

HOUSE AMENDMENTS TO HOUSE BILL 4147

By COMMITTEE ON BUSINESS AND LABOR

February 15

- 1 On page 1 of the printed bill, line 2, after “ORS” insert “646.608,”.
2 Delete lines 5 through 20 and delete pages 2 through 13 and insert:
3 “**SECTION 1.** ORS 646A.602 is amended to read:
4 “646A.602. As used in ORS 646A.600 to 646A.628:
5 “(1)(a) ‘Breach of security’ means an unauthorized acquisition of computerized data that mate-
6 rially compromises the security, confidentiality or integrity of personal information that a person
7 maintains.
8 “(b) ‘Breach of security’ does not include an inadvertent acquisition of personal information by
9 a person or the person’s employee or agent if the personal information is not used in violation of
10 applicable law or in a manner that harms or poses an actual threat to the security, confidentiality
11 or integrity of the personal information.
12 “(2) ‘Consumer’ means an individual resident of this state.
13 “(3) ‘Consumer report’ means a consumer report as described in section 603(d) of the federal Fair
14 Credit Reporting Act (15 U.S.C. 1681a(d)), as that Act existed on [*January 1, 2016*] **the effective**
15 **date of this 2018 Act**, that a consumer reporting agency compiles and maintains.
16 “(4) ‘Consumer reporting agency’ means a consumer reporting agency as described in section
17 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(p)) as that Act existed on [*January*
18 *1, 2016*] **the effective date of this 2018 Act**.
19 “(5) ‘Debt’ means any obligation or alleged obligation arising out of a consumer transaction.
20 “(6) ‘Encryption’ means an algorithmic process that renders data unreadable or unusable with-
21 out the use of a confidential process or key.
22 “(7) ‘Extension of credit’ means a right to defer paying debt or a right to incur debt and defer
23 paying the debt, that is offered or granted primarily for personal, family or household purposes.
24 “(8) **‘Financial account information’ means the following information that is associated**
25 **with a consumer’s account with a financial institution:**
26 “(a) **An account number.**
27 “(b) **A personal identification number.**
28 “(c) **A card verification value number.**
29 “(d) **A card security code number.**
30 “(e) **An access code.**
31 “(f) **A password.**
32 “(g) **A biometric measurement or an encoding of a biometric measurement.**
33 “(h) **Any other information or combination of information that a person that owns or li-**
34 **censes the information reasonably knows would permit access to the consumer’s account.**
35 “(9) **‘Financial institution’ has the meaning given that term in ORS 706.008.**

1 “[(8)] (10) ‘Identity theft’ has the meaning set forth in ORS 165.800.

2 “[(9)] (11) ‘Identity theft declaration’ means a completed and signed statement that documents
3 alleged identity theft, using *[the]* a form available from the Federal Trade Commission, or another
4 substantially similar form.

5 “[(10)] (12) ‘Person’ means an individual, private or public corporation, partnership, cooperative,
6 association, estate, limited liability company, organization or other entity, whether or not organized
7 to operate at a profit, or a public body as defined in ORS 174.109.

8 “[(11)] (13)(a) ‘Personal information’ means:

9 “[(a)] (A) A consumer’s first name or first initial and last name in combination with any one or
10 more of the following data elements, if encryption, redaction or other methods have not rendered
11 the data elements unusable or if the data elements are encrypted and the encryption key has been
12 acquired:

13 “[(A)] (i) A consumer’s Social Security number;

14 “[(B)] (ii) A consumer’s driver license number or state identification card number issued by the
15 Department of Transportation;

16 “[(C)] (iii) A consumer’s passport number or other identification number issued by the United
17 States;

18 “[(D)] (iv) A consumer’s financial account **information** *[number, credit card number or debit
19 card number, in combination with any required security code, access code or password that would
20 permit access to a consumer’s financial account];*

21 “[(E)] (v) Data from automatic measurements of a consumer’s physical characteristics, such as
22 an image of a fingerprint, retina or iris, that are used to authenticate the consumer’s identity in the
23 course of a financial transaction or other transaction;

24 “[(F)] (vi) A consumer’s health insurance policy number or health insurance subscriber iden-
25 tification number in combination with any other unique identifier that a health insurer uses to
26 identify the consumer; **[or] and**

27 “[(G)] (vii) Any information about a consumer’s medical history or mental or physical condition
28 or about a health care professional’s medical diagnosis or treatment of the consumer.

29 “[(b)] (B) Any of the data elements or any combination of the data elements described in *[par-*
30 *agraph (a) of this subsection]* **subparagraph (A) of this paragraph** without the consumer’s first
31 name or first initial and last name if:

32 “[(A)] (i) Encryption, redaction or other methods have not rendered the data element or combi-
33 nation of data elements unusable; and

34 “[(B)] (ii) The data element or combination of data elements would enable a person to commit
35 identity theft against a consumer.

36 “[(c)] (b) ‘Personal information’ does not include information in a federal, state or local govern-
37 ment record, other than a Social Security number, that is lawfully made available to the public.

38 “[(12)] (14) ‘Proper identification’ means written information or documentation that a consumer
39 or representative can present to another person as evidence of the consumer’s or representative’s
40 identity, examples of which include:

41 “(a) A valid Social Security number or a copy of a valid Social Security card;

42 “(b) A certified or otherwise official copy of a birth certificate that a governmental body issued;
43 and

44 “(c) A copy of a driver license or other government-issued identification.

45 “[(13)] (15) ‘Protected consumer’ means an individual who is:

1 “(a) Not older than 16 years old at the time a representative requests a security freeze on the
2 individual’s behalf; or

3 “(b) Incapacitated or for whom a court or other authority has appointed a guardian or
4 conservator.

5 “[~~(14)~~] (16) ‘Protective record’ means information that a consumer reporting agency compiles to
6 identify a protected consumer for whom the consumer reporting agency has not prepared a consumer
7 report.

8 “[~~(15)~~] (17) ‘Redacted’ means altered or truncated so that no more than the last four digits of
9 a Social Security number, driver license number, state identification card number, passport number
10 or other number issued by the United States, financial account number, credit card number or debit
11 card number is visible or accessible.

12 “[~~(16)~~] (18) ‘Representative’ means a consumer who provides a consumer reporting agency with
13 sufficient proof of the consumer’s authority to act on a protected consumer’s behalf.

14 “[~~(17)~~] (19) ‘Security freeze’ means a notice placed in a consumer report at a consumer’s request
15 or a representative’s request or in a protective record at a representative’s request that, subject to
16 certain exemptions, prohibits a consumer reporting agency from releasing information in the con-
17 sumer report or the protective record for an extension of credit, unless the consumer temporarily
18 lifts the security freeze on the consumer’s consumer report or a protected consumer or represen-
19 tative removes the security freeze on or deletes the protective record.

20 “**SECTION 2.** ORS 646A.604 is amended to read:

21 “646A.604. (1) **If** a person [~~that~~] owns, [~~or~~] licenses, **has control over or has access to** personal
22 information that the person uses in the course of the person’s business, vocation, occupation or
23 volunteer activities and [~~that~~] **the person** was subject to a breach of security, **the person** shall give
24 notice of the breach of security to:

25 “(a) The consumer to whom the personal information pertains [~~after the person discovers the~~
26 *breach of security or after the person receives notice of a breach of security under subsection (2) of this*
27 *section. The person shall notify the consumer in the most expeditious manner possible, without unrea-*
28 *sonable delay, consistent with the legitimate needs of law enforcement described in subsection (3) of this*
29 *section and consistent with any measures that are necessary to determine sufficient contact information*
30 *for the affected consumer, determine the scope of the breach of security and restore the reasonable in-*
31 *tegrity, security and confidentiality of the personal information].*

32 “(b) The Attorney General, either in writing or electronically, if the number of consumers to
33 whom the person must send the notice described in paragraph (a) of this subsection exceeds 250.
34 [~~The person shall disclose the breach of security to the Attorney General in the manner described in~~
35 *paragraph (a) of this subsection.*]

36 “(2) A person that maintains or otherwise possesses personal information on behalf of, or under
37 license of, another person shall notify the other person after discovering a breach of security.

38 “(3)(a) **Except as provided in paragraph (b) of this subsection, a person that must give**
39 **notice of a breach of security under subsection (1) or (2) of this section shall give the notice**
40 **in the most expeditious manner possible, without unreasonable delay, but not later than 45**
41 **days after discovering or receiving notification of the breach of security. In providing the**
42 **notice, the person shall undertake any measures that are necessary to:**

43 “(A) **Determine sufficient contact information for the intended recipient of the notice;**

44 “(B) **Determine the scope of the breach of security; and**

45 “(C) **Restore the reasonable integrity, security and confidentiality of the personal infor-**

1 **mation.**

2 **“(b)** A person that [*owns or licenses personal information*] **must give notice of a breach of**
3 **security under subsection (1) or (2) of this section** may delay [*notifying a consumer of a breach*
4 *of security*] **giving the notice** only if a law enforcement agency determines that a notification will
5 impede a criminal investigation and if the law enforcement agency requests in writing that the
6 person delay the notification.

7 **“(4)** For purposes of this section, a person that owns or licenses personal information, **or pos-**
8 **sesses or has access to personal information as a result of a transaction with a consumer,**
9 may notify [*a*] **the** consumer of a breach of security:

10 **“(a)** In writing;

11 **“(b)** Electronically, if the person customarily communicates with the consumer electronically or
12 if the notice is consistent with the provisions regarding electronic records and signatures set forth
13 in the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001) as that Act ex-
14 isted on [*January 1, 2016*] **the effective date of this 2018 Act;**

15 **“(c)** By telephone, if the person contacts the affected consumer directly; or

16 **“(d)** With substitute notice, if the person demonstrates that the cost of notification otherwise
17 would exceed \$250,000 or that the affected class of consumers exceeds 350,000, or if the person does
18 not have sufficient contact information to notify affected consumers. For the purposes of this para-
19 graph, ‘substitute notice’ means:

20 **“(A)** Posting the notice or a link to the notice conspicuously on the person’s website if the
21 person maintains a website; and

22 **“(B)** Notifying major statewide television and newspaper media.

23 **“(5)** Notice under this section must include, at a minimum:

24 **“(a)** A description of the breach of security in general terms;

25 **“(b)** The approximate date of the breach of security;

26 **“(c)** The type of personal information that was subject to the breach of security;

27 **“(d)** Contact information for the person that owned or licensed, **or possessed or had access**
28 **to as a result of a transaction with a consumer,** the personal information that was subject to
29 the breach of security;

30 **“(e)** Contact information for national consumer reporting agencies; and

31 **“(f)** Advice to the consumer to report suspected identity theft to law enforcement, including the
32 Attorney General and the Federal Trade Commission.

33 **“(6)** If a person discovers a breach of security that affects more than 1,000 consumers, the per-
34 son shall notify, without unreasonable delay, all consumer reporting agencies that compile and
35 maintain reports on consumers on a nationwide basis of the timing, distribution and content of the
36 notice the person gave to affected consumers and shall include in the notice any police report
37 number assigned to the breach of security. A person may not delay notifying affected consumers of
38 a breach of security in order to notify consumer reporting agencies.

39 **“(7)(a)** **If a person must notify a consumer of a breach of security under this section, and**
40 **in connection with the notification the person offers to provide credit monitoring services**
41 **or identity theft prevention and mitigation services without charge to the consumer, the**
42 **person may not condition the person’s provision of the services on the consumer’s providing**
43 **the person with a credit or debit card number or on the consumer’s acceptance of any other**
44 **service the person offers to provide for a fee.**

45 **“(b)** **If a person offers additional credit monitoring services or identity theft prevention**

1 **and mitigation services for a fee to a consumer under the circumstances described in para-**
2 **graph (a) of this subsection, the person must separately, distinctly, clearly and conspicuously**
3 **disclose in the offer for the additional credit monitoring services or identity theft prevention**
4 **and mitigation services that the person will charge the consumer a fee.**

5 **“(c) The terms and conditions of any contract under which one person offers or provides**
6 **credit monitoring services or identity theft prevention and mitigation services on behalf of**
7 **another person under the circumstances described in paragraph (a) of this subsection must**
8 **require compliance with the requirements of paragraphs (a) and (b) of this subsection.**

9 **“(7) (8) Notwithstanding subsection (1) of this section, a person does not need to notify con-**
10 **sumers of a breach of security if, after an appropriate investigation or after consultation with rele-**
11 **vant federal, state or local law enforcement agencies, the person reasonably determines that the**
12 **consumers whose personal information was subject to the breach of security are unlikely to suffer**
13 **harm. The person must document the determination in writing and maintain the documentation for**
14 **at least five years.**

15 **“(8) (9) This section does not apply to:**

16 **“(a) A person that complies with notification requirements or procedures for a breach of secu-**
17 **rity that the person’s primary or functional federal regulator adopts, promulgates or issues in rules,**
18 **regulations, procedures, guidelines or guidance, if the rules, regulations, procedures, guidelines or**
19 **guidance provides greater protection to personal information and disclosure requirements at least**
20 **as thorough as the protections and disclosure requirements provided under this section.**

21 **“(b) A person that complies with a state or federal law that provides greater protection to per-**
22 **sonal information and disclosure requirements at least as thorough as the protections and disclosure**
23 **requirements provided under this section.**

24 **“(c) A person that is subject to and complies with regulations promulgated pursuant to Title V**
25 **of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 to 6809) as that Act existed on [January 1,**
26 **2016] the effective date of this 2018 Act, if the Act provides protections and disclosure re-**
27 **quirements that are as stringent and thorough as, or more stringent and thorough than, the**
28 **protections and disclosure requirements set forth in this section.**

29 **“(d)(A) Except as provided in subparagraph (B) of this paragraph, a covered entity, as defined in**
30 **45 C.F.R. 160.103, as in effect on January 1, 2016, that is governed under 45 C.F.R. parts 160 and**
31 **164, as in effect on January 1, 2016, if the covered entity sends the Attorney General a copy of the**
32 **notice the covered entity sent to consumers under this section or a copy of the notice that the covered**
33 **entity sent to the primary functional regulator designated for the covered entity under the Health In-**
34 **surance Portability and Availability Act of 1996, (P.L. 104-191, 110 Stat. 1936, 42 U.S.C. 300(gg), 29**
35 **U.S.C. 118 et seq., 42 U.S.C. 1320(d) et seq., 45 C.F.R. parts 160 and 164).]**

36 **“(B) A covered entity is subject to the provisions of this section if the covered entity does not send**
37 **a copy of a notice described in subparagraph (A) of this paragraph to the Attorney General within a**
38 **reasonable time after the Attorney General requests the copy.]**

39 **“(d) A person that is subject to and that complies with the regulations set forth in 45**
40 **C.F.R. parts 160 and 164, as in effect on the effective date of this 2018 Act, if the regulations**
41 **provide protections and disclosure requirements that are as stringent and thorough as, or**
42 **more stringent and thorough than, the protections and disclosure requirements set forth in**
43 **this section.**

44 **“(10) Notwithstanding the exemptions set forth in subsection (9) of this section, a person**
45 **that owns or licenses personal information shall provide to the Attorney General within a**

1 **reasonable time a copy of any notice the person sends to consumers or to the person's pri-**
2 **mary or functional regulator in compliance with this section or with other state or federal**
3 **laws or regulations that apply to the person as a consequence of a breach of security.**

4 “[9)(a)] (11)(a) A person’s violation of a provision of ORS 646A.600 to 646A.628 is an unlawful
5 practice under ORS 646.607.

6 “(b) The rights and remedies available under this section are cumulative and are in addition to
7 any other rights or remedies that are available under law.

8 “**SECTION 3.** ORS 646A.606 is amended to read:

9 “646A.606. (1) A consumer may elect to place a security freeze on the consumer’s consumer re-
10 port or, if the consumer is a representative, on a protected consumer’s consumer report or protec-
11 tive record by sending a written request to a consumer reporting agency at an address the agency
12 designates to receive such requests, or a secure electronic request at a website the agency desig-
13 nates to receive such requests if the consumer reporting agency, at the agency’s discretion, makes
14 a secure electronic method available.

15 “(2) If the consumer or protected consumer is the victim of identity theft or has reported a theft
16 of personal information to a law enforcement agency, the consumer or representative may include
17 a copy of the police report, incident report or identity theft declaration.

18 “(3)(a) The consumer or representative must provide proper identification [*and any fee author-*
19 *ized by ORS 646A.610*].

20 “(b)(A) In addition to the information [*and fee*] described in paragraph (a) of this subsection, a
21 representative who seeks to place a security freeze on a protected consumer’s consumer report or
22 protective record shall provide sufficient proof of the representative’s authority to act on the pro-
23 tected consumer’s behalf.

24 “(B) For purposes of subparagraph (A) of this paragraph, sufficient proof of authority consists
25 of:

26 “(i) A court order that identifies or describes the relationship between the representative and
27 the protected consumer;

28 “(ii) A valid and lawfully executed power of attorney that permits the representative to act on
29 the protected consumer’s behalf; or

30 “(iii) A written affidavit that the representative signs and has notarized in which the represen-
31 tative expressly describes the relationship between the representative and the protected consumer
32 and the representative’s authority to act on the protected consumer’s behalf.

33 “(4)(a) Except as provided in ORS 646A.614, if a security freeze is in place for a consumer re-
34 port, information from the consumer report may not be released without prior express authorization
35 from the consumer.

36 “(b) Information from a protective record may not be released until the protected consumer for
37 whom the consumer reporting agency created the protective record, or a representative of the pro-
38 tected consumer, removes the security freeze.

39 “(5) This section does not prevent a consumer reporting agency from advising a third party that
40 a security freeze is in effect with respect to the consumer report or protective record.

41 “**SECTION 4.** ORS 646A.608 is amended to read:

42 “646A.608. (1)(a) A consumer reporting agency shall place a security freeze on a consumer re-
43 port not later than five business days after receiving from a consumer:

44 “(A) The request described in ORS 646A.606 (1); **and**

45 “(B) Proper identification.]; *and*]

1 “(C) A fee, if applicable.]

2 “(b) If a consumer report does not exist for a protected consumer on behalf of whom a repre-
3 sentative seeks to place a security freeze, a consumer reporting agency shall create a protective
4 record after receiving from the representative the request described in ORS 646A.606 (1), proper
5 identification for both the representative and the protected consumer and sufficient proof of au-
6 thority, as described in ORS 646A.606 (3)(b). After creating a protective record for a protected con-
7 sumer under this paragraph, the consumer reporting agency shall place the security freeze that the
8 representative requested on the protected consumer’s protective record.

9 “(c) The protective record that the consumer reporting agency creates under paragraph (b) of
10 this subsection does not need to contain any information other than the protected consumer’s per-
11 sonal information, if other information for the protected consumer is not available. Except as pro-
12 vided in ORS 646A.614, a consumer reporting agency may not use or release to another person the
13 information in a protective record for the purpose of assessing a protected consumer’s eligibility or
14 capacity for an extension of credit, as a basis for evaluating a protected consumer’s character,
15 reputation or personal characteristics or for other purposes that are not related to protecting the
16 protected consumer from identity theft.

17 “(2)(a) [The] A consumer reporting agency shall send a written confirmation of a security freeze
18 on a consumer’s consumer report to the consumer at the last known address for the consumer shown
19 in the consumer report that the consumer reporting agency maintains, within 10 business days after
20 placing the security freeze and, with the confirmation, shall provide the consumer with a unique
21 personal identification number or password or similar device the consumer must use to authorize the
22 consumer reporting agency to release the consumer’s consumer report for a specific period of time
23 or to permanently remove the security freeze. The consumer reporting agency shall include with the
24 written confirmation information that describes how to remove a security freeze and how to tem-
25 porarily lift a security freeze on a consumer report, other than a consumer report for a protected
26 consumer, in order to allow access to information from the consumer’s consumer report for a period
27 of time while the security freeze is in place.

28 “(b) This subsection does not require a consumer reporting agency to provide a consumer or
29 representative with a personal identification number or password for the consumer or representative
30 to use to authorize the consumer reporting agency to release information from a protective record.

31 “(3)(a) If a consumer wishes to allow the consumer’s consumer report to be accessed for a spe-
32 cific period of time while a security freeze is in effect, the consumer shall contact the consumer
33 reporting agency using a point of contact the consumer reporting agency designates, request that
34 the security freeze be temporarily lifted and provide the following:

35 “(A) Proper identification;

36 “(B) The unique personal identification number or password or similar device the consumer re-
37 porting agency provided under subsection (2) of this section; **and**

38 “(C) An indication of the period of time during which the consumer report must be available to
39 users of the consumer report[; and].

40 “(D) A fee, if applicable.]

41 “(b) A protective record is not subject to a temporary lift of a security freeze.

42 “(c) Except as provided in ORS 646A.612 (2)(a), a consumer report for a protected consumer is
43 not subject to a temporary lift of a security freeze.

44 “(4) A consumer reporting agency that receives a request from [the] a consumer to temporarily
45 lift a security freeze on a consumer report, other than a consumer report for a protected consumer,

1 under subsection (3) of this section shall comply with the request not later than three business days
2 after receiving from the consumer:

3 “(a) Proper identification;

4 “(b) The unique personal identification number or password or similar device the consumer re-
5 porting agency provided under subsection (2) of this section; **and**

6 “(c) An indication of the period of time during which the consumer report must be available to
7 users of the consumer report[; *and*].

8 “[*(d) A fee, if applicable.*]

9 “(5)(a) A security freeze for a consumer report must remain in place until the consumer re-
10 quests, using a point of contact the consumer reporting agency designates, that the security freeze
11 be removed. A consumer reporting agency shall remove a security freeze within three business days
12 after receiving a request for removal from the consumer, who provides:

13 “(A) Proper identification; **and**

14 “(B) The unique personal identification number or password or similar device the consumer re-
15 porting agency provided under subsection (2) of this section.[; *and*]

16 “[*(C) A fee, if applicable.*]

17 “(b) A security freeze for a protective record must remain in place until the protected consumer
18 or a representative requests, using a point of contact the consumer reporting agency designates,
19 that the security freeze be removed or that the protective record be deleted. The consumer reporting
20 agency does not have an affirmative duty to notify the protected consumer or the representative
21 that a security freeze is in place or to remove the security freeze or delete the protective record
22 once the protected consumer is no longer a protected consumer. A protected consumer or a repre-
23 sentative has the affirmative duty to request that the consumer reporting agency remove the secu-
24 rity freeze or delete the protective record. A consumer reporting agency shall remove a security
25 freeze or delete a protective record within 30 business days after receiving a request for removal
26 or deletion from the protected consumer or a representative, who provides:

27 “(A) Proper identification;

28 “(B) Sufficient proof of authority, as described in ORS 646A.606 (3)(b), if the representative seeks
29 to remove the security freeze or delete the protective record; **and**

30 “(C) Proof that the representative’s authority to act on the protected consumer’s behalf is no
31 longer valid or applicable, if the protected consumer seeks to remove the security freeze or delete
32 the protective record.[; *and*]

33 “[*(D) A fee, if applicable.*]

34 “**SECTION 5.** ORS 646A.610 is amended to read:

35 “646A.610. [*(1) A consumer reporting agency may not charge a fee to a consumer or a protected*
36 *consumer who is the victim of identity theft or to a consumer who has reported or a protected consumer*
37 *for whom a representative has reported to a law enforcement agency the theft of personal information,*
38 *provided the consumer or the representative has submitted to the consumer reporting agency a copy of*
39 *a valid police report, incident report or identity theft declaration.*]

40 “[*(2)(a) A consumer reporting agency may charge a reasonable fee of not more than \$10 to a con-*
41 *sumer, other than a consumer described in subsection (1) of this section, for each placement of a secu-*
42 *rity freeze, temporary lift of the security freeze, removal of the security freeze or replacing a lost*
43 *personal identification number or password previously provided to the consumer.*]

44 “[*(b)(A) Except as provided in subsection (1) of this section and in subparagraph (B) of this para-*
45 *graph, a consumer reporting agency may charge a reasonable fee of not more than \$10 to place or re-*

1 move a security freeze for a protected consumer's consumer report or protective record or to create or
2 delete a protective record for a protected consumer.]

3 “(B) A consumer reporting agency may not charge a fee to place or remove a security freeze on
4 an existing consumer report or protective record for a protected consumer who is under 16 years of age
5 at the time a representative requests the consumer reporting agency to place or remove the security
6 freeze.]

7 “A consumer reporting agency may not charge a consumer a fee or collect from a con-
8 sumer any money or item of value for:

9 “(1) Placing, temporarily lifting or removing a security freeze on the consumer's con-
10 sumer report.

11 “(2) Creating or deleting a protective record.

12 “(3) Placing or removing a security freeze on a protective record for a protected con-
13 sumer.

14 “(4) Replacing a lost personal identification number, password or similar device the con-
15 sumer reporting agency previously provided to the consumer.

16 “**SECTION 6.** ORS 646A.622 is amended to read:

17 “646A.622. (1) A person that owns, maintains or otherwise possesses, **or has control over or**
18 **access to**, data that includes [*a consumer's*] personal information that the person uses in the course
19 of the person's business, vocation, occupation or volunteer activities shall develop, implement and
20 maintain reasonable safeguards to protect the security, confidentiality and integrity of the personal
21 information, including safeguards that protect the personal information when the person disposes
22 of the personal information.

23 “(2) A person complies with subsection (1) of this section if the person:

24 “(a) Complies with a state or federal law that provides greater protection to personal informa-
25 tion than the protections that this section provides.

26 “(b) Complies with regulations promulgated under Title V of the Gramm-Leach-Bliley Act of 1999
27 (15 U.S.C. 6801 to 6809) as in effect on [*January 1, 2016*] **the effective date of this 2018 Act**, if the
28 person is subject to the Act.

29 “(c) Complies with regulations that implement the Health Insurance Portability and Account-
30 ability Act of 1996 (45 C.F.R. parts 160 and 164) as in effect on [*January 1, 2016*] **the effective date**
31 **of this 2018 Act**, if the person is subject to the Act.

32 “(d) Implements an information security program that includes:

33 “(A) Administrative safeguards such as:

34 “(i) Designating one or more employees to coordinate the security program;

35 “(ii) Identifying reasonably foreseeable internal and external risks **with reasonable**
36 **regularity**;

37 “(iii) Assessing whether existing safeguards adequately control the identified risks;

38 “(iv) Training and managing employees in security program practices and procedures **with**
39 **reasonable regularity**;

40 “(v) Selecting service providers that are capable of maintaining appropriate safeguards **and**
41 **adhering to procedures and protocols to which the person and the service provider agree**, and
42 requiring the service providers by contract to maintain the safeguards, **procedures and protocols**;
43 [*and*]

44 “(vi) Adjusting the security program in light of business changes, **potential threats** or new
45 circumstances;

1 “(vii) **Monitoring, verifying, logging and disseminating information about security updates**
2 **and upgrades to software that might be at risk of or vulnerable to a breach of security; and**

3 “(viii) **Reviewing user access policies with reasonable regularity;**

4 “(B) Technical safeguards such as:

5 “(i) Assessing risks **and vulnerabilities** in network and software design **and in information**
6 **collection, processing, transmission, retention, access, storage and disposal and taking timely**
7 **action to address the risks and vulnerabilities with reasonable regularity;**

8 “[(ii) *Assessing risks in information processing, transmission and storage;*]

9 “(ii) **Applying security updates and upgrades to software that might be at risk of or vul-**
10 **nerable to a breach of security;**

11 “(iii) **Monitoring**, detecting, preventing and responding to attacks or system failures; [*and*]

12 “(iv) Testing and monitoring regularly the effectiveness of key controls, systems and procedures
13 **and taking action to reduce or eliminate weaknesses, deficiencies and risks in the controls,**
14 **systems and procedures; and**

15 “(v) **Isolating and segregating personal information from other information and ensuring**
16 **that only authorized individuals have access to the personal information; and**

17 “(C) Physical safeguards such as:

18 “(i) Assessing **known and potential** risks of information **collection, storage, usage, retention,**
19 **access and disposal and implementing methods to remedy or mitigate identified risks;**

20 “(ii) **Monitoring**, detecting, preventing, **isolating** and responding to intrusions **timely and with**
21 **reasonable regularity;**

22 “(iii) Protecting against unauthorized access to or use of personal information during or after
23 collecting, **using, storing,** transporting, **retaining,** destroying or disposing of the personal infor-
24 mation; and

25 “(iv) Disposing of personal information, **whether on or off the person’s premises or property,**
26 after the person no longer needs the personal information for business purposes or as required by
27 local, state or federal law by burning, pulverizing, shredding or modifying a physical record and by
28 destroying or erasing electronic media so that the information cannot be read or reconstructed.

29 “(3) A person complies with subsection (2)(d)(C)(iv) of this section if the person contracts with
30 another person engaged in the business of record destruction to dispose of personal information in
31 a manner that is consistent with subsection (2)(d)(C)(iv) of this section.

32 “(4) Notwithstanding subsection (2) of this section, a person that is an owner of a small business
33 as defined in ORS 285B.123 (2) complies with subsection (1) of this section if the person’s information
34 security and disposal program contains administrative, technical and physical safeguards and dis-
35 posal measures that are appropriate for the size and complexity of the small business, the nature
36 and scope of the small business’s activities, and the sensitivity of the personal information the small
37 business collects from or about consumers.

38 “**SECTION 7.** ORS 646.608, as operative until July 1, 2018, is amended to read:

39 “646.608. (1) A person engages in an unlawful practice if in the course of the person’s business,
40 vocation or occupation the person does any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ation.

2 “(w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

17 “(bb) Violates ORS 646A.070 (1).

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

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

20 “(ee) Violates ORS 646.883 or 646.885.

21 “(ff) Violates ORS 646.569.

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

23 “(hh) Violates ORS 646A.360.

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

25 “(jj) Violates ORS 646.563.

26 “(kk) Violates ORS 759.680 or any rule adopted pursuant thereto.

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

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

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

31 “(oo) Violates ORS 646A.095.

32 “(pp) Violates ORS 822.046.

33 “(qq) Violates ORS 128.001.

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

35 “(ss) Violates ORS 646A.090 (2) to (5).

36 “(tt) Violates ORS 87.686.

37 “(uu) Violates ORS 646A.803.

38 “(vv) Violates ORS 646A.362.

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

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

41 “(yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.

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

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

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

45 “(ccc) Violates ORS 646A.365.

1 “(ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 98.864.
2 “(eee) Sells a gift card in violation of ORS 646A.276.
3 “(fff) Violates ORS 646A.102, 646A.106 or 646A.108.
4 “(ggg) Violates ORS 646A.430 to 646A.450.
5 “(hhh) Violates a provision of ORS 744.318 to 744.384.
6 “(iii) Violates a provision of ORS 646A.702 to 646A.720.
7 “(jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
8 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the
9 subject of the violation.
10 “(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
11 “(LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
12 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
13 “(mmm) Violates a provision of ORS 646A.480 to 646A.495.
14 “(nnn) Violates ORS 646A.082.
15 “(ooo) Violates ORS 646.647.
16 “(ppp) Violates ORS 646A.115.
17 “(qqq) Violates a provision of ORS 646A.405.
18 “(rrr) Violates ORS 646A.092.
19 “(sss) Violates a provision of ORS 646.644.
20 “(ttt) Violates a provision of ORS 646A.295.
21 “(uuu) Violates ORS 646A.564.
22 “(vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
23 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
24 do so or unless the person is an active member of the Oregon State Bar.
25 “(www) Violates ORS 702.012, 702.029 or 702.054.
26 “(xxx) Violates ORS 646A.806.
27 “(yyy) Violates ORS 646A.810 (2).
28 “(zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws 2015.
29 “(aaaa) **Violates a provision of ORS 646A.600 to 646A.628.**
30 “(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifes-
31 tation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
32 “(3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
33 cuting attorney need not prove competition between the parties or actual confusion or misunder-
34 standing.
35 “(4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
36 torney General has first established a rule in accordance with the provisions of ORS chapter 183
37 declaring the conduct to be unfair or deceptive in trade or commerce.
38 “(5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
39 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
40 ney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney
41 fees.
42 “**SECTION 8.** ORS 646.608 is amended to read:
43 “646.608. (1) A person engages in an unlawful practice if in the course of the person’s business,
44 vocation or occupation the person does any of the following:
45 “(a) Passes off real estate, goods or services as the real estate, goods or services of another.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 “(t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any

1 known material defect or material nonconformity.

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

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

6 “(w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

21 “(bb) Violates ORS 646A.070 (1).

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

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

24 “(ee) Violates ORS 646.883 or 646.885.

25 “(ff) Violates ORS 646.569.

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

27 “(hh) Violates ORS 646A.360.

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

29 “(jj) Violates ORS 646.563.

30 “(kk) Violates ORS 759.680 or any rule adopted pursuant thereto.

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

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

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

35 “(oo) Violates ORS 646A.095.

36 “(pp) Violates ORS 822.046.

37 “(qq) Violates ORS 128.001.

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

39 “(ss) Violates ORS 646A.090 (2) to (5).

40 “(tt) Violates ORS 87.686.

41 “(uu) Violates ORS 646A.803.

42 “(vv) Violates ORS 646A.362.

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

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

45 “(yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.

1 “(zz) Violates ORS 87.007 (2) or (3).
2 “(aaa) Violates ORS 92.405 (1), (2) or (3).
3 “(bbb) Engages in an unlawful practice under ORS 646.648.
4 “(ccc) Violates ORS 646A.365.
5 “(ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 98.864.
6 “(eee) Sells a gift card in violation of ORS 646A.276.
7 “(fff) Violates ORS 646A.102, 646A.106 or 646A.108.
8 “(ggg) Violates ORS 646A.430 to 646A.450.
9 “(hhh) Violates a provision of ORS 744.318 to 744.384.
10 “(iii) Violates a provision of ORS 646A.702 to 646A.720.
11 “(jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
12 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the
13 subject of the violation.
14 “(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
15 “(LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
16 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
17 “(mmm) Violates a provision of ORS 646A.480 to 646A.495.
18 “(nnn) Violates ORS 646A.082.
19 “(ooo) Violates ORS 646.647.
20 “(ppp) Violates ORS 646A.115.
21 “(qqq) Violates a provision of ORS 646A.405.
22 “(rrr) Violates ORS 646A.092.
23 “(sss) Violates a provision of ORS 646.644.
24 “(ttt) Violates a provision of ORS 646A.295.
25 “(uuu) Violates ORS 646A.564.
26 “(vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
27 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
28 do so or unless the person is an active member of the Oregon State Bar.
29 “(www) Violates ORS 702.012, 702.029 or 702.054.
30 “(xxx) Violates ORS 646A.806.
31 “(yyy) Violates ORS 646A.810 (2).
32 “(zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws 2015.
33 “(aaaa) Violates ORS 443.376.
34 “(bbbb) Violates a provision of ORS 646A.600 to 646A.628.
35 “(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifes-
36 tation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
37 “(3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
38 cuting attorney need not prove competition between the parties or actual confusion or misunder-
39 standing.
40 “(4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
41 torney General has first established a rule in accordance with the provisions of ORS chapter 183
42 declaring the conduct to be unfair or deceptive in trade or commerce.
43 “(5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
44 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
45 ney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney

1 fees.

2 “**SECTION 9.** ORS 646.608, as amended by section 10, chapter 523, Oregon Laws 2015, section
3 15, chapter 113, Oregon Laws 2017, section 3, chapter 241, Oregon Laws 2017, section 16, chapter
4 480, Oregon Laws 2017, and section 6, chapter 656, Oregon Laws 2017, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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38 provides the information required under ORS 646.611.

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40 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
41 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or
42 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,
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44 into the transaction.

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1 licize a product, business or service.

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3 not to deliver the real estate, goods or services as promised.

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

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

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

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

10 “(v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers,
11 consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situ-
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17 “(B) Supplied with instructions on the careful handling of the thermometer to avoid breakage
18 and on the proper cleanup of mercury should breakage occur.

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20 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be
21 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
22 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
23 graph, ‘thermostat’ means a device commonly used to sense and, through electrical communication
24 with heating, cooling or ventilation equipment, control room temperature.

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

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

28 “(bb) Violates ORS 646A.070 (1).

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

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

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

34 “(hh) Violates ORS 646A.360.

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

36 “(jj) Violates ORS 646.563.

37 “(kk) Violates ORS 759.680 or any rule adopted pursuant thereto.

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

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

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

42 “(oo) Violates ORS 646A.095.

43 “(pp) Violates ORS 822.046.

44 “(qq) Violates ORS 128.001.

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

1 “(ss) Violates ORS 646A.090 (2) to (5).
2 “(tt) Violates ORS 87.686.
3 “(uu) Violates ORS 646A.803.
4 “(vv) Violates ORS 646A.362.
5 “(ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
6 “(xx) Violates ORS 180.440 (1) or 180.486 (1).
7 “(yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
8 “(zz) Violates ORS 87.007 (2) or (3).
9 “(aaa) Violates ORS 92.405 (1), (2) or (3).
10 “(bbb) Engages in an unlawful practice under ORS 646.648.
11 “(ccc) Violates ORS 646A.365.
12 “(ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 98.864.
13 “(eee) Sells a gift card in violation of ORS 646A.276.
14 “(fff) Violates ORS 646A.102, 646A.106 or 646A.108.
15 “(ggg) Violates ORS 646A.430 to 646A.450.
16 “(hhh) Violates a provision of ORS 744.318 to 744.384.
17 “(iii) Violates a provision of ORS 646A.702 to 646A.720.
18 “(jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
19 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the
20 subject of the violation.
21 “(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
22 “(LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
23 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
24 “(mmm) Violates a provision of ORS 646A.480 to 646A.495.
25 “(nnn) Violates ORS 646A.082.
26 “(ooo) Violates ORS 646.647.
27 “(ppp) Violates ORS 646A.115.
28 “(qqq) Violates a provision of ORS 646A.405.
29 “(rrr) Violates ORS 646A.092.
30 “(sss) Violates a provision of ORS 646.644.
31 “(ttt) Violates a provision of ORS 646A.295.
32 “(uuu) Violates ORS 646A.564.
33 “(vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
34 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
35 do so or unless the person is an active member of the Oregon State Bar.
36 “(www) Violates ORS 702.012, 702.029 or 702.054.
37 “(xxx) Violates ORS 646A.806.
38 “(yyy) Violates ORS 646A.810 (2).
39 “(zzz) Violates ORS 443.376.
40 “(aaaa) **Violates a provision of ORS 646A.600 to 646A.628.**
41 “(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifes-
42 tation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
43 “(3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
44 cuting attorney need not prove competition between the parties or actual confusion or misunder-
45 standing.

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

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

8 “**SECTION 10. The amendments to ORS 646.608, 646A.602, 646A.604, 646A.606, 646A.608,**
9 **646A.610 and 646A.622 by sections 1 to 9 of this 2018 Act apply to contracts into which a**
10 **person enters with another person on or after the effective date of this 2018 Act.**

11 “**SECTION 11. This 2018 Act takes effect on the 91st day after the date on which the 2018**
12 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.”.**