

Senate Bill 1512

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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**.

Makes legislative findings regarding lighting that contains mercury. Prohibits sale or offer for sale of lighting that contains mercury in excess of specified amounts. Makes sale or offer for sale of certain lighting that contains mercury unlawful trade practice. Specifies state procurement policy related to lighting that contains mercury. Requires certain reports to Legislative Assembly.

A BILL FOR AN ACT

1
2 Relating to lighting that contains mercury; creating new provisions; and amending ORS 459A.010
3 and 646.608.

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

FINDINGS

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8 **SECTION 1. The Legislative Assembly finds that it is in the best interest of this state**
9 **to:**

10 **(1) Reduce the amount of mercury in lighting that contains mercury; and**

11 **(2) Continue to work with federal, state and local government agencies as well as man-**
12 **ufacturers, retailers and others to expand opportunities for consumers to recycle lighting**
13 **that contains mercury.**

DEFINITIONS

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17 **SECTION 2. (1) "Lighting that contains mercury" means an electric lamp to which mer-**
18 **cury or mercury compounds are added during the manufacturing process.**

19 **(2) "Long lifetime" means lighting that contains mercury with a rated lifetime of 24,000**
20 **hours or more when tested on a ballast and turned on and off every three hours in accord-**
21 **ance with test procedures of the United States Department of Energy in effect on the ef-**
22 **fective date of this 2012 Act.**

23 **(3) "Normal lifetime" means lighting that contains mercury with a lifetime of less than**
24 **24,000 hours when tested on a ballast and turned on and off every three hours in accordance**
25 **with test procedures of the United States Department of Energy in effect on the effective**
26 **date of this 2012 Act.**

27 **(4)(a) "Producer of lighting that contains mercury" means any person that:**

28 **(A) Manufactures and sells lighting that contains mercury under its own brand;**

29 **(B) Resells under its own brand lighting that contains mercury produced by other sup-**

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 pliers;

2 (C) Imports or exports lighting that contains mercury on a professional basis; or

3 (D) Serves as the importer or domestic distributor of lighting that contains mercury if
4 the brand name owner is located outside of the United States.

5 (b) "Producer of lighting that contains mercury" does not mean a reseller of lighting that
6 contains mercury if the brand of the manufacturer of the lighting that contains mercury
7 appears on the lighting.

8
9 **MERCURY CONTENT STANDARDS**

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11 **SECTION 3.** (1) A producer of lighting that contains mercury may not sell, offer for sale
12 or distribute in this state any lighting that contains mercury in an amount exceeding the
13 following mercury content standards:

14 (a) 3.5 milligrams for compact fluorescent lighting less than 30 watts.

15 (b) 3.0 milligrams for straight fluorescent T5 lighting with a normal lifetime.

16 (c) 3.5 milligrams for straight fluorescent T8 lighting with a normal lifetime.

17 (d) 5.0 milligrams for straight fluorescent T5 and T8 lighting with a long lifetime.

18 (e) 15.0 milligrams for nonlinear fluorescent T5, T8 and T12 lighting and 8-foot linear
19 fluorescent lighting.

20 (2) The mercury content standard specified in:

21 (a) Subsection (1)(c) of this section does not apply to 8-foot models of straight fluorescent
22 T8 lighting.

23 (b) Subsection (1)(e) of this section does not apply to high-output models of nonlinear
24 fluorescent T5, T8 and T12 lighting and high-output models of 8-foot linear fluorescent
25 lighting.

26
27 **JANUARY 1, 2014, REPORT TO LEGISLATIVE ASSEMBLY**

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29 **SECTION 4.** On or after January 1, 2014, the Department of Environmental Quality shall
30 report to the Legislative Assembly in the manner provided by ORS 192.245 if the department
31 determines that the State of California has adopted, in whole or in part, the mercury content
32 standards for compact fluorescent lamps contained in the RoHS 2 Directive, Directive
33 2011/65/EC, adopted by the European Parliament and the Council of the European Union on
34 June 8, 2011, on the restriction of certain hazardous substances in electrical and electronic
35 equipment. The department shall also consider any amendments to the RoHS 2 Directive.
36 The report must also include the department's recommendation on whether the Legislative
37 Assembly should change the amount of mercury allowed under the mercury content stan-
38 dards established by section 3 of this 2012 Act.

39
40 **STATE PROCUREMENT POLICY**

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42 **SECTION 5.** When making procurement decisions on lighting that contains mercury, the
43 Oregon Department of Administrative Services, after consultation with the Department of
44 Environmental Quality, shall request information on mercury content, energy use, lumen
45 output and lighting lifetime from potential suppliers and shall, in accordance with the Public

1 **Contracting Code and rules adopted under the Public Contracting Code, issue specifications**
 2 **and make procurement decisions that favor lighting that contains mercury that meets the**
 3 **mercury content standards established by section 3 of this 2012 Act.**

4
 5 **COLLECTION AND RECYCLING**

6
 7 **SECTION 6.** ORS 459A.010 is amended to read:

8 459A.010. (1) It is the goal of the State of Oregon that:

9 (a) For the calendar year 2005, the amount of recovery from the general solid waste stream shall
 10 be at least 45 percent;

11 (b) For the calendar year 2009, the amount of recovery from the general solid waste stream shall
 12 be at least 50 percent;

13 (c) For the calendar year 2005 and subsequent years, that there be no annual increase in per
 14 capita municipal solid waste generation; and

15 (d) For the calendar year 2009 and subsequent years, that there be no annual increase in total
 16 municipal solid waste generation.

17 (2) In addition to the requirements of ORS 459A.005, the “opportunity to recycle” shall include
 18 the requirements of subsection (3) of this section using the following program elements:

19 (a) Provision of at least one durable recycling container to each residential service customer.

20 (b) On-route collection at least once each week of source separated recyclable material to resi-
 21 dential customers, provided on the same day that solid waste is collected from each customer.

22 (c) An expanded education and promotion program conducted to carry out the policy set forth
 23 in ORS 459.015, to inform solid waste generators of the manner and benefits of reducing, reusing,
 24 recycling and composting material and to promote use of recycling services, **including those for**
 25 **lighting that contains mercury as defined in section 2 of this 2012 Act.** The city, county or
 26 metropolitan service district responsible for providing an opportunity to recycle under ORS 459A.005
 27 and this section shall provide the education and promotion program in either of the following two
 28 ways:

29 (A) Preparing and implementing an education and promotion plan that includes actions to ef-
 30 fectively reach solid waste generators and all new and existing collection service customers, as
 31 necessary to fulfill the intent of this paragraph. The plan shall be submitted to the Department of
 32 Environmental Quality the first year that the plan is in effect. Thereafter, the wasteshed shall sub-
 33 mit a summary of activities in the plan to the Department of Environmental Quality at the same
 34 time the county submits the periodic report required under ORS 459A.050 (1)(a). The summary shall
 35 cover at least the time period until the next periodic report is due to the department.

36 (B) Implementing all of the following:

37 (i) Provision of recycling notification and education packets to all new residential, commercial
 38 and institutional collection service customers that include at a minimum the materials collected, the
 39 schedule for collection, the way to prepare materials for collection and the reasons persons should
 40 separate their material for recycling. The educational and promotional materials provided to com-
 41 mercial collection customers should be targeted to meet the needs of various types of businesses and
 42 should include reasons to recycle, including economic benefits, common barriers to recycling and
 43 solutions, additional resources for commercial generators of solid waste and other information de-
 44 signed to assist and encourage recycling efforts. The educational and promotional materials provided
 45 to commercial collection customers shall encourage each commercial collection customer to have a

1 goal to achieve 50 percent recovery from its solid waste stream by the year 2009.

2 (ii) Provision of recycling information in a variety of formats and materials at least four times
3 a calendar year to collection service customers that includes at a minimum the materials collected
4 and the schedule for collection.

5 (iii) Provision at least annually to all residential, commercial and institutional collection service
6 customers, of the information under sub-subparagraph (i) of this subparagraph.

7 (iv) Targeting of community and media events to promote recycling.

8 (d) Collection of at least four principal recyclable materials or the number of materials required
9 to be collected under the residential on-route collection program, whichever is less, from each
10 multifamily dwelling complex having five or more units. The multifamily collection program shall
11 include promotion and education directed to the residents of the multifamily dwelling units.

12 (e) An effective residential yard debris collection and composting program that includes the
13 promotion of home composting of yard debris, and that also includes either:

14 (A) Monthly or more frequent on-route collection of yard debris from residences for production
15 of compost or other marketable products; or

16 (B) A system of yard debris collection depots conveniently located and open to the public at
17 least once a week.

18 (f) A commercial recycling program that includes:

19 (A) Weekly, or on a more appropriate regular schedule, onsite collection of source separated
20 principal recyclable materials from, at a minimum, commercial solid waste generators employing 10
21 or more persons and occupying 1,000 square feet or more in a single location.

22 (B) An education and promotion program conducted to inform all commercial generators of solid
23 waste of the manner and benefits of the commercial recycling program that provides effective pro-
24 motion of the program to the generators.

25 (C) In addition to the requirements of subparagraphs (A) and (B) of this paragraph, a commercial
26 recycling program may also consist of other elements including but not limited to waste assessments
27 and recycling recognition programs. A wasteshed is encouraged to involve local business organiza-
28 tions in publicly recognizing outstanding recycling efforts by commercial generators of solid waste.
29 The recognition may include awards designed to provide additional incentives to increase recycling
30 efforts.

31 (D) Each commercial generator of solid waste shall strive to achieve 50 percent recovery from
32 its solid waste stream by the year 2009.

33 (g) Expanded depots for recycling of at least all principal recyclable materials and provisions
34 for promotion and education to maximize the use of the depots. The depots shall have regular and
35 convenient hours and shall be open on the weekend days and, when feasible, shall collect additional
36 recyclable materials.

37 (h) Solid waste residential collection rates that encourage waste reduction, reuse and recycling
38 through reduced rates for smaller containers, including at least one rate for a container that is 21
39 gallons or less in size. Based on the average weight of solid waste disposed per container for con-
40 tainers of different sizes, the rate on a per pound disposed basis shall not decrease with increasing
41 size of containers, nor shall the rates per container service be less with additional containers ser-
42 viced.

43 (i) A collection and composting system for food, paper that is not recyclable because of con-
44 tamination and other compostable waste from commercial and institutional entities that generate
45 large amounts of such wastes.

1 (3)(a) Each city with a population of at least 4,000 but not more than 10,000 that is not within
 2 a metropolitan service district and any county responsible for the area between the city limits and
 3 the urban growth boundary of such city shall implement one of the following:

4 (A) The program elements set forth in subsection (2)(a), (b) and (c) of this section;

5 (B) A program that includes at least three elements set forth in subsection (2) of this section;

6 or

7 (C) An alternative method of achieving recovery rates that complies with rules of the Environ-
 8 mental Quality Commission.

9 (b) Each city that is within a metropolitan service district or that has a population of more than
 10 10,000 and any county responsible for the area within a metropolitan service district or the area
 11 between the city limits and the urban growth boundary of such city shall implement one of the fol-
 12 lowing:

13 (A) Program elements set forth under subsection (2)(a), (b) and (c) of this section and one addi-
 14 tional element set forth under subsection (2) of this section;

15 (B) A program that includes at least five elements set forth under subsection (2) of this section;

16 or

17 (C) An alternative method of achieving recovery rates that complies with rules of the Environ-
 18 mental Quality Commission.

19 (4)(a) Recovery rates shall be determined by dividing the total weight of material recovered by
 20 the sum of the total weight of the material recovered plus the total weight of solid waste disposed
 21 that was generated in each watershed. It is the policy of the State of Oregon that recovery of ma-
 22 terial shall be consistent with the priority of solid waste management in ORS 459.015 (2).

23 (b) Each watershed implementing a waste prevention program shall receive a two percent credit
 24 on the watershed's recovery rate. A waste prevention program shall include:

25 (A) A watershed-wide program to provide general educational materials to residents about waste
 26 prevention and examples of things residents can do to prevent generation of waste; and

27 (B) Two of the following:

28 (i) Reduce the watershed annual per capita waste generation by two percent each year;

29 (ii) Conduct a waste prevention media promotion campaign targeted at residential generators;

30 (iii) Expand the education program in primary and secondary schools to include waste pre-
 31 vention and reuse;

32 (iv) Household hazardous waste prevention education program;

33 (v) Local governments will conduct waste prevention assessments of their operations, or provide
 34 waste prevention assessments for businesses and institutions and document any waste prevention
 35 measures implemented;

36 (vi) Conduct a material specific waste prevention campaign for businesses throughout the
 37 watershed;

38 (vii) Implement a Resource Efficiency Model City program;

39 (viii) Conduct a material-specific waste prevention education campaign that focuses on a toxic
 40 or energy-intensive material;

41 (ix) Local governments will implement programs to buy recycled-content products for their op-
 42 erations, consistent with procurement guidelines issued by the United States Environmental Pro-
 43 tection Agency; or

44 (x) Local governments will implement programs for new construction and remodeling of local
 45 government buildings that incorporate recycled-content materials, energy conservation features,

1 water conservation and stormwater management features and other elements to increase the re-
2 source efficiency and lower the environmental impact of these buildings.

3 (c) Each watershed implementing a reuse program shall receive a two percent credit on the
4 watershed's recovery rate. A reuse program shall include:

5 (A) A promotion and education campaign on the benefits and opportunities for reuse available
6 to the public in the watershed; and

7 (B) Two of the following:

8 (i) Operate construction and demolition debris salvage programs with depots;

9 (ii) Promote reuse programs offered by local resale businesses, thrift stores and equipment ven-
10 dors, such as computer and photocopier refurbishers, to the public and businesses;

11 (iii) Identify and promote local businesses that will take back white goods for refurbishing and
12 resale to the public;

13 (iv) Develop and promote use of waste exchange programs for the public and private sectors;

14 (v) Site accommodation for recovery of reusable material at transfer stations and landfills; or

15 (vi) Sidewalk pickup or community fair program in cities over 4,000 population in the watershed.

16 (d) Each watershed implementing a residential composting program shall receive a two percent
17 credit on the watershed's recovery rate. A residential composting program shall include:

18 (A) Promotion of the residential composting program through public information and demon-
19 stration sites or sites; and

20 (B) Two of the following:

21 (i) A program to encourage leaving grass clippings generated by lawn mowing on-site rather
22 than bagging the clippings for disposal or composting;

23 (ii) A composting program for local schools;

24 (iii) An increase in availability of compost bins for residents; or

25 (iv) Another program increasing a household's ability to manage yard trimmings or food wastes.

26 (e) A watershed may receive, upon application to the Department of Environmental Quality, a
27 recovery credit greater than two percent for a residential composting program. To receive the re-
28 covery credit under this paragraph, the watershed must provide quantitatively verifiable documen-
29 tation of residential composting tonnage to the department. The documentation must show that more
30 than two percent of the watershed's generated tonnage of solid waste is diverted from the
31 wastestream by residential composting.

32 (f)(A) If there is not a viable market for recycling a material under paragraph (a) of this sub-
33 section, the composting or burning of the material for energy recovery may be included in the re-
34 covery rate for the watershed.

35 (B) If the material is burned for energy recovery and then included in the recovery rate for
36 Clackamas, Multnomah or Washington Counties in aggregate or for Benton, Lane, Linn, Marion,
37 Polk or Yamhill County watersheds, the same material, when burned as part of mixed solid waste,
38 may be included in the recovery rate for a watershed that burns mixed solid waste for energy re-
39 covery. The amount of the material within the mixed solid waste that may be included in the re-
40 covery rate for energy recovery shall be determined by a waste composition study performed by the
41 watershed at least every four years.

42 (C) Mixtures of materials that are composted or burned for energy recovery shall not be in-
43 cluded in the recovery rate if more than half of the mixed materials by weight could have been re-
44 cycled if properly source separated.

45 (D) In its annual report to the department, the county or metropolitan service district shall state

1 how much composting or energy recovery under this paragraph is included as recovery and state
2 the basis for the determination that there was not a viable market for recycling the material.

3 (E) As used in this paragraph, "viable market" means a place within a wasteshed that will pay
4 for the material or accept the material free of charge or a place outside a wasteshed that will pay
5 a price for the material that, at minimum, covers the cost of transportation of the material.

6 (g) Recovery rates shall not include:

7 (A) Industrial and manufacturing wastes such as boxboard clippings and metal trim that are
8 recycled before becoming part of a product that has entered the wholesale or retail market.

9 (B) Metal demolition debris in which arrangements are made to sell or give the material to
10 processors before demolition such that it does not enter the solid waste stream.

11 (C) Discarded vehicles or parts of vehicles that do not routinely enter the solid waste stream.

12 (D) Material recovered for composting or energy recovery from mixed solid waste, except as
13 provided in paragraph (f) of this subsection.

14 (h) "Solid waste disposed" shall mean the total weight of solid waste disposed other than the
15 following:

16 (A) Sewage sludge or septic tank and cesspool pumpings;

17 (B) Waste disposed of at an industrial waste disposal site;

18 (C) Industrial waste, ash, inert rock, dirt, plaster, asphalt and similar material if delivered to a
19 municipal solid waste disposal site or demolition disposal site and if a record is kept of such deliv-
20 eries and submitted as part of the annual report submitted under ORS 459A.050;

21 (D) Waste received at an ash monofill from an energy recovery facility; and

22 (E) Solid waste not generated within this state.

23 (i) The statewide recovery rate shall include the two percent credit for reuse programs under
24 paragraph (c) of this subsection and the credit for residential composting under paragraphs (d) and
25 (e) of this subsection, beginning with the statewide recovery rate calculated for the calendar year
26 2001.

27 (5)(a) Each local government that franchises or licenses the collection of solid waste and es-
28 tablishes the rates to be charged for collection service shall either:

29 (A) Include in those rates all net costs incurred by the franchisee or licensee for providing the
30 "opportunity to recycle" under ORS 459A.005 and for implementing the requirements of subsection
31 (3) of this section; or

32 (B) Fund implementation of the "opportunity to recycle" under ORS 459A.005 or the require-
33 ments of subsection (3) of this section through an alternative source of funding including but not
34 limited to disposal fees.

35 (b) As used in this subsection, "net costs" includes but is not limited to the reasonable costs for
36 collecting, handling, processing, storing, transporting and delivering recyclable material to market
37 and for providing any required education and promotion or data collection services adjusted by a
38 factor to account for proceeds from the sale of recyclable material.

39 (6)(a) Clackamas, Multnomah and Washington counties, in aggregate, shall achieve a recovery
40 rate of 62 percent for the calendar year 2005 and 64 percent for the calendar year 2009.

41 (b) The wastesheds shall achieve the following recovery rates for the calendar year 2005:

42 (A) Baker County, 25 percent;

43 (B) Benton County, 45 percent;

44 (C) Clatsop County, 25 percent;

45 (D) Columbia County, 28 percent;

- 1 (E) Coos County, 30 percent;
- 2 (F) Crook County, 20 percent;
- 3 (G) Curry County, 30 percent;
- 4 (H) Deschutes County, 32 percent;
- 5 (I) Douglas County, 35 percent;
- 6 (J) Gilliam County, 20 percent;
- 7 (K) Grant County, 19 percent;
- 8 (L) Harney County, 30 percent;
- 9 (M) Hood River County, 25 percent;
- 10 (N) Jackson County, 40 percent;
- 11 (O) Jefferson County, 25 percent;
- 12 (P) Josephine County, 38 percent;
- 13 (Q) Klamath County, 15 percent;
- 14 (R) Lake County, 8 percent;
- 15 (S) Lane County, 45 percent;
- 16 (T) Lincoln County, 19 percent;
- 17 (U) Linn County, 40 percent;
- 18 (V) Malheur County, 21 percent;
- 19 (W) Marion County, 37 percent;
- 20 (X) City of Milton-Freewater, 22 percent;
- 21 (Y) Morrow County, 18 percent;
- 22 (Z) Polk County, 30 percent;
- 23 (AA) Sherman County, 20 percent;
- 24 (BB) Tillamook County, 30 percent;
- 25 (CC) Umatilla County, 20 percent;
- 26 (DD) Union County, 25 percent;
- 27 (EE) Wallowa County, 20 percent;
- 28 (FF) Wasco County, 35 percent;
- 29 (GG) Wheeler County, 20 percent; and
- 30 (HH) Yamhill County, 39 percent.

31 (c) The wastesheds shall achieve the following recovery rates for the calendar year 2009:

- 32 (A) Baker County, 25 percent;
- 33 (B) Benton County, 50 percent;
- 34 (C) Clatsop County, 25 percent;
- 35 (D) Columbia County, 32 percent;
- 36 (E) Coos County, 30 percent;
- 37 (F) Crook County, 20 percent;
- 38 (G) Curry County, 30 percent;
- 39 (H) Deschutes County, 45 percent;
- 40 (I) Douglas County, 40 percent;
- 41 (J) Gilliam County, 20 percent;
- 42 (K) Grant County, 19 percent;
- 43 (L) Harney County, 40 percent;
- 44 (M) Hood River County, 25 percent;
- 45 (N) Jackson County, 40 percent;

- 1 (O) Jefferson County, 25 percent;
2 (P) Josephine County, 38 percent;
3 (Q) Klamath County, 20 percent;
4 (R) Lake County, 10 percent;
5 (S) Lane County, 54 percent;
6 (T) Lincoln County, 20 percent;
7 (U) Linn County, 40 percent;
8 (V) Malheur County, 22 percent;
9 (W) Marion County, 54 percent;
10 (X) City of Milton-Freewater, 25 percent;
11 (Y) Morrow County, 20 percent;
12 (Z) Polk County, 35 percent;
13 (AA) Sherman County, 20 percent;
14 (BB) Tillamook County, 30 percent;
15 (CC) Umatilla County, 20 percent;
16 (DD) Union County, 25 percent;
17 (EE) Wallowa County, 20 percent;
18 (FF) Wasco County, 35 percent;
19 (GG) Wheeler County, 20 percent; and
20 (HH) Yamhill County, 45 percent.

21 (d) Each wasteshed shall prepare an individualized plan that identifies policies or programs
22 specific to the wasteshed's local conditions to achieve the required recovery goals. The plan shall
23 be available to the department upon the department's request by December 31, 2001. The plan shall
24 be updated by December 31, 2006, and updated again by December 31, 2010. Clackamas, Multnomah
25 and Washington Counties, in aggregate, may meet this requirement through the programs under ORS
26 459.340, 459.345, 459.350 and 459A.050.

27 (e) If a wasteshed does not achieve its 2005 or 2009 waste recovery goal, the wasteshed shall
28 conduct a technical review of existing policies or programs and determine revisions to meet the
29 recovery goal. The department shall, upon the request of the wasteshed, assist in the technical re-
30 view. The wasteshed may request, and may assist the department in conducting, a technical review
31 to determine whether the wasteshed goal is valid.

32 (7) In calculating the recovery rates set forth in subsection (6) of this section, commercial, in-
33 dustrial and demolition scrap metal, vehicles, major equipment and home or industrial appliances
34 that are handled or processed for use in manufacturing new products and that do not routinely enter
35 the solid waste stream through land disposal facilities, transfer stations, recycling depots or on-route
36 collection programs shall not be counted as material recovery or recycling. The department shall
37 annually conduct an industry survey to determine the contribution of post-consumer residential
38 scrap metal, including home appliances, to recycling and recovery levels in a manner which prevents
39 double counting of material recovered. Information collected under the provisions of this section,
40 as it relates specifically to private sector customer lists or specific amounts and types of materials
41 collected or marketed, shall be maintained as confidential by the department and exempt from dis-
42 closure under ORS 192.410 to 192.505. The department may use and disclose such information in
43 aggregated form.

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UNLAWFUL TRADE PRACTICES

SECTION 7. ORS 646.608 is amended to read:

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

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

(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.

(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another.

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

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

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

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

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

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

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

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

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

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

(n) Solicits potential customers by telephone or door to door as a seller unless the person provides the information required under ORS 646.611.

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

(p) Makes any false or misleading statement about a prize, contest or promotion used to publicize a product, business or service.

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

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

(s) Makes false or misleading representations of fact concerning the offering price of, or the

1 person's cost for real estate, goods or services.

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

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

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

7 (w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

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

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

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

25 (ee) Violates ORS 646.883 or 646.885.

26 (ff) Violates ORS 646.569.

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

28 (hh) Violates ORS 646A.360.

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

30 (jj) Violates ORS 646.563.

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

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

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

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

36 (oo) Violates ORS 646A.095.

37 (pp) Violates ORS 822.046.

38 (qq) Violates ORS 128.001.

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

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

41 (tt) Violates ORS 87.686.

42 (uu) Violates ORS 646.651.

43 (vv) Violates ORS 646A.362.

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

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

- 1 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 2 (zz) Violates ORS 87.007 (2) or (3).
- 3 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 4 (bbb) Engages in an unlawful practice under ORS 646.648.
- 5 (ccc) Violates ORS 646A.365.
- 6 (ddd) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.
- 7 (eee) Sells a gift card in violation of ORS 646A.276.
- 8 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 9 (ggg) Violates ORS 646A.430 to 646A.450.
- 10 (hhh) Violates a provision of ORS 744.318 to 744.384, 744.991 and 744.992.
- 11 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 12 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
- 13 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the
- 14 subject of the violation.
- 15 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 16 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
- 17 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
- 18 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 19 (nnn) Violates ORS 646A.082.
- 20 (ooo) Violates ORS 646.647.
- 21 (ppp) Violates ORS 646A.115.
- 22 (qqq) Violates a provision of ORS 646A.405.
- 23 (rrr) Violates ORS 646A.092.
- 24 (sss) Violates a provision of ORS 646.644.
- 25 (ttt) Violates a provision of ORS 646A.295.
- 26 **(uuu) Violates section 3 of this 2012 Act.**

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

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

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

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

37

38 **OCTOBER 1, 2012, REPORT TO LEGISLATIVE ASSEMBLY**

39

40 **SECTION 8. (1) No later than October 1, 2012, the Department of Environmental Quality**
 41 **shall submit a report to the Legislative Assembly in the manner provided by ORS 192.245**
 42 **with recommendations regarding:**

43 **(a) The most effective, cost-efficient and convenient method in this state to provide for**
 44 **the proper collection and recycling of lighting that contains mercury.**

45 **(b) Methods to educate consumers about the proper management of, and collection op-**

1 **portunities for, lighting that contains mercury.**

2 **(c) Designations on lighting that contains mercury, and packaging for lighting that con-**
3 **tains mercury, that includes information about the proper recycling of lighting that contains**
4 **mercury.**

5 **(2) In preparing these recommendations, the department may consult with represen-**
6 **tatives of the lighting industry, environmental organizations and the recycling industry, in-**
7 **dividuals, private sector entities, local governments, public utilities, and retailers that sell**
8 **or offer for sale lighting that contains mercury.**

9
10 **MISCELLANEOUS**

11
12 **SECTION 9. (1) Section 5 of this 2012 Act applies to procurement decisions regarding**
13 **lighting that contains mercury that are made on or after the effective date of this 2012 Act.**

14 **(2) The amendments to ORS 459A.010 by section 6 of this 2012 Act apply to:**

15 **(a) Waste reduction programs accepted by the Department of Environmental Quality**
16 **under ORS 459.055 on or after the effective date of this 2012 Act.**

17 **(b) Certifications by the Department of Environmental Quality, or demonstrations made**
18 **to the Department of Environmental Quality by disposal site operators, under ORS 459.305**
19 **on or after the effective date of this 2012 Act.**

20 **SECTION 10. The unit captions used in this 2012 Act are provided only for the conven-**
21 **ience of the reader and do not become part of the statutory law of this state or express any**
22 **legislative intent in the enactment of this 2012 Act.**

23 _____