

House Bill 4155

Sponsored by Representatives WILLIAMSON, HOLVEY (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 **as introduced**.

Prohibits broadband Internet access service provider from disclosing, selling or permitting access to personal information of customers of provider. Creates exceptions, including exception for giving express consent.

Requires broadband Internet access service provider to take reasonable measures to protect personal information of customers of provider.

Requires broadband Internet access service provider to provide notice of provisions of Act to potential customers of provider.

Makes violation of Act unlawful trade practice.

Establishes Task Force on Broadband Security to study uniformity of laws throughout United States with respect to protecting customers of broadband Internet access service providers. Requires task force to submit report, including recommendations for legislation, to interim committee of Legislative Assembly related to judiciary no later than December 15, 2018.

Becomes operative January 1, 2019.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Internet service providers; creating new provisions; amending ORS 646.608; and declar-
3 ing an emergency.

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

5 **SECTION 1. As used in sections 1 to 5 of this 2018 Act:**

6 **(1)(a) "Broadband Internet access service" means:**

7 **(A) A mass-market retail service provided by wire or radio that enables a customer to**
8 **transmit data to or receive data from Internet endpoints;**

9 **(B) Any service that the Federal Communications Commission finds is providing a service**
10 **that is the functional equivalent of the service described in subparagraph (A) of this para-**
11 **graph; or**

12 **(C) Any service that is incidental to or that enables the operation of the service described**
13 **in subparagraph (A) of this paragraph.**

14 **(b) "Broadband Internet access service" does not include dial-up Internet access service.**

15 **(2) "Broadband Internet access service provider" means a person that provides**
16 **broadband Internet access service.**

17 **(3) "Customer" means:**

18 **(a) A current or former subscriber to broadband Internet access service; or**

19 **(b) A person applying for a subscription to broadband Internet access service.**

20 **(4) "Customer personal information" means:**

21 **(a) Any information about an individual customer, including:**

22 **(A) The name of the customer;**

23 **(B) The address of the customer;**

24 **(C) The billing or other financial information of the customer;**

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 (D) The Social Security number of the customer; and

2 (E) Any demographic data associated with the customer.

3 (b) Information about an individual customer's use of broadband Internet access service,
4 including:

5 (A) The customer's Internet browsing history;

6 (B) The customer's application usage history;

7 (C) Any device identifier associated with the customer's subscription to broadband
8 Internet access service, such as a media access control address, an international mobile
9 equipment identity or an Internet Protocol address;

10 (D) Any Internet Protocol address to which the customer sends or from which the cus-
11 tomer receives a communication;

12 (E) The customer's precise location; and

13 (F) The content of the customer's Internet communications, including information per-
14 taining to the customer's finances, health or children.

15 **SECTION 2.** (1) A broadband Internet access service provider may not disclose, sell or
16 permit access to customer personal information, except as permitted under this section.

17 (2)(a) A broadband Internet access service provider may disclose, sell or permit access
18 to customer personal information if the customer gives the broadband Internet access ser-
19 vice provider express consent to disclose, sell or permit access to the customer personal in-
20 formation of the customer.

21 (b) A customer that gives consent under this subsection may revoke the consent at any
22 time by communicating the revocation to the broadband Internet access service provider.
23 For purposes of this paragraph, a broadband Internet access service provider must provide
24 customers with an easily accessible means of communicating a revocation.

25 (c) A broadband Internet access service provider may not:

26 (A) Refuse to provide broadband Internet access service to a customer on the basis that
27 the customer does not give consent under paragraph (a) of this subsection;

28 (B) Charge a customer a higher price for broadband Internet access service on the basis
29 that the customer does not give consent under paragraph (a) of this subsection; or

30 (C) Offer a customer a discount on broadband Internet access service on the basis that
31 the customer gives consent under paragraph (a) of this subsection.

32 (3) A broadband Internet access service provider may disclose, sell or permit access to
33 customer personal information without the customer giving the broadband Internet access
34 service provider consent for the following purposes:

35 (a) To directly provide the customer with information about the broadband Internet ac-
36 cess service or other communications related services offered by the broadband Internet
37 access service provider;

38 (b) To initiate or render broadband Internet access service;

39 (c) To bill and collect moneys owed for broadband Internet access service;

40 (d) To protect the rights or property of the broadband Internet access service provider,
41 or the rights or property of customers or other broadband Internet access service providers,
42 in cases involving fraud or abusive or unlawful use of or subscription to broadband Internet
43 access service;

44 (e) To comply with a court order;

45 (f) To provide the precise location of the customer:

1 (A) In an emergency situation, to a public safety answering point, emergency medical
2 services provider, emergency dispatch center, law enforcement officer or agency, fire service
3 professional or agency, hospital or trauma care facility;

4 (B) In an emergency situation involving the risk of death or serious bodily harm to the
5 customer's legal guardian or a member of the customer's immediate family; or

6 (C) In response to an emergency situation, to providers of information or providers of
7 database management services for the sole purpose of assisting the delivery of emergency
8 services; and

9 (g) To disclose, sell or permit access to an aggregate dataset from which information that
10 may be used to identify an individual customer has been removed, provided that all persons
11 that have access to the aggregate dataset agree to not use information in the aggregate da-
12 taset for purposes of identifying an individual customer.

13 **SECTION 3.** (1) A broadband Internet access service provider must take reasonable
14 measures to protect customer personal information from unauthorized use, disclosure or
15 access.

16 (2) In taking reasonable measures under this section, a broadband Internet access ser-
17 vice provider must take into account each of the following factors:

18 (a) The nature and scope of the activities of the broadband Internet access service pro-
19 vider;

20 (b) The sensitivity of the data collected by the broadband Internet access service pro-
21 vider;

22 (c) Administrative safeguards necessary to protect customer personal information, such
23 as:

24 (A) Designating one or more employees to coordinate efforts to protect customer per-
25 sonal information;

26 (B) Identifying reasonably foreseeable internal and external risks associated with the
27 activities of the broadband Internet access service provider;

28 (C) Assessing whether existing safeguards provide adequate protection from the identi-
29 fied risks;

30 (D) Training and managing employees in practices and procedures related to protecting
31 customer personal information; and

32 (E) Adjusting existing safeguards in light of changes to business practices or new cir-
33 cumstances;

34 (d) Technical safeguards necessary to protect customer personal information, such as:

35 (A) Assessing risks in the network and software design of the broadband Internet access
36 service;

37 (B) Assessing risks in the processing, transmission and storage of information by the
38 broadband Internet access service;

39 (C) Detecting, preventing and responding to intrusions upon, attacks against or system
40 failures of the broadband Internet access service; and

41 (D) Regularly testing and monitoring the effectiveness of key controls and systems of and
42 procedures used to operate the broadband Internet access service;

43 (e) Physical safeguards necessary to protect customer personal information, such as:

44 (A) Assessing risks in the storage and disposal of information by the broadband Internet
45 access service;

1 (B) Detecting, preventing and responding to intrusions upon, attacks against or system
2 failures of the broadband Internet access service;

3 (C) Protecting against unauthorized access to or use of customer personal information
4 during or after collecting, transporting, destroying or disposing of customer personal infor-
5 mation; and

6 (D) Disposing of customer personal information after the broadband Internet access
7 service provider no longer needs the customer personal information for business purposes
8 or as required by local, state or federal law;

9 (f) Any factor or combination of factors described in this subsection for the purpose of
10 determining whether the factor or combination of factors would enable a person to commit
11 identity theft against a customer; and

12 (g) The technical feasibility of potential measures.

13 (3) A broadband Internet access service provider may take any lawful measure that al-
14 lows the broadband Internet access service provider to comply with the requirements of this
15 section.

16 **SECTION 4.** A broadband Internet access service provider must provide clear, conspicu-
17 ous and nondeceptive notice of the requirements and allowances described in sections 2 and
18 3 of this 2018 Act to a customer before the customer subscribes to the broadband Internet
19 access service.

20 **SECTION 5.** A customer whose customer personal information is disclosed or sold or to
21 which access is granted in violation of section 2 of this 2018 Act has a private right of action
22 against the broadband Internet access service provider that disclosed, sold or permitted ac-
23 cess to the customer personal information.

24 **SECTION 6.** ORS 646.608 is amended to read:

25 646.608. (1) A person engages in an unlawful practice if in the course of the person's business,
26 vocation or occupation the person does any of the following:

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

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

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

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

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

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

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

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

45 (i) Advertises real estate, goods or services with intent not to provide the real estate, goods or

1 services as advertised, or with intent not to supply reasonably expectable public demand, unless the
2 advertisement discloses a limitation of quantity.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (w) Manufactures mercury fever thermometers.

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

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

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

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

45 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains

- 1 mercury light switches.
- 2 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.
- 3 (bb) Violates ORS 646A.070 (1).
- 4 (cc) Violates any requirement of ORS 646A.030 to 646A.040.
- 5 (dd) Violates the provisions of ORS 128.801 to 128.898.
- 6 (ee) Violates ORS 646.883 or 646.885.
- 7 (ff) Violates ORS 646.569.
- 8 (gg) Violates the provisions of ORS 646A.142.
- 9 (hh) Violates ORS 646A.360.
- 10 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 11 (jj) Violates ORS 646.563.
- 12 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.
- 13 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
- 14 thereto.
- 15 (mm) Violates ORS 646A.210 or 646A.214.
- 16 (nn) Violates any provision of ORS 646A.124 to 646A.134.
- 17 (oo) Violates ORS 646A.095.
- 18 (pp) Violates ORS 822.046.
- 19 (qq) Violates ORS 128.001.
- 20 (rr) Violates ORS 646A.800 (2) to (4).
- 21 (ss) Violates ORS 646A.090 (2) to (5).
- 22 (tt) Violates ORS 87.686.
- 23 (uu) Violates ORS 646A.803.
- 24 (vv) Violates ORS 646A.362.
- 25 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
- 26 (xx) Violates ORS 180.440 (1) or 180.486 (1).
- 27 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 28 (zz) Violates ORS 87.007 (2) or (3).
- 29 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 30 (bbb) Engages in an unlawful practice under ORS 646.648.
- 31 (ccc) Violates ORS 646A.365.
- 32 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 98.864.
- 33 (eee) Sells a gift card in violation of ORS 646A.276.
- 34 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 35 (ggg) Violates ORS 646A.430 to 646A.450.
- 36 (hhh) Violates a provision of ORS 744.318 to 744.384.
- 37 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 38 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-
- 39 scribed in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the
- 40 subject of the violation.
- 41 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- 42 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
- 43 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
- 44 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- 45 (nnn) Violates ORS 646A.082.

- 1 (ooo) Violates ORS 646.647.
- 2 (ppp) Violates ORS 646A.115.
- 3 (qqq) Violates a provision of ORS 646A.405.
- 4 (rrr) Violates ORS 646A.092.
- 5 (sss) Violates a provision of ORS 646.644.
- 6 (ttt) Violates a provision of ORS 646A.295.
- 7 (uuu) Violates ORS 646A.564.
- 8 (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as de-
- 9 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
- 10 do so or unless the person is an active member of the Oregon State Bar.
- 11 (www) Violates ORS 702.012, 702.029 or 702.054.
- 12 (xxx) Violates ORS 646A.806.
- 13 (yyy) Violates ORS 646A.810 (2).
- 14 (zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws 2015.
- 15 (aaaa) Violates ORS 443.376.
- 16 **(bbbb) Violates sections 1 to 5 of this 2018 Act.**
- 17 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
- 18 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
- 19 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prose-
- 20 cuting attorney need not prove competition between the parties or actual confusion or misunder-
- 21 standing.
- 22 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
- 23 torney General has first established a rule in accordance with the provisions of ORS chapter 183
- 24 declaring the conduct to be unfair or deceptive in trade or commerce.
- 25 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or
- 26 suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attor-
- 27 ney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney
- 28 fees.
- 29 **SECTION 7.** ORS 646.608, as amended by section 10, chapter 523, Oregon Laws 2015, section
- 30 15, chapter 113, Oregon Laws 2017, section 3, chapter 241, Oregon Laws 2017, section 16, chapter
- 31 480, Oregon Laws 2017, and section 6, chapter 656, Oregon Laws 2017, is amended to read:
- 32 646.608. (1) A person engages in an unlawful practice if in the course of the person's business,
- 33 vocation or occupation the person does any of the following:
- 34 (a) Passes off real estate, goods or services as the real estate, goods or services of another.
- 35 (b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-
- 36 proval, or certification of real estate, goods or services.
- 37 (c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-
- 38 ciation with, or certification by, another.
- 39 (d) Uses deceptive representations or designations of geographic origin in connection with real
- 40 estate, goods or services.
- 41 (e) Represents that real estate, goods or services have sponsorship, approval, characteristics,
- 42 ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have
- 43 or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the
- 44 person does not have.
- 45 (f) Represents that real estate or goods are original or new if the real estate or goods are de-

1 teriorated, altered, reconditioned, reclaimed, used or secondhand.

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

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

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

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

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

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

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18 of the goods or real estate does not authorize the service or dismantling.

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20 vides the information required under ORS 646.611.

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

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

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33 person's cost for real estate, goods or services.

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

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

37 (v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers,
38 consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situ-
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44 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and
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1 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to
 2 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be
 3 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
 4 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
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13 (ee) Violates ORS 646.883 or 646.885.

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

16 (hh) Violates ORS 646A.360.

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

18 (jj) Violates ORS 646.563.

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

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

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

24 (oo) Violates ORS 646A.095.

25 (pp) Violates ORS 822.046.

26 (qq) Violates ORS 128.001.

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

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

29 (tt) Violates ORS 87.686.

30 (uu) Violates ORS 646A.803.

31 (vv) Violates ORS 646A.362.

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

33 (xx) Violates ORS 180.440 (1) or 180.486 (1).

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

35 (zz) Violates ORS 87.007 (2) or (3).

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

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

38 (ccc) Violates ORS 646A.365.

39 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 98.864.

40 (eee) Sells a gift card in violation of ORS 646A.276.

41 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.

42 (ggg) Violates ORS 646A.430 to 646A.450.

43 (hhh) Violates a provision of ORS 744.318 to 744.384.

44 (iii) Violates a provision of ORS 646A.702 to 646A.720.

45 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration de-

1 scribed in ORS 646A.530 is issued for the children’s product, as defined in ORS 646A.525, that is the
 2 subject of the violation.

3 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.

4 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50
 5 U.S.C. App. 501 et seq., as in effect on January 1, 2010.

6 (mmm) Violates a provision of ORS 646A.480 to 646A.495.

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11 (rrr) Violates ORS 646A.092.

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 16 fined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to
 17 do so or unless the person is an active member of the Oregon State Bar.

18 (www) Violates ORS 702.012, 702.029 or 702.054.

19 (xxx) Violates ORS 646A.806.

20 (yyy) Violates ORS 646A.810 (2).

21 (zzz) Violates ORS 443.376.

22 **(aaaa) Violates sections 1 to 5 of this 2018 Act.**

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

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

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

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

35 **SECTION 8. (1) The Task Force on Broadband Security is established.**

36 **(2) The task force consists of 11 members appointed as follows:**

37 **(a) The Speaker of the House of Representatives shall appoint two nonvoting members**
 38 **from among members of the House of Representatives.**

39 **(b) The Governor shall appoint the following nine members:**

40 **(A) Three advocates of the right to privacy;**

41 **(B) Three representatives of broadband Internet access service providers;**

42 **(C) Two representatives of cellular phone service providers; and**

43 **(D) One representative of the Department of Justice.**

44 **(3) The task force shall:**

45 **(a) Study sections 1 to 5 of this 2018 Act and the laws of other states regulating the**

1 **privacy of customer personal information with respect to broadband Internet access service;**

2 **(b) Compare sections 1 to 5 of this 2018 Act and the laws of the other states regulating**
 3 **the privacy of customer personal information with respect to broadband Internet access**
 4 **service;**

5 **(c) Determine steps that are necessary to ensure compatibility between sections 1 to 5**
 6 **of this 2018 Act and the laws of the other states regulating the privacy of customer personal**
 7 **information with respect to broadband Internet access service; and**

8 **(d) Examine questions or concerns about the implementation of sections 1 to 5 of this**
 9 **2018 Act by broadband Internet access service providers and determine whether those**
 10 **questions or concerns require administrative or legislative action.**

11 **(4) A majority of the voting members of the task force constitutes a quorum for the**
 12 **transaction of business.**

13 **(5) Official action by the task force requires the approval of a majority of the voting**
 14 **members of the task force.**

15 **(6) The task force shall elect one of its members to serve as chairperson.**

16 **(7) If there is a vacancy for any cause, the appointing authority shall make an appoint-**
 17 **ment to become immediately effective.**

18 **(8) The task force shall meet at times and places specified by the call of the chairperson**
 19 **or of a majority of the voting members of the task force, provided that the task force meets**
 20 **not fewer than three times before December 1, 2018.**

21 **(9) The task force may adopt rules necessary for the operation of the task force.**

22 **(10) The task force shall submit a report in the manner provided by ORS 192.245, and**
 23 **may include recommendations for legislation, to an interim committee of the Legislative**
 24 **Assembly related to the judiciary no later than December 15, 2018.**

25 **(11) The Legislative Policy and Research Director shall provide staff support to the task**
 26 **force.**

27 **(12) Members of the Legislative Assembly appointed to the task force are nonvoting**
 28 **members of the task force and may act in an advisory capacity only.**

29 **(13) Members of the task force who are not members of the Legislative Assembly are not**
 30 **entitled to compensation or reimbursement for expenses and serve as volunteers on the task**
 31 **force.**

32 **(14) All agencies of state government, as defined in ORS 174.111, are directed to assist**
 33 **the task force in the performance of the task force's duties and, to the extent permitted by**
 34 **laws relating to confidentiality, to furnish information and advice the members of the task**
 35 **force consider necessary to perform their duties.**

36 **SECTION 9. Section 8 of this 2018 Act is repealed on December 31, 2018.**

37 **SECTION 10. Sections 1 to 5 of this 2018 Act and the amendments to ORS 646.608 by**
 38 **sections 6 and 7 of this 2018 Act become operative on January 1, 2019.**

39 **SECTION 11. This 2018 Act being necessary for the immediate preservation of the public**
 40 **peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect**
 41 **on its passage.**