

Senate Bill 133

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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**.

Places certain additional prohibitions and requirements on towers. Adds certain towing provisions to those provisions enforceable as unlawful trade practices.

Reorganizes and consolidates towing provisions applicable to unlawfully parked and abandoned vehicles.

A BILL FOR AN ACT

Relating to towing; creating new provisions; amending ORS 90.425, 90.485, 98.805, 98.812, 98.830, 98.840, 98.854, 98.856 and 646.608; and repealing ORS 98.835.

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

DISPOSITION OF UNLAWFULLY PARKED VEHICLES AND ABANDONED VEHICLES

SECTION 1. ORS 98.805 is amended to read:

98.805. As used in this section and ORS 98.810 to 98.818, 98.830[, 98.835] and 98.840:

(1) "Owner of a parking facility" means:

(a) The owner, lessee or person in lawful possession of a private parking facility; or

(b) Any officer or agency of this state with authority to control or operate a parking facility.

(2) "Owner of proscribed property" means the owner, lessee or person in lawful possession of proscribed property.

(3) "Parking facility" means any property used for vehicle parking.

(4) "Proscribed property" means any part of private property:

(a) Where a reasonable person would conclude that parking is not normally permitted at all or where a land use regulation prohibits parking; or

(b) That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling or a duplex.

(5) "Tower" means a person issued a towing business certificate under ORS 822.205.

(6) "Vehicle" has the meaning given that term in ORS 801.590.

SECTION 2. ORS 98.812 is amended to read:

98.812. (1) If a vehicle has been left or parked in violation of ORS 98.810, the owner of the parking facility or the owner of the proscribed property may have a tower tow the vehicle from the parking facility or the proscribed property and place the vehicle in storage at a secure location under the control of the tower.

[(2) Prior to towing a vehicle under this section, a tower who tows a vehicle at the request of an

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 owner of a parking facility shall take at least one photograph of the vehicle and record the time and
 2 date of the photograph. A photograph must show the vehicle left or parked in violation of ORS 98.810.
 3 The tower shall maintain for at least two years, in electronic or printed form, each photograph taken
 4 along with the date and time of the photograph.]

5 [(3) A tower who tows a vehicle at the request of an owner of a parking facility or the owner of
 6 proscribed property under this section shall provide to the owner or operator of the vehicle the infor-
 7 mation required in ORS 98.856 in the manner provided in ORS 98.856.]

8 [(4)] (2) A tower is entitled to a lien on a towed vehicle and its contents for the tower's just
 9 and reasonable charges. **The tower [and] may retain possession [thereof] of the towed vehicle and**
 10 **its contents** until the just and reasonable charges for the towage, care and storage of the towed
 11 vehicle have been paid if the tower complies with the following requirements:

12 (a) The tower shall notify the local law enforcement agency of the location of the towed vehicle
 13 within one hour after the towed vehicle is placed in storage;

14 (b) If the towed vehicle is registered in Oregon, the tower shall give notice, within 15 days after
 15 the towed vehicle is placed in storage, to the owner of the towed vehicle or any other person with
 16 an interest in the towed vehicle, as indicated by the certificate of title. If notice under this para-
 17 graph is given by mail, it must be transmitted within the 15-day period, but need not be received
 18 within that period, but within a reasonable time. If the tower fails to comply with the notice re-
 19 quirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable
 20 expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and

21 (c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the
 22 towed vehicle is placed in storage, notify and request the title information and the name and address
 23 of the owner of the towed vehicle from the motor vehicle agency for the state in which the towed
 24 vehicle is registered. The tower shall have 15 days from the date of receipt of the information from
 25 the state motor vehicle agency to notify the owner of the towed vehicle or any other person with
 26 an interest in the towed vehicle, as indicated by the certificate of title. If notice under this para-
 27 graph is given by mail, it must be transmitted within 15 days from the receipt of information from
 28 the state motor vehicle agency, but need not be received within that period, but within a reasonable
 29 time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the
 30 lien is limited to a sum equal to the reasonable expenses incurred within the period between storage
 31 of the towed vehicle and receipt of information from the state motor vehicle agency for towage, care
 32 and storage of the towed vehicle.

33 [(5)] (3) The lien created by subsection [(4)] (2) of this section may be foreclosed only in the
 34 manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed
 35 under ORS 87.152.

36 **SECTION 3. ORS 98.835 is repealed.**

37 **SECTION 4.** ORS 98.830 is amended to read:

38 98.830. (1) A person who is the owner, or is in lawful possession, of private property on which
 39 a vehicle has been abandoned may have a tower tow the vehicle from the property if:

40 [(1)] (a) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is
 41 not removed[.];

42 (b) The notice required by **paragraph (a) of this subsection [must remain] remains** on the ve-
 43 hicle for **at least** 72 hours [*before the vehicle may be removed.*]; **and**

44 [(2)] (c) The person fills out and signs a form that includes:

45 [(a)] (A) A description of the vehicle to be towed;

1 [(b)] (B) The location of the property from which the vehicle will be towed; and

2 [(c)] (C) A statement that the person has complied with [subsection (1) of this section] **para-**
 3 **graphs (a) and (b) of this subsection.**

4 (2) A tower who tows a vehicle pursuant to this section is immune from civil liability for
 5 towing the vehicle if the tower has a form described in subsection (1) of this section, filled
 6 out by a person purporting to be the owner or a person in lawful possession of the private
 7 property from which the vehicle is towed. This subsection does not grant immunity for any
 8 loss, damage or injury arising out of any negligent or willful damage to, or destruction of,
 9 the vehicle that occurs during the course of the towing.

10 (3) A tower is entitled to a lien on a vehicle towed under this section and its contents for
 11 the tower's just and reasonable charges. The tower may retain possession of the towed ve-
 12 hicle and its contents until the just and reasonable charges for the towage, care and storage
 13 have been paid if the tower complies with the requirements of ORS 98.812 (2).

14 (4) The lien created by subsection (3) of this section may be foreclosed only in the man-
 15 ner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed
 16 under ORS 87.152.

17 **SECTION 5.** ORS 98.840 is amended to read:

18 98.840. The procedure authorized by ORS 98.830 [and 98.835] for removal of abandoned vehicles
 19 from private property may be used by [persons described in ORS 98.805] **an owner of a parking**
 20 **facility or an owner of proscribed property** as an alternative to the procedures described in ORS
 21 98.810 to 98.818.

22
 23 **INVOLUNTARY LOSS OF USE OF MOTOR VEHICLES**

24
 25 **SECTION 6.** ORS 98.854 is amended to read:

26 98.854. (1) A tower may not:

27 (a) **Tow a motor vehicle from a parking facility unless there is a sign displayed in plain**
 28 **view at the parking facility that, using clear and conspicuous language, prohibits or restricts**
 29 **public parking at the parking facility.**

30 [(a)] (b) Except as provided in subsection (3) of this section, tow a motor vehicle from a parking
 31 facility without first contacting the owner of the facility or the owner's agent at the time of the tow
 32 **and receiving written confirmation from the owner or owner's agent that the tower should**
 33 **tow the motor vehicle.**

34 [(b)] (c) Tow a motor vehicle from a parking facility if the parking facility owner or owner's
 35 agent is an employee of a tower.

36 [(c) Tow a motor vehicle without providing to the owner or operator of the motor vehicle the in-
 37 formation required under ORS 98.856 in the manner required under ORS 98.856.]

38 (d) Charge more than a price disclosed under ORS 98.856 when towing a motor vehicle [with]
 39 **without** the prior consent or authorization of the owner or operator of the motor vehicle.

40 (e) Charge more than an amount set under ORS 98.859 when towing a motor vehicle without the
 41 prior consent or authorization of the owner or operator of the motor vehicle.

42 (f) Solicit towing business at, or within 1,000 feet of, the site of a motor vehicle accident, unless
 43 the tower tows the motor vehicle pursuant to a prenegotiated payment agreement between the tower
 44 and a motor vehicle road service company.

45 (g) Except as provided in subsection (2) of this section, park a tow vehicle within 1,000 feet of

1 a parking facility for the purpose of monitoring the parking facility for towing business.

2 (h) Provide consideration to obtain the privilege of towing motor vehicles from a parking facil-
3 ity. For the purposes of this paragraph, the provision of:

4 (A) Signs by a tower under ORS 98.862 does not constitute consideration.

5 (B) Goods or services by a tower below fair market value constitutes consideration.

6 (i) Require, as a condition of towing a motor vehicle or releasing a motor vehicle or personal
7 property in the motor vehicle, that the owner or operator of the motor vehicle agree not to dispute:

8 (A) The reason for the tow;

9 (B) The validity or amount of charges; or

10 (C) The responsibility of the tower for the condition of the motor vehicle or personal property
11 in the motor vehicle.

12 (j) Hold a towed motor vehicle for more than 24 hours without:

13 (A) Taking an inventory of all personal property in the motor vehicle that is visible from the
14 exterior of the motor vehicle; and

15 (B) Holding the personal property in the motor vehicle in a secure manner.

16 (k) Accept cash as a method of payment for towing services unless the tower provides exact
17 change not later than the end of the business day following receipt of payment.

18 (L) Operate in a city or county without a license issued by the city or county if required by
19 ORS 98.861.

20 (m) Charge for the hookup and release of a motor vehicle except as provided in ORS 98.856.

21 (2) A tower may park a tow vehicle within 1,000 feet of a parking facility for the purpose of
22 monitoring the parking facility for towing business if the tower provides notice of the hours during
23 which monitoring occurs on signs that are clearly readable by an operator of a motor vehicle in
24 each parking stall or at each entrance to the parking facility.

25 (3) A tower may tow a motor vehicle if the motor vehicle:

26 (a) Blocks or prevents access by emergency vehicles;

27 (b) Blocks or prevents entry to the premises;

28 (c) Blocks a parked motor vehicle;

29 (d) Violates a prominently posted no parking sign that warns that parking is prohibited 24 hours
30 a day; or

31 (e) Parks without permission in a parking facility used for residents of an apartment and:

32 (A) There are more residential units than there are parking spaces;

33 (B) The landlord has issued parking tags or other devices that identify vehicles that are au-
34 thorized to be parked on the premises; and

35 (C) There are signs posted that are clearly readable by an operator of a motor vehicle in each
36 parking stall or at each entrance to the parking facility prohibiting or restricting public parking on
37 the parking facility.

38 **(4) Prior to towing a motor vehicle pursuant to ORS 98.812, a tower shall take at least**
39 **one photograph of the motor vehicle and record the time and date of the photograph. The**
40 **photograph must show the motor vehicle left or parked in violation of ORS 98.810. The tower**
41 **shall maintain for at least two years, in electronic or printed form, each photograph taken**
42 **along with the date and time of the photograph. Upon request, the tower shall provide a copy**
43 **of any photographs that show the motor vehicle left or parked in violation of ORS 98.810 to**
44 **the owner or operator of the motor vehicle at no additional charge.**

45 **(5) A tower who controls or has access to multiple storage facilities must tow a motor**

1 **vehicle to the tower's storage facility with available space that is closest to where the motor**
 2 **vehicle was hooked up to the tow vehicle.**

3 **SECTION 7.** ORS 98.856 is amended to read:

4 98.856. (1)(a) If the owner or operator of the motor vehicle is present at the time of the tow, the
 5 tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is
 6 complete, the tower shall release the motor vehicle and may charge the owner or operator of the
 7 motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a
 8 written statement described in subsection (2)(a) of this section.

9 **(b) For purposes of this subsection, a hookup is complete if the motor vehicle to be towed**
 10 **has been loaded onto a tow vehicle, or if any part of the motor vehicle has been placed on**
 11 **or connected to an assembly that is part of a tow vehicle, such that the tow vehicle is ca-**
 12 **pable of being in motion with the motor vehicle in tow.**

13 (2) A tower shall disclose to the owner or operator of a motor vehicle in a conspicuous written
 14 statement of at least 10-point boldfaced type:

15 (a) The prices the tower charges for **all the** goods and services **that the tower offers;**

16 (b) The location where the tower will:

17 (A) Store the motor vehicle and personal property in the motor vehicle; or

18 (B) Tow the motor vehicle, if the tower is towing the motor vehicle to a location other than a
 19 location under the control of the tower;

20 (c) The telephone number and any other means of contacting the tower, and the hours of avail-
 21 ability at that telephone number and at the other means of contacting the tower;

22 (d) The methods of payment that the tower accepts; and

23 (e) That, if the owner or operator of the motor vehicle pays for the tow with cash, the tower
 24 will provide, in person or by mail, exact change not later than the end of the business day following
 25 receipt of payment.

26 (3) If the owner or operator is present at the time of the tow, the tower shall provide the in-
 27 formation required under subsection (2) of this section to the owner or operator of the motor vehicle
 28 before towing the motor vehicle.

29 (4) If the owner or operator of the motor vehicle is not present at the time of the tow, the tower
 30 shall provide the information required under subsection (2) of this section to the owner or person
 31 in lawful possession of the motor vehicle prior to the time the owner or person in lawful possession
 32 of the motor vehicle redeems the motor vehicle.

33 (5)(a) As used in this subsection, "business day" means Monday through Friday, excluding legal
 34 holidays.

35 (b) If the owner or operator of the motor vehicle is not present at the time of the tow:

36 (A) Within five business days from the date of the tow, the tower shall request the name and
 37 address of the owner of the motor vehicle from the state motor vehicle agency for the state in which
 38 the motor vehicle is registered.

39 (B) The tower shall provide the information required under subsection (2) of this section to the
 40 owner of the motor vehicle by mail by the end of the first business day following receipt of the in-
 41 formation from the state motor vehicle agency.

42 (C) If the owner of the motor vehicle or a person in lawful possession of the motor vehicle re-
 43 deems the motor vehicle or contacts the tower prior to five business days after the tow, the tower
 44 is not required to contact the state motor vehicle agency.

45 (6) If the owner or operator of the motor vehicle is not present at the time of the tow but the

1 owner or operator of the motor vehicle requested the tow and arranged to pay the tower directly,
 2 the tower may obtain the name and address of the owner of the motor vehicle from the owner or
 3 operator of the motor vehicle and may provide the information required under subsection (2) of this
 4 section:

- 5 (a) Within five business days after the tow; or
- 6 (b) With a copy of the invoice for the tow or upon receipt of payment, whichever first occurs.

7 **SECTION 8.** ORS 646.608 is amended to read:

8 646.608. (1) A person engages in an unlawful practice if in the course of the person's business,
 9 vocation or occupation the person does any of the following:

- 10 (a) Passes off real estate, goods or services as the real estate, goods or services of another.
- 11 (b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-
 12 proval, or certification of real estate, goods or services.
- 13 (c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-
 14 ciation with, or certification by, another.
- 15 (d) Uses deceptive representations or designations of geographic origin in connection with real
 16 estate, goods or services.
- 17 (e) Represents that real estate, goods or services have sponsorship, approval, characteristics,
 18 ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have
 19 or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the
 20 person does not have.
- 21 (f) Represents that real estate or goods are original or new if the real estate or goods are de-
 22 teriorated, altered, reconditioned, reclaimed, used or secondhand.
- 23 (g) Represents that real estate, goods or services are of a particular standard, quality, or grade,
 24 or that real estate or goods are of a particular style or model, if the real estate, goods or services
 25 are of another.
- 26 (h) Disparages the real estate, goods, services, property or business of a customer or another
 27 by false or misleading representations of fact.
- 28 (i) Advertises real estate, goods or services with intent not to provide the real estate, goods or
 29 services as advertised, or with intent not to supply reasonably expectable public demand, unless the
 30 advertisement discloses a limitation of quantity.
- 31 (j) Makes false or misleading representations of fact concerning the reasons for, existence of,
 32 or amounts of price reductions.
- 33 (k) Makes false or misleading representations concerning credit availability or the nature of the
 34 transaction or obligation incurred.
- 35 (L) Makes false or misleading representations relating to commissions or other compensation to
 36 be paid in exchange for permitting real estate, goods or services to be used for model or demon-
 37 stration purposes or in exchange for submitting names of potential customers.
- 38 (m) Performs service on or dismantles any goods or real estate if the owner or apparent owner
 39 of the goods or real estate does not authorize the service or dismantling.
- 40 (n) Solicits potential customers by telephone or door to door as a seller unless the person pro-
 41 vides the information required under ORS 646.611.
- 42 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give
 43 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
 44 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or
 45 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,

1 discount or other value is contingent upon an event occurring after the time the customer enters
2 into the transaction.

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

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

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

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

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

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

13 (v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers,
14 consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situ-
15 ation.

16 (w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

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

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

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

34 (ee) Violates ORS 646.883 or 646.885.

35 (ff) Violates ORS 646.569.

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

37 (hh) Violates ORS 646A.360.

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

39 (jj) Violates ORS 646.563.

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

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

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

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

45 (oo) Violates ORS 646A.095.

- 1 (pp) Violates ORS 822.046.
2 (qq) Violates ORS 128.001.
3 (rr) Violates ORS 646A.800 (2) to (4).
4 (ss) Violates ORS 646A.090 (2) to (4).
5 (tt) Violates ORS 87.686.
6 (uu) Violates ORS 646A.803.
7 (vv) Violates ORS 646A.362.
8 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
9 (xx) Violates ORS 180.440 (1) or 180.486 (1).
10 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
11 (zz) Violates ORS 87.007 (2) or (3).
12 (aaa) Violates ORS 92.405 (1), (2) or (3).
13 (bbb) Engages in an unlawful practice under ORS 646.648.
14 (ccc) Violates ORS 646A.365.
15 (ddd) Violates ORS 98.854, **98.856** or 98.858 or a rule adopted under ORS 98.864.
16 (eee) Sells a gift card in violation of ORS 646A.276.
17 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
18 (ggg) Violates ORS 646A.430 to 646A.450.
19 (hhh) Violates a provision of ORS 744.318 to 744.384.
20 (iii) Violates a provision of ORS 646A.702 to 646A.720.
21 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
22 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the
23 subject of the violation.
24 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
25 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
26 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
27 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
28 (nnn) Violates ORS 646A.082.
29 (ooo) Violates ORS 646.647.
30 (ppp) Violates ORS 646A.115.
31 (qqq) Violates a provision of ORS 646A.405.
32 (rrr) Violates ORS 646A.092.
33 (sss) Violates a provision of ORS 646.644.
34 (ttt) Violates a provision of ORS 646A.295.
35 (uuu) Violates ORS 646A.564.
36 (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
37 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
38 do so or unless the person is an active member of the Oregon State Bar.
39 (www) Violates ORS 702.012, 702.029, 702.032 or 702.054.
40 (xxx) Violates ORS 646A.806.
41 (yyy) Violates ORS 646A.810 (2).
42 (zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws 2015.
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 336.184 and 646.605 to 646.652, a prose-

1 cutting attorney need not prove competition between the parties or actual confusion or misunder-
2 standing.

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

6 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
7 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
8 ney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney
9 fees.

10 **SECTION 9.** ORS 646.608, as amended by section 10, chapter 523, Oregon Laws 2015, is
11 amended to read:

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

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

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

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

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

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

25 (f) Represents that real estate or goods are original or new if the real estate or goods are de-
26 teriorated, altered, reconditioned, reclaimed, used or secondhand.

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

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

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

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

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

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

42 (m) Performs service on or dismantles any goods or real estate if the owner or apparent owner
43 of the goods or real estate does not authorize the service or dismantling.

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

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

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

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

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

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

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

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

17 (v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers,
18 consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situ-
19 ation.

20 (w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

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

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

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

38 (ee) Violates ORS 646.883 or 646.885.

39 (ff) Violates ORS 646.569.

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

41 (hh) Violates ORS 646A.360.

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

43 (jj) Violates ORS 646.563.

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

45 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant

- 1 thereto.
- 2 (mm) Violates ORS 646A.210 or 646A.214.
- 3 (nn) Violates any provision of ORS 646A.124 to 646A.134.
- 4 (oo) Violates ORS 646A.095.
- 5 (pp) Violates ORS 822.046.
- 6 (qq) Violates ORS 128.001.
- 7 (rr) Violates ORS 646A.800 (2) to (4).
- 8 (ss) Violates ORS 646A.090 (2) to (4).
- 9 (tt) Violates ORS 87.686.
- 10 (uu) Violates ORS 646A.803.
- 11 (vv) Violates ORS 646A.362.
- 12 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
- 13 (xx) Violates ORS 180.440 (1) or 180.486 (1).
- 14 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 15 (zz) Violates ORS 87.007 (2) or (3).
- 16 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 17 (bbb) Engages in an unlawful practice under ORS 646.648.
- 18 (ccc) Violates ORS 646A.365.
- 19 (ddd) Violates ORS 98.854, **98.856** or 98.858 or a rule adopted under ORS 98.864.
- 20 (eee) Sells a gift card in violation of ORS 646A.276.
- 21 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 22 (ggg) Violates ORS 646A.430 to 646A.450.
- 23 (hhh) Violates a provision of ORS 744.318 to 744.384.
- 24 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 25 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
26 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the
27 subject of the violation.
- 28 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 29 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
30 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
- 31 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 32 (nnn) Violates ORS 646A.082.
- 33 (ooo) Violates ORS 646.647.
- 34 (ppp) Violates ORS 646A.115.
- 35 (qqq) Violates a provision of ORS 646A.405.
- 36 (rrr) Violates ORS 646A.092.
- 37 (sss) Violates a provision of ORS 646.644.
- 38 (ttt) Violates a provision of ORS 646A.295.
- 39 (uuu) Violates ORS 646A.564.
- 40 (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
41 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
42 do so or unless the person is an active member of the Oregon State Bar.
- 43 (www) Violates ORS 702.012, 702.029, 702.032 or 702.054.
- 44 (xxx) Violates ORS 646A.806.
- 45 (yyy) Violates ORS 646A.810 (2).

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

3 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
 4 cuting attorney need not prove competition between the parties or actual confusion or misunder-
 5 standing.

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

9 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
 10 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
 11 ney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney
 12 fees.

13
 14 **CONFORMING AMENDMENTS**

15
 16 **SECTION 10.** ORS 90.425 is amended to read:

17 90.425. (1) As used in this section:

18 (a) “Current market value” means the amount in cash, as determined by the county assessor,
 19 that could reasonably be expected to be paid for a manufactured dwelling or floating home by an
 20 informed buyer to an informed seller, each acting without compulsion in an arm’s-length transaction
 21 occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the
 22 county assessor.

23 (b) “Dispose of the personal property” means that, if reasonably appropriate, the landlord may
 24 throw away the property or may give it without consideration to a nonprofit organization or to a
 25 person unrelated to the landlord. The landlord may not retain the property for personal use or
 26 benefit.

27 (c) “Goods” includes those goods left inside a recreational vehicle, manufactured dwelling or
 28 floating home or left upon the rental space outside a recreational vehicle, manufactured dwelling
 29 or floating home, whether the recreational vehicle, dwelling or home is located inside or outside of
 30 a facility.

31 (d) “Lienholder” means any lienholder of an abandoned recreational vehicle, manufactured
 32 dwelling or floating home, if the lien is of record or the lienholder is actually known to the landlord.

33 (e) “Of record” means:

34 (A) For a recreational vehicle that is not a manufactured structure as defined in ORS 446.561,
 35 that a security interest has been properly recorded with the Department of Transportation pursuant
 36 to ORS 802.200 (1)(a)(A) and 803.097.

37 (B) For a manufactured dwelling or recreational vehicle that is a manufactured structure as
 38 defined in ORS 446.561, that a security interest has been properly recorded for the manufactured
 39 dwelling or recreational vehicle in the records of the Department of Consumer and Business Ser-
 40 vices pursuant to ORS 446.611 or on a certificate of title issued by the Department of Transportation
 41 prior to May 1, 2005.

42 (C) For a floating home, that a security interest has been properly recorded with the State
 43 Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board
 44 pursuant to ORS 830.715.

45 (f) “Owner” means any owner of an abandoned recreational vehicle, manufactured dwelling or

1 floating home, if different from the tenant and either of record or actually known to the landlord.

2 (g) "Personal property" means goods, vehicles and recreational vehicles and includes manufac-
 3 tured dwellings and floating homes not located in a facility. "Personal property" does not include
 4 manufactured dwellings and floating homes located in a facility and therefore subject to being
 5 stored, sold or disposed of as provided under ORS 90.675.

6 (2) A landlord is responsible for abandoned personal property and shall store, sell or dispose of
 7 abandoned personal property as provided by this section. This section governs the rights and obli-
 8 gations of landlords, tenants and any lienholders or owners in any personal property abandoned or
 9 left upon the premises by the tenant or any lienholder or owner in the following circumstances:

10 (a) The tenancy has ended by termination or expiration of a rental agreement or by
 11 relinquishment or abandonment of the premises and the landlord reasonably believes under all the
 12 circumstances that the tenant has left the personal property upon the premises with no intention
 13 of asserting any further claim to the premises or to the personal property;

14 (b) The tenant has been absent from the premises continuously for seven days after termination
 15 of a tenancy by a court order that has not been executed; or

16 (c) The landlord receives possession of the premises from the sheriff following restitution pur-
 17 suant to ORS 105.161.

18 (3) Prior to storing, selling or disposing of the tenant's personal property under this section, the
 19 landlord must give a written notice to the tenant that must be:

20 (a) Personally delivered to the tenant; or

21 (b) Sent by first class mail addressed and mailed to the tenant at:

22 (A) The premises;

23 (B) Any post-office box held by the tenant and actually known to the landlord; and

24 (C) The most recent forwarding address if provided by the tenant or actually known to the
 25 landlord.

26 (4)(a) In addition to the notice required by subsection (3) of this section, in the case of an
 27 abandoned recreational vehicle, manufactured dwelling or floating home, a landlord shall also give
 28 a copy of the notice described in subsection (3) of this section to:

29 (A) Any lienholder of the recreational vehicle, manufactured dwelling or floating home;

30 (B) Any owner of the recreational vehicle, manufactured dwelling or floating home;

31 (C) The tax collector of the county where the manufactured dwelling or floating home is located;
 32 and

33 (D) The assessor of the county where the manufactured dwelling or floating home is located.

34 (b) The landlord shall give the notice copy required by this subsection by personal delivery or
 35 first class mail, except that for any lienholder, mail service must be both by first class mail and by
 36 certified mail with return receipt requested.

37 (c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each
 38 lienholder at each address:

39 (A) Actually known to the landlord;

40 (B) Of record; and

41 (C) Provided to the landlord by the lienholder in a written notice that identifies the personal
 42 property subject to the lien and that was sent to the landlord by certified mail with return receipt
 43 requested within the preceding five years. The notice must identify the personal property by de-
 44 scribing the physical address of the property.

45 (5) The notice required under subsection (3) of this section must state that:

- 1 (a) The personal property left upon the premises is considered abandoned;
- 2 (b) The tenant or any lienholder or owner must contact the landlord by a specified date, as
3 provided in subsection (6) of this section, to arrange for the removal of the abandoned personal
4 property;
- 5 (c) The personal property is stored at a place of safekeeping, except that if the property includes
6 a manufactured dwelling or floating home, the dwelling or home must be stored on the rented space;
- 7 (d) The tenant or any lienholder or owner, except as provided by subsection (18) of this section,
8 may arrange for removal of the personal property by contacting the landlord at a described tele-
9 phone number or address on or before the specified date;
- 10 (e) The landlord shall make the personal property available for removal by the tenant or any
11 lienholder or owner, except as provided by subsection (18) of this section, by appointment at rea-
12 sonable times;
- 13 (f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b)
14 of this section, the landlord may require payment of removal and storage charges, as provided by
15 subsection (7)(d) of this section, prior to releasing the personal property to the tenant or any
16 lienholder or owner;
- 17 (g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this
18 section, the landlord may not require payment of storage charges prior to releasing the personal
19 property;
- 20 (h) If the tenant or any lienholder or owner fails to contact the landlord by the specified date,
21 or after that contact, fails to remove the personal property within 30 days for recreational vehicles,
22 manufactured dwellings and floating homes or 15 days for all other personal property, the landlord
23 may sell or dispose of the personal property. If the landlord reasonably believes that the personal
24 property will be eligible for disposal pursuant to subsection (10)(b) of this section and the landlord
25 intends to dispose of the property if the property is not claimed, the notice shall state that belief
26 and intent; and
- 27 (i) If the personal property includes a recreational vehicle, manufactured dwelling or floating
28 home and if applicable, there is a lienholder or owner that has a right to claim the recreational
29 vehicle, dwelling or home, except as provided by subsection (18) of this section.
- 30 (6) For purposes of subsection (5) of this section, the specified date by which a tenant, lienholder
31 or owner must contact a landlord to arrange for the disposition of abandoned personal property is:
32 (a) For abandoned recreational vehicles, manufactured dwellings or floating homes, not less than
33 45 days after personal delivery or mailing of the notice; or
34 (b) For all other abandoned personal property, not less than five days after personal delivery
35 or eight days after mailing of the notice.
- 36 (7) After notifying the tenant as required by subsection (3) of this section, the landlord:
37 (a) Shall store any abandoned manufactured dwelling or floating home on the rented space and
38 shall exercise reasonable care for the dwelling or home;
39 (b) Shall store all other abandoned personal property of the tenant, including goods left inside
40 a recreational vehicle, manufactured dwelling or floating home or left upon the rented space outside
41 a recreational vehicle, dwelling or home, in a place of safekeeping and shall exercise reasonable
42 care for the personal property, except that the landlord may:
43 (A) Promptly dispose of rotting food; and
44 (B) Allow an animal control agency to remove any abandoned pets or livestock. If an animal
45 control agency will not remove the abandoned pets or livestock, the landlord shall exercise reason-

1 able care for the animals given all the circumstances, including the type and condition of the ani-
2 mals, and may give the animals to an agency that is willing and able to care for the animals, such
3 as a humane society or similar organization;

4 (c) Except for manufactured dwellings and floating homes, may store the abandoned personal
5 property at the dwelling unit, move and store it elsewhere on the premises or move and store it at
6 a commercial storage company or other place of safekeeping; and

7 (d) Is entitled to reasonable or actual storage charges and costs incidental to storage or dis-
8 posal, including any cost of removal to a place of storage. In the case of an abandoned manufactured
9 dwelling or floating home, the storage charge may be no greater than the monthly space rent last
10 payable by the tenant.

11 (8) If a tenant, lienholder or owner, upon the receipt of the notice provided by subsection (3)
12 or (4) of this section or otherwise, responds by actual notice to the landlord on or before the spec-
13 ified date in the landlord's notice that the tenant, lienholder or owner intends to remove the per-
14 sonal property from the premises or from the place of safekeeping, the landlord must make that
15 personal property available for removal by the tenant, lienholder or owner by appointment at rea-
16 sonable times during the 15 days or, in the case of a recreational vehicle, manufactured dwelling
17 or floating home, 30 days following the date of the response, subject to subsection (18) of this sec-
18 tion. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of
19 this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment
20 of removal and storage charges, as provided in subsection (7)(d) of this section, prior to allowing the
21 tenant, lienholder or owner to remove the personal property. Acceptance by a landlord of such
22 payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS
23 90.412 or 90.417.

24 (9) Except as provided in subsections (18) to (20) of this section, if the tenant, lienholder or
25 owner of a recreational vehicle, manufactured dwelling or floating home does not respond within the
26 time provided by the landlord's notice, or the tenant, lienholder or owner does not remove the per-
27 sonal property within the time required by subsection (8) of this section or by any date agreed to
28 with the landlord, whichever is later, the tenant's, lienholder's or owner's personal property is con-
29 clusively presumed to be abandoned. The tenant and any lienholder or owner that have been given
30 notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution
31 of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest
32 to the personal property and may not claim or sell the property.

33 (10) If the personal property is presumed to be abandoned under subsection (9) of this section,
34 the landlord then may:

35 (a) Sell the personal property at a public or private sale, provided that prior to the sale of a
36 recreational vehicle, manufactured dwelling or floating home:

37 (A) The landlord may seek to transfer ownership of record of the personal property by comply-
38 ing with the requirements of the appropriate state agency; and

39 (B) The landlord shall:

40 (i) Place a notice in a newspaper of general circulation in the county in which the recreational
41 vehicle, manufactured dwelling or floating home is located. The notice shall state:

42 (I) That the recreational vehicle, manufactured dwelling or floating home is abandoned;

43 (II) The tenant's and owner's name, if of record or actually known to the landlord;

44 (III) The address and any space number where the recreational vehicle, manufactured dwelling
45 or floating home is located, and any plate, registration or other identification number for a recre-

1 ational vehicle or floating home noted on the certificate of title, if actually known to the landlord;

2 (IV) Whether the sale is by private bidding or public auction;

3 (V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be
4 accepted; and

5 (VI) The name and telephone number of the person to contact to inspect the recreational vehi-
6 cle, manufactured dwelling or floating home;

7 (ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-
8 subparagraph (i) of this subparagraph to the tenant and to any lienholder and owner, by personal
9 delivery or first class mail, except that for any lienholder, mail service must be by first class mail
10 with certificate of mailing;

11 (iii) Obtain an affidavit of publication from the newspaper to show that the notice required un-
12 der sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two
13 consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted;
14 and

15 (iv) Obtain written proof from the county that all property taxes and assessments on the manu-
16 factured dwelling or floating home have been paid or, if not paid, that the county has authorized the
17 sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section;

18 (b) Destroy or otherwise dispose of the personal property if the landlord determines that:

19 (A) For a manufactured dwelling or floating home, the current market value of the property is
20 \$8,000 or less as determined by the county assessor; or

21 (B) For all other personal property, the reasonable current fair market value is \$1,000 or less
22 or so low that the cost of storage and conducting a public sale probably exceeds the amount that
23 would be realized from the sale; or

24 (c) Consistent with paragraphs (a) and (b) of this subsection, sell certain items and destroy or
25 otherwise dispose of the remaining personal property.

26 (11)(a) A public or private sale authorized by this section must:

27 (A) For a recreational vehicle, manufactured dwelling or floating home, be conducted consistent
28 with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the
29 method, manner, time, place and terms must be commercially reasonable; or

30 (B) For all other personal property, be conducted under the provisions of ORS 79.0610.

31 (b) If there is no buyer at a sale of a manufactured dwelling or floating home, the personal
32 property is considered to be worth \$8,000 or less, regardless of current market value, and the land-
33 lord shall destroy or otherwise dispose of the personal property.

34 (12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the
35 condition of a manufactured dwelling or floating home, the landlord is not liable for the condition
36 of the dwelling or home to:

37 (a) A buyer of the dwelling or home at a sale pursuant to subsection (10)(a) of this section, with
38 or without consideration; or

39 (b) A person or nonprofit organization to whom the landlord gives the dwelling or home pursu-
40 ant to subsection (1)(b), (10)(b) or (11)(b) of this section.

41 (13)(a) The landlord may deduct from the proceeds of the sale:

42 (A) The reasonable or actual cost of notice, storage and sale; and

43 (B) Unpaid rent.

44 (b) If the sale was of a manufactured dwelling or floating home, after deducting the amounts
45 listed in paragraph (a) of this subsection, the landlord shall remit the remaining proceeds, if any, to

1 the county tax collector to the extent of any unpaid property taxes and assessments owed on the
2 dwelling or home.

3 (c) If the sale was of a recreational vehicle, manufactured dwelling or floating home, after de-
4 ducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord
5 shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance
6 owed on the lien on the recreational vehicle, dwelling or home.

7 (d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if appli-
8 cable, the landlord shall remit to the tenant or owner the remaining proceeds, if any, together with
9 an itemized accounting.

10 (e) If the tenant or owner cannot after due diligence be found, the landlord shall deposit the
11 remaining proceeds with the county treasurer of the county in which the sale occurred. If not
12 claimed within three years, the deposited proceeds revert to the general fund of the county and are
13 available for general purposes.

14 (14) The county tax collector shall cancel all unpaid property taxes and assessments owed on
15 a manufactured dwelling or floating home, as provided under ORS 311.790, only under one of the
16 following circumstances:

17 (a) The landlord disposes of the manufactured dwelling or floating home after a determination
18 described in subsection (10)(b) of this section.

19 (b) There is no buyer of the manufactured dwelling or floating home at a sale described under
20 subsection (11) of this section.

21 (c)(A) There is a buyer of the manufactured dwelling or floating home at a sale described under
22 subsection (11) of this section;

23 (B) The current market value of the manufactured dwelling or floating home is \$8,000 or less;
24 and

25 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
26 owed on the dwelling or home after distribution of the proceeds pursuant to subsection (13) of this
27 section.

28 (d)(A) The landlord buys the manufactured dwelling or floating home at a sale described under
29 subsection (11) of this section;

30 (B) The current market value of the manufactured dwelling or floating home is more than \$8,000;

31 (C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments
32 owed on the manufactured dwelling or floating home after distribution of the proceeds pursuant to
33 subsection (13) of this section; and

34 (D) The landlord disposes of the manufactured dwelling or floating home.

35 (15) The landlord is not responsible for any loss to the tenant, lienholder or owner resulting
36 from storage of personal property in compliance with this section unless the loss was caused by the
37 landlord's deliberate or negligent act. In the event of a deliberate and malicious violation, the
38 landlord is liable for twice the actual damages sustained by the tenant, lienholder or owner.

39 (16) Complete compliance in good faith with this section shall constitute a complete defense in
40 any action brought by a tenant, lienholder or owner against a landlord for loss or damage to such
41 personal property disposed of pursuant to this section.

42 (17) If a landlord does not comply with this section:

43 (a) The tenant is relieved of any liability for damage to the premises caused by conduct that
44 was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the
45 landlord up to twice the actual damages sustained by the tenant;

1 (b) A lienholder or owner aggrieved by the noncompliance may recover from the landlord the
2 actual damages sustained by the lienholder or owner. ORS 90.255 does not authorize an award of
3 attorney fees to the prevailing party in any action arising under this paragraph; and

4 (c) A county tax collector aggrieved by the noncompliance may recover from the landlord the
5 actual damages sustained by the tax collector, if the noncompliance is part of an effort by the
6 landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to
7 the prevailing party in any action arising under this paragraph.

8 (18) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home,
9 the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned
10 vehicle, dwelling or home also apply to any lienholder except that the lienholder may not sell or
11 remove the vehicle, dwelling or home unless:

12 (a) The lienholder has foreclosed its lien on the recreational vehicle, manufactured dwelling or
13 floating home;

14 (b) The tenant or a personal representative or designated person described in subsection (20)
15 of this section has waived all rights under this section pursuant to subsection (26) of this section;
16 or

17 (c) The notice and response periods provided by subsections (6) and (8) of this section have ex-
18 pired.

19 (19)(a) In the case of an abandoned manufactured dwelling or floating home but not including
20 a dwelling or home abandoned following a termination pursuant to ORS 90.429 and except as pro-
21 vided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice
22 of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests,
23 a landlord shall enter into a written storage agreement with the lienholder providing that the
24 dwelling or home may not be sold or disposed of by the landlord for up to 12 months. A storage
25 agreement entitles the lienholder to store the personal property on the previously rented space
26 during the term of the agreement, but does not entitle anyone to occupy the personal property.

27 (b) The lienholder's right to a storage agreement arises upon the failure of the tenant, owner
28 or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee
29 to remove or sell the dwelling or home within the allotted time.

30 (c) To exercise the right to a storage agreement under this subsection, in addition to contacting
31 the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder
32 must enter into the proposed storage agreement within 60 days after the landlord gives a copy of
33 the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement
34 to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord
35 may include a copy of the proposed storage agreement with the notice of abandoned property re-
36 quired by subsection (4) of this section. A lienholder enters into a storage agreement by signing a
37 copy of the agreement provided by the landlord and personally delivering or mailing the signed copy
38 to the landlord within the 60-day period.

39 (d) The storage agreement may require, in addition to other provisions agreed to by the landlord
40 and the lienholder, that:

41 (A) The lienholder make timely periodic payment of all storage charges, as described in sub-
42 section (7)(d) of this section, accruing from the commencement of the 45-day period described in
43 subsection (6) of this section. A storage charge may include a utility or service charge, as described
44 in ORS 90.532, if limited to charges for electricity, water, sewer service and natural gas and if in-
45cidental to the storage of personal property. A storage charge may not be due more frequently than

1 monthly;

2 (B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date re-
3 quired in the agreement, if the amount of the late charge is no greater than for late charges de-
4 scribed in the rental agreement between the landlord and the tenant; and

5 (C) The lienholder maintain the personal property and the space on which the personal property
6 is stored in a manner consistent with the rights and obligations described in the rental agreement
7 between the landlord and the tenant.

8 (e) During the term of an agreement described under this subsection, the lienholder has the right
9 to remove or sell the property, subject to the provisions of the lien. Selling the property includes a
10 sale to a purchaser who wishes to leave the dwelling or home on the rented space and become a
11 tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the
12 landlord's approval of a purchaser or, if there was no such agreement, any reasonable conditions
13 by the landlord regarding approval of any purchaser who wishes to leave the dwelling or home on
14 the rented space and become a tenant. The landlord also may condition approval for occupancy of
15 any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

16 (f)(A) If the lienholder violates the storage agreement, the landlord may terminate the agreement
17 by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the
18 lienholder of the reason for the termination. Unless the lienholder corrects the violation within the
19 notice period, the agreement terminates as provided and the landlord may sell or dispose of the
20 dwelling or home without further notice to the lienholder.

21 (B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph
22 for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the
23 lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the
24 landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder
25 stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder
26 corrects the violation within the notice period, the agreement terminates as provided and the land-
27 lord may sell or dispose of the property without further notice to the lienholder.

28 (C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written
29 notice to the landlord and may remove the property from the rented space if the lienholder has paid
30 all storage charges and other charges as provided in the agreement.

31 (g) Upon the failure of a lienholder to enter into a storage agreement as provided by this sub-
32 section or upon termination of an agreement, unless the parties otherwise agree or the lienholder
33 has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose
34 of the property pursuant to this section without further notice to the lienholder.

35 (20) If the personal property is a manufactured dwelling or floating home and is considered
36 abandoned as a result of the death of a tenant who was the only tenant and who owned the dwelling
37 or home, this section applies, except as follows:

38 (a) The following persons have the same rights and responsibilities regarding the abandoned
39 dwelling or home as a tenant:

40 (A) Any personal representative named in a will or appointed by a court to act for the deceased
41 tenant.

42 (B) Any person designated in writing by the tenant to be contacted by the landlord in the event
43 of the tenant's death.

44 (b) The notice required by subsection (3) of this section must be:

45 (A) Sent by first class mail to the deceased tenant at the premises; and

1 (B) Personally delivered or sent by first class mail to any personal representative or designated
2 person, if actually known to the landlord.

3 (c) The notice described in subsection (5) of this section must refer to any personal represen-
4 tative or designated person, instead of the deceased tenant, and must incorporate the provisions of
5 this subsection.

6 (d) If a personal representative, designated person or other person entitled to possession of the
7 property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period
8 provided by subsection (6) of this section and so requests, the landlord shall enter into a written
9 storage agreement with the representative or person providing that the dwelling or home may not
10 be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate pro-
11 ceedings, whichever is later. A storage agreement entitles the representative or person to store the
12 personal property on the previously rented space during the term of the agreement, but does not
13 entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may
14 not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the
15 agreement with the personal representative or designated person ends.

16 (e) If a personal representative or other person requests that a landlord enter into a storage
17 agreement, subsection (19)(c), (d) and (f)(C) of this section applies, with the representative or person
18 having the rights and responsibilities of a lienholder with regard to the storage agreement.

19 (f) During the term of an agreement described under paragraph (d) of this subsection, the rep-
20 resentative or person has the right to remove or sell the dwelling or home, including a sale to a
21 purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave
22 the dwelling or home on the rented space and become a tenant, subject to any conditions previously
23 agreed to by the landlord and tenant regarding the landlord's approval for occupancy of a purchaser,
24 heir or devisee or, if there was no such agreement, any reasonable conditions by the landlord re-
25 garding approval for occupancy of any purchaser, heir or devisee who wishes to leave the dwelling
26 or home on the rented space and become a tenant. The landlord also may condition approval for
27 occupancy of any purchaser, heir or devisee of the dwelling or home upon payment of all unpaid
28 storage charges and maintenance costs.

29 (g) If the representative or person violates the storage agreement, the landlord may terminate
30 the agreement by giving at least 30 days' written notice to the representative or person stating facts
31 sufficient to notify the representative or person of the reason for the termination. Unless the rep-
32 resentative or person corrects the violation within the notice period, the agreement terminates as
33 provided and the landlord may sell or dispose of the dwelling or home without further notice to the
34 representative or person.

35 (h) Upon the failure of a representative or person to enter into a storage agreement as provided
36 by this subsection or upon termination of an agreement, unless the parties otherwise agree or the
37 representative or person has sold or removed the manufactured dwelling or floating home, the
38 landlord may sell or dispose of the property pursuant to this section without further notice to the
39 representative or person.

40 (21) If the personal property is other than a manufactured dwelling or floating home and is
41 considered abandoned as a result of the death of a tenant who was the only tenant and who owned
42 the personal property, this section applies except as follows:

43 (a) The following persons have the same rights and responsibilities regarding the abandoned
44 personal property as a tenant:

45 (A) An heir or devisee.

1 (B) Any personal representative named in a will or appointed by a court to act for the deceased
 2 tenant.

3 (C) Any person designated in writing by the tenant to be contacted by the landlord in the event
 4 of the tenant's death.

5 (b) The notice required by subsection (3) of this section must be:

6 (A) Sent by first class mail to the deceased tenant at the premises;

7 (B) Personally delivered or sent by first class mail to any heir, devisee, personal representative
 8 or designated person, if actually known to the landlord; and

9 (C) Sent by first class mail to the attention of an estate administrator of the Department of State
 10 Lands.

11 (c) The notice described in subsection (5) of this section must refer to the heir, devisee, personal
 12 representative, designated person or estate administrator of the department, instead of the deceased
 13 tenant, and must incorporate the provisions of this subsection.

14 (d) The landlord shall allow a person that is an heir, devisee or personal representative of the
 15 tenant, or an estate administrator of the department, to remove the personal property if the person
 16 contacts the landlord within the period provided by subsection (6) of this section, complies with the
 17 requirements of this section and provides the landlord with reasonable evidence that the person is
 18 an heir, devisee or personal representative, or an estate administrator of the department.

19 (e) If neither an heir, devisee nor personal representative of the tenant, nor an estate adminis-
 20 trator of the department, contacts the landlord within the time period provided by subsection (6) of
 21 this section, the landlord shall allow removal of the personal property by the designated person of
 22 the tenant, if the designated person contacts the landlord within that period and complies with the
 23 requirements of this section and provides the landlord with reasonable evidence that the person is
 24 the designated person.

25 (f) A landlord who allows removal of personal property under this subsection is not liable to
 26 another person that has a claim or interest in the personal property.

27 (22) If a governmental agency determines that the condition of a manufactured dwelling, floating
 28 home or recreational vehicle abandoned under this section constitutes an extreme health or safety
 29 hazard under state or local law and the agency determines that the hazard endangers others in the
 30 immediate vicinity and requires quick removal of the property, the landlord may sell or dispose of
 31 the property pursuant to this subsection. The landlord shall comply with all provisions of this sec-
 32 tion, except as follows:

33 (a) The date provided in subsection (6) of this section by which a tenant, lienholder, owner,
 34 personal representative or designated person must contact a landlord to arrange for the disposition
 35 of the property must be not less than 15 days after personal delivery or mailing of the notice re-
 36 quired by subsection (3) of this section.

37 (b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder,
 38 owner, personal representative or designated person must remove the property must be not less than
 39 seven days after the tenant, lienholder, owner, personal representative or designated person contacts
 40 the landlord.

41 (c) The notice required by subsection (3) of this section must be as provided in subsection (5)
 42 of this section, except that:

43 (A) The dates and deadlines in the notice for contacting the landlord and removing the property
 44 must be consistent with this subsection;

45 (B) The notice must state that a governmental agency has determined that the property consti-

1 tutes an extreme health or safety hazard and must be removed quickly; and

2 (C) The landlord shall attach a copy of the agency's determination to the notice.

3 (d) If the tenant, a lienholder, owner, personal representative or designated person does not re-
4 move the property within the time allowed, the landlord or a buyer at a sale by the landlord under
5 subsection (11) of this section shall promptly remove the property from the facility.

6 (e) A landlord is not required to enter into a storage agreement with a lienholder, owner, per-
7 sonal representative or designated person pursuant to subsection (19) of this section.

8 (23)(a) If an official or agency referred to in ORS 453.876 notifies the landlord that the official
9 or agency has determined that all or part of the premises is unfit for use as a result of the presence
10 of an illegal drug manufacturing site involving methamphetamine, and the landlord complies with
11 this subsection, the landlord is not required to comply with subsections (1) to (22) and (24) to (27)
12 of this section with regard to personal property left on the portion of the premises that the official
13 or agency has determined to be unfit for use.

14 (b) Upon receiving notice from an official or agency determining the premises to be unfit for use,
15 the landlord shall promptly give written notice to the tenant as provided in subsection (3) of this
16 section. The landlord shall also attach a copy of the notice in a secure manner to the main entrance
17 of the dwelling unit. The notice to the tenant shall include a copy of the official's or agency's notice
18 and state:

19 (A) That the premises, or a portion of the premises, has been determined by an official or agency
20 to be unfit for use due to contamination from the manufacture of methamphetamine and that as a
21 result subsections (1) to (22) and (24) to (27) of this section do not apply to personal property left
22 on any portion of the premises determined to be unfit for use;

23 (B) That the landlord has hired, or will hire, a contractor to assess the level of contamination
24 of the site and to decontaminate the site;

25 (C) That upon hiring the contractor, the landlord will provide to the tenant the name, address
26 and telephone number of the contractor; and

27 (D) That the tenant may contact the contractor to determine whether any of the tenant's per-
28 sonal property may be removed from the premises or may be decontaminated at the tenant's expense
29 and then removed.

30 (c) To the extent consistent with rules of the Department of Human Services, the contractor
31 may release personal property to the tenant.

32 (d) If the contractor and the department determine that the premises or the tenant's personal
33 property is not unfit for use, upon notification by the department of the determination, the landlord
34 shall comply with subsections (1) to (22) and (24) to (27) of this section for any personal property left
35 on the premises.

36 (e) Except as provided in paragraph (d) of this subsection, the landlord is not responsible for
37 storing or returning any personal property left on the portion of the premises that is unfit for use.

38 (24) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home
39 that is owned by someone other than the tenant, the provisions of this section regarding the rights
40 and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to that owner,
41 with regard only to the vehicle, dwelling or home, and not to any goods left inside or outside the
42 vehicle, dwelling or home.

43 (25) In the case of an abandoned motor vehicle, the procedure authorized by ORS 98.830 [and
44 98.835] for removal of abandoned motor vehicles from private property may be used by a landlord
45 as an alternative to the procedures required in this section.

1 (26)(a) A landlord may sell or dispose of a tenant's abandoned personal property without com-
 2 plying with subsections (1) to (25) and (27) of this section if, after termination of the tenancy or no
 3 more than seven days prior to the termination of the tenancy, the following parties so agree in a
 4 writing entered into in good faith:

5 (A) The landlord;

6 (B) The tenant, or for an abandonment as the result of the death of a tenant who was the only
 7 tenant, the personal representative, designated person or other person entitled to possession of the
 8 personal property, such as an heir or devisee, as described in subsection (20) or (21) of this section;
 9 and

10 (C) In the case of a manufactured dwelling, floating home or recreational vehicle, any owner and
 11 any lienholder.

12 (b) A landlord may not, as part of a rental agreement, require a tenant, a personal represen-
 13 tative, a designated person or any lienholder or owner to waive any right provided by this section.

14 (27) Until personal property is conclusively presumed to be abandoned under subsection (9) of
 15 this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal prop-
 16 erty.

17 **SECTION 11.** ORS 90.485 is amended to read:

18 90.485. (1) A landlord may have a motor vehicle removed from the premises only in compliance
 19 with this section and either ORS 98.810 to 98.818 or ORS 98.830[, 98.835] and 98.840.

20 (2) Except as provided in ORS 90.425 regarding abandoned vehicles, a landlord may have a mo-
 21 tor vehicle removed from the premises without notice to the owner or operator of the vehicle only
 22 if the vehicle:

23 (a) Blocks or prevents access by emergency vehicles;

24 (b) Blocks or prevents entry to the premises;

25 (c) Violates a prominently posted parking prohibition;

26 (d) Blocks or is unlawfully parked in a space reserved for persons with disabilities;

27 (e) Is parked in an area not intended for motor vehicles including, but not limited to, sidewalks,
 28 lawns and landscaping;

29 (f) Is parked in a space reserved for tenants but is not assigned to a tenant and does not display
 30 a parking tag or other device, as provided by subsection (3) of this section; or

31 (g) Is parked in a specific space assigned to a tenant, as provided by subsection (4) of this sec-
 32 tion.

33 (3) A landlord may have a motor vehicle removed from the premises under subsection (2)(f) of
 34 this section only if the landlord:

35 (a) Provides parking tags or other devices that identify vehicles that are authorized to be parked
 36 on the premises;

37 (b) Provides a tenant with parking tags or other devices to be used on a vehicle other than the
 38 tenant's primary vehicle if the tenant wants to park a vehicle on the premises in lieu of the tenant's
 39 primary vehicle; and

40 (c) Enters into written agreements with the owners or operators of vehicles authorized to park
 41 on the premises that:

42 (A) Authorize the landlord to have a vehicle removed from the premises without notice for
 43 failing to display the parking tag, sticker or other device;

44 (B) Unless the information is disclosed on prominent signs posted on the premises, disclose to
 45 the owners or operators of authorized vehicles the name, address and contact information of the tow

1 company that is authorized to remove vehicles from the premises; and

2 (C) Specify whether guest parking is allowed and, if guest parking is allowed, describe methods
3 for identifying guest parking spaces or identifying authorized guest vehicles.

4 (4) If a landlord assigns a specific parking space to a tenant, the landlord may have a vehicle
5 towed under subsection (2)(g) of this section from the assigned parking space only with the agree-
6 ment of the tenant at the time of the tow. The landlord may not require the tenant to agree to
7 towing.

8 (5) If guest parking is allowed, the landlord shall post a sign in each designated guest parking
9 space that is clearly readable by an operator of motor vehicle and that specifies any rules, re-
10 strictions or limitations on parking in the designated guest parking space.

11 (6) A landlord may have a motor vehicle that is inoperable, but otherwise parked in compliance
12 with an agreement between the landlord and the owner or operator of the vehicle, removed from the
13 premises if the landlord affixes a prominent notice to the vehicle stating that the vehicle will be
14 towed if the vehicle is not removed or otherwise brought into compliance with the agreement. The
15 landlord must affix the notice required by this subsection at least 72 hours before the vehicle may
16 be removed.

17 (7) A landlord may not have a motor vehicle removed under this section because the vehicle's
18 registration has expired or is otherwise invalid.

19 (8) This section does not:

20 (a) Apply to a landlord of a facility.

21 (b) Affect the obligations imposed on a landlord under ORS 98.810 to 98.818 or under ORS
22 98.830[, 98.835] and 98.840.

23
24 **CAPTIONS**

25
26 **SECTION 12. The unit captions used in this 2017 Act are provided only for the conven-**
27 **ience of the reader and do not become part of the statutory law of this state or express any**
28 **legislative intent in the enactment of this 2017 Act.**