



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

April 8, 2025

Representative Lucetta Elmer
900 Court Street NE H390
Salem OR 97301

Re: House Bill 3789

Dear Representative Elmer:

You have requested an opinion on whether House Bill 3789, relating to union misrepresentation, duplicates protections provided in existing law. The statutes cited in the information you provided, ORS 165.800, 165.815 and 30.863, may apply to many scenarios that would also be covered by HB 3789. However, the application of these statutes is very fact-dependent, and we can envision scenarios that would result in different outcomes under the bill and under the existing statutes.

ORS 165.800 creates the crime of identity theft, a Class C felony. A person commits the crime of identity theft if the person, with the intent to deceive or to defraud, obtains, possesses, transfers, creates, utters or converts to the person's own use the personal identification of another person. "Another person" is defined to include entities such as unions. Thus, a person who uses the "personal identification" of a union with the intent to deceive or defraud may be guilty of identity theft. Whether an impersonation of a union representative meets the elements of ORS 165.800 would be dependent on the facts.

ORS 165.815 creates the crime of criminal impersonation, a Class A misdemeanor. The information you provided is correct that an organization could commit this crime, but unlike ORS 165.800, ORS 165.815 only applies if the victim of the impersonation is an individual. Impersonation of a union, as an entity, is not covered by ORS 165.815. ORS 165.815 also has several elements that are not present in HB 3789:

- (1) A person commits the crime of criminal impersonation if:
 - (a) The person, with the intent to injure an individual, intentionally impersonates the individual in a communication to a third person without the individual's consent;
 - (b) The person acts with the intent to deceive the third person into believing that the third person is communicating with the individual;
 - (c) A reasonable person in the circumstances of the third person would believe that the third person is communicating with the individual; and
 - (d) The impersonation causes injury to the individual.

ORS 30.863 allows a person to recover damages from a person who violates ORS 165.815. Note that a union would not be able to bring a claim under ORS 30.863, because ORS 165.815 only applies to impersonation of individuals.

Also, even if an individual had a claim under ORS 30.863, the individual would have to prove their damages in order to recover. House Bill 3789, in contrast, provides for statutory damages for impersonation of a union representative. That means that, under HB 3789, an individual or union who suffered the impersonation does not have to prove the amount of their damages in order to recover.

Thus, while the statutes cited in the information you provided could cover much of the same conduct as HB 3789, there would certainly be different outcomes in some circumstances under the bill and under the existing statutes.

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Very truly yours,

DEXTER A. JOHNSON
Legislative Counsel

A handwritten signature in cursive script that reads "M. James".

By
Marisa N. James
Chief Deputy Legislative Counsel