

# House Bill 4092

Sponsored by Representatives PHAM H, WATANABE, Senators REYNOLDS, GELSER BLOUIN; Representatives ANDERSEN, BOWMAN, HUDSON, ISADORE, SOSA, WALTERS, WISE, Senators CAMPOS, FREDERICK, MANNING JR, NERON MISSLIN, PATTERSON (Presession 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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Says that a person may not sell or offer for sale a child safety system unless the system meets certain standards. Says that the person must disclose whether the system meets the standards. (Flesch Readability Score: 69.5).

Prohibits a retailer from selling or offering for sale, and a retail platform operator from permitting a retailer to advertise or offer for sale, a child safety system that does not comply with federal standards or standards the Department of Transportation adopts by rule.

Requires a retailer to disclose clearly and conspicuously in any advertisement or offer for a child safety system whether the child safety system complies with federal standards or standards the Department of Transportation adopts by rule.

Prohibits a retail platform operator from permitting a retailer to advertise or offer for sale a child safety system unless the retailer affirmatively discloses to the retail platform operator whether the child safety system complies with federal standards or standards the Department of Transportation adopts by rule.

Punishes a violation of, or failure to comply with, the requirements and prohibitions as an unlawful practice under the Unlawful Trade Practices Act.

## A BILL FOR AN ACT

Relating to child safety systems; creating new provisions; and amending ORS 646.608.

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

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

(a) **"Child safety system"** means a device or system for restraining, seating or positioning a child who weighs 80 pounds or less within a motor vehicle, including a device or system that is portable or detachable from a motor vehicle or a device or system that a purchaser can integrate with or use to replace a child safety system built into the motor vehicle.

(b) **"Federal standard"** means a specification for child restraint systems that the National Highway Traffic Safety Administration has adopted under 49 C.F.R. 571.213 as of the date on which a retailer sells a child safety system to a purchaser.

(c) **"Motor vehicle"** means a motor vehicle that is designed primarily to transport individuals with seating for one or more passengers side-by-side with the operator of the motor vehicle.

(d) **"Purchaser"** means an individual resident of this state.

(e) **"Retailer"** means a person that sells or offers for sale a child safety system.

(f)(A) **"Retail platform operator"** means a person that provides an online or other marketplace or otherwise facilitates a retailer's sale or offer of a child safety system by providing means for advertising or offering the child safety system for sale and enabling purchasers to select, pay for and receive, or arrange for delivery of, the child safety system.

(B) **"Retail platform operator"** does not include a financial institution, as defined in ORS 706.008, or a payment processor or payment clearance system operator.

**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.

(2) A retailer may not sell or offer for sale to a purchaser, and a retail platform operator may not permit a retailer to sell or offer for sale to a purchaser, a child safety system intended for use in a motor vehicle that does not meet the federal standard or standards the Department of Transportation adopts under ORS 815.055.

(3) A retailer shall disclose clearly and conspicuously in writing in any advertisement or offer for a child safety system intended for use in a motor vehicle whether the child safety system complies with the federal standard or standards the Department of Transportation adopts under ORS 815.055. A clear and conspicuous disclosure is a disclosure that is separated from the text or images that constitute the advertisement or offer and is in a font, color, size or capitalization that calls an average casual reader's attention to the disclosure.

(4) A retail platform operator may not permit a retailer to advertise or offer for sale on the operator's retail platform a child safety system that is intended for use in a motor vehicle and is available for purchase and delivery to a purchaser unless the retailer affirmatively discloses in writing to the retail platform operator whether the child safety system complies with the federal standard or standards the Department of Transportation adopts under ORS 815.055.

(5) A violation of, or failure to comply with, subsections (2) to (4) of this section is an unlawful practice under ORS 646.608.

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

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

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

(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.

(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another.

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

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

(f) Represents that real estate or goods are original or new if the real estate or goods are deteriorated, altered, reconditioned, reclaimed, used or secondhand.

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

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

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

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

(k) Makes false or misleading representations concerning credit availability or the nature of the

1 transaction or obligation incurred.

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

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

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

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

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

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

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

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

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

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

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

28 (w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

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

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

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

- 1 (ee) Violates ORS 646.883 or 646.885.
- 2 (ff) Violates ORS 646.569 or 646A.374.
- 3 (gg) Violates the provisions of ORS 646A.142.
- 4 (hh) Violates ORS 646A.360.
- 5 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 6 (jj) Violates ORS 646.563.
- 7 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.
- 8 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
- 9 thereto.
- 10 (mm) Violates ORS 646A.210 or 646A.214.
- 11 (nn) Violates any provision of ORS 646A.124 to 646A.134.
- 12 (oo) Violates ORS 646A.095.
- 13 (pp) Violates ORS 822.046.
- 14 (qq) Violates ORS 128.001.
- 15 (rr) Violates ORS 646A.800 (2) to (4).
- 16 (ss) Violates ORS 646A.090.
- 17 (tt) Violates ORS 87.686.
- 18 (uu) Violates ORS 646A.803.
- 19 (vv) Violates ORS 646A.362.
- 20 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
- 21 (xx) Violates ORS 180.440 (1) or 180.486 (1).
- 22 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 23 (zz) Violates ORS 87.007 (2) or (3).
- 24 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 25 (bbb) Engages in an unlawful practice under ORS 646.648.
- 26 (ccc) Violates ORS 646A.365.
- 27 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858.
- 28 (eee) Sells a gift card in violation of ORS 646A.276.
- 29 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 30 (ggg) Violates ORS 646A.430 to 646A.450.
- 31 (hhh) Violates a provision of ORS 744.318 to 744.384.
- 32 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 33 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
- 34 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the
- 35 subject of the violation.
- 36 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 37 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
- 38 U.S.C. 3901 et seq., as in effect on January 1, 2010.
- 39 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 40 (nnn) Violates ORS 646A.082.
- 41 (ooo) Violates ORS 646.647.
- 42 (ppp) Violates ORS 646A.115.
- 43 (qqq) Violates a provision of ORS 646A.405.
- 44 (rrr) Violates ORS 646A.092.
- 45 (sss) Violates a provision of ORS 646.644.

1 (ttt) Violates a provision of ORS 646A.295.

2 (uuu) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-  
3 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to  
4 do so or unless the person is an active licensee of the Oregon State Bar.

5 (vvv) Violates ORS 702.012, 702.029 or 702.054.

6 (www) Violates ORS 646A.806.

7 (xxx) Violates ORS 646A.810 (2).

8 (yyy) Violates ORS 443.376.

9 (zzz) Violates a provision of ORS 646A.770 to 646A.787.

10 (aaaa) Violates ORS 815.077.

11 (bbbb) Violates a provision of ORS 83.710 to 83.750.

12 (cccc) Violates ORS 646A.087.

13 (dddd) Violates ORS 646A.815.

14 (eeee) Violates ORS 646A.677 (11)(a) or (12).

15 **(ffff) Violates, or fails to comply with, section 1 of this 2026 Act.**

16 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-  
17 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

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

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

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