

# House Bill 2866

Sponsored by COMMITTEE ON JUDICIARY (at the request of American Civil Liberties Union, Oregon Citizens' Utility Board, Oregon Student Public Interest Research Group)

## 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**.

Prohibits person from collecting, using, storing, analyzing, deriving inferences from, selling, leasing or otherwise transferring geolocation information or audiovisual data about resident individual without first obtaining express consent from resident individual and making certain disclosures to resident individual. Specifies exceptions.

Requires person to make certain disclosures with respect to personal information, geolocation information and audiovisual data about resident individual at resident individual's request or at request of parent or legal guardian of resident individual or other person that resident individual authorizes to make request.

Provides that person that fails to comply with provisions of Act engages in unlawful trade practice under Unlawful Trade Practices Act.

## A BILL FOR AN ACT

1  
2 Relating to required actions with respect to personal information of resident individuals; creating  
3 new provisions; and amending ORS 646.608.

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

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

6 (a) **“Audiovisual data” means video or audio of a resident individual’s movements or**  
7 **gestures, utterances, conversations or interactions and other behaviors or activities that a**  
8 **digital electronic device captures or records.**

9 (b) **“Digital electronic device” means an electronic device of any manufacture or de-**  
10 **scription that executes preprogrammed instructions or code, that enables electronic con-**  
11 **nection to and communication with another digital electronic device and that generates, or**  
12 **enables a person to collect or use, personal information about a resident individual who uses**  
13 **the device.**

14 (c)(A) **“Geolocation information” means data that displays the location of a digital elec-**  
15 **tronic device on a map or similar depiction with an accuracy that is sufficient to correctly**  
16 **indicate the device’s actual spatial location within a radial distance of 1,500 feet or less.**

17 (B) **“Geolocation information” does not include an Internet Protocol address that is not**  
18 **combined with any other data that would indicate the spatial location of the digital electronic**  
19 **device that is using the Internet Protocol address.**

20 (d)(A) **“Person” means a partnership, limited partnership, limited liability partnership,**  
21 **professional corporation, corporation, nonprofit corporation, limited liability company, coop-**  
22 **erative, business trust or other business organization or entity, either nonprofit or for profit.**

23 (B) **“Person” does not include a public body, as defined in ORS 174.109, or a law enforce-**  
24 **ment agency that is engaged in performing the public body’s or law enforcement agency’s**  
25 **lawful duties or responsibilities.**

26 (e) **“Personal information” means an item of data, a combination or compilation of data**

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 or an inference or interpretation that is based upon or derived from data that a resident  
2 individual generates in the course of using a digital electronic device, or that another person  
3 can accurately associate with the resident individual's use of a digital electronic device, and  
4 that identifies any of the resident individual's physical or mental characteristics, habitual  
5 locations, behaviors, traits, activities, abilities, aptitudes, appearances or other attributes  
6 including, but not limited to:

7 (A) Race or ethnicity;

8 (B) Sexual or gender preference, identity, orientation or expression;

9 (C) Attributes other than the attributes described in subparagraphs (A) and (B) of this  
10 paragraph that identify the resident individual as a member of a protected class under state  
11 or federal law;

12 (D) Religious or political affiliation or voluntary association with or membership in a  
13 group;

14 (E) Residence address, business or work address, postal address, telephone number,  
15 electronic mail or other electronic address or alias or identity on social or other electronic  
16 media;

17 (F) Instances or patterns of use of, interactions with or activity related to software ap-  
18 plications, information repositories or databases, commercial transactions or other re-  
19 sources available through or enabled by the Internet;

20 (G) Vocal timbre or other vocal quality, facial features, gait, color or hue of skin, hair  
21 or eyes, detectable smell or thermal signature or other physical characteristics that identify  
22 or enable an identification of a resident individual;

23 (H) Medical conditions, treatments or therapies, including drugs, equipment or products  
24 the resident individual uses in treatments or therapies;

25 (I) Debts, credit usage or availability, salaries or wages, assets, liabilities and purchases  
26 and leases or rentals of real property, personal property or goods or services;

27 (J) Bank accounts, investment accounts, retirement accounts, insurance policies and in-  
28 surance coverage and information that enables access to the accounts, policies or coverage,  
29 or a determination of the balances in or extent of the accounts, policies or coverage and  
30 other financial information;

31 (K) Educational attainments or history and employment positions, experience or history;  
32 and

33 (L) Serial numbers or other tracking information from government-issued identification.

34 (f) "Resident individual" means a natural person who resides in this state.

35 (2)(a) Except as provided in paragraph (b) of this subsection, a person may not collect,  
36 use or store geolocation information or audiovisual data about a resident individual, analyze  
37 or derive inferences from collected or stored geolocation information or audiovisual data  
38 about the resident individual or sell, lease or otherwise transfer the geolocation information  
39 or audiovisual data without first:

40 (A) Obtaining express written consent from the resident individual for the collection, use,  
41 storage, analysis, derivation, sale, lease or other transfer on a form that is separate from  
42 any other communication the person has with the resident individual other than a disclosure  
43 required under this paragraph;

44 (B) Identifying the specific items of geolocation information or audiovisual data the per-  
45 son intends to collect, use, store, analyze, derive inferences from, sell, lease or transfer;

1 (C) Describing how often and the method by which the person will collect, use, store,  
2 analyze, derive inferences from, sell, lease or transfer the geolocation information or audi-  
3 ovisual data; and

4 (D) Specifying each purpose for which the person intends to collect, use, store, analyze,  
5 derive inferences from, sell, lease or transfer the geolocation information or audiovisual  
6 data.

7 (b) A person may collect, use or store geolocation information or audiovisual data, or  
8 analyze or derive inferences from collected or stored geolocation information or audiovisual  
9 data, without first complying with the requirements of paragraph (a) of this subsection only  
10 to:

11 (A) Allow a parent or legal guardian to locate an unemancipated minor;

12 (B) Allow a court-appointed guardian to locate a person who is incapacitated;

13 (C) Enable a law enforcement agency to undertake law enforcement activities or an  
14 emergency service provider to provide emergency services; or

15 (D) Authenticate or secure personal information.

16 (3)(a) A person that collects, uses or stores personal information, geolocation informa-  
17 tion or audiovisual data about a resident individual, or that analyzes or derives inferences  
18 from collected or stored personal information, geolocation information or audiovisual data  
19 about the resident individual, shall disclose to the resident individual, without any fee or  
20 other charge, at the resident individual's written request:

21 (A) All items of the resident individual's personal information, geolocation information  
22 or audiovisual data the person has collected, used, stored, analyzed or derived inferences  
23 from;

24 (B) The categories into which the person has divided or organized the personal informa-  
25 tion, geolocation information or audiovisual data;

26 (C) The names of, and addresses or contact information for, any other person from which  
27 the person obtained any of the resident individual's personal information, geolocation infor-  
28 mation or audiovisual data;

29 (D) The names of, and addresses or contact information for, any other person to which  
30 the person sold, leased or otherwise transferred the resident individual's personal informa-  
31 tion, geolocation information or audiovisual data;

32 (E) All of the person's policies and procedures related to collecting, using, storing, ana-  
33 lyzing and deriving inferences from personal information, geolocation information or audi-  
34 ovisual data; and

35 (F) The purposes for which the person has collected, used, stored, analyzed or derived  
36 inferences from the personal information, geolocation information or audiovisual data or in-  
37 tends to collect, use, store, analyze or derive inferences from the personal information,  
38 geolocation information or audiovisual data.

39 (b) A person described in paragraph (a) of this subsection shall provide an easily acces-  
40 sible and easily understandable form that a resident individual, a parent or legal guardian  
41 of a resident individual or another person the resident individual has authorized to make a  
42 request may use to submit a request under this subsection electronically or by mail.

43 (4)(a) A resident individual may:

44 (A) Authorize another person to request from a person that collects personal informa-  
45 tion, geolocation information or audiovisual data about the resident individual a disclosure

1 of the personal information, geolocation information or audiovisual data to the resident in-  
 2 dividual; and

3 (B) Request a disclosure of personal information, geolocation information or audiovisual  
 4 data a person has obtained about the resident individual:

5 (i) Not more than once in any 12-month period; and

6 (ii) During a period that begins up to two years before the date of the resident  
 7 individual's request.

8 (b) A parent or legal guardian of a resident individual who is a minor or who is incapac-  
 9 itated may request on the resident individual's behalf, and as provided in subsection (3) of  
 10 this section, that a person that has obtained personal information, geolocation information  
 11 or audiovisual data about the resident individual disclose the personal information,  
 12 geolocation information or audiovisual data to the parent or legal guardian.

13 (5) In responding to a request under subsection (3) of this section, a person shall encrypt  
 14 and otherwise secure to a commercially reasonable extent all personal information,  
 15 geolocation information and audiovisual data that the person discloses to a resident individ-  
 16 ual and shall verify, to the maximum extent possible by means of commercially reasonable  
 17 methods, that the recipient of the disclosure is the resident individual, or a parent or legal  
 18 guardian of the resident individual, whose personal information, geolocation information or  
 19 audiovisual data is in the disclosure.

20 (6) A resident individual may not waive by contract, agreement or otherwise any of the  
 21 requirements or protections set forth in this section. A contract or agreement that purports  
 22 to waive the requirements or protections of this section is void and unenforceable.

23 (7) A person that fails to comply with the requirements of this section engages in an  
 24 unlawful practice under ORS 646.608 that is subject to enforcement under ORS 646.632 and  
 25 an action under ORS 646.638. For the purposes of an action under ORS 646.638, a person's  
 26 failure to comply with the provisions of this section constitutes an ascertainable loss of a  
 27 resident individual's property in the resident individual's personal information, geolocation  
 28 information or audiovisual data.

29 (8) This section does not apply to a person's collection, use or storage of personal infor-  
 30 mation, or analysis or derivation of inferences from collected or stored personal information,  
 31 that is subject to the provisions of the Health Insurance Portability and Accountability Act  
 32 of 1996, P.L. 104-191, as in effect on the effective date of this 2019 Act, or to regulations  
 33 promulgated under the Health Insurance Portability and Accountability Act of 1996.

34 **SECTION 2.** ORS 646.608 is amended to read:

35 646.608. (1) A person engages in an unlawful practice if in the course of the person's business,  
 36 vocation or occupation the person does any of the following:

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

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

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

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

44 (e) Represents that real estate, goods or services have sponsorship, approval, characteristics,  
 45 ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have

1 or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the  
 2 person does not have.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (w) Manufactures mercury fever thermometers.

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

- 1 (A) Prescribed by a person licensed under ORS chapter 677; and  
 2 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and  
 3 on the proper cleanup of mercury should breakage occur.
- 4 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to  
 5 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be  
 6 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the  
 7 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-  
 8 graph, “thermostat” means a device commonly used to sense and, through electrical communication  
 9 with heating, cooling or ventilation equipment, control room temperature.
- 10 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains  
 11 mercury light switches.
- 12 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.  
 13 (bb) Violates ORS 646A.070 (1).  
 14 (cc) Violates any requirement of ORS 646A.030 to 646A.040.  
 15 (dd) Violates the provisions of ORS 128.801 to 128.898.  
 16 (ee) Violates ORS 646.883 or 646.885.  
 17 (ff) Violates ORS 646.569.  
 18 (gg) Violates the provisions of ORS 646A.142.  
 19 (hh) Violates ORS 646A.360.  
 20 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.  
 21 (jj) Violates ORS 646.563.  
 22 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.  
 23 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant  
 24 thereto.
- 25 (mm) Violates ORS 646A.210 or 646A.214.  
 26 (nn) Violates any provision of ORS 646A.124 to 646A.134.  
 27 (oo) Violates ORS 646A.095.  
 28 (pp) Violates ORS 822.046.  
 29 (qq) Violates ORS 128.001.  
 30 (rr) Violates ORS 646A.800 (2) to (4).  
 31 (ss) Violates ORS 646A.090 (2) to (5).  
 32 (tt) Violates ORS 87.686.  
 33 (uu) Violates ORS 646A.803.  
 34 (vv) Violates ORS 646A.362.  
 35 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.  
 36 (xx) Violates ORS 180.440 (1) or 180.486 (1).  
 37 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.  
 38 (zz) Violates ORS 87.007 (2) or (3).  
 39 (aaa) Violates ORS 92.405 (1), (2) or (3).  
 40 (bbb) Engages in an unlawful practice under ORS 646.648.  
 41 (ccc) Violates ORS 646A.365.  
 42 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 98.864.  
 43 (eee) Sells a gift card in violation of ORS 646A.276.  
 44 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.  
 45 (ggg) Violates ORS 646A.430 to 646A.450.

- 1 (hhh) Violates a provision of ORS 744.318 to 744.384.
- 2 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 3 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-  
 4 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the  
 5 subject of the violation.
- 6 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 7 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50  
 8 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
- 9 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 10 (nnn) Violates ORS 646A.082.
- 11 (ooo) Violates ORS 646.647.
- 12 (ppp) Violates ORS 646A.115.
- 13 (qqq) Violates a provision of ORS 646A.405.
- 14 (rrr) Violates ORS 646A.092.
- 15 (sss) Violates a provision of ORS 646.644.
- 16 (ttt) Violates a provision of ORS 646A.295.
- 17 (uuu) Violates ORS 646A.564.
- 18 (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-  
 19 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to  
 20 do so or unless the person is an active member of the Oregon State Bar.
- 21 (www) Violates ORS 702.012, 702.029 or 702.054.
- 22 (xxx) Violates ORS 646A.806.
- 23 (yyy) Violates ORS 646A.810 (2).
- 24 (zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws 2015.
- 25 (aaaa) Violates ORS 443.376.
- 26 **(bbbb) Violates section 1 of this 2019 Act.**
- 27 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-  
 28 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
- 29 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-  
 30 cuting attorney need not prove competition between the parties or actual confusion or misunder-  
 31 standing.
- 32 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-  
 33 torney General has first established a rule in accordance with the provisions of ORS chapter 183  
 34 declaring the conduct to be unfair or deceptive in trade or commerce.
- 35 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or  
 36 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-  
 37 ney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney  
 38 fees.
- 39 **SECTION 3.** ORS 646.608, as amended by section 10, chapter 523, Oregon Laws 2015, section  
 40 15, chapter 113, Oregon Laws 2017, section 3, chapter 241, Oregon Laws 2017, section 16, chapter  
 41 480, Oregon Laws 2017, and section 6, chapter 656, Oregon Laws 2017, is amended to read:
- 42 646.608. (1) A person engages in an unlawful practice if in the course of the person’s business,  
 43 vocation or occupation the person does any of the following:
- 44 (a) Passes off real estate, goods or services as the real estate, goods or services of another.
- 45 (b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-

1 proval, or certification of real estate, goods or services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (u) Engages in any other unfair or deceptive conduct in trade or commerce.
- 2 (v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers,  
3 consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situ-  
4 ation.
- 5 (w) Manufactures mercury fever thermometers.
- 6 (x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal  
7 law, or is:
  - 8 (A) Prescribed by a person licensed under ORS chapter 677; and
  - 9 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and  
10 on the proper cleanup of mercury should breakage occur.
- 11 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to  
12 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be  
13 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the  
14 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-  
15 graph, "thermostat" means a device commonly used to sense and, through electrical communication  
16 with heating, cooling or ventilation equipment, control room temperature.
- 17 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains  
18 mercury light switches.
  - 19 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.
  - 20 (bb) Violates ORS 646A.070 (1).
  - 21 (cc) Violates any requirement of ORS 646A.030 to 646A.040.
  - 22 (dd) Violates the provisions of ORS 128.801 to 128.898.
  - 23 (ee) Violates ORS 646.883 or 646.885.
  - 24 (ff) Violates ORS 646.569.
  - 25 (gg) Violates the provisions of ORS 646A.142.
  - 26 (hh) Violates ORS 646A.360.
  - 27 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
  - 28 (jj) Violates ORS 646.563.
  - 29 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.
  - 30 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant  
31 thereto.
  - 32 (mm) Violates ORS 646A.210 or 646A.214.
  - 33 (nn) Violates any provision of ORS 646A.124 to 646A.134.
  - 34 (oo) Violates ORS 646A.095.
  - 35 (pp) Violates ORS 822.046.
  - 36 (qq) Violates ORS 128.001.
  - 37 (rr) Violates ORS 646A.800 (2) to (4).
  - 38 (ss) Violates ORS 646A.090 (2) to (5).
  - 39 (tt) Violates ORS 87.686.
  - 40 (uu) Violates ORS 646A.803.
  - 41 (vv) Violates ORS 646A.362.
  - 42 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
  - 43 (xx) Violates ORS 180.440 (1) or 180.486 (1).
  - 44 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
  - 45 (zz) Violates ORS 87.007 (2) or (3).

- 1 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 2 (bbb) Engages in an unlawful practice under ORS 646.648.
- 3 (ccc) Violates ORS 646A.365.
- 4 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 98.864.
- 5 (eee) Sells a gift card in violation of ORS 646A.276.
- 6 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 7 (ggg) Violates ORS 646A.430 to 646A.450.
- 8 (hhh) Violates a provision of ORS 744.318 to 744.384.
- 9 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 10 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
- 11 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the
- 12 subject of the violation.
- 13 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 14 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
- 15 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
- 16 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 17 (nnn) Violates ORS 646A.082.
- 18 (ooo) Violates ORS 646.647.
- 19 (ppp) Violates ORS 646A.115.
- 20 (qqq) Violates a provision of ORS 646A.405.
- 21 (rrr) Violates ORS 646A.092.
- 22 (sss) Violates a provision of ORS 646.644.
- 23 (ttt) Violates a provision of ORS 646A.295.
- 24 (uuu) Violates ORS 646A.564.
- 25 (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
- 26 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
- 27 do so or unless the person is an active member of the Oregon State Bar.
- 28 (www) Violates ORS 702.012, 702.029 or 702.054.
- 29 (xxx) Violates ORS 646A.806.
- 30 (yyy) Violates ORS 646A.810 (2).
- 31 (zzz) Violates ORS 443.376.
- 32 **(aaaa) Violates section 1 of this 2019 Act.**
- 33 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
- 34 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
- 35 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
- 36 cuting attorney need not prove competition between the parties or actual confusion or misunder-
- 37 standing.
- 38 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
- 39 torney General has first established a rule in accordance with the provisions of ORS chapter 183
- 40 declaring the conduct to be unfair or deceptive in trade or commerce.
- 41 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
- 42 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
- 43 ney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney
- 44 fees.
- 45 **SECTION 4. (1) Except as provided in subsection (2) of this section, section 1 of this 2019**

1 **Act and the amendments to ORS 646.608 by sections 2 and 3 of this 2019 Act apply to a**  
2 **person's collection, use, storage or analysis of, derivation of inferences from or sale, lease**  
3 **or transfer of personal information, geolocation information or audiovisual data that occurs**  
4 **on or after the effective date of this 2019 Act.**

5 **(2) If a contract governs a person's collection, use, storage or analysis of, derivation of**  
6 **inferences from or sale, lease or transfer of personal information, geolocation information**  
7 **or audiovisual data, section 1 of this 2019 Act and the amendments to ORS 646.608 by sections**  
8 **2 and 3 of this 2019 Act apply to any collection, use, storage or analysis of, derivation of in-**  
9 **ferences from or sale, lease or transfer of personal information, geolocation information or**  
10 **audiovisual data that occurs after a resident individual enters into or renews the contract.**  
11 **For the purposes of this subsection, a person's unilateral change in any of the terms and**  
12 **conditions of a contract described in this subsection to which a resident individual agrees**  
13 **without negotiation, either affirmatively or by reason of the resident individual's acceptance**  
14 **or use of goods or services identified in the contract, is a renewal of the contract.**

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