

# Senate Bill 695

Sponsored by Senators DINGFELDER, BOQUIST; Senators ATKINSON, EDWARDS, ROSENBAUM

## 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**.

Creates unlawful practice of manufacturing, distributing, selling or offering for sale child's beverage container, container of infant formula or reusable bottle made or lined with bisphenol A or replacement material that is carcinogenic or is reproductive toxicant. Requires manufacturers of containers and reusable bottles made or lined with bisphenol A to recall containers and bottles. Requires manufacturers to make reasonable effort to notify person who distributes, sells or offers for sale manufacturer's containers or reusable bottles of prohibition at least 90 days before operative date of prohibition.

Makes prohibition on manufacture, distribution, sale or offer for sale of child's beverage container or reusable bottle operative January 1, 2012.

Makes prohibition on manufacture, distribution, sale or offer for sale of container of infant formula operative January 1, 2013.

Creates unlawful practice of manufacturing, distributing, selling or offering for sale metal can made or lined with bisphenol A that contains food unless label is affixed advising that can is made or lined with bisphenol A. Requires manufacturers of cans to make reasonable effort to notify person who distributes, sells or offers for sale manufacturer's cans of prohibition at least 90 days before operative date of prohibition.

Makes prohibition on manufacture, distribution, sale or offer for sale of metal can without label operative January 1, 2013.

Requires Department of Human Services to identify containers on approved food list of Women, Infants and Children Program that are not made or lined with bisphenol A.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to containers made from substances harmful to humans; creating new provisions; amending  
3 ORS 646.608; and declaring an emergency.

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

5 **SECTION 1. As used in sections 2 to 8 of this 2011 Act:**

6 (1) **"Bisphenol A" means an industrial chemical used in the manufacture of polycarbonate**  
7 **plastic and epoxy resins.**

8 (2) **"Child's beverage container" means any empty baby bottle or spill-proof cup that is:**

9 (A) **Distributed or sold at retail without containing any liquid, food, beverage or other**  
10 **contents;**

11 (B) **Designed to be filled with liquid; and**

12 (C) **Primarily intended by the manufacturer for use by a child three years of age or**  
13 **younger.**

14 (3) **"Container" means an individual bottle or can designed to contain food or liquid for**  
15 **human consumption that is commercially available but does not include a container intended**  
16 **for disposal after initial use.**

17 (4) **"Food" means any substance that is intended to be used for human consumption and**  
18 **that is commercially available.**

19 (5) **"Infant formula" means a milk-based or soy-based powder, concentrated liquid or**  
20 **ready-to-feed substitute for human breast milk that is intended for infant consumption 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 that is commercially available.

2 (6) "Label" means a display of written, printed or graphic information appearing on the  
3 outside portion of a container and that is visible without opening the container.

4 (7) "Liquid or beverage" means water and flavored water, mineral water, soda water, soft  
5 drinks, juices, drinks and any other liquid or beverage intended for human consumption and  
6 includes human breast milk and infant formula.

7 (8) "Metal can" means a single-walled container that is manufactured from a metal  
8 substrate and designed to hold food and that is commercially available.

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

10 (10) "Reusable bottle" means a resealable, reusable container, 64 ounces or less in size,  
11 that is designed and intended primarily to be filled with a liquid or beverage for consumption  
12 from the container, and that is sold, offered for sale or distributed at retail without con-  
13 taining any liquid or beverage.

14 **SECTION 2.** A person may not willfully or knowingly manufacture, distribute, sell or of-  
15 fer for sale at retail in this state any child's beverage container or reusable bottle that is  
16 made or lined with:

17 (1) Bisphenol A; or

18 (2) Any material or substance that is designed and intended by the manufacturer to re-  
19 place bisphenol A if the material or substance:

20 (a) Has been determined by the United States Environmental Protection Agency to be:

21 (A) Carcinogenic or likely to be carcinogenic to humans or for which there is suggestive  
22 evidence of carcinogenic potential; or

23 (B) A reproductive toxicant that causes birth defects, reproductive harm or develop-  
24 mental harm; or

25 (b) Appears in the list of chemicals that have been determined by the state of California  
26 to cause cancer or reproductive toxicity as required by the Safe Drinking Water and Toxic  
27 Enforcement Act of 1986 (California Health and Safety Code, section 25249.5 et seq.) as in  
28 effect on the effective date of this 2011 Act.

29 **SECTION 3.** A person may not willfully or knowingly manufacture, distribute, sell or of-  
30 fer for sale at retail in this state any container of infant formula that is made or lined with:

31 (1) Bisphenol A; or

32 (2) Any material or substance that is designed and intended by the manufacturer to re-  
33 place bisphenol A if the material or substance:

34 (a) Has been determined by the United States Environmental Protection Agency to be:

35 (A) Carcinogenic or likely to be carcinogenic to humans or for which there is suggestive  
36 evidence of carcinogenic potential; or

37 (B) A reproductive toxicant that causes birth defects, reproductive harm or develop-  
38 mental harm; or

39 (b) Appears in the list of chemicals that have been determined by the state of California  
40 to cause cancer or reproductive toxicity as required by the Safe Drinking Water and Toxic  
41 Enforcement Act of 1986 (California Health and Safety Code, section 25249.5 et seq.) as in  
42 effect on the effective date of this 2011 Act.

43 **SECTION 4.** A person may not willfully or knowingly manufacture, distribute, sell or of-  
44 fer for sale at retail in this state any metal can made or lined with bisphenol A and con-  
45 taining food unless a label is clearly and conspicuously affixed to it advising that the metal

1 can is made or lined with bisphenol A.

2 **SECTION 5.** A person who manufactures any child's beverage container or reusable bot-  
3 tle that is made or lined with bisphenol A for distribution, sale or offer for sale in this state  
4 shall make a reasonable effort to notify any person who distributes, sells or offers for sale  
5 in this state the manufacturer's containers or reusable bottles that are made or lined with  
6 bisphenol A of the prohibition of section 2 of this 2011 Act at least 90 days before the oper-  
7 ative date specified in section 15 of this 2011 Act.

8 **SECTION 6.** A person who manufactures any container of infant formula or any metal  
9 can that is made or lined with bisphenol A for distribution, sale or offer for sale in this state  
10 shall make a reasonable effort to notify any person who distributes, sells or offers for sale  
11 in this state the manufacturer's containers or cans that are made or lined with bisphenol A  
12 of the prohibition of sections 3 and 4 of this 2011 Act at least 90 days before the operative  
13 date specified in section 16 of this 2011 Act.

14 **SECTION 7.** A person who manufactures any child's beverage container or reusable bot-  
15 tle made or lined with bisphenol A for distribution, sale or offer for sale in this state shall  
16 recall any child's beverage container or reusable bottle made or lined with bisphenol A and  
17 adequately reimburse the retailer or consumer for the cost of the container and the cost to  
18 comply with the recall.

19 **SECTION 8.** A person who manufactures any container of infant formula made or lined  
20 with bisphenol A for distribution, sale or offer for sale in this state shall recall any container  
21 of infant formula made or lined with bisphenol A and adequately reimburse the retailer or  
22 consumer for the cost of the container and the cost to comply with the recall.

23 **SECTION 9.** (1) The Department of Human Services shall identify any child's beverage  
24 container, any container of infant formula and any other container of food, liquid or beverage  
25 that appears on the list of approved foods for the Women, Infants and Children Program that  
26 is not made or lined with bisphenol A.

27 (2) The department shall report annually to the appropriate committees or interim com-  
28 mittees of the Legislative Assembly regarding the availability of children's beverage con-  
29 tainers, containers of infant formula and other containers of food, liquid or beverage that  
30 are not made or lined with bisphenol A and that are listed as approved by the Women, In-  
31 fants and Children Program.

32 **SECTION 10.** ORS 646.608 is amended to read:

33 646.608. (1) A person engages in an unlawful practice when in the course of the person's busi-  
34 ness, vocation or occupation the person does any of the following:

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

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

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

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

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

45 (f) Represents that real estate or goods are original or new if they are deteriorated, altered,

1 reconditioned, reclaimed, used or secondhand.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (w) Manufactures mercury fever thermometers.

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

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

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

44 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to  
45 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be

1 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the  
2 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-  
3 graph, “thermostat” means a device commonly used to sense and, through electrical communication  
4 with heating, cooling or ventilation equipment, control room temperature.

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

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

8 (bb) Violates ORS 646A.070 (1).

9 (cc) Violates any requirement of ORS 646A.030 to 646A.040.

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

11 (ee) Violates ORS 646.883 or 646.885.

12 (ff) Violates ORS 646.569.

13 (gg) Violates the provisions of ORS 646A.142.

14 (hh) Violates ORS 646A.360.

15 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.

16 (jj) Violates ORS 646.563.

17 (kk) Violates ORS 759.690 or any rule adopted pursuant thereto.

18 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant  
19 thereto.

20 (mm) Violates ORS 646A.210 or 646A.214.

21 (nn) Violates any provision of ORS 646A.124 to 646A.134.

22 (oo) Violates ORS 646A.095.

23 (pp) Violates ORS 822.046.

24 (qq) Violates ORS 128.001.

25 (rr) Violates ORS 646.649 (2) to (4).

26 (ss) Violates ORS 646A.090 (2) to (4).

27 (tt) Violates ORS 87.686.

28 (uu) Violates ORS 646.651.

29 (vv) Violates ORS 646A.362.

30 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.

31 (xx) Violates ORS 180.440 (1) or 180.486 (1).

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

33 (zz) Violates ORS 87.007 (2) or (3).

34 (aaa) Violates ORS 92.405 (1), (2) or (3).

35 (bbb) Engages in an unlawful practice under ORS 646.648.

36 (ccc) Violates ORS 646A.365.

37 (ddd) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.

38 (eee) Sells a gift card in violation of ORS 646A.276.

39 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.

40 (ggg) Violates ORS 646A.430 to 646A.450.

41 (hhh) Violates a provision of ORS 744.318 to 744.384, 744.991 and 744.992.

42 (iii) Violates a provision of ORS 646A.702 to 646A.720.

43 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-  
44 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the  
45 subject of the violation.

1 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.

2 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50  
 3 U.S.C. App. 501 et seq., as in effect on January 1, 2010.

4 (mmm) Violates a provision of ORS 646A.480 to 646A.495.

5 (nnn) Violates ORS 646A.082.

6 (ooo) Violates ORS 646.647.

7 (ppp) Violates ORS 646A.115.

8 (qqq) Violates a provision of ORS 646A.405.

9 **(rrr) Violates a provision of section 2 or 7 of this 2011 Act.**

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

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

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

17 (5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought  
 18 under subsection (1)(xx) of this section by a person other than a prosecuting attorney, relief is lim-  
 19 ited to an injunction and the prevailing party may be awarded reasonable attorney fees.

20 **SECTION 11.** ORS 646.608, as amended by section 10 of this 2011 Act, is amended to read:

21 646.608. (1) A person engages in an unlawful practice when in the course of the person's busi-  
 22 ness, vocation or occupation the person does any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

41 (bb) Violates ORS 646A.070 (1).

42 (cc) Violates any requirement of ORS 646A.030 to 646A.040.

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

44 (ee) Violates ORS 646.883 or 646.885.

45 (ff) Violates ORS 646.569.

- 1 (gg) Violates the provisions of ORS 646A.142.
- 2 (hh) Violates ORS 646A.360.
- 3 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 4 (jj) Violates ORS 646.563.
- 5 (kk) Violates ORS 759.690 or any rule adopted pursuant thereto.
- 6 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
- 7 thereto.
- 8 (mm) Violates ORS 646A.210 or 646A.214.
- 9 (nn) Violates any provision of ORS 646A.124 to 646A.134.
- 10 (oo) Violates ORS 646A.095.
- 11 (pp) Violates ORS 822.046.
- 12 (qq) Violates ORS 128.001.
- 13 (rr) Violates ORS 646.649 (2) to (4).
- 14 (ss) Violates ORS 646A.090 (2) to (4).
- 15 (tt) Violates ORS 87.686.
- 16 (uu) Violates ORS 646.651.
- 17 (vv) Violates ORS 646A.362.
- 18 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
- 19 (xx) Violates ORS 180.440 (1) or 180.486 (1).
- 20 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 21 (zz) Violates ORS 87.007 (2) or (3).
- 22 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 23 (bbb) Engages in an unlawful practice under ORS 646.648.
- 24 (ccc) Violates ORS 646A.365.
- 25 (ddd) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.
- 26 (eee) Sells a gift card in violation of ORS 646A.276.
- 27 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 28 (ggg) Violates ORS 646A.430 to 646A.450.
- 29 (hhh) Violates a provision of ORS 744.318 to 744.384, 744.991 and 744.992.
- 30 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 31 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
- 32 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the
- 33 subject of the violation.
- 34 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 35 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
- 36 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
- 37 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 38 (nnn) Violates ORS 646A.082.
- 39 (ooo) Violates ORS 646.647.
- 40 (ppp) Violates ORS 646A.115.
- 41 (qqq) Violates a provision of ORS 646A.405.
- 42 (rrr) Violates a provision of section [2 or 7] **2, 3, 4, 7 or 8** of this 2011 Act.
- 43 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
- 44 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
- 45 (3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney



1 need not prove competition between the parties or actual confusion or misunderstanding.

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

5 (5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought  
6 under subsection (1)(xx) of this section by a person other than a prosecuting attorney, relief is lim-  
7 ited to an injunction and the prevailing party may be awarded reasonable attorney fees.

8 **SECTION 12. The Department of Human Services shall first report to the Legislative**  
9 **Assembly as described in section 9 of this 2011 Act on or before January 15, 2012.**

10 **SECTION 13. Sections 2 and 7 of this 2011 Act and the amendments to ORS 646.608 by**  
11 **section 10 of this 2011 Act apply to a person that operates as a manufacturer, distributor or**  
12 **retailer of any child's beverage container or reusable bottle on or after the operative date**  
13 **specified in section 15 of this 2011 Act.**

14 **SECTION 14. Sections 3, 4 and 8 of this 2011 Act and the amendments to ORS 646.608 by**  
15 **section 11 of this 2011 Act apply to a person that operates as a manufacturer, distributor or**  
16 **retailer of any container of infant formula or metal can on or after the operative date**  
17 **specified in section 16 of this 2011 Act.**

18 **SECTION 15. Sections 2 and 7 of this 2011 Act and the amendments to ORS 646.608 by**  
19 **section 10 of this 2011 Act become operative on January 1, 2012.**

20 **SECTION 16. Sections 3, 4 and 8 of this 2011 Act and the amendments to ORS 646.608 by**  
21 **section 11 of this 2011 Act become operative on January 1, 2013.**

22 **SECTION 17. This 2011 Act being necessary for the immediate preservation of the public**  
23 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
24 **on its passage.**

25 \_\_\_\_\_