

Brief: Existing laws make HB 3789 unnecessary

Background:

HB 3789's proponents claim that unions and their representatives need equivalent protections against fraudulent impersonation as exist in "any other sector" but not for them.¹ In fact, HB 3789 only makes sense if this basic premise is true. It is, however, not true. Existing Oregon law already protects unions and their individual representatives from fraudulent impersonation to the same extent as any other person or business.

Oregon law:

ORS 165.815 already prohibits² the fraudulent impersonation of an individual by any "person"—a term broadly defined³ in the Oregon Criminal Code, and thus applicable to the provisions of ORS 165.815 (which are criminal)—as including individuals, associations and corporations. In other words, Oregon law already prevents organizations like the Freedom Foundation (a nonprofit corporation) and its employees from fraudulently impersonating union representatives, and it would be a crime to do so.

In fact, the law stipulates that it would be a Class A misdemeanor to do so, which carries the equivalent penalty (a fine of \$6,250)⁴ as HB 3789's private damages.⁵

Furthermore, in addition to the existing criminal provisions, ORS 30.863 already permits an injured plaintiff to file a civil suit and recover compensatory damages, plus attorney fees, from the party that impersonated them in violation of ORS 165.815.⁶

In short, not only does Oregon law *already* prohibit everything HB 3789 is purported to prevent with respect to fraudulent impersonation of individual union representatives, but it also provides equivalent relief.

With respect to a union as an *entity*, the same facts apply. Existing Oregon law already protects unions from false business impersonation (i.e., business identity theft) to the same extent as any other business entity. ORS 165.800 provides that it is a Class C felony if any 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."⁷ The same definition of "person" referenced above is applicable here⁸—meaning it includes organizations—and the law specifically defines "another person" as including all business, organizations, and other entities, which includes unions.⁹

¹ Testimony of Susan Allen, AFSCME Political Coordinator.

<https://olis.oregonlegislature.gov/liz/mediaplayer?clientID=4879615486&eventID=2025031142&startStreamAt=4524&stopStreamAt=4603>.

² See ORS 165.815. https://oregon.public.law/statutes/ors_165.815.

³ See ORS 161.015. https://oregon.public.law/statutes/ors_161.015.

⁴ See ORS 161.635. https://oregon.public.law/statutes/ors_161.635.

⁵ See page 2, lines 6-8 of HB 3789.

<https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/HB3789/Introduced>.

⁶ See ORS 30.863. https://oregon.public.law/statutes/ors_30.863.

⁷ See ORS 165.800. https://oregon.public.law/statutes/ors_165.800.

⁸ See ORS 161.015. https://oregon.public.law/statutes/ors_161.015.

⁹ See ORS 165.800. https://oregon.public.law/statutes/ors_165.800.

Furthermore, the protections in ORS 165.800 already specifically protect against the fraudulent use of identifying elements like a person's—or organization's—name, address, telephone number, employer, signature or copy of a signature, photograph, email address, email account, email name, etc.¹⁰

Notably, the introduced version of HB 3789 copied almost the exact statutory language from ORS 165.800—"obtain, possess, transfer, create, utter or convert to a person's own use [another's identity]"—in its definition of what it means to falsely impersonate a union representative,¹¹ *but glaringly left out the part that says, "with the intent to deceive or to defraud."*¹²

Along with HB 3789's inclusion of overtly vague language that states "...or otherwise hold oneself out to be a union representative"¹³ (for which comparable language is *nowhere to be found* in any of Oregon's existing statutes prohibiting false impersonation and identity theft¹⁴), there can be no valid reason for so significantly watering down the existing legal standard under Oregon law—protections upon which the bill is supposedly modeled, but which in reality already apply—if the effect of HB 3789 was to simply extend comparable protections to unions and their representatives (under the false pretense that they don't already exist).

The fact is, such protections do exist. Existing Oregon criminal law already prohibits *everything* HB 3789 is purported to prevent.

In reality, HB 3789 would just create a new duplicative (but glaringly weakened/open-ended) standard, redefined specifically for unions, that would allow them to more easily claim impersonation and file costly lawsuits against their political opponents like the Freedom Foundation over written communications they may understandably find objectionable but which do not, in fact, even come close to "impersonation" of the union—or else there would be a clear (and appropriate) basis for prosecution under existing Oregon law.¹⁵

Likewise, the Freedom Foundation does not in any way impersonate union representatives in its grassroots, door-to-door outreach to public employees, or else there would be a similarly clear and appropriate basis for prosecution under existing Oregon law¹⁶ and relief for the injured party¹⁷—not to mention evidence of such behavior, of which none has been provided.

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¹⁰ *Id.*

¹¹ And thus, what is used to trigger lawsuits. See page 1, lines 8-10 of HB 3789.

<https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/HB3789/Introduced>

¹² See ORS 165.800. https://oregon.public.law/statutes/ors_165.800.

¹³ See page 1, lines 8-10 of HB 3789.

<https://olis.oregonlegislature.gov/liz/2025R1/Downloads/MeasureDocument/HB3789/Introduced>

¹⁴ See at least ORS 165.815 (prohibiting impersonation of individuals, generally), ORS 165.800 (prohibiting individual and business identity theft), ORS 162.365 (prohibiting impersonation of public servants), and ORS 162.367 (prohibiting impersonation of peace officers).

¹⁵ See ORS 165.800. https://oregon.public.law/statutes/ors_165.800.

¹⁶ See ORS 165.815. https://oregon.public.law/statutes/ors_165.815.

¹⁷ See ORS 30.863. https://oregon.public.law/statutes/ors_30.863.