

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2845**

1 On page 2 of the printed A-engrossed bill, line 21, after “enters” insert
2 “, whether”.

3 In line 22, after “Act,” insert “or not,”.

4 On page 4, line 17, after the second “a” insert “pro-rata”.

5 Delete lines 18 and 19 and insert “fund of the unearned portion of the
6 purchase price.”.

7 In line 22, after “after” insert “cancellation if”.

8 Delete line 23 and insert “tection waiver. If the guaranteed asset pro-
9 tection waiver is canceled as a result of the termination of the finance
10 agreement, then any cancellation refund shall be provided without requiring
11 the borrower to apply or submit a claim for the refund.”.

12 Delete lines 24 through 28 and insert:

13 “(2) The terms of the guaranteed asset protection waiver may provide that
14 if the borrower financed the purchase of the gap waiver and cancels the gap
15 waiver, if the borrower defaults on the obligation set forth in the finance
16 agreement, if the creditor repossesses the motor vehicle that secures the ob-
17 ligation or if the finance agreement terminates for a reason other than the
18 borrower’s satisfaction of the obligation set forth in the finance agreement,
19 any refund due as a consequence or termination may be:”.

20 On page 5, line 29, delete “that is subject to an action under ORS
21 646.638”.

22 On page 8, after line 31, insert:

1 **“SECTION 10.** ORS 646.608, as amended by section 3, chapter 19, Oregon
2 Laws 2014, and section 9 of this 2015 Act, is amended to read:

3 “646.608. (1) A person engages in an unlawful practice if in the course of
4 the person’s business, vocation or occupation the person does any of the
5 following:

6 “(a) Passes off real estate, goods or services as the real estate, goods or
7 services of another.

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

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

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

15 “(e) Represents that real estate, goods or services have sponsorship, ap-
16 proval, characteristics, ingredients, uses, benefits, quantities or qualities that
17 the real estate, goods or services do not have or that a person has a spon-
18 sorship, approval, status, qualification, affiliation, or connection that the
19 person does not have.

20 “(f) Represents that real estate or goods are original or new if the real
21 estate or goods are deteriorated, altered, reconditioned, reclaimed, used or
22 secondhand.

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

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

28 “(i) Advertises real estate, goods or services with intent not to provide
29 the real estate, goods or services as advertised, or with intent not to supply
30 reasonably expectable public demand, unless the advertisement discloses a

1 limitation of quantity.

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

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

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

10 “(m) Performs service on or dismantles any goods or real estate if the
11 owner or apparent owner of the goods or real estate does not authorize the
12 service or dismantling.

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

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

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

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

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

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

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

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

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

8 “(w) Manufactures mercury fever thermometers.

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

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

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

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

23 “(z) Sells or offers for sale a motor vehicle manufactured after January
24 1, 2006, that contains mercury light switches.

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

26 “(bb) Violates ORS 646A.070 (1).

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

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

29 “(ee) Violates ORS 646.883 or 646.885.

30 “(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
7 rule adopted pursuant 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 646A.800 (2) to (4).
14 “(ss) Violates ORS 646A.090 (2) to (4).
15 “(tt) Violates ORS 87.686.
16 “(uu) Violates ORS 646A.803.
17 “(vv) Violates ORS 646A.362.
18 “(ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or
19 646A.054.
20 “(xx) Violates ORS 180.440 (1) or 180.486 (1).
21 “(yy) Commits the offense of acting as a vehicle dealer without a certif-
22 icate under ORS 822.005.
23 “(zz) Violates ORS 87.007 (2) or (3).
24 “(aaa) Violates ORS 92.405 (1), (2) or (3).
25 “(bbb) Engages in an unlawful practice under ORS 646.648.
26 “(ccc) Violates ORS 646A.365.
27 “(ddd) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.
28 “(eee) Sells a gift card in violation of ORS 646A.276.
29 “(fff) Violates ORS 646A.102, 646A.106 or 646A.108.
30 “(ggg) Violates ORS 646A.430 to 646A.450.

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

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

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

6 “(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662,
7 697.682, 697.692 or 697.707.

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

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

12 “(nnn) Violates ORS 646A.082.

13 “(ooo) Violates ORS 646.647.

14 “(ppp) Violates ORS 646A.115.

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

16 “(rrr) Violates ORS 646A.092.

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

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

19 “(uuu) Violates ORS 646A.564.

20 “(vvv) Engages in the business of, or acts in the capacity of, an immi-
21 gration consultant, as defined in ORS 9.280, in this state and for compen-
22 sation, unless federal law authorizes the person to do so or unless the person
23 is an active member of the Oregon State Bar.

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

25 “(xxx) Violates ORS 646A.806.

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

27 “[zzz) *Violates a provision of sections 1 to 7 of this 2015 Act.*]

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

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

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

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

12 **“SECTION 11. Sections 1 to 8 of this 2015 Act are repealed on Jan-
13 uary 2, 2020.**

14 **“SECTION 12. The amendments to ORS 646.608 by section 10 of this
15 2015 Act become operative on January 2, 2020.”.**

16 In line 32, delete “10” and insert “13”.

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