

HB 4092 A STAFF MEASURE SUMMARY**Carrier:** Rep. Pham H**House Committee On Commerce and Consumer Protection****Action Date:** 02/12/26**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 10-0-0-0**Yeas:** 10 - Cate, Chaichi, Chotzen, Gomberg, Osborne, Reschke, Sosa, Wallan, Walters, Wise**Fiscal:** Has minimal fiscal impact**Revenue:** Has minimal revenue impact**Prepared By:** Andrew Hendrie, LPRO Analyst**Meeting Dates:** 2/10, 2/12**WHAT THE MEASURE DOES:**

The measure restricts the sale of car seats that do not meet federal or state safety standards. The restriction applies for retailers and online or other marketplaces. The measure makes failure to comply the basis for a private right of action.

Detailed Summary:

- Restricts sales of any device or system for restraining, seating, or positioning a child within a motor vehicle (referred to as a safety device) that does not meet the National Highway Traffic Safety Administration standard for child restraint systems (referred to as the federal standard) or Department of Transportation standards
- Clarifies the definition of retail platform operator to include operators of centralized fulfillment, distribution, or warehouse networks and sales from inventory that the person owns, leases, or otherwise controls, and excludes delivery services
- Creates a knowingly standard for retailers and retail platform operators selling or making available for sale a safety device that does not meet the standards set forth in the measure
- Prohibits a person who operates an online or other marketplace that enables purchasers to select, pay for, and receive a child safety system from selling or offering for sale a safety device if it does not meet the federal standard and the Department of Transportation standards
- Prohibits a person who provides an online or other marketplace, or facilitates a retailer's sale or offer for sale to a purchaser, from permitting a retailer to advertise or offer for sale a safety device without getting a written disclosure from the retailer that the device complies with the federal standard and the Department of Transportation standards
- Creates a private right of action and provides the following:
 - A purchaser's written demand gives the retailer or retail platform operator 30 days to cure a violation
 - If a cure has not taken place within 30 days, the purchaser who made the demand may bring an action in an Oregon court
 - The purchaser may obtain their actual damages or \$500, whichever is higher, and equitable relief
 - A court may award attorney fees and costs at trial and on appeal to a prevailing plaintiff

ISSUES DISCUSSED:

- Difference between fake and real safety devices
- Injuries from accidents involving safety devices that do not meet standards
- Responsibilities of retailers
- Enforcement options for the measure

EFFECT OF AMENDMENT:

The amendment clarifies definitions, establishes a knowingly standard for retailers and retail platform operators, and creates a new separate right of action with a 30-day cure period for violators and a minimum \$500 damages,

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equitable relief, and attorney's fees for a prevailing plaintiff.

Detailed Summary:

- Removes the weight of the child requirement
- Clarifies the definition of retail platform operator to include operators of centralized fulfillment, distribution, or warehouse networks and form inventory that the person owns, leases, or otherwise controls
- Excludes delivery services from the definition of retail platform operator
- Creates a knowingly standard for retailers and retail platform operators selling or making available for sale a child safety system that does not meet the standards set forth in the measure
- Removes the disclosure requirements for advertising or making offers to sell
- Creates a separate right of action not under the Unlawful Trade Practices Act:
 - A purchaser's written demand gives the retailer or retail platform operator 30 days to cure a violation
 - If a cure has not taken place within 30 days, the purchaser who made the demand may bring an action in an Oregon court
 - The purchaser may obtain their actual damages or \$500, whichever is higher, and equitable relief
 - A court may award attorney fees and costs at trial and on appeal to a prevailing plaintiff

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 covers requirements for child restraint systems, including performance, force distribution, installation, belt buckle and webbing, labeling, 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 the selection and positioning of dummies.

Oregon 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, child safety systems, and anchors or other devices to which safety belts, safety harnesses, or child safety systems may be attached and secured.