

**A-Engrossed**  
**Senate Bill 548**

Ordered by the Senate April 18  
Including Senate Amendments dated April 18

Sponsored by Senator RILEY, Representative SPRENGER, Senator MANNING JR (at the request of Attorney General Ellen F. Rosenblum) (Pre-session filed.)

**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.

*[Directs Department of Justice to study issues related to consumer protection and towing and to provide results of study to Legislative Assembly no later than December 31, 2019.]*

*[Sunsets January 2, 2020.]*

*[Takes effect on 91st day following adjournment sine die.]*

**Establishes State Board of Towing within Department of Transportation. Authorizes board to file request directing department to deny, suspend, revoke or refuse to renew towing business certificate or letter of appointment to participate on rotational list of towing businesses for certain violations. Authorizes board to impose civil penalties for certain violations.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to towing; creating new provisions; amending ORS 646.608 and 822.215; repealing ORS  
3 98.864; and declaring an emergency.

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

5 **SECTION 1. State Board of Towing; membership; term; compensation and expenses.** (1)

6 **The State Board of Towing is established within the Department of Transportation.**

7 **(2) The State Board of Towing consists of nine members appointed by the Governor as**  
8 **follows:**

9 **(a) One tower who holds a towing business certificate issued under ORS 822.205 and who**  
10 **represents a city in Oregon with a population of 100,000 or more;**

11 **(b) One tower who holds a towing business certificate issued under ORS 822.205 and who**  
12 **represents a city in Oregon with a population of less than 100,000;**

13 **(c) One tower who holds a towing business certificate issued under ORS 822.205 and who**  
14 **has specialized knowledge in towing equipment and vehicles with a gross vehicle weight rat-**  
15 **ing of more than 44,000 pounds;**

16 **(d) One tower who holds a towing business certificate issued under ORS 822.205 and who**  
17 **has specialized knowledge in towing vehicles with a gross vehicle weight rating of 26,000**  
18 **pounds or less;**

19 **(e) One member who represents the insurance industry;**

20 **(f) One member from a tow program within the Department of State Police;**

21 **(g) One member who is a chief of police;**

22 **(h) One member who is a member of the public; and**

23 **(i) One member who is a consumer advocate.**

**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 (3) All members of the board must be residents of Oregon.

2 (4) The term of office of each member of the board is four years, but a member serves  
3 at the pleasure of the Governor. Before the expiration of the term of a member, the Gover-  
4 nor shall appoint a successor whose term begins on July 1 next following. A member is eli-  
5 gible for reappointment. If there is a vacancy for any cause, the Governor shall make an  
6 appointment to become immediately effective for the unexpired term.

7 (5) A member of the board is entitled to compensation and expenses as provided in ORS  
8 292.495.

9 **SECTION 2. Initial terms of office.** Notwithstanding the term of office specified by sec-  
10 tion 1 of this 2019 Act, of the members first appointed to the State Board of Towing:

11 (1) Two shall serve for a term ending July 1, 2020.

12 (2) Two shall serve for a term ending July 1, 2021.

13 (3) Two shall serve for a term ending July 1, 2022.

14 (4) Three shall serve for a term ending July 1, 2023.

15 **SECTION 3. Officers; quorum; meetings.** (1) The State Board of Towing shall select one  
16 of its members as chairperson and another as vice chairperson, for terms and with duties  
17 and powers necessary for the performance of the functions of the offices as the board de-  
18 termines.

19 (2) Except as provided in subsection (3) of this section, a majority of the members of the  
20 board constitutes a quorum for the transaction of business.

21 (3) When the board is deliberating or voting on a matter before it, four members of the  
22 board constitutes a quorum.

23 (4) No more than two members who are towers may vote on any matter. The chairperson  
24 shall assign a rotation of voting members who are towers. If an assigned member who is a  
25 tower has an actual or potential conflict of interest in a matter before the board, the chair-  
26 person shall designate a different member who is a tower and who does not have an actual  
27 or potential conflict of interest in the matter before the board to deliberate and vote on that  
28 matter.

29 (5) The board shall meet at least once a quarter at a time and place determined by the  
30 board. The board shall also meet at such other times and places as are specified by the call  
31 of the chairperson, vice chairperson or administrative officer.

32 **SECTION 4. Administrative officer for board; other employees.** (1) The State Board of  
33 Towing shall appoint an administrative officer to serve at the pleasure of the Governor. The  
34 determination of qualifications of the administrative officer and appointment of the admin-  
35 istrative officer shall be made by the board after consulting with the Governor.

36 (2) The administrative officer may not be a member of the board.

37 (3) The designation of the administrative officer must be by written order, filed with the  
38 Secretary of State.

39 (4) The administrative officer is in the unclassified service under ORS chapter 240, and  
40 the board shall fix the salary of the officer in accordance with the applicable provisions of  
41 ORS chapter 240.

42 (5) Subject to any applicable provisions of ORS chapter 240, the administrative officer  
43 shall appoint all subordinate officers and employees of the board, prescribe their duties and  
44 fix their compensation.

45 **SECTION 5. Rulemaking authority; board seal.** (1) In accordance with applicable pro-

1 **visions of ORS chapter 183, the State Board of Towing may adopt rules:**

2 (a) **Necessary for the administration of the laws that the board is charged with admin-**  
3 **istering.**

4 (b) **To implement ORS 98.853 to 98.862.**

5 (2) **The board may adopt a seal.**

6 **SECTION 6. State Board of Towing Account. (1) The State Board of Towing Account is**  
7 **established in the State Treasury, separate and distinct from the General Fund.**

8 (2) **The account consists of the following:**

9 (a) **Moneys collected from civil penalties imposed under section 11 of this 2019 Act.**

10 (b) **Moneys appropriated to the account by the Legislative Assembly.**

11 (c) **Moneys from any other source.**

12 (3) **Moneys in the account are continuously appropriated to the State Board of Towing**  
13 **to carry out the provisions of sections 1 to 12 of this 2019 Act.**

14 **SECTION 7. Administration of oaths; obtaining and taking evidence at board proceedings;**  
15 **effect of failure to obey board subpoena. The State Board of Towing, acting through its**  
16 **chairperson or vice chairperson, may administer oaths, take depositions and issue subpoenas**  
17 **to compel the attendance of witnesses and the production of documents or other written**  
18 **information necessary to carry out the provisions of sections 1 to 12 of this 2019 Act. If any**  
19 **person fails to comply with a subpoena issued under this section or refuses to testify on**  
20 **matters on which the person lawfully may be interrogated, the procedure set out in ORS**  
21 **183.440 shall be followed to compel obedience.**

22 **SECTION 8. Denial, suspension, revocation or refusal of towing business certificate. (1)**  
23 **As used in this section:**

24 (a) **“Person” includes individuals, public bodies as defined in ORS 174.109, corporations,**  
25 **firms, associations, partnerships, limited liability companies, joint stock companies or any**  
26 **other business entity created under law.**

27 (b) **“Relative” means an individual related within the third degree as determined by the**  
28 **common law, a spouse, an individual related to a spouse within the third degree as deter-**  
29 **mined by the common law or an individual in an adoptive relationship within the third degree**  
30 **as determined by the common law.**

31 (2) **In addition to any other penalty provided under ORS 822.215 and subject to ORS**  
32 **chapter 183, the State Board of Towing may file a written request directing the Department**  
33 **of Transportation to deny, suspend, revoke or refuse to renew a towing business certificate**  
34 **issued under ORS 822.205, if the person holding or applying for the certificate:**

35 (a) **Fails to comply with any rule adopted by the board;**

36 (b) **Violates any provision of, or rules or ordinances adopted under, ORS 98.853, 98.854,**  
37 **98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605;**

38 (c) **Fails to comply with an order of the board, including but not limited to the failure to**  
39 **pay a civil penalty as ordered by the board;**

40 (d) **Has performed work as a tow operator without the appropriate certification or letter**  
41 **of appointment or has employed individuals to perform work as a tow operator without ap-**  
42 **propriate certification or letter of appointment;**

43 (e) **Has advertised or otherwise held themselves out as being a certified towing business**  
44 **without holding the appropriate certificate;**

45 (f) **As a, or as a relative of a, partner, officer, member or employee of a towing business,**

1 advertises or holds themselves out that the towing business is certified if the business does  
2 not possess the appropriate certificate;

3 (g) Has engaged in towing or recovering by any means, as part of any business operation  
4 of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement  
5 vehicles;

6 (h) Fails to meet any condition or requirement to obtain a certificate or letter of ap-  
7 pointment;

8 (i) Acts or has acted in a manner creating a serious danger to the public health or safety;  
9 or

10 (j) Has been subject to a revocation, cancellation or suspension order or to other disci-  
11 plinary action related to towing or the towing industry by any other public body, as defined  
12 in ORS 174.109, or has failed to pay a civil penalty imposed by the body.

13 (3) A violation described in subsection (2) of this section for which the board recommends  
14 the Department of Transportation deny, suspend, revoke or refuse to renew a certificate to  
15 perform work or conduct business may be treated as a failure to be in conformance with  
16 sections 1 to 12 of this 2019 Act.

17 SECTION 9. Additional powers of the board. (1) In carrying out its investigative and  
18 enforcement duties, functions and powers, and notwithstanding any other provision of law,  
19 the State Board of Towing may procure services and award a contract for the personal ser-  
20 vices of a subject matter expert, on a case-by-case basis, in any manner deemed practical  
21 or convenient. The price of such contracts, including any amendments, may not exceed  
22 \$25,000.

23 (2) If the board has reason to believe that any person has been engaged or is engaging  
24 in any violation of ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230,  
25 822.235 or 822.605 or sections 1 to 12 of this 2019 Act or any rule adopted under those stat-  
26 utes, or any order issued by the board, the board may, without bond, bring suit in the name  
27 and on behalf of the State of Oregon in the circuit court of any county of this state to enjoin  
28 the acts or practices and to enforce compliance with ORS 98.853, 98.854, 98.856, 98.858,  
29 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605 or sections 1 to 12 of this 2019  
30 Act or any rule adopted under those statutes, or any order issued by the board. Upon a  
31 proper showing, a permanent or temporary injunction, restraining order or writ of  
32 mandamus shall be granted.

33 SECTION 10. Participation in the Department of State Police tow rotation. (1) As used  
34 in this section:

35 (a) "Person" includes individuals, public bodies as defined in ORS 174.109, corporations,  
36 firms, associations, partnerships, limited liability companies, joint stock companies or any  
37 other business entity created under law.

38 (b) "Relative" means an individual related within the third degree as determined by the  
39 common law, a spouse, an individual related to a spouse within the third degree as deter-  
40 mined by the common law or an individual in an adoptive relationship within the third degree  
41 as determined by the common law.

42 (2) Subject to ORS chapter 183, the State Board of Towing may order the Department  
43 of State Police to deny, suspend, condition or revoke a letter of appointment to participate  
44 on the rotational list of towing businesses established under ORS 181A.350, if the person  
45 holding or applying for the letter of appointment:

1 (a) Fails to comply with any rule adopted by the board;

2 (b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853, 98.854,  
3 98.856, 98.858, 181A.350, 822.200, 822.215 822.225, 822.230, 822.235 or 822.605;

4 (c) Fails to comply with an order of the board, including but not limited to the failure to  
5 pay a civil penalty as ordered by the board;

6 (d) Has performed work as a tow operator without the appropriate certification or letter  
7 of appointment or has employed individuals to perform work as a tow operator without ap-  
8 propriate certification or letter of appointment;

9 (e) Has advertised or otherwise held themselves out as being a certified tow operator  
10 without holding the appropriate certificate;

11 (f) As a, or as a relative of a, partner, officer, member or employee of a towing business,  
12 advertises or holds themselves out that the towing business is certified if the business does  
13 not possess the appropriate certificate;

14 (g) Has engaged in towing or recovering by any means, as part of any business operation  
15 of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement  
16 vehicles;

17 (h) Fails to meet any condition or requirement to obtain a certificate or letter of ap-  
18 pointment;

19 (i) Acts or has acted in a manner creating a serious danger to the public health or safety;  
20 or

21 (j) Has been subject to a revocation, cancellation or suspension order or to other disci-  
22 plinary action related to towing or the towing industry by any other public body, as defined  
23 in ORS 174.109, or has failed to pay a civil penalty imposed by the body.

24 (3) A violation described in subsection (2) of this section for which the board orders the  
25 Department of State Police to deny, suspend, condition or revoke a letter of appointment to  
26 participate on the rotational list of towing business established under ORS 181A.350 may be  
27 treated as a failure to be in conformance with sections 1 to 12 of this 2019 Act.

28 **SECTION 11. Civil penalties.** (1) In addition to any other penalty provided by law, any  
29 person who violates any provision of ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200,  
30 822.215 822.225, 822.230, 822.235 or 822.605 or any rule adopted by the State Board of Towing  
31 is subject to payment of a civil penalty to the board.

32 (2) The board may adopt rules establishing a schedule of civil penalties that may be im-  
33 posed under this section. Civil penalties imposed under this section may not exceed \$25,000  
34 for each violation.

35 (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

36 (4) Notwithstanding ORS 670.335, civil penalties collected by the board under this section  
37 shall be deposited into the State Board of Towing Account established under section 6 of this  
38 2019 Act.

39 **SECTION 12.** In imposing a penalty pursuant to the schedule adopted pursuant to section  
40 11 of this 2019 Act, the State Board of Towing shall consider the following factors:

41 (1) The past history of the person incurring a penalty in taking all feasible steps or pro-  
42 cedures necessary or appropriate to correct any violation.

43 (2) Any prior violations by the person incurring the penalty of statutes, rules or orders  
44 pertaining to facilities.

45 (3) The economic and financial conditions of the person incurring the penalty.

1       **(4) The immediacy and extent to which the violation threatens the public health or**  
2 **safety.**

3       **SECTION 13.** ORS 646.608 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (q) Promises to deliver real estate, goods or services within a certain period of time with intent  
2 not to deliver the real estate, goods or services as promised.
- 3 (r) Organizes or induces or attempts to induce membership in a pyramid club.
- 4 (s) Makes false or misleading representations of fact concerning the offering price of, or the  
5 person's cost for real estate, goods or services.
- 6 (t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any  
7 known material defect or material nonconformity.
- 8 (u) Engages in any other unfair or deceptive conduct in trade or commerce.
- 9 (v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers,  
10 consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situ-  
11 ation.
- 12 (w) Manufactures mercury fever thermometers.
- 13 (x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal  
14 law, or is:
- 15 (A) Prescribed by a person licensed under ORS chapter 677; and
- 16 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and  
17 on the proper cleanup of mercury should breakage occur.
- 18 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to  
19 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be  
20 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the  
21 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-  
22 graph, "thermostat" means a device commonly used to sense and, through electrical communication  
23 with heating, cooling or ventilation equipment, control room temperature.
- 24 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains  
25 mercury light switches.
- 26 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.
- 27 (bb) Violates ORS 646A.070 (1).
- 28 (cc) Violates any requirement of ORS 646A.030 to 646A.040.
- 29 (dd) Violates the provisions of ORS 128.801 to 128.898.
- 30 (ee) Violates ORS 646.883 or 646.885.
- 31 (ff) Violates ORS 646.569.
- 32 (gg) Violates the provisions of ORS 646A.142.
- 33 (hh) Violates ORS 646A.360.
- 34 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 35 (jj) Violates ORS 646.563.
- 36 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.
- 37 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant  
38 thereto.
- 39 (mm) Violates ORS 646A.210 or 646A.214.
- 40 (nn) Violates any provision of ORS 646A.124 to 646A.134.
- 41 (oo) Violates ORS 646A.095.
- 42 (pp) Violates ORS 822.046.
- 43 (qq) Violates ORS 128.001.
- 44 (rr) Violates ORS 646A.800 (2) to (4).
- 45 (ss) Violates ORS 646A.090 (2) to (5).

- 1 (tt) Violates ORS 87.686.
- 2 (uu) Violates ORS 646A.803.
- 3 (vv) Violates ORS 646A.362.
- 4 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
- 5 (xx) Violates ORS 180.440 (1) or 180.486 (1).
- 6 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 7 (zz) Violates ORS 87.007 (2) or (3).
- 8 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 9 (bbb) Engages in an unlawful practice under ORS 646.648.
- 10 (ccc) Violates ORS 646A.365.
- 11 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 [*or a rule adopted under ORS 98.864*].
- 12 (eee) Sells a gift card in violation of ORS 646A.276.
- 13 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 14 (ggg) Violates ORS 646A.430 to 646A.450.
- 15 (hhh) Violates a provision of ORS 744.318 to 744.384.
- 16 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 17 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-  
18 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the  
19 subject of the violation.
- 20 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 21 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50  
22 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
- 23 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 24 (nnn) Violates ORS 646A.082.
- 25 (ooo) Violates ORS 646.647.
- 26 (ppp) Violates ORS 646A.115.
- 27 (qqq) Violates a provision of ORS 646A.405.
- 28 (rrr) Violates ORS 646A.092.
- 29 (sss) Violates a provision of ORS 646.644.
- 30 (ttt) Violates a provision of ORS 646A.295.
- 31 (uuu) Violates ORS 646A.564.
- 32 (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-  
33 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to  
34 do so or unless the person is an active member of the Oregon State Bar.
- 35 (www) Violates ORS 702.012, 702.029 or 702.054.
- 36 (xxx) Violates ORS 646A.806.
- 37 (yyy) Violates ORS 646A.810 (2).
- 38 (zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws 2015.
- 39 (aaaa) Violates ORS 443.376.
- 40 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-  
41 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
- 42 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-  
43 cuting attorney need not prove competition between the parties or actual confusion or misunder-  
44 standing.
- 45 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-



1 torney General has first established a rule in accordance with the provisions of ORS chapter 183  
2 declaring the conduct to be unfair or deceptive in trade or commerce.

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

7 **SECTION 14.** ORS 646.608, as amended by section 10, chapter 523, Oregon Laws 2015, section  
8 15, chapter 113, Oregon Laws 2017, section 3, chapter 241, Oregon Laws 2017, section 16, chapter  
9 480, Oregon Laws 2017, and section 6, chapter 656, Oregon Laws 2017, is amended to read:

10 646.608. (1) A person engages in an unlawful practice if in the course of the person's business,  
11 vocation or occupation the person does any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give  
45 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of

1 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or  
2 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,  
3 discount or other value is contingent upon an event occurring after the time the customer enters  
4 into the transaction.

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

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

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

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

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

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

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

18 (w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

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

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

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

36 (ee) Violates ORS 646.883 or 646.885.

37 (ff) Violates ORS 646.569.

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

39 (hh) Violates ORS 646A.360.

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

41 (jj) Violates ORS 646.563.

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

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

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

- 1 (nn) Violates any provision of ORS 646A.124 to 646A.134.
- 2 (oo) Violates ORS 646A.095.
- 3 (pp) Violates ORS 822.046.
- 4 (qq) Violates ORS 128.001.
- 5 (rr) Violates ORS 646A.800 (2) to (4).
- 6 (ss) Violates ORS 646A.090 (2) to (5).
- 7 (tt) Violates ORS 87.686.
- 8 (uu) Violates ORS 646A.803.
- 9 (vv) Violates ORS 646A.362.
- 10 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
- 11 (xx) Violates ORS 180.440 (1) or 180.486 (1).
- 12 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 13 (zz) Violates ORS 87.007 (2) or (3).
- 14 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 15 (bbb) Engages in an unlawful practice under ORS 646.648.
- 16 (ccc) Violates ORS 646A.365.
- 17 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 [*or a rule adopted under ORS 98.864*].
- 18 (eee) Sells a gift card in violation of ORS 646A.276.
- 19 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 20 (ggg) Violates ORS 646A.430 to 646A.450.
- 21 (hhh) Violates a provision of ORS 744.318 to 744.384.
- 22 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 23 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-  
24 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the  
25 subject of the violation.
- 26 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 27 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50  
28 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
- 29 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 30 (nnn) Violates ORS 646A.082.
- 31 (ooo) Violates ORS 646.647.
- 32 (ppp) Violates ORS 646A.115.
- 33 (qqq) Violates a provision of ORS 646A.405.
- 34 (rrr) Violates ORS 646A.092.
- 35 (sss) Violates a provision of ORS 646.644.
- 36 (ttt) Violates a provision of ORS 646A.295.
- 37 (uuu) Violates ORS 646A.564.
- 38 (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-  
39 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to  
40 do so or unless the person is an active member of the Oregon State Bar.
- 41 (www) Violates ORS 702.012, 702.029 or 702.054.
- 42 (xxx) Violates ORS 646A.806.
- 43 (yyy) Violates ORS 646A.810 (2).
- 44 (zzz) Violates ORS 443.376.
- 45 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-

1 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

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

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

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

12 **SECTION 15.** ORS 822.215 is amended to read:

13 822.215. (1) The Department of Transportation may deny or refuse to issue any towing business  
14 certificate under ORS 822.205 or may suspend, revoke or refuse to renew any towing business cer-  
15 tificate issued upon proof that the applicant for or holder of the certificate has done any of the  
16 following:

17 [(1)] (a) Used fraud or deception in securing the certificate.

18 [(2)] (b) Received in any manner or by any device any rebate or other additional fee for towing  
19 or recovery from a person who performs repairs on a vehicle who does not also own the vehicle.  
20 This subsection does not prohibit the payment of the towing fee by a person who performs repairs  
21 on a vehicle if the fee is included in the charges by that person for repairs on the vehicle.

22 [(3)] (c) Used vehicles for the purposes of towing or recovering services that did not meet the  
23 minimum safety standards established by the department.

24 [(4)] (d) Failed to display special towing business registration plates, stickers or indicia or  
25 identification devices for proportionally registered tow vehicles authorized under ORS 805.200 on  
26 each vehicle used to tow or recover vehicles.

27 [(5)] (e) Failed to maintain the amounts and types of insurance required to qualify for issuance  
28 of a towing business certificate under ORS 822.205.

29 [(6)] (f) Failed to obtain any permits or authority required under any provision of ORS chapter  
30 825 or rules adopted thereunder.

31 [(7)] (g) Violated any provision of ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under  
32 [ORS 98.864] **section 5 of this 2019 Act.**

33 **(2) After receiving a written request from the State Board of Towing under section 8 of**  
34 **this 2019 Act, the department shall impose the disciplinary action requested by the board.**

35 **SECTION 16.** ORS 98.864 is repealed.

36 **SECTION 17. Section captions.** The section captions used in this 2019 Act are provided  
37 only for the convenience of the reader and do not become part of the statutory law of this  
38 state or express any legislative intent in the enactment of this 2019 Act.

39 **SECTION 18. Effective date.** This 2019 Act being necessary for the immediate preserva-  
40 tion of the public peace, health and safety, an emergency is declared to exist, and this 2019  
41 Act takes effect on its passage.