

HB 4092 STAFF MEASURE SUMMARY

House Committee On Commerce and Consumer Protection

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Meeting Dates: 2/10, 2/12

WHAT THE MEASURE DOES:

The measure restricts sales of any device or system for restraining, seating, or positioning a child who weighs 80 pounds or less within a motor vehicle (device) that does not meet the National Highway Traffic Safety Administration standard for child restraint systems (federal standard) or Department of Transportation standards. It also restricts a person that provides an online or other marketplace or facilitates a retailer's sale or offer for sale to a purchaser of the same device if it does not meet federal or Department of Transportation standards. A retailer must make a clear and conspicuous disclosure in any advertisement or as part of any offer whether the device meets the federal standard or Department of Transportation standard. A person that provides an online or other marketplace or facilitates a retailer's sale or offer for sale to a purchaser may not permit a retailer to advertise or to offer for sale a device without getting a written disclosure from the retailer that the device complies with the federal standard and the Department of Transportation standard. The measure makes a failure to comply with these provisions an unlawful trade practice under Oregon's unlawful trade practices act.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The National Highway Traffic Safety Administration standard is referenced as 49 C.F.R. 571.213 in the measure. The regulation is extensive and considers the requirements to be met, the performance of a child restraint system, force distribution, installation, the belt buckle and webbing, the labeling, the printed instructions, flammability, information requirements, and attachment of the restraint to an anchorage system. It also considers the process of testing, appropriate conditions for testing, and even the selection and positioning of dummies.

Department of Transportation standards can be found under ORS 815.055. The Department of Transportation shall adopt and enforce rules establishing minimum standards and specifications for the construction and installation of safety belts, safety harnesses or child safety systems and anchors or other devices to which safety belts, safety harnesses or child safety systems may be attached and secured.

The Unlawful Trade Practices Act (UTPA) is one tool consumers may use to recover damages that occur because of deceptive sales or business practices. The UTPA was enacted in 1971. The UTPA provides individuals with a right of private action for deceptive practices in the sale of real estate, goods, or services. Consumers may bring a civil action for violations of the specific acts prohibited by the UTPA and may recover associated monetary damages, reasonable attorney fees, punitive damages, and equitable relief. Prevailing defendants may recover reasonable attorney fees where the action was brought without an objectively reasonable basis. As an alternative enforcement mechanism, District Attorneys or the Attorney General may issue investigative demands into suspected UTPA violations or, bring suit on behalf of the State of Oregon to restrain persons or entities from engaging in unlawful trade practices. The statute of limitations is one year from the date of discovery of the violation.