

Enrolled
House Bill 2212

Sponsored by Representative KOMP; Representatives BARNHART, CONGER, DOHERTY, GILLIAM, KOTEK, NATHANSON, READ (Pre-session filed.)

CHAPTER

AN ACT

Relating to floral order facilitators; and declaring an emergency.

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

SECTION 1. (1) As used in this section:

(a) "Consideration" means compensation paid to a floral order facilitator, whether in the form of a fee, charge, commission or other form of payment, or any combination thereof, for floral or plant arrangements and related services purchased in this state.

(b) "Delivery charge" means an amount paid by a purchasing floral consumer for delivery of a floral or plant arrangement and related services to an ultimate floral consumer.

(c) "Floral order facilitator" means a person that, for consideration, takes, receives or transmits orders from purchasing floral consumers or other floral order facilitators.

(d) "Handling fee" means an amount that is intended to be paid to a floral order facilitator that takes or transmits an order from a purchasing floral consumer but that does not directly provide the floral or plant arrangement and related services to the ultimate floral consumer.

(e) "Order" means a purchase of a floral or plant arrangement and related services by a purchasing floral consumer.

(f) "Person" has the meaning given that term in ORS 646.605.

(g) "Purchasing floral consumer" means a person that purchases a floral or plant arrangement and related services, whether at retail or wholesale, in this state.

(h) "Ultimate floral consumer" means a person that is the direct recipient of a floral or plant arrangement and related services purchased by a purchasing floral consumer.

(2)(a) A floral order facilitator may not charge or receive consideration for individual orders from purchasing floral consumers except as follows:

(A) A floral order facilitator that takes an order from a purchasing floral consumer and then transmits the order to a direct provider of the arrangement and service to the ultimate floral consumer may charge and receive consideration that does not exceed five percent of the amount paid by the purchasing floral consumer.

(B) A floral order facilitator that receives an order from another floral order facilitator and then transmits the order to a direct provider of the arrangement and services to the ultimate floral consumer may charge and receive consideration that does not exceed seven percent of the amount paid by the purchasing floral consumer.

(b) For purposes of this subsection, the amount paid by the purchasing floral consumer is the cost of any individual order for a floral or plant arrangement and related services plus any delivery charge, but does not include a handling fee.

(3) A floral order facilitator that transmits an order of a purchasing floral consumer to a direct provider of the floral or plant arrangement and related services to the ultimate floral consumer must, within a reasonable time, pay to the direct provider the following:

(a) Any delivery charge paid by the purchasing floral consumer; and

(b) An amount equal to the amount paid by a purchasing floral consumer, less any delivery charge, any handling fee and any consideration received by one or more floral order facilitators under subsection (2) of this section.

(4) A person that violates subsection (2) or (3) of this section commits an unlawful practice under ORS 646.608. The requirements under subsections (2) and (3) of this section are subject to enforcement and penalty as provided under ORS 646.605 to 646.652.

SECTION 2. Section 1 of this 2011 Act applies to purchases of floral or plant arrangements and related services made in this state on or after the effective date of this 2011 Act.

SECTION 3. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House March 8, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 25, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State