

**PROPOSED AMENDMENTS TO
HOUSE BILL 3467**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating
2 new provisions; and” and delete “192.501” and insert “646.608”.

3 Delete lines 4 through 30 and delete pages 2 through 11 and insert:

4 **“SECTION 1. (1) A person shall comply with subsection (2) of this**
5 **section if the person:**

6 **“(a) Operates a website that disseminates photographic records of**
7 **arrested individuals made by law enforcement agencies pursuant to**
8 **ORS 181.511 or otherwise as part of routinely documenting an arrest;**
9 **and**

10 **“(b) Charges a fee for the removal from the website of a photograph**
11 **referred to in paragraph (a) of this subsection and the name and per-**
12 **sonal information of the individual associated with the photograph.**

13 **“(2) A person described in subsection (1) of this section shall remove**
14 **the photograph and related name and personal information from all**
15 **websites owned or controlled by the person without charging a fee**
16 **within 30 days of the date of a request to remove the photograph if the**
17 **request:**

18 **“(a) Is made in writing; and**

19 **“(b) Contains written documentation that all charges stemming**
20 **from the arrest for which the photograph was made:**

21 **“(A) Were resolved through acquittal or otherwise without a con-**
22 **viction;**

1 **“(B) Were reduced to violations; or**

2 **“(C) Following conviction, were expunged or set aside pursuant to**
3 **court order.**

4 **“(3) For purposes of this section, paper or electronic copies of offi-**
5 **cial court records or law enforcement records constitute written doc-**
6 **umentation.**

7 **“(4) A person who violates subsection (2) of this section commits**
8 **an unlawful practice under ORS 646.608.**

9 **“SECTION 2.** ORS 646.608, as amended by section 6, chapter 52, Oregon
10 Laws 2012, is amended to read:

11 “646.608. (1) A person engages in an unlawful practice when in the course
12 of the person’s business, vocation or occupation the person does any of the
13 following:

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

15 “(b) Causes likelihood of confusion or of misunderstanding as to the
16 source, sponsorship, approval, or certification of real estate, goods or ser-
17 vices.

18 “(c) Causes likelihood of confusion or of misunderstanding as to affil-
19 iation, connection, or association with, or certification by, another.

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

22 “(e) Represents that real estate, goods or services have sponsorship, ap-
23 proval, characteristics, ingredients, uses, benefits, quantities or qualities that
24 they do not have or that a person has a sponsorship, approval, status, qual-
25 ification, affiliation, or connection that the person does not have.

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

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

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

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

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

8 “(k) Makes false or misleading representations concerning credit avail-
9 ability or the nature of the transaction or obligation incurred.

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

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

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

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

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

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

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

1 “(s) Makes false or misleading representations of fact concerning the of-
2 fering price of, or the person’s cost for real estate, goods or services.

3 “(t) Concurrent with tender or delivery of any real estate, goods or ser-
4 vices fails to disclose any known material defect or material nonconformity.

5 “(u) Engages in any other unfair or deceptive conduct in trade or com-
6 merce.

7 “(v) Violates any of the provisions relating to auction sales, auctioneers
8 or auction marts under ORS 698.640, whether in a commercial or noncom-
9 mercial situation.

10 “(w) Manufactures mercury fever thermometers.

11 “(x) Sells or supplies mercury fever thermometers unless the thermometer
12 is required by federal law, or is:

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

14 “(B) Supplied with instructions on the careful handling of the
15 thermometer to avoid breakage and on the proper cleanup of mercury should
16 breakage occur.

17 “(y) Sells a thermostat that contains mercury unless the thermostat is
18 labeled in a manner to inform the purchaser that mercury is present in the
19 thermostat and that the thermostat may not be disposed of until the mercury
20 is removed, reused, recycled or otherwise managed to ensure that the mer-
21 cury does not become part of the solid waste stream or wastewater. For
22 purposes of this paragraph, ‘thermostat’ means a device commonly used to
23 sense and, through electrical communication with heating, cooling or venti-
24 lation equipment, control room temperature.

25 “(z) Sells or offers for sale a motor vehicle manufactured after January
26 1, 2006, that contains mercury light switches.

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

28 “(bb) Violates ORS 646A.070 (1).

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

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

- 1 “(ee) Violates ORS 646.883 or 646.885.
- 2 “(ff) Violates ORS 646.569.
- 3 “(gg) Violates the provisions of ORS 646A.142.
- 4 “(hh) Violates ORS 646A.360.
- 5 “(ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 6 “(jj) Violates ORS 646.563.
- 7 “(kk) Violates ORS 759.690 or any rule adopted pursuant thereto.
- 8 “(LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any
9 rule adopted pursuant thereto.
- 10 “(mm) Violates ORS 646A.210 or 646A.214.
- 11 “(nn) Violates any provision of ORS 646A.124 to 646A.134.
- 12 “(oo) Violates ORS 646A.095.
- 13 “(pp) Violates ORS 822.046.
- 14 “(qq) Violates ORS 128.001.
- 15 “(rr) Violates ORS 646.649 (2) to (4).
- 16 “(ss) Violates ORS 646A.090 (2) to (4).
- 17 “(tt) Violates ORS 87.686.
- 18 “(uu) Violates ORS 646.651.
- 19 “(vv) Violates ORS 646A.362.
- 20 “(ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or
21 646A.054.
- 22 “(xx) Violates ORS 180.440 (1) or 180.486 (1).
- 23 “(yy) Commits the offense of acting as a vehicle dealer without a certif-
24 icate under ORS 822.005.
- 25 “(zz) Violates ORS 87.007 (2) or (3).
- 26 “(aaa) Violates ORS 92.405 (1), (2) or (3).
- 27 “(bbb) Engages in an unlawful practice under ORS 646.648.
- 28 “(ccc) Violates ORS 646A.365.
- 29 “(ddd) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.
- 30 “(eee) Sells a gift card in violation of ORS 646A.276.

1 “(fff) Violates ORS 646A.102, 646A.106 or 646A.108.
2 “(ggg) Violates ORS 646A.430 to 646A.450.
3 “(hhh) Violates a provision of ORS 744.318 to 744.384, 744.991 and 744.992.
4 “(iii) Violates a provision of ORS 646A.702 to 646A.720.
5 “(jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning
6 or declaration described in ORS 646A.530 is issued for the children’s product,
7 as defined in ORS 646A.525, that is the subject of the violation.
8 “(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662,
9 697.682, 697.692 or 697.707.
10 “(LLL) Violates the consumer protection provisions of the
11 Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as in effect on
12 January 1, 2010.
13 “(mmm) Violates a provision of ORS 646A.480 to 646A.495.
14 “(nnn) Violates ORS 646A.082.
15 “(ooo) Violates ORS 646.647.
16 “(ppp) Violates ORS 646A.115.
17 “(qqq) Violates a provision of ORS 646A.405.
18 “(rrr) Violates ORS 646A.092.
19 “(sss) Violates a provision of ORS 646.644.
20 “(ttt) Violates a provision of ORS 646A.295.
21 “(uuu) Violates section 3, chapter 52, Oregon Laws 2012.
22 “**(vvv) Violates section 1 of this 2013 Act.**
23 “(2) A representation under subsection (1) of this section or ORS 646.607
24 may be any manifestation of any assertion by words or conduct, including,
25 but not limited to, a failure to disclose a fact.
26 “(3) In order to prevail in an action or suit under ORS 646.605 to 646.652,
27 a prosecuting attorney need not prove competition between the parties or
28 actual confusion or misunderstanding.
29 “(4) An action or suit may not be brought under subsection (1)(u) of this
30 section unless the Attorney General has first established a rule in accord-

1 ance with the provisions of ORS chapter 183 declaring the conduct to be
2 unfair or deceptive in trade or commerce.

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

7
