

## SB 470 -1 STAFF MEASURE SUMMARY

### Senate Committee On Judiciary

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**Meeting Dates:** 2/3, 3/12

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#### WHAT THE MEASURE DOES:

The measure prohibits a transient lodging provider or intermediary from making audio or video recordings of an occupant in areas where the occupant has a reasonable expectation of privacy.

#### Detailed Summary

- Defines transient lodging, transient lodging provider and transient lodging intermediary.
- Defines areas where the occupant has a reasonable expectation of privacy as including but not limited to:
  - a sleeping area, bathroom or like spaces
  - any interior space of an individual dwelling unit that is not a common area or otherwise open to free or uninvited access of the provider or the occupants of other units.
- Provides remedies under the Unlawful Trade Practices Act, including a private right of action for an ascertainable loss of money or property.
- Takes effect on the 91st day following adjournment sine die.

*FISCAL: Has minimal fiscal impact*

*REVENUE: Has minimal revenue impact*

#### ISSUES DISCUSSED:

- Vacation rental recording incident that prompted measure
- Interplay with other causes of action and crimes
- What common areas are excluded from measure
- Acts prohibited by the measure

#### EFFECT OF AMENDMENT:

-1 The amendment adds the measure's right of action and definitions to the invasion of privacy cause of action in ORS 30.831 instead of the Unlawful Trade Practices Act.

#### Detailed Summary

- Permits an injured person to recover compensatory damages and attorney fees for violations.
- Adds transmission or broadcasting on the internet to the actions a transient lodging provider or intermediary may not do with the prohibited images or audio of the plaintiff in a private space.
- Adds a definition of audio to ORS 30.831.
- Adds images to references of visual recordings throughout ORS 30.831, and defines visual image or recording .

#### BACKGROUND:

In Oregon, a person can bring a common law claim for intrusion upon seclusion, a type of invasion of privacy tort, for intentional intrusion upon the person's solitude or seclusion or private affairs or concerns that would be highly offensive to a reasonable person. *Mauri v. Smith*, 324 Or. 476, 482, 929 P.2d 307 (1996). Remedies for common law tort claims can include monetary damages for personal injury, property damage, and emotional distress, as well as punitive damages and equitable relief, but not the person's attorney fees. The Unlawful Trade Practices Act (UTPA) authorizes a prosecuting attorney to issue investigative demands, seek monetary restitution, and bring suit to enjoin violations of the UTPA, as applicable. The UTPA also provides a private right of action for violations listed in ORS 646.608, if the person suffers an ascertainable loss of money or property as a result of the unlawful

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act. If successful, the person can be awarded the greater of their economic loss or \$200, and attorney's fees and costs, but not emotional distress damages.

ORS 30.831 currently provides a right of action against a defendant who recorded, observed, or disseminated the plaintiff in a state of nudity and in a place and circumstance the plaintiff had a reasonable expectation of privacy, or a defendant who viewed or made recordings of an intimate area of the plaintiff without consent. ORS 30.831 allows a prevailing plaintiff to recover compensatory damages and attorney fees.