

SENATE AMENDMENTS TO SENATE BILL 134

By COMMITTEE ON BUSINESS AND TRANSPORTATION

March 27

1 On page 1 of the printed bill, line 3, after “ORS” insert “646.608 and”.

2 On page 2, line 18, after the period delete the rest of the line and delete lines 19 through 25 and
3 insert “The charge may not exceed the rate per mile allowed under federal law as a deduction for
4 federal income tax purposes for an ordinary and necessary business expense.

5 “(5) If the buyer makes a reasonable attempt to return the vehicle within five days after the
6 seller sends a notice under subsection (4)(b) of this section, but the seller is not available to accept
7 the return, the seller may not charge the buyer under subsection (4)(b) of this section.”.

8 In line 26, delete “(5)(a)” and insert “(6)(a)”.

9 After line 31, insert:

10 “**SECTION 2.** ORS 646.608 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 “(p) Makes any false or misleading statement about a prize, contest or promotion used to pub-
17 licize a product, business or service.

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

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

21 “(s) Makes false or misleading representations of fact concerning the offering price of, or the
22 person’s cost for real estate, goods or services.

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

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

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

29 “(w) Manufactures mercury fever thermometers.

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

32 “(A) Prescribed by a person licensed under ORS chapter 677; and
33 “(B) Supplied with instructions on the careful handling of the thermometer to avoid breakage
34 and on the proper cleanup of mercury should breakage occur.

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

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

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

44 “(bb) Violates ORS 646A.070 (1).

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

1 “(dd) Violates the provisions of ORS 128.801 to 128.898.
2 “(ee) Violates ORS 646.883 or 646.885.
3 “(ff) Violates ORS 646.569.
4 “(gg) Violates the provisions of ORS 646A.142.
5 “(hh) Violates ORS 646A.360.
6 “(ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
7 “(jj) Violates ORS 646.563.
8 “(kk) Violates ORS 759.690 or any rule adopted pursuant thereto.
9 “(LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
10 thereto.
11 “(mm) Violates ORS 646A.210 or 646A.214.
12 “(nn) Violates any provision of ORS 646A.124 to 646A.134.
13 “(oo) Violates ORS 646A.095.
14 “(pp) Violates ORS 822.046.
15 “(qq) Violates ORS 128.001.
16 “(rr) Violates ORS 646A.800 (2) to (4).
17 “(ss) Violates ORS 646A.090 (2) to [(4)] (5).
18 “(tt) Violates ORS 87.686.
19 “(uu) Violates ORS 646A.803.
20 “(vv) Violates ORS 646A.362.
21 “(ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
22 “(xx) Violates ORS 180.440 (1) or 180.486 (1).
23 “(yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
24 “(zz) Violates ORS 87.007 (2) or (3).
25 “(aaa) Violates ORS 92.405 (1), (2) or (3).
26 “(bbb) Engages in an unlawful practice under ORS 646.648.
27 “(ccc) Violates ORS 646A.365.
28 “(ddd) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.
29 “(eee) Sells a gift card in violation of ORS 646A.276.
30 “(fff) Violates ORS 646A.102, 646A.106 or 646A.108.
31 “(ggg) Violates ORS 646A.430 to 646A.450.
32 “(hhh) Violates a provision of ORS 744.318 to 744.384.
33 “(iii) Violates a provision of ORS 646A.702 to 646A.720.
34 “(jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
35 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the
36 subject of the violation.
37 “(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
38 “(LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
39 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
40 “(mmm) Violates a provision of ORS 646A.480 to 646A.495.
41 “(nnn) Violates ORS 646A.082.
42 “(ooo) Violates ORS 646.647.
43 “(ppp) Violates ORS 646A.115.
44 “(qqq) Violates a provision of ORS 646A.405.
45 “(rrr) Violates ORS 646A.092.

1 “(sss) Violates a provision of ORS 646.644.
2 “(ttt) Violates a provision of ORS 646A.295.
3 “(uuu) Violates ORS 646A.564.
4 “(vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
5 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
6 do so or unless the person is an active member of the Oregon State Bar.
7 “(www) Violates ORS 702.012, 702.029, 702.032 or 702.054.
8 “(xxx) Violates ORS 646A.806.
9 “(yyy) Violates ORS 646A.810 (2).
10 “(zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws 2015.
11 “(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifes-
12 tation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
13 “(3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
14 cuting attorney need not prove competition between the parties or actual confusion or misunder-
15 standing.
16 “(4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
17 torney General has first established a rule in accordance with the provisions of ORS chapter 183
18 declaring the conduct to be unfair or deceptive in trade or commerce.
19 “(5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
20 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
21 ney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney
22 fees.
23 “**SECTION 3.** ORS 646.608, as amended by section 10, chapter 523, Oregon Laws 2015, is
24 amended to read:
25 “646.608. (1) A person engages in an unlawful practice if in the course of the person’s business,
26 vocation or occupation the person does any of the following:
27 “(a) Passes off real estate, goods or services as the real estate, goods or services of another.
28 “(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-
29 proval, or certification of real estate, goods or services.
30 “(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-
31 ciation with, or certification by, another.
32 “(d) Uses deceptive representations or designations of geographic origin in connection with real
33 estate, goods or services.
34 “(e) Represents that real estate, goods or services have sponsorship, approval, characteristics,
35 ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have
36 or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the
37 person does not have.
38 “(f) Represents that real estate or goods are original or new if the real estate or goods are de-
39 teriorated, altered, reconditioned, reclaimed, used or secondhand.
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41 or that real estate or goods are of a particular style or model, if the real estate, goods or services
42 are of another.
43 “(h) Disparages the real estate, goods, services, property or business of a customer or another
44 by false or misleading representations of fact.
45 “(i) Advertises real estate, goods or services with intent not to provide the real estate, goods

1 or services as advertised, or with intent not to supply reasonably expectable public demand, unless
2 the advertisement discloses a limitation of quantity.

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

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6 the transaction or obligation incurred.

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

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

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

14 “(o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give
15 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
16 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or
17 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,
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19 into the transaction.

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28 known material defect or material nonconformity.

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40 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be
41 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
42 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
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39 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the

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43 U.S.C. App. 501 et seq., as in effect on January 1, 2010.

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9 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
10 do so or unless the person is an active member of the Oregon State Bar.
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12 “(xxx) Violates ORS 646A.806.
13 “(yyy) Violates ORS 646A.810 (2).
14 “(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifes-
15 tation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
16 “(3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
17 cuting attorney need not prove competition between the parties or actual confusion or misunder-
18 standing.
19 “(4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
20 torney General has first established a rule in accordance with the provisions of ORS chapter 183
21 declaring the conduct to be unfair or deceptive in trade or commerce.
22 “(5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
23 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
24 ney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney
25 fees.”
26 Delete lines 32 through 34 and insert:
27 “**SECTION 4. The amendments to ORS 646.608 and 646A.090 by sections 1 to 3 of this 2017**
28 **Act apply to retail installment contracts or lease agreements into which a seller and buyer**
29 **enter on or after the effective date of this 2017 Act.**”
30
