

Enrolled House Bill 2531

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Environment and Natural Resources for Representative Pam Marsh)

CHAPTER

AN ACT

Relating to fluorescent lamps; creating new provisions; amending ORS 194.315, 194.340, 459.995 and 646.608; repealing ORS 646A.560, 646A.562, 646A.564 and 646A.566; and prescribing an effective date.

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

SECTION 1. (1) As used in this section and section 2 of this 2023 Act, “compact fluorescent lamp” and “linear fluorescent lamp” have the meanings given those terms in the California Health and Safety Code, Division 104, Part 3, chapter 16, section 109020, as in effect on the effective date of this 2023 Act.

(2) On or after January 1, 2024, a person may not sell, offer to sell or distribute in or into this state a screw- or bayonet-base type compact fluorescent lamp as a new manufactured product.

(3) On or after January 1, 2025, a person may not sell, offer to sell or distribute in or into this state a pin-base type compact fluorescent lamp or a linear fluorescent lamp as a new manufactured product.

SECTION 2. Section 1 of this 2023 Act does not apply to:

(1) A lamp used for image capture and projection, including photocopying, printing, directly or in preprocessing, lithography, film and video projection and holography.

(2) A lamp that has a high proportion of ultraviolet light emission and is one of the following:

(a) A lamp with high ultraviolet content that has ultraviolet power greater than two milliwatts per kilolumen.

(b) A lamp for germicidal use, such as the destruction of DNA (deoxyribonucleic acid), that emits a peak radiation of approximately 253.7 nanometers.

(c) A lamp used for disinfection or fly trapping from which either:

(A) The radiation power emitted between 250 and 315 nanometers represents at least 5 percent of the total radiation power emitted between 250 and 800 nanometers; or

(B) The radiation power emitted between 315 and 400 nanometers represents at least 20 percent of the total radiation power emitted between 250 and 800 nanometers.

(d) A lamp used for the generation of ozone where the primary purpose is to emit radiation at approximately 185.1 nanometers.

(e) A lamp used for coral zooxanthellae symbiosis from which the radiation power emitted between 400 and 480 nanometers represents at least 40 percent of the total radiation power emitted between 250 and 800 nanometers.

(f) Any lamp used in an electronic product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body by ultraviolet radiation, with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

(3) A lamp used in a medical device or otherwise used for medical or veterinary diagnosis or treatment.

(4) A lamp used in pharmaceutical product manufacturing or quality control.

(5) A lamp used for spectroscopy and photometric applications, including ultraviolet-visible spectroscopy, molecular spectroscopy, atomic absorption spectroscopy, nondispersive infrared (NDIR), Fourier transform infrared (FTIR), medical analysis, ellipsometry, layer thickness measurement, process monitoring or environmental monitoring.

(6) A lamp used by academic or research institutions exclusively for conducting research projects or experiments.

(7) A compact fluorescent lamp used to replace a lamp in a motor vehicle manufactured on or before January 1, 2020.

SECTION 3. The Environmental Quality Commission may adopt rules necessary to enforce sections 1 and 2 of this 2023 Act.

SECTION 4. ORS 459.995, as amended by section 15, chapter 102, Oregon Laws 2022, is amended to read:

459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty provided by law:

(a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790, 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.860 to 459A.975 or 646A.080, **or section 1 of this 2023 Act**, or any rule or order of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal, storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining to the sale of novelty items that contain encapsulated liquid mercury[,] **or any rule or order pertaining to compact fluorescent lamps or linear fluorescent lamps, as defined by section 1 of this 2023 Act**, incurs a civil penalty not to exceed \$25,000 per day for each day of the violation.

(b) Any person who violates the provisions of ORS 459.420 to 459.426 incurs a civil penalty not to exceed \$500 for each violation. Each battery that is disposed of improperly is a separate violation. Each day an establishment fails to post the notice required under ORS 459.426 is a separate violation.

(c) For each day a city, county or metropolitan service district fails to provide the opportunity to recycle as required under ORS 459A.005, the city, county or metropolitan service district incurs a civil penalty not to exceed \$500 for each violation.

(d) Any person who violates the provisions of ORS 459.247 (1)(f) incurs a civil penalty not to exceed \$500 for each violation. Each covered electronic device that is disposed of improperly is a separate violation.

(e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b) or section 3, chapter 102, Oregon Laws 2022, incurs a civil penalty not to exceed \$100 per day for each day of the violation.

(f) Any producer or renovator that violates the provisions of ORS 459A.825 (1) or section 3, chapter 102, Oregon Laws 2022, incurs a civil penalty not to exceed \$1,000 per day for each day of the violation.

(g) Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a), 459A.827, 459A.830 to 459A.837 or 459A.842 or sections 1 to 14, chapter 102, Oregon Laws 2022, incurs a civil penalty not to exceed \$1,000 per day for each day of the violation.

(2) Any product manufacturer or package manufacturer who violates ORS 459A.650 to 459A.665 or any rule adopted under ORS 459A.650 to 459A.665 incurs a civil penalty not to exceed \$1,000 per day for each day of the violation. A violation of ORS 459A.650 to 459A.665 is not subject to additional penalties under subsection (1) of this section.

(3) Any civil penalty authorized by subsection (1) or (2) of this section shall be imposed in the manner provided by ORS 468.135.

SECTION 5. ORS 646A.560, 646A.562, 646A.564 and 646A.566 are repealed on January 1, 2025.

SECTION 6. 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 transaction or obligation incurred.
- (L) Makes false or misleading representations relating to commissions or other compensation to be paid in exchange for permitting real estate, goods or services to be used for model or demonstration purposes or in exchange for submitting names of potential customers.
- (m) Performs service on or dismantles any goods or real estate if the owner or apparent owner of the goods or real estate does not authorize the service or dismantling.
- (n) Solicits potential customers by telephone or door to door as a seller unless the person provides the information required under ORS 646.611.
- (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate, discount or other value is contingent upon an event occurring after the time the customer enters into the transaction.
- (p) Makes any false or misleading statement about a prize, contest or promotion used to publicize a product, business or service.
- (q) Promises to deliver real estate, goods or services within a certain period of time with intent not to deliver the real estate, goods or services as promised.
- (r) Organizes or induces or attempts to induce membership in a pyramid club.
- (s) Makes false or misleading representations of fact concerning the offering price of, or the person's cost for real estate, goods or services.

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

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

(v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers, consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situation.

(w) Manufactures mercury fever thermometers.

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

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

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

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

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

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

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

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

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

(ee) Violates ORS 646.883 or 646.885.

(ff) Violates ORS 646.569.

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

(hh) Violates ORS 646A.360.

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

(jj) Violates ORS 646.563.

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

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

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

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

(oo) Violates ORS 646A.095.

(pp) Violates ORS 822.046.

(qq) Violates ORS 128.001.

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

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

(tt) Violates ORS 87.686.

(uu) Violates ORS 646A.803.

(vv) Violates ORS 646A.362.

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

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

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

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

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

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

(ccc) Violates ORS 646A.365.

(ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858.

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

- (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- (ggg) Violates ORS 646A.430 to 646A.450.
- (hhh) Violates a provision of ORS 744.318 to 744.384.
- (iii) Violates a provision of ORS 646A.702 to 646A.720.
- (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration described in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the subject of the violation.
- (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
- (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50 U.S.C. 3901 et seq., as in effect on January 1, 2010.
- (mmm) Violates a provision of ORS 646A.480 to 646A.495.
- (nnn) Violates ORS 646A.082.
- (ooo) Violates ORS 646.647.
- (ppp) Violates ORS 646A.115.
- (qqq) Violates a provision of ORS 646A.405.
- (rrr) Violates ORS 646A.092.
- (sss) Violates a provision of ORS 646.644.
- (ttt) Violates a provision of ORS 646A.295.
- [(uuu) Violates ORS 646A.564.]*
- [(vvv) (uuu) Engages in the business of, or acts in the capacity of, an immigration consultant, as defined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to do so or unless the person is an active member of the Oregon State Bar.*
- [(www) (vvv) Violates ORS 702.012, 702.029 or 702.054.*
- [(xxx) (www) Violates ORS 646A.806.*
- [(yyy) (xxx) Violates ORS 646A.810 (2).*
- [(zzz) (yyy) Violates ORS 443.376.*
- [(aaaa) (zzz) Violates a provision of ORS 646A.770 to 646A.787.*
- (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
- (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prosecuting attorney need not prove competition between the parties or actual confusion or misunderstanding.
- (4) An action or suit may not be brought under subsection (1)(u) of this section unless the Attorney General has first established a rule in accordance with the provisions of ORS chapter 183 declaring the conduct to be unfair or deceptive in trade or commerce.
- (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attorney, relief is limited to an injunction, and the prevailing party may be awarded reasonable attorney fees.
- SECTION 7.** ORS 194.315 is amended to read:
- 194.315. (1) An individual qualified under subsection (2) of this section may apply to the Secretary of State for a commission as a notary public. The applicant shall comply with and provide the information required under rules adopted by the secretary and pay the application fee described in ORS 194.365.
- (2) An applicant for a commission as a notary public must:
- (a) Be at least 18 years of age;
 - (b) Be a resident of this state or have a place of employment or practice in this state;
 - (c) Be able to read and write English;
 - (d) Not have been convicted of a felony or any crime involving fraud, dishonesty or deceit during the 10-year period preceding the date of application;
 - (e) Not have been convicted of:
 - (A) Acting as or otherwise impersonating a notary public as described in ORS 194.990 (1)(b);

- (B) Obstructing governmental or judicial administration under ORS 162.235 (1)(b); or
- (C) Engaging in the unlawful practice of law as described in ORS 9.160;
- (f) Not have been found by a court to have:
 - (A) Practiced law without a license in a suit under ORS 9.166; or
 - (B) Engaged in an unlawful trade practice described in ORS 646.608 [(1)(vvv)] (1)(uuu);
 - (g) Not have entered into an assurance of voluntary compliance, pursuant to ORS 646.632, based on an alleged violation of ORS 646.608 [(1)(vvv)] (1)(uuu);
 - (h) Not have had a commission as a notary public revoked during the 10-year period preceding the date of application;
 - (i) Not be disqualified under ORS 194.340 to receive a commission;
 - (j) Complete the course of study described in ORS 194.325; and
 - (k) Have passed the examination required under ORS 194.325.

(3) Before the Secretary of State may issue a commission as a notary public, the applicant shall execute an oath of office and submit it to the secretary.

(4) Upon the applicant's compliance with this section, the Secretary of State shall issue a commission as a notary public to the applicant for a term of four years.

(5) A commission as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees of this state.

(6) Each notary public may file with the Secretary of State a statement waiving the fees specified under ORS 194.400. If a notary public files the statement waiving the fees, the office of that notary public is not considered a lucrative office.

(7) The functions of a notary public are not considered official duties under Article III, section 1, of the Oregon Constitution.

(8) A commission as a notary public is not considered a commission under Article V, section 18, of the Oregon Constitution.

SECTION 8. ORS 194.340 is amended to read:

194.340. (1) The Secretary of State may deny, revoke, suspend or impose a condition on a commission as a notary public for:

(a) Failure of the applicant or notary public to comply with any provision of this chapter, any rule adopted by the Secretary of State under this chapter or any other state or federal law relating to any duty required of a notary public;

(b) A fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary;

(c) A conviction of the applicant or notary public for any felony or for a crime involving fraud, dishonesty or deceit;

(d) A conviction of the applicant or notary public for:

(A) Acting as or otherwise impersonating a notary public as described in ORS 194.990 (1)(b);

(B) Obstructing governmental or judicial administration under ORS 162.235 (1)(b); or

(C) Engaging in the unlawful practice of law as described in ORS 9.160;

(e) A finding by a court that the applicant or notary public:

(A) Practiced law without a license in a suit under ORS 9.166; or

(B) Engaged in an unlawful trade practice described in ORS 646.608 [(1)(vvv)] (1)(uuu);

(f) Entering into an assurance of voluntary compliance, pursuant to ORS 646.632, based on an alleged violation of ORS 646.608 [(1)(vvv)] (1)(uuu);

(g) A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit;

(h) Use of false or misleading advertising or representation by the notary public representing that the notary public has powers, qualifications, rights or privileges that the notary public does not have, including the power to counsel on immigration matters;

(i) Denial, revocation, suspension or conditioning of a commission as a notary public in another state; or

(j) Execution of any certificate as a notary public containing a statement known to the notary public to be false.

(2) If the Secretary of State denies, revokes, suspends or imposes a condition on a commission as a notary public, opportunity for hearing shall be accorded as provided in ORS chapter 183 for a contested case.

(3) The authority of the Secretary of State to deny, revoke, suspend or impose a condition on a commission as a notary public does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.

SECTION 9. The amendments to ORS 194.315, 194.340 and 646.608 by sections 6 to 8 of this 2023 Act become operative on January 1, 2025.

SECTION 10. This 2023 Act takes effect on the 91st day after the date on which the 2023 regular session of the Eighty-second Legislative Assembly adjourns sine die.

Passed by House March 13, 2023

Received by Governor:

Repassed by House June 22, 2023

.....M.,....., 2023

Approved:

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Timothy G. Sekerak, Chief Clerk of House

.....M.,....., 2023

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Dan Rayfield, Speaker of House

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Tina Kotek, Governor

Passed by Senate June 21, 2023

Filed in Office of Secretary of State:

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Rob Wagner, President of Senate

.....M.,....., 2023

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Secretary of State