

A-Engrossed
House Bill 2212

Ordered by the House March 3
Including House Amendments dated March 3

Sponsored by Representative KOMP; Representatives BARNHART, CONGER, DOHERTY, GILLIAM, KOTEK, NATHANSON, READ (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.

[Restricts amount of consideration floral order facilitator can receive.]

Prohibits floral order facilitator from charging or receiving consideration for individual orders. Creates exceptions.

Requires floral order facilitators to pay delivery charges and other amounts to direct providers of floral or plant arrangements or related services within reasonable time.

Makes violation unlawful trade practice.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to floral order facilitators; and declaring an emergency.

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

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

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

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

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

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

16 (e) **“Order” means a purchase of a floral or plant arrangement and related services by a**
17 **purchasing floral consumer.**

18 (f) **“Person” has the meaning given that term in ORS 646.605.**

19 (g) **“Purchasing floral consumer” means a person that purchases a floral or plant ar-**
20 **rangement and related services, whether at retail or wholesale, in this state.**

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

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

25 **(A) A floral order facilitator that takes an order from a purchasing floral consumer and**

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 then transmits the order to a direct provider of the arrangement and service to the ultimate
2 floral consumer may charge and receive consideration that does not exceed five percent of
3 the amount paid by the purchasing floral consumer.

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

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

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

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

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

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

21 **SECTION 2.** Section 1 of this 2011 Act applies to purchases of floral or plant arrange-
22 ments and related services made in this state on or after the effective date of this 2011 Act.

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

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