registered tow vehicles authorized under ORS 805.200 on
 6 each vehicle used to tow or recover vehicles.

7 (5) *[Fails]* **Failed** to maintain the amounts and types of insurance required to qualify for issu-
 8 ance of a towing business certificate under ORS 822.205.

9 (6) *[Fails]* **Failed** to obtain any permits or authority required under any provision of ORS
 10 chapter 825 or rules adopted thereunder.

11 **(7) Violated any provision of section 3 or 6 of this 2007 Act or ORS 98.812 (2) to (4) or a**
 12 **rule adopted under section 7 of this 2007 Act.**

13 **SECTION 17.** ORS 646.608 is amended to read:

14 646.608. (1) A person engages in an unlawful practice when in the course of the person's busi-
 15 ness, vocation or occupation the person does any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (p) Makes any false or misleading statement about a prize, contest or promotion used to publi-
 8 cize a product, business or service.

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

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

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

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

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

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

19 (w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

34 (bb) Violates ORS 646.850 (1).

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

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

37 (ee) Violates ORS 646.883 or 646.885.

38 (ff) Violates any provision of ORS 646.195.

39 (gg) Violates ORS 646.569.

40 (hh) Violates the provisions of ORS 646.859.

41 (ii) Violates ORS 759.290.

42 (jj) Violates ORS 646.872.

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

44 (LL) Violates ORS 646.563.

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

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

3 (oo) Violates ORS 646.892 or 646.894.

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

5 (qq) Violates ORS 646.384.

6 (rr) Violates ORS 646.871.

7 (ss) Violates ORS 822.046.

8 (tt) Violates ORS 128.001.

9 (uu) Violates ORS 646.649 (2) to (4).

10 (vv) Violates ORS 646.877 (2) to (4).

11 (ww) Violates ORS 87.686.

12 (xx) Violates ORS 646.651.

13 (yy) Violates ORS 646.879.

14 (zz) Violates ORS 646.402 or any rule adopted under ORS 646.402 or 646.404.

15 (aaa) Violates ORS 180.440 (1).

16 (bbb) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.

17 (ccc) Violates ORS 87.007 (2) or (3).

18 (ddd) Violates ORS 92.405 (1), (2) or (3).

19 (eee) Engages in an unlawful practice under ORS 646.648.

20 **(fff) Violates section 3 or 6 of this 2007 Act or ORS 98.812 (2) to (4) or a rule adopted**
21 **under section 7 of this 2007 Act.**

22 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
23 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

24 (3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney
25 need not prove competition between the parties or actual confusion or misunderstanding.

26 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
27 torney General has first established a rule in accordance with the provisions of ORS chapter 183
28 declaring the conduct to be unfair or deceptive in trade or commerce.

29 (5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought
30 under subsection (1)(aaa) of this section by a person other than a prosecuting attorney, relief is
31 limited to an injunction and the prevailing party may be awarded reasonable attorney fees.

32 **SECTION 18. Sections 1 to 6 and 8 of this 2007 Act and the amendments to ORS 98.805,**
33 **98.810, 98.812, 98.830, 98.835, 646.608, 811.620, 819.160 and 822.215 by sections 9 to 17 of this 2007**
34 **Act apply to persons who tow motor vehicles on or after the effective date of this 2007 Act.**