CHAPTER 193

AN ACT HB 2395

Relating to security measures required for devices that connect to the Internet; creating new provisions; and amending ORS 646.607.

SECTION 1. (1) As used in this section:

(a) "Connected device" means a device or other physical object that:

(A) Connects, directly or indirectly, to the Internet and is used primarily for personal, family or household purposes; and

(B) Is assigned an Internet Protocol address or another address or number that identifies the connected device for the purpose of making a short-range wireless connection to another device.

(b) "Manufacturer" means a person that makes a connected device and sells or offers to sell the connected device in this state.

(c) "Reasonable security features" means methods to protect a connected device, and any information the connected device stores, from unauthorized access, destruction, use, modification or disclosure that are appropriate for the nature and function of the connected device and for the type of information the connected device may collect, store or transmit.

(2) A manufacturer shall equip a connected device with reasonable security features. A reasonable security feature may consist of:

(a) A means for authentication from outside a local area network, including:

(A) A preprogrammed password that is unique for each connected device; or

(B) A requirement that a user generate a new means of authentication before gaining access to the connected device for the first time; or

(b) Compliance with requirements of federal law or federal regulations that apply to security measures for connected devices.

(3) This section does not:

(a) Require a provider of an electronic store, gateway, marketplace or other means for purchasing or downloading software or firmware to verify or enforce compliance with the provisions of this section.

(b) Require a person to prevent a consumer from having or obtaining full control over a connected device, including the ability to modify the connected device or any software or firmware installed on the connected device.

(c) Limit the authority of a law enforcement officer or law enforcement agency to obtain information from a manufacturer as provided by law or authorized in an order from a court of competent jurisdiction.

(d) Impose a duty on a manufacturer to provide reasonable security features for software, firmware or peripheral devices that another manufacturer makes and that a consumer installs in or adds to the connected device.

(4) This section does not apply to:

(a) A connected device on which a consumer installs or otherwise adds software or other devices that the manufacturer of the connected device does not approve for use with the connected device or that damages, evades, disables or otherwise modifies the reasonable security features that a manufacturer incorporates into the connected device.

(b) A covered entity, a health care provider, a business associate, a health care service plan, a contractor, an employer or another person that is subject to the Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191, 110 Stat. 1936) or regulations promulgated under the Act, with respect to any action that the Act regulates.

(c) A connected device, the functions of which are subject to and comply with the requirements, regulations and guidance that the United States Food and Drug Administration promulgates under 21 C.F.R. parts 800 to 1299 or other requirements, regulations and guidance the United States Food and Drug Administration promulgates with respect to medical devices, including software as a medical device.

(5) The duties and obligations that this section imposes are in addition to and not in lieu of any other duties and obligations imposed under other applicable law and do not relieve any person from the person's duties and obligations under any other applicable law.

(6) A manufacturer that violates subsection (2) of this section engages in an unlawful trade practice under ORS 646.607.

SECTION 2. ORS 646.607 is amended to read:

646.607. A person engages in an unlawful trade practice if in the course of the person's business, vocation or occupation the person:

(1) Employs any unconscionable tactic in connection with selling, renting or disposing of real estate, goods or services, or collecting or enforcing an obligation[*;*]**.**

(2) Fails to deliver all or any portion of real estate, goods or services as promised, and at a customer's request, fails to refund money that the customer gave to the person to purchase the undelivered real estate, goods or services and that the person does not retain pursuant to any right, claim or defense the person may assert in good faith. This subsection does not create a warranty obligation and does not apply to a dispute over the quality of real estate, goods or services delivered to a customer[*;*]**.**

(3) Violates ORS 401.965 (2)[*;*]**.**

(4) Violates a provision of ORS 646A.725 to 646A.750[*;*]**.**

(5) Violates ORS 646A.530[*;*]**.**

(6) Employs a collection practice that is unlawful under ORS 646.639[*;*]**.**

(7) Is a beneficiary that violates ORS 86.726 (1)(a) or (2), 86.729 (4) or 86.732 (1) or (2)[;]**.**

(8) Violates ORS 646A.093[;]**.**

(9) Violates a provision of ORS 646A.600 to 646A.628[*;*]**.**

(10) Violates ORS 646A.808 (2)[;]**.**

(11) Violates ORS 336.184[*; or*]**.**

(12) Publishes on a website related to the person's business, or in a consumer agreement related to a consumer transaction, a statement or representation of fact in which the person asserts that the person, in a particular manner or for particular purposes, will use, disclose, collect, maintain, delete or dispose of information that the person requests, requires or receives from a consumer and the person uses, discloses, collects, maintains, deletes or disposes of the information in a manner that is materially inconsistent with the person's statement or representation.

(13) Violates section 1 (2) of this 2019 Act.

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