

REVENUE: No revenue impact**FISCAL: No fiscal impact****Action:** Do Pass as Amended and Be Printed Engrossed**Vote:** 5 - 0 - 0**Yeas:** Bonamici, Boquist, George, Monroe, Shields**Nays:** 0**Exc.:** 0**Prepared By:** Patrick Brennan, Administrator**Meeting Dates:** 2/28, 4/18

WHAT THE MEASURE DOES: Prohibits imposing a financial obligation on a consumer who accepts a free offer unless the offer complies with disclosure and billing requirements. Requires the consumer's affirmative consent to the terms of the free offer. Designates violations as an unlawful trade practice. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Product of interim work group
- One of top three types of consumer complaints received by Attorney General
- Benefits of additional information to consumers

EFFECT OF COMMITTEE AMENDMENT: Specifies that measure's provisions do not apply to free offers made in connection with services that are subject to the Federal Communications Act of 1934 (47 U.S.C. 151 et seq.).

BACKGROUND: Promotional and free trial offers can be beneficial to consumers in that they allow them to try a particular good or service with reduced cost or obligation. However, such offers can also lead to problems in cases where the consumer is not fully aware of all of the terms and conditions of the offer. These can result from two types of situations: the first involves companies offering genuine goods or services and, through lack of oversight, aggressive marketing or other reasons fail to disclose all of the terms of promotional offers; the second involves companies actively seeking to deceive consumers and to charge them as much as possible before the consumer cancels the agreement. Examples of types of strategies used include post-transaction marketing (where the consumers may be unaware that they are engaging in a second transaction, rather than completing the first), data pass (where the first company passes account information, including credit card information, to a second entity), free-to-pay conversions (initially providing a limited free supply and then changing over to a paying membership), and difficult or cumbersome cancellation procedures.

Senate Bill 292-A is the product of a work group that sought to develop a consensus remedy for some of the practices listed above. The measure prohibits making free offers to consumers unless the seller provides: clear information on all goods and services that consumers will receive and be required to pay for; the cost they will incur; requirements for consumers to reject the offer; statement of obligation if the offer is accepted; specifically identified cancellation procedures and timelines; and the customer's right to receive a credit on goods or services if they are returned or rejected. Violations are designated violations of the Oregon Unlawful Trade Practices Act (ORS 646.605 – 646.652).