

**PROPOSED AMENDMENTS TO
HOUSE BILL 2578**

1 In line 2 of the printed bill, after “contracts” insert “; creating new pro-
2 visions; and amending ORS 646.608”.

3 Delete lines 4 through 13 and insert:

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

5 **“(a) ‘Cable service’ means the transmission of any communication**
6 **to a subscriber of the service for the purpose of delivering video con-**
7 **tent to the subscriber.**

8 **“(b) ‘Communications contract’ means a contract between the pro-**
9 **vider of a cable service or a telecommunications service and a sub-**
10 **scriber to the service for the provision of the service.**

11 **“(c) ‘Hospice program’ means a hospice program licensed under**
12 **ORS 443.860.**

13 **“(d) ‘Telecommunications service’ means the transmission of any**
14 **communication between a subscriber of the service and any other in-**
15 **dividual through the use of a communication system established and**
16 **maintained by a radio common carrier or a telecommunications util-**
17 **ity, both as defined in ORS 759.005.**

18 **“(2) An individual in a hospice program, or the next of kin or per-**
19 **sonal representative of an individual who has died, may terminate a**
20 **cable service or a telecommunications service provided pursuant to a**
21 **communications contract without fee, charge or penalty if under the**
22 **terms of the communications contract the provider of the cable ser-**

1 **vice or the communications service must provide the service for a**
2 **period of time exceeding three months. Under the circumstances de-**
3 **scribed in this subsection, a provision in a communications contract**
4 **that purports to impose a fee, charge or penalty on a subscriber for**
5 **terminating the communications contract is unenforceable.**

6 **“(3) For purposes described in subsection (2) of this section, a pro-**
7 **vider of a cable service or a telecommunications service may require**
8 **an individual in a hospice program or the next of kin or personal**
9 **representative of an individual who has died to submit a document**
10 **establishing that the individual is in a hospice program or has died.**

11 **“SECTION 2.** ORS 646.608, as amended by section 3, chapter 19, Oregon
12 Laws 2014, is amended to read:

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

16 **“(a) Passes off real estate, goods or services as the real estate, goods or**
17 **services of another.**

18 **“(b) Causes likelihood of confusion or of misunderstanding as to the**
19 **source, sponsorship, approval, or certification of real estate, goods or ser-**
20 **vices.**

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

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

25 **“(e) Represents that real estate, goods or services have sponsorship, ap-**
26 **proval, characteristics, ingredients, uses, benefits, quantities or qualities that**
27 **the real estate, goods or services do not have or that a person has a spon-**
28 **sorship, approval, status, qualification, affiliation, or connection that the**
29 **person does not have.**

30 **“(f) Represents that real estate or goods are original or new if the real**

1 estate or goods are deteriorated, altered, reconditioned, reclaimed, used or
2 secondhand.

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

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

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

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

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

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

20 “(m) Performs service on or dismantles any goods or real estate if the
21 owner or apparent owner of the goods or real estate does not authorize the
22 service or dismantling.

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

25 “(o) In a sale, rental or other disposition of real estate, goods or services,
26 gives or offers to give a rebate or discount or otherwise pays or offers to pay
27 value to the customer in consideration of the customer giving to the person
28 the names of prospective purchasers, lessees, or borrowers, or otherwise
29 aiding the person in making a sale, lease, or loan to another person, if
30 earning the rebate, discount or other value is contingent upon an event oc-

1 curring after the time the customer enters into the transaction.

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

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

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

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

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

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

15 “(v) Violates any of the provisions relating to auction sales, consignment
16 sales, auctioneers, consignees or auction marts under ORS 698.640, whether
17 in a commercial or noncommercial situation.

18 “(w) Manufactures mercury fever thermometers.

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

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

22 “(B) Supplied with instructions on the careful handling of the
23 thermometer to avoid breakage and on the proper cleanup of mercury should
24 breakage occur.

25 “(y) Sells a thermostat that contains mercury unless the thermostat is
26 labeled in a manner to inform the purchaser that mercury is present in the
27 thermostat and that the thermostat may not be disposed of until the mercury
28 is removed, reused, recycled or otherwise managed to ensure that the mer-
29 cury does not become part of the solid waste stream or wastewater. For
30 purposes of this paragraph, ‘thermostat’ means a device commonly used to

1 sense and, through electrical communication with heating, cooling or venti-
2 lation equipment, control room temperature.

3 “(z) Sells or offers for sale a motor vehicle manufactured after January
4 1, 2006, that contains mercury light switches.

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

6 “(bb) Violates ORS 646A.070 (1).

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

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

9 “(ee) Violates ORS 646.883 or 646.885.

10 “(ff) Violates ORS 646.569.

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

12 “(hh) Violates ORS 646A.360.

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

14 “(jj) Violates ORS 646.563.

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

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

18 “(mm) Violates ORS 646A.210 or 646A.214.

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

20 “(oo) Violates ORS 646A.095.

21 “(pp) Violates ORS 822.046.

22 “(qq) Violates ORS 128.001.

23 “(rr) Violates ORS 646A.800 (2) to (4).

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

25 “(tt) Violates ORS 87.686.

26 “(uu) Violates ORS 646A.803.

27 “(vv) Violates ORS 646A.362.

28 “(ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or
29 646A.054.

30 “(xx) Violates ORS 180.440 (1) or 180.486 (1).

1 “(yy) Commits the offense of acting as a vehicle dealer without a certifi-
2 cate under ORS 822.005.

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

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

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

6 “(ccc) Violates ORS 646A.365.

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

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

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

10 “(ggg) Violates ORS 646A.430 to 646A.450.

11 “(hhh) Violates a provision of ORS 744.318 to 744.384.

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

13 “(jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning
14 or declaration described in ORS 646A.530 is issued for the children’s product,
15 as defined in ORS 646A.525, that is the subject of the violation.

16 “(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662,
17 697.682, 697.692 or 697.707.

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

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

22 “(nnn) Violates ORS 646A.082.

23 “(ooo) Violates ORS 646.647.

24 “(ppp) Violates ORS 646A.115.

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

26 “(rrr) Violates ORS 646A.092.

27 “(sss) Violates a provision of ORS 646.644.

28 “(ttt) Violates a provision of ORS 646A.295.

29 “(uuu) Violates ORS 646A.564.

30 “(vvv) Engages in the business of, or acts in the capacity of, an immi-

1 gration consultant, as defined in ORS 9.280, in this state and for compen-
2 sation, unless federal law authorizes the person to do so or unless the person
3 is an active member of the Oregon State Bar.

4 “(www) Violates ORS 702.012, 702.029, 702.032 or 702.054.

5 “(xxx) Violates ORS 646A.806.

6 “(yyy) Violates section 2 (2), chapter 19, Oregon Laws 2014.

7 “(zzz) **Violates section 1 of this 2015 Act.**

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

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

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

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

22 “**SECTION 3. Section 1 of this 2015 Act applies to communications**
23 **contracts entered into or renewed on or after the effective date of this**
24 **2015 Act that contain a provision imposing a fee, charge or penalty on**
25 **the subscriber for terminating the contract before the date on which**
26 **the contract expires.”.**

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