



## Business Regulation and Consumer Protection

### Animals

The United States Food and Drug Administration ensures cosmetics are safe and properly labeled under the Federal Food, Drug, and Cosmetic Act (FD&C Act). The FD&C Act allows but does not require animal testing in cosmetics for safety. [House Bill 3213](#) prohibits the sale of a cosmetic developed or manufactured using cosmetic animal tests, with some exceptions. It allows for donating noncompliant cosmetics and permits the Attorney General to bring a civil action to impose a civil penalty or obtain an injunction for violations.

The legislature considered [House Bill 3214](#) (*not enacted*), which would have prohibited using certain animals in a traveling animal act. It would have allowed for court-ordered forfeiture of an individual's rights to the animals and made a violation of the measure a Class B misdemeanor.

### Cannabis

In addition to enacting changes during the 2023 session to criminal laws prohibiting unlicensed manufacture or production of cannabis, the legislature continued refining the regulation of licensed cannabis production.

[ORS 475C.544](#) (2021) authorizes the Oregon Liquor and Cannabis Commission (OLCC), the Oregon Department of Agriculture (ODA), and the Oregon Health Authority (OHA) to adopt rules establishing testing standards and identifying appropriate tests for marijuana items,

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See the 2023 **Legislative Summary Report** for [Civil Law](#) which highlights policy measures that received a public hearing during Oregon's 2023 Regular Legislative Session.

industrial hemp-derived vapor items, and cannabinoid products, concentrations, or extracts. Licensed entities must test their products through licensed and accredited laboratories before the sale or transfer of products. Law enforcement are to identify cannabis plants and items as part of enforcement and prosecution of cannabis laws.

[House Bill 2931](#) directs the ODA to establish a cannabis reference laboratory, in consultation with the OHA and OLCC, to provide regulatory and technical support to enforce cannabis laws and ensure that private laboratories are not engaging in deceptive or erroneous testing practices. In addition to the random testing currently permitted, [House Bill 2931](#) allows targeted testing to determine regulatory compliance and testing requests from law enforcement agencies. The measure also removes potential conflicts of interests with private laboratories by prohibiting a person from

holding both a laboratory license and a license to produce, process, or sell cannabis.

## Consumer Data Privacy

The Oregon Attorney General convened a Consumer Privacy Task Force (Task Force) in 2019 to consider legislative proposals about consumers' online privacy and standards for businesses that obtain consumer data about the consumer's activities online or via device applications. [Senate Bill 619](#) resulted from the work of the Task Force and provides new rights to consumers and responsibilities for persons or companies ("controllers") which, in a calendar year, control or process the data of 100,000 or more consumers or devices that link to one or more consumers, or 25,000 consumers if more than 25 percent of their revenue is from selling personal data. The measure excludes public bodies, noncommercial news and publishing activities, and information that is covered by certain existing state and federal privacy protection laws, as well as data collected for certain purposes.

A controller must conduct and document data protection assessments. It must specify in its privacy notice the express purpose for which the personal data is collected and processed, the categories of data that are collected, the categories of third parties to whom data is disclosed, the name under which the controller is registered to do business in the state, and how a consumer may exercise their rights and appeal a controller's decision.

Controllers may not process data that is not reasonably necessary or compatible with purposes specified in the controller's privacy notice, process sensitive data without consent and compliance with data protections for children, or process data for targeted advertising without consent for consumers between 13 and 15 years of age. Controllers who process deidentified data have special requirements. The controller also has to provide

the consumer with an effective means to revoke consent with the same ease with which it was given.

Under the measure, a consumer has rights to know and control how their personal data is used, including the ability to:

- confirm whether the controller is processing the data;
- request the categories of personal data processed;
- request a list of third parties to whom the data has been disclosed;
- receive a copy of the data;
- require the controller to correct some types of inaccuracies;
- delete the data; and
- opt out of data use for targeted advertising, sale of the personal data, or profiling for certain purposes.

The Attorney General can enforce these rights and responsibilities by issuing investigative demands and seeking civil penalties or equitable relief in court.

## Civil Actions

[ORS 93.274](#) (2021) allows a real property owner to petition for removal of illegal discriminatory restrictions in the property record, such as restricting the use of real property by any person or group of persons by reason of race, color, religion, sex, sexual orientation, gender identity, national origin or disability. If that process is successful, it concludes with the court entering a judgment removing only the part of the provision that is in violation. That judgment is then added to the property file, but the discriminatory language itself is not removed.

[House Bill 3294](#) directs the county clerk to replace a recorded instrument for real property with a court-ordered version, in which the illegal discriminatory language is redacted. It also directs the county clerk to maintain the original documents separately for archival purposes.



## Civil Liability

The legislature created a new cause of action for the unlawful display of human remains, following the for-profit display of the dissection of a human body by a private company in Oregon in 2021. [House Bill 2519](#) prohibits a person from accepting payment or other consideration in exchange for displaying human remains to the public, with certain exemptions for legitimate ceremonial and educational purposes. The estate of a deceased person can file civil action against any person who accepts payment or consideration for displaying the person's remains to the public, and obtain injunctive relief, damages, or other appropriate relief.

[House Bill 2572](#) creates a civil cause of action by a person injured as a result of specified paramilitary activity, and also authorizes the Attorney General to investigate and enjoin the activity. The activity subject to this law includes when a person knowingly engages in conduct while acting as part of a private paramilitary organization, or is training to engage in the unlawful conduct. Unlawful conduct includes public patrols or drills while armed with a deadly weapon or doing the following while armed with a dangerous or deadly weapon: engaging in techniques capable of causing physical injury or death; substantially disrupting governmental operations; the unauthorized assumption or assertion of the powers or duties of a law enforcement officer or government official; and interference with another person's rights to engage in or to abstain from conduct. The prohibited activities do not include the military or authorized reserves, or authorized military training, law enforcement, or security services. The measure does not apply to lawful activity of the Department of Fish and Wildlife.

[House Bill 2572](#) did not change the crime of engaging in unlawful paramilitary activity in [ORS 166.660](#) (2021), which prohibits: (1) exhibiting, displaying, or demonstrating to another person the use, application, or making of any firearm,

explosive, or other technique capable of causing injury or death, intending or knowing that it will be illegally used in a civil disorder; or (2) assembling with one or more people for training, practicing, or receiving instruction in the use of any firearm, explosive, or other technique with the intent to engage in civil disorder. This crime is a Class C felony.

Several bills that would have granted persons or organizations civil immunity received hearings but were ultimately not enacted. These include [Senate Bill 754 \(not enacted\)](#) about recreational operators, [Senate Bill 848 A \(not enacted\)](#) on professional design consultants for construction projects, [House Bill 2479 \(not enacted\)](#) about child advocacy centers, and [House Bill 2571 A \(not enacted\)](#) on animal holding agencies.

## Family Law

Two bills were considered regarding family law during the 2023 session: child support and custody determinations.

Child support is calculated using a formula, following the uniform support guidelines ([ORS 25.275](#) [2021]). The formula can be found in administrative rules ([OAR 137-050-0700 to 137-050-0765](#)), and the amount of support determined by the formula is presumed to be correct. However, this presumption may be rebutted if that amount is unjust or improper. In addition, the court may require the obligor to obtain life insurance to cover the obligor's support obligation. In general, child custody, child support, and spousal support may be modified only when there is a substantial and unanticipated change in circumstances, and generally once a support payment becomes due, a court may not set aside, alter, or modify any portion of the order dealing with that accrued support, with a few exceptions. A modification of *parenting time*, however, is based solely on what is in the child's best interest and does not require proof of a change of circumstance. Currently, there is no explicit



allowance in statute to ask a court to amend the portion of the child support judgment requiring life insurance.

**Senate Bill 806** permits a person who is obligated to retain or purchase life insurance to protect their child support responsibilities to ask the court to modify the judgment requiring the policy in certain circumstances. **Senate Bill 313 (not enacted)** would have added a requirement to consider the child's preferences when making a custody determination.

## Fiduciary, Protective Proceedings, and Estates

Oregon's probate code provides a streamlined procedure for transferring the personal and real property of a deceased person when the value of that property falls within specified monetary limits. This avoids the necessity of going through the full probate process, which requires, among other things, the appointment of a personal representative. To initiate the streamlined procedure, a person claiming a property right would file a "small estate affidavit" with the probate clerk. The process often could not be used when a decedent had created a trust prior to their death but did not fund or fully fund the trust, requiring a probate be opened to transfer ownership of the decedent's assets to the trust.

**Senate Bill 308** modifies the small estate process term "small estate affidavit" to "simple estate affidavit," and changes the small affidavit procedure to allow the transfer of assets to a trust created by the decedent.

The legislature considered but did not enact expansions of public guardians' services. **Senate Bill 380 A (not enacted)** would have appropriated \$1.7 million from the General Fund to the Oregon Public Guardian and Conservator (OPGC) and directed the OPGC to develop and administer a program to provide guardianship services to defendants whose criminal cases may be, or have been, suspended or dismissed by a determination of fitness to proceed. **Senate Bill 528 A (not enacted)** would have directed the director of public defense services to contract with the designated advocacy system, which is currently Disability Rights Oregon, to provide legal services to respondents and protected persons in protective proceedings, and to provide education services to courts and visitors regarding the rights of respondents and protected persons with a disability to court-appointed counsel in protective proceedings.

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