

A-Engrossed
Senate Bill 545

Ordered by the Senate May 5
Including Senate Amendments dated May 5

Sponsored by COMMITTEE ON COMMERCE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Limits maximum rate of interest on payday loans. [*Sets minimum 31-day loan term for payday loans.*] Prohibits renewal of payday loan unless consumer has paid at least 25 percent of principal amount of loan plus interest on remaining balance. Prohibits fees other than interest, [*and*] fee for dishonored check **or fee for conversion of loan to payment plan.**

Establishes conditions for cancellation of title or payday loan without charge to consumer. Establishes lender licensure conditions for commencing court action to collect payday loan. Allows consumer to convert payday loan to payment plan under specified conditions.

Provides that certain payday loan violations are unlawful employment practice.

A BILL FOR AN ACT

1
2 Relating to loans; creating new provisions; and amending ORS 82.010, 646.608, 725.340 and 725.622.

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

4 **SECTION 1.** ORS 82.010 is amended to read:

5 82.010. (1) **Except as provided in subsection (5) of this section,** the rate of interest for the
6 following transactions, if the parties have not otherwise agreed to a rate of interest, is nine percent
7 per annum and is payable on:

8 (a) All moneys after they become due; but open accounts bear interest from the date of the last
9 item thereof.

10 (b) Money received to the use of another and retained beyond a reasonable time without the
11 owner's express or implied consent.

12 (c) Money due or to become due where there is a contract to pay interest and no rate specified.

13 (2) Except as provided in this subsection, the rate of interest on judgments for the payment of
14 money is nine percent per annum. The following apply as described:

15 (a) Interest on a judgment under this subsection accrues from the date of the entry of the
16 judgment unless the judgment specifies another date.

17 (b) Interest on a judgment under this subsection is simple interest, unless otherwise provided
18 by contract.

19 (c) Interest accruing from the date of the entry of a judgment shall also accrue on interest that
20 accrued before the date of entry of a judgment.

21 (d) Interest under this subsection shall also accrue on attorney fees and costs entered as part
22 of the judgment.

23 (e) A judgment on a contract bearing more than nine percent interest shall bear interest at the
24 same rate provided in the contract as of the date of entry of the judgment.

25 (f) The rate of interest on a judgment rendered in favor of a plaintiff in a civil action to recover

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 damages for injuries resulting from the professional negligence of a person licensed by the Board
2 of Medical Examiners under ORS chapter 677 or the Oregon State Board of Nursing under ORS
3 678.010 to 678.410 is the lesser of five percent per annum or three percent in excess of the discount
4 rate in effect at the Federal Reserve Bank in the Federal Reserve district where the injuries oc-
5 curred.

6 (3) Except as provided in ORS 82.025 **and subsection (5) of this section**, *[no person shall]* **a**
7 **person may not:**

8 (a) Make a business or agricultural loan of \$50,000 or less at an annual rate of interest ex-
9 ceeding the greater of 12 percent, or five percent in excess of the discount rate, including any sur-
10 charge on the discount rate, on 90-day commercial paper in effect at the Federal Reserve Bank in
11 the Federal Reserve district where the person making the loan is located, on the date the loan or
12 the initial advance of funds under the loan is made; or

13 (b) Make a loan of \$50,000 or less, except a loan made under paragraph (a) of this subsection,
14 at an annual rate of interest exceeding the greater of 12 percent, or five percent in excess of the
15 discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Re-
16 serve district where the person making the loan is located, on the date the loan or the initial ad-
17 vance of funds under the loan is made.

18 (4) Any person who violates subsection (3) of this section shall forfeit the right to collect or
19 receive any interest upon any loan for which a greater rate of interest or consideration than is
20 permitted by subsection (3) of this section has been charged, contracted for or received. The bor-
21 rower upon such loan shall be required to repay only the principal amount borrowed.

22 (5) **A consumer finance licensee under ORS chapter 725 may not make a payday loan at**
23 **a rate of interest that exceeds:**

24 (a) **15 percent of the original loan amount for the term of the loan; or**

25 (b) **15 percent of the renewal loan amount for the term of each loan renewal.**

26 **SECTION 2.** ORS 725.340 is amended to read:

27 725.340. (1) **Except as provided in ORS 82.010 (5)**, a licensee may charge, contract for and
28 receive any interest or consideration for loans, secured or unsecured, as agreed upon by the licensee
29 and the borrower.

30 (2) When a precomputed loan contract is originally scheduled to be repaid in 62 months or less
31 and requires repayment in substantially equal or consecutive monthly installments of principal and
32 interest combined, the interest or consideration may be precomputed, contracted for and earned on
33 scheduled unpaid principal balances on the assumption that all scheduled payments will be made
34 when due. In such cases, every payment may be applied to the combined total of principal and pre-
35 computed interest until the contract is fully paid, and the acceptance or payment of interest or
36 consideration on any loan made under the provisions of this subsection shall not be deemed to
37 constitute payment, deduction or receipt thereof in advance. Such precomputed interest or consid-
38 eration shall be subject to the following adjustments:

39 (a) When a default of more than 10 days in the payment of any scheduled installment occurs, the
40 licensee may charge and collect a default charge not exceeding five percent of the unpaid amount
41 of the installment or \$5, whichever is less. A default charge may be collected only once on an in-
42 stallment, but may be collected at the time it accrues or at any time thereafter. No default charge
43 may be assessed with respect to an installment which is paid in full on or within 10 days after a
44 scheduled installment due date when an earlier maturing installment or a default or deferral charge
45 on an earlier maturing installment may not have been paid in full even though all or part of such

1 installment payment is applied to an earlier maturing installment, or a default or deferral charge.

2 (b) If the payment of all unpaid installments is deferred one or more full months, and if the
3 contract so provides, the licensee may charge and collect a deferral charge not exceeding the annual
4 percentage rate previously disclosed to the borrower pursuant to the Federal Consumer Credit
5 Protection (Truth-in-Lending) Act applied to the sum of the installments deferred for the length of
6 the deferral period. The deferral period is that period in which no scheduled installment is required
7 to be paid by reason of the deferral. Such charge may be collected at the time of deferral or at any
8 time thereafter. A deferral charge may not be made for the deferral of any installment with respect
9 to which a default charge has been collected, unless the default charge is deducted from the deferral
10 charge. If prepayment of the loan in full occurs during the deferral period, in addition to any other
11 rebate which may be required, the borrower shall receive a rebate of the portion of the deferral
12 applicable to the unexpired months in the deferral period, for which purpose a fraction of an unex-
13 pired month exceeding 15 days shall be deemed to be a month.

14 (c) Upon prepayment in full of the unpaid balance of a precomputed loan, a rebate of unearned
15 interest or consideration shall be made as provided in this paragraph. The amount of the rebate
16 shall be not less than the total interest contracted for to maturity, less the greater of:

17 (A) Ten percent of the amount financed or \$75, whichever is less; or

18 (B) The interest or consideration earned to the installment due date nearest the date of pre-
19 payment, computed by applying the simple interest rate of the loan to the actual principal balances
20 outstanding, for the periods of time the balances were actually outstanding. For purposes of rebate
21 computations under this subparagraph, the installment due date preceding the date of prepayment
22 shall be considered to be nearest if prepayment occurs 15 days or less after that installment date.
23 If prepayment occurs more than 15 days after the preceding installment due date, the next suc-
24 ceeding installment due date shall be considered to be nearest to the date of prepayment. In deter-
25 mining the simple interest rate, the licensee may apply to the scheduled payments the actuarial
26 method, by which each scheduled payment is applied first to accrued and unpaid interest or con-
27 sideration, and any amount remaining is applied to reduction of the principal balance.

28 (3) If the borrower agrees to perform certain duties to insure or preserve the collateral and fails
29 to perform those duties, the licensee may pay for the performance of those duties and add the
30 amounts paid to the unpaid principal balance. A charge may be made for sums advanced, at the rate
31 provided for in the loan agreement.

32 (4) The loan contract may provide that after default and referral the borrower shall pay the
33 licensee for reasonable attorney fees actually paid by the licensee to an attorney not a salaried
34 employee of the licensee.

35 **SECTION 3.** ORS 725.622 is amended to read:

36 725.622. A lender in the business of making payday loans may not:

37 **(1) Make a payday loan to a consumer that exceeds \$1,000 or 25 percent of the consumer's**
38 **monthly gross income, whichever is less;**

39 **[(1)] (2) Include in a payday loan contract:**

40 (a) A hold-harmless clause;

41 (b) A confession of judgment or other waiver of the right to notice and the opportunity to be
42 heard in an action;

43 (c) An agreement by the consumer not to assert any claim or defense arising out of the contract
44 against the lender or any holder in due course; or

45 (d) An executory waiver or a limitation of exemption from attachment, execution or other pro-

1 cess on real or personal property held by, owned by or due to the consumer, unless the waiver or
2 limitation applies only to property subject to a security interest executed in connection with the
3 loan;

4 [(2)] (3) Conduct a payday loan business where liquor or lottery tickets are sold or where gam-
5 bling devices are located;

6 [(3)] (4) Charge the consumer more than one fee under ORS 30.701 per loan transaction for
7 dishonored checks when the consumer issues more than one check to the lender. However, the
8 lender may recover from the consumer any fee charged to the lender by an unaffiliated financial
9 institution for each dishonored check;

10 (5) **Seek statutory damages and attorney fees from the consumer for dishonored checks**
11 **under ORS 30.701 (1);**

12 [(4)] (6) **Subject to subsection (7) of this section,** renew a payday loan more than three times;
13 [or]

14 (7) **Renew a payday loan unless the consumer has paid an amount equal to at least 25**
15 **percent of the original loan amount, plus interest on the remaining balance of the loan;**

16 [(5)] (8) Make a new payday loan to a consumer on the same day that a previous payday loan
17 expires if the lender has renewed the previous payday loan three times. The lender shall wait at
18 least until the next day after the expiration date of the previous loan before making the new loan
19 to the consumer[.];

20 (9) **Charge a rate of interest that exceeds the limit set in ORS 82.010 (5); or**

21 (10) **Charge a consumer any fee other than:**

22 (a) **Interest described in this section and ORS 82.010;**

23 (b) **A fee described in subsection (4) of this section; or**

24 (c) **A fee described in section 7 of this 2005 Act.**

25 **SECTION 4. Sections 5 to 7 of this 2005 Act are added to and made a part of ORS 725.600**
26 **to 725.625.**

27 **SECTION 5. A lender in the business of making title or payday loans shall cancel a title**
28 **or payday loan without any charge to the consumer if prior to the close of the business day**
29 **in which the loan was made, the consumer:**

30 (1) **Informs the lender in writing that the consumer wishes to cancel the loan and any**
31 **future payment obligations; and**

32 (2) **Returns to the lender the uncashed check or proceeds given to the consumer by the**
33 **lender or cash in an amount equal to the principal amount of the loan.**

34 **SECTION 6. (1) Except as provided in subsection (2) of this section, a person that is re-**
35 **quired to be licensed under this chapter may not commence a claim in any court of this state**
36 **to collect any payday loan unless the person had a valid license issued by the Director of the**
37 **Department of Consumer and Business Services at the time the person made the payday**
38 **loan.**

39 (2) **Subsection (1) of this section does not apply if the court determines that the person**
40 **did not have a valid license at the time the person made the payday loan and that:**

41 (a) **The person was not aware of the requirement that the person be licensed;**

42 (b) **The person submitted a completed application for a license within a number of days**
43 **set by the director by rule, but not more than 90 days, after the date the person became**
44 **aware of the requirement; and**

45 (c) **Enforcement of the provisions of subsection (1) of this section would result in sub-**

1 **stantial injustice to the person.**

2 **SECTION 7. (1) A lender in the business of making payday loans and a consumer may**
3 **agree to a payment plan for a payday loan at any time.**

4 **(2) A lender in the business of making payday loans shall conspicuously disclose to each**
5 **consumer in the payday loan agreement that a payment plan described in this section is**
6 **available to the consumer after three loan renewals.**

7 **(3) After a payday loan has been renewed three times and prior to default on the loan,**
8 **a lender in the business of making payday loans shall allow a consumer to convert the con-**
9 **sumer's payday loan into a payment plan. Each payment plan must be in writing and ac-**
10 **knowledged by both the lender and the consumer.**

11 **(4) The lender may charge the consumer, at the time both parties enter into the payment**
12 **plan, a one-time fee for the payment plan in an amount not to exceed the amount of the in-**
13 **terest on the remaining balance of the loan allowed under ORS 82.010 (5). The lender may**
14 **not assess any other fee, interest charge or other charge on the consumer as a result of**
15 **converting the payday loan into a payment plan.**

16 **(5) The payment plan must provide for the payment of the total of payments due on the**
17 **payday loan over a period of no fewer than 60 days in three or more payments, unless the**
18 **lender and the consumer agree to a shorter payment period. The consumer may pay the total**
19 **of payments due on the loan at any time. The lender may not assess any penalty, fee or other**
20 **charge on the consumer for prepayment of the loan payment plan.**

21 **(6) The lender may take postdated checks at the initiation of the payment plan for the**
22 **payments agreed to under the plan. If any check accepted by the lender as payment under**
23 **the payment plan is dishonored, the lender may not charge the consumer any fee for the**
24 **dishonored check.**

25 **(7) If the consumer defaults on the payment plan, the lender may initiate action to col-**
26 **lect the total of payments due on the payday loan. The lender may charge the consumer a**
27 **one-time payment plan default fee of \$25.**

28 **(8) A lender's violation of the terms of a payment plan entered into with a consumer**
29 **under this section constitutes a violation of this section. If a lender enters into a payment**
30 **plan with a consumer through a third party that is representing the consumer, the lender's**
31 **failure to comply with the terms of that payment plan constitutes a violation of this section.**

32 **SECTION 8. ORS 646.608 is amended to read:**

33 **646.608. (1) A person engages in an unlawful practice when in the course of the person's busi-**
34 **ness, vocation or occupation the person does any of the following:**

35 **(a) Passes off real estate, goods or services as those of another.**

36 **(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-**
37 **proval, or certification of real estate, goods or services.**

38 **(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-**
39 **ciation with, or certification by, another.**

40 **(d) Uses deceptive representations or designations of geographic origin in connection with real**
41 **estate, goods or services.**

42 **(e) Represents that real estate, goods or services have sponsorship, approval, characteristics,**
43 **ingredients, uses, benefits, quantities or qualities that they do not have or that a person has a**
44 **sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.**

45 **(f) Represents that real estate or goods are original or new if they are deteriorated, altered,**

1 reconditioned, reclaimed, used or secondhand.

2 (g) Represents that real estate, goods or services are of a particular standard, quality, or grade,
3 or that real estate or goods are of a particular style or model, if they are of another.

4 (h) Disparages the real estate, goods, services, property or business of a customer or another
5 by false or misleading representations of fact.

6 (i) Advertises real estate, goods or services with intent not to provide them as advertised, or
7 with intent not to supply reasonably expectable public demand, unless the advertisement discloses
8 a limitation of quantity.

9 (j) Makes false or misleading representations of fact concerning the reasons for, existence of,
10 or amounts of price reductions.

11 (k) Makes false or misleading representations concerning credit availability or the nature of the
12 transaction or obligation incurred.

13 (L) Makes false or misleading representations relating to commissions or other compensation to
14 be paid in exchange for permitting real estate, goods or services to be used for model or demon-
15 stration purposes or in exchange for submitting names of potential customers.

16 (m) Performs service on or dismantles any goods or real estate when not authorized by the
17 owner or apparent owner thereof.

18 (n) Solicits potential customers by telephone or door to door as a seller unless the person pro-
19 vides the information required under ORS 646.611.

20 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give
21 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
22 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or
23 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,
24 discount or other value is contingent upon occurrence of an event subsequent to the time the cus-
25 tomer enters into the transaction.

26 (p) Makes any false or misleading statement about a prize, contest or promotion used to publi-
27 cize a product, business or service.

28 (q) Promises to deliver real estate, goods or services within a certain period of time with intent
29 not to deliver them as promised.

30 (r) Organizes or induces or attempts to induce membership in a pyramid club.

31 (s) Makes false or misleading representations of fact concerning the offering price of, or the
32 person's cost for real estate, goods or services.

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

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

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

38 (w) Manufactures mercury fever thermometers.

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

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

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

44 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to
45 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be

1 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
2 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
3 graph, “thermostat” means a device commonly used to sense and, through electrical communication
4 with heating, cooling or ventilation equipment, control room temperature.

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

6 (aa) Violates ORS 646.850 (1).

7 (bb) Violates any requirement of ORS 646.661 to 646.686.

8 (cc) Violates the provisions of ORS 128.801 to 128.898.

9 (dd) Violates ORS 646.883 or 646.885.

10 (ee) Violates any provision of ORS 646.195.

11 (ff) Violates ORS 646.569.

12 (gg) Violates the provisions of ORS 646.859.

13 (hh) Violates ORS 759.290.

14 (ii) Violates ORS 646.872.

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

16 (kk) Violates ORS 646.563.

17 (LL) Violates ORS 759.690 or any rule adopted pursuant thereto.

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

20 (nn) Violates ORS 646.892 or 646.894.

21 (oo) Violates any provision of ORS 646.249 to 646.259.

22 (pp) Violates ORS 646.384.

23 (qq) Violates ORS 646.871.

24 (rr) Violates ORS 822.046.

25 (ss) Violates ORS 128.001.

26 (tt) Violates ORS 646.649 (2) to (4).

27 (uu) Violates ORS 646.877 (2) to (4).

28 (vv) Violates ORS 87.686.

29 (ww) Violates ORS 646.651.

30 (xx) Violates ORS 646.879.

31 (yy) Violates ORS 646.402 or any rule adopted under ORS 646.402 or 646.404.

32 (zz) Violates ORS 180.440 (1).

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

34 (bbb) Violates ORS 87.007 (2) or (3).

35 **(ccc) Violates ORS 725.622 or section 5 of this 2005 Act relating to payday loans.**

36 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
37 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

38 (3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney
39 need not prove competition between the parties or actual confusion or misunderstanding.

40 (4) No action or suit shall be brought under subsection (1)(u) of this section unless the Attorney
41 General has first established a rule in accordance with the provisions of ORS chapter 183 declaring
42 the conduct to be unfair or deceptive in trade or commerce.

43 (5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought
44 under subsection (1)(zz) of this section by a person other than a prosecuting attorney, relief shall
45 be limited to an injunction and the prevailing party may be awarded reasonable attorney fees.

1 **SECTION 9.** ORS 646.608, as amended by section 13, chapter 924, Oregon Laws 2001, section
2 2, chapter 133, Oregon Laws 2003, section 3, chapter 486, Oregon Laws 2003, section 5, chapter 778,
3 Oregon Laws 2003, and section 19, chapter 801, Oregon Laws 2003, is amended to read:

4 646.608. (1) A person engages in an unlawful practice when in the course of the person's busi-
5 ness, vocation or occupation the person does any of the following:

6 (a) Passes off real estate, goods or services as those of another.

7 (b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-
8 proval, or certification of real estate, goods or services.

9 (c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-
10 ciation with, or certification by, another.

11 (d) Uses deceptive representations or designations of geographic origin in connection with real
12 estate, goods or services.

13 (e) Represents that real estate, goods or services have sponsorship, approval, characteristics,
14 ingredients, uses, benefits, quantities or qualities that they do not have or that a person has a
15 sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

16 (f) Represents that real estate or goods are original or new if they are deteriorated, altered,
17 reconditioned, reclaimed, used or secondhand.

18 (g) Represents that real estate, goods or services are of a particular standard, quality, or grade,
19 or that real estate or goods are of a particular style or model, if they are of another.

20 (h) Disparages the real estate, goods, services, property or business of a customer or another
21 by false or misleading representations of fact.

22 (i) Advertises real estate, goods or services with intent not to provide them as advertised, or
23 with intent not to supply reasonably expectable public demand, unless the advertisement discloses
24 a limitation of quantity.

25 (j) Makes false or misleading representations of fact concerning the reasons for, existence of,
26 or amounts of price reductions.

27 (k) Makes false or misleading representations concerning credit availability or the nature of the
28 transaction or obligation incurred.

29 (L) Makes false or misleading representations relating to commissions or other compensation to
30 be paid in exchange for permitting real estate, goods or services to be used for model or demon-
31 stration purposes or in exchange for submitting names of potential customers.

32 (m) Performs service on or dismantles any goods or real estate when not authorized by the
33 owner or apparent owner thereof.

34 (n) Solicits potential customers by telephone or door to door as a seller unless the person pro-
35 vides the information required under ORS 646.611.

36 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give
37 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
38 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or
39 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,
40 discount or other value is contingent upon occurrence of an event subsequent to the time the cus-
41 tomer enters into the transaction.

42 (p) Makes any false or misleading statement about a prize, contest or promotion used to publi-
43 cize a product, business or service.

44 (q) Promises to deliver real estate, goods or services within a certain period of time with intent
45 not to deliver them as promised.

- 1 (r) Organizes or induces or attempts to induce membership in a pyramid club.
- 2 (s) Makes false or misleading representations of fact concerning the offering price of, or the
- 3 person's cost for real estate, goods or services.
- 4 (t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any
- 5 known material defect or material nonconformity.
- 6 (u) Engages in any other unfair or deceptive conduct in trade or commerce.
- 7 (v) Violates any of the provisions relating to auction sales, auctioneers or auction marts under
- 8 ORS 698.640, whether in a commercial or noncommercial situation.
- 9 (w) Manufactures mercury fever thermometers.
- 10 (x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal
- 11 law, or is:
 - 12 (A) Prescribed by a person licensed under ORS chapter 677; and
 - 13 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and
 - 14 on the proper cleanup of mercury should breakage occur.
- 15 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to
- 16 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be
- 17 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
- 18 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
- 19 graph, "thermostat" means a device commonly used to sense and, through electrical communication
- 20 with heating, cooling or ventilation equipment, control room temperature.
- 21 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains
- 22 mercury light switches.
 - 23 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.
 - 24 (bb) Violates ORS 646.850 (1).
 - 25 (cc) Violates any requirement of ORS 646.661 to 646.686.
 - 26 (dd) Violates the provisions of ORS 128.801 to 128.898.
 - 27 (ee) Violates ORS 646.883 or 646.885.
 - 28 (ff) Violates any provision of ORS 646.195.
 - 29 (gg) Violates ORS 646.569.
 - 30 (hh) Violates the provisions of ORS 646.859.
 - 31 (ii) Violates ORS 759.290.
 - 32 (jj) Violates ORS 646.872.
 - 33 (kk) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
 - 34 (LL) Violates ORS 646.563.
 - 35 (mm) Violates ORS 759.690 or any rule adopted pursuant thereto.
 - 36 (nn) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
 - 37 thereto.
 - 38 (oo) Violates ORS 646.892 or 646.894.
 - 39 (pp) Violates any provision of ORS 646.249 to 646.259.
 - 40 (qq) Violates ORS 646.384.
 - 41 (rr) Violates ORS 646.871.
 - 42 (ss) Violates ORS 822.046.
 - 43 (tt) Violates ORS 128.001.
 - 44 (uu) Violates ORS 646.649 (2) to (4).
 - 45 (vv) Violates ORS 646.877 (2) to (4).

- 1 (ww) Violates ORS 87.686.
- 2 (xx) Violates ORS 646.651.
- 3 (yy) Violates ORS 646.879.
- 4 (zz) Violates ORS 646.402 or any rule adopted under ORS 646.402 or 646.404.
- 5 (aaa) Violates ORS 180.440 (1).
- 6 (bbb) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 7 (ccc) Violates ORS 87.007 (2) or (3).
- 8 **(ddd) Violates ORS 725.622 or section 5 of this 2005 Act relating to payday loans.**
- 9 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
- 10 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
- 11 (3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney
- 12 need not prove competition between the parties or actual confusion or misunderstanding.
- 13 (4) No action or suit shall be brought under subsection (1)(u) of this section unless the Attorney
- 14 General has first established a rule in accordance with the provisions of ORS chapter 183 declaring
- 15 the conduct to be unfair or deceptive in trade or commerce.
- 16 (5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought
- 17 under subsection (1)(aaa) of this section by a person other than a prosecuting attorney, relief shall
- 18 be limited to an injunction and the prevailing party may be awarded reasonable attorney fees.
- 19 **SECTION 10. (1) Sections 5 and 7 of this 2005 Act and the amendments to ORS 82.010,**
- 20 **646.608, 725.340 and 725.622 by sections 1 to 3, 8 and 9 of this 2005 Act apply to payday loans**
- 21 **made or renewed on or after the effective date of this 2005 Act.**
- 22 **(2) Section 6 of this 2005 Act applies to payday loans made on or after the effective date**
- 23 **of this 2005 Act.**
- 24