



BUSINESS AND CONSUMER PROTECTION

2018 SUMMARY OF LEGISLATION: MEASURE SUMMARIES

The *2018 Summary of Legislation – Business and Consumer Protection* summarizes selected measures related to this policy area that were considered by the 79th Oregon Legislative Assembly, including bills, memorials, and resolutions. This publication will become part of a more comprehensive *2018 Summary of Legislation* that includes all topic area summaries and committee membership lists.

This publication begins with a table highlighting measures that establish task forces or create reporting requirements. The summaries of selected measures follow in three groups—bills, memorials, and resolutions—each listed in numerical order.

Each summary provides information on the chief sponsors, committees assigned, background and current law, description of the measure, and date when the measure, if enacted, becomes effective. Each summary also includes a link to the measure on the [Oregon Legislative Information System \(OLIS\)](#), which provides a more comprehensive staff measure summary, all versions of the measure, amendments, public testimony, a complete measure history, and final vote tallies.

The *2018 Summary of Legislation* focuses on policy measures. Information on revenue measures is available on the [Legislative Revenue Office website](#). Information on the state budget and selected legislation that impacts state agencies is available on the [Legislative Fiscal Office website](#).

The Legislative Policy and Research Office will update this publication with each bill's effective date and assigned chapter in Oregon Laws 2018 when that information becomes available.

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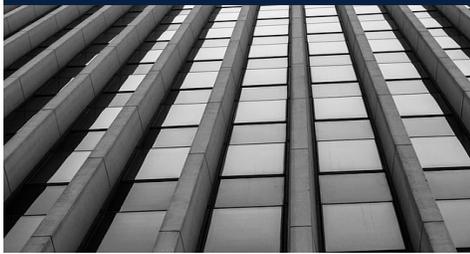
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BUSINESS AND CONSUMER PROTECTION TASK FORCES AND REPORTING REQUIREMENTS

The following bills created task forces and reporting requirements. Additional information is provided in the bill summaries.

Bill Number	Requirement	Deadline
HB 4005	Establishes Task Force on the Fair Pricing of Prescription Drugs to create transparency for drug prices across the supply chain. Requires the task force to submit a report to interim committees of the Legislative Assembly related to health. Requires the Department of Consumer and Business Services to report to the Legislative Assembly on the cost of prescription drugs.	November 1, 2018; December 15 of each year
HB 4023	The Oregon Broadband Advisory Council must report on the proposed structure for a local broadband champion program to the interim committee on economic development. The State Chief Information Officer must present proposed rules to the Joint Committee on Information Management and Technology prior to adoption.	December 1, 2018; prior to rule adoption
HB 4052	Secretary of State is required to annually compile administrative rule review reports and submit a report to the Legislative Assembly.	February 1 (annually)
HB 4144	Requires the Construction Contractors Board and Department of Consumer and Business Services to report to an interim committee of the Legislative Assembly regarding licenses issued under this measure. Requires Business Oregon and the Higher Education Coordinating Commission to report to an interim committee of the Legislative Assembly regarding loans and financial support provided under this measure.	October 1, 2020

Small Business Expansion Loan Fund

Chief Sponsors: Sens. Burdick, Beyer

Committees: Senate Business and Transportation, Joint Ways and Means

Background and Current Law: More than 95 percent of employers in Oregon employ fewer than 50 workers, making up nearly 40 percent of the workforce in Oregon. Currently, the Oregon Business Development Department offers the Oregon Business Development Fund loan, which gives preference to projects located in rural and distressed areas and to small businesses with fewer than 100 employees.

Bill Summary: Senate Bill 1516 creates the Small Business Expansion Loan Fund administered by the Oregon Business Development Department. Loans from the fund can provide up to \$2 million for early stage growth capital for individuals and businesses with 50 or fewer employees. The measure authorizes the department to set aside up to 20 percent of moneys in the fund for loans to applicants with low to moderate income who operate businesses with a majority share owned by minorities, women, or honorably discharged veterans, or that are located outside the Portland metropolitan area.

Oregon Laws 2018: Chapter 71

Data Breach Notification

Chief Sponsors: Sen. Prozanski; Rep. Holvey

Committees: Senate Judiciary, House Business and Labor

Background and Current Law: Oregon's Consumer Identity Theft Protection Act was enacted in 2007. Under the law, consumers must be given notice when a breach of their personal information occurs. The law prescribes the method for providing notice to consumers and the Attorney General as well as safeguards and protections of personal information. The law also allows for credit freezes on consumers' accounts to prevent fraudulent lines of credit from being established on consumers' accounts. There are three major credit reporting agencies who can place a freeze on a consumer's account, and a \$10 fee can be charged for each freeze, removal, or thaw at each of the agencies.

Bill Summary: Senate Bill 1551 provides free-of-charge placement, removal, and temporary lifts of credit account freezes. If an entity suffers a data breach, the notice of that breach must be given to the consumer in the most expeditious manner, but within 45 days. Additionally, if the entity that suffers a breach provides free credit monitoring or mitigation services to consumers, the entity may not condition acceptance of the free offer on the consumer providing a credit or debit card number. If the entity wishes to offer other services, they must be offered separately and distinctly from the free service. The measure also strengthens the safeguards to protect the security, confidentiality, and integrity of personal information.

Oregon Laws 2018: Chapter 10

[Senate Bill 1556-A](#)

Not Enacted

Lawsuits on Trust Deed Interest Transfers**Chief Sponsors:** Sen. Hansell**Committees:** Senate Judiciary, Senate Rules, House Business and Labor

Background and Current Law: A trust deed is a legal instrument like a mortgage. It gives one party, the trustee, the right to secure performance of an obligation that the borrower owes to the lender. The trust deed is filed with the county after it is created, with trust deeds often transferred into the secondary mortgage market through an entity called the Mortgage Electronic Registration System (MERS). Once in the secondary market, subsequent transfers of the interest are not recorded with the county. In 2012, Multnomah County filed a lawsuit against several banks and MERS, alleging they failed to properly record transfers of trust deeds. The suit was settled in the county's favor. Currently, 11 other Oregon counties have filed on the same basis.

Bill Summary: Senate Bill 1556-A would have prohibited new lawsuits by counties based on the designation of the grantee or beneficiary, or upon lack of presenting the trust deed for recording in the county. The measure also would have prohibited the counties from charging a fee for instruments that transferred an interest in a trust deed but were not presented for recording.

[Senate Bill 1564](#)

Not Enacted

Distillery Tasting Room Permit**Chief Sponsors:** Sen. Beyer**Committees:** Senate Business and Transportation

Background and Current Law: Oregon liquor/spirit distillers have experienced steady growth in recent years, with 14 total licenses statewide in 2001 growing to 90 total licenses statewide in 2016. Under current law, a distillery licensee who sells bottles of distilled liquor at the same location where tastings are permitted must be a distillery retail outlet agent and all distilled liquor sold must be purchased from the Oregon Liquor Control Commission. When such bottle sales at a tasting room are made, the distiller is compensated the same as a nonexclusive retail agent.

Bill Summary: Senate Bill 1564, with the proposed -2 amendments, would have allowed distillery licensees to apply to the Oregon Liquor Control Commission for a permit to sell the distillery's own liquor at their tasting room without being a Commission agent. Licensees would then retain the full retail price of the bottle. The measure also would have allowed distillery licensees to apply for special events tasting room licenses.

Prescription Drug Transparency

Chief Sponsors: Reps. Nosse, Noble; Sens. Beyer, Linthicum, Steiner Hayward

Committees: House Health Care, Joint Ways and Means

Background and Current Law: Increases in prescription drug spending and prices, coupled with rising out-of-pocket drug costs, contribute to rising health care costs in the United States. Between 1991 and 2014, prescription drug spending in Oregon increased by an average of 7.2 percent annually. In recent years, several states, including Oregon, have considered or passed legislation related to cost control and transparency of prescription drug costs.

Bill Summary: House Bill 4005 establishes a statewide prescription drug cost and price transparency program. The measure requires prescription drug manufacturers and health insurers to report information regarding qualifying prescription drugs to the Department of Consumer and Business Services (DCBS) and gives DCBS the authority to impose civil penalties for drug manufacturers that fail to report. DCBS must then report annually to the Legislative Assembly on the cost of prescription drugs.

The measure also establishes the 18-member Task Force on the Fair Pricing of Prescription Drugs to create transparency for drug prices across the supply chain, including pharmacy benefit managers, distributors, and wholesale and retail pharmacies in Oregon. The task force must submit a report to the interim committees of the Legislative Assembly related to health no later than November 1, 2018.

Oregon Laws 2018: Chapter 7

Rural Broadband Access and Service

At the request of: House Interim Committee on Economic Development and Trade

Committees: House Economic Development and Trade, Joint Information Management and Technology, Joint Ways and Means

Background and Current Law: The Oregon Broadband Advisory Council reports every two years to the Legislative Assembly on the affordability, accessibility, and use of broadband in Oregon, as well as broadband's role in economic development. The federal Universal Service Administrative Company under the Federal Communications Commission provides funding to support broadband access for eligible K-12 schools and libraries, including up to an additional 10 percent if matched by state funds. The Office of the State Chief Information Officer may provide broadband services to state agencies and universities, but not to other public bodies.

Bill Summary: House Bill 4023 makes three changes related to broadband access. It directs the Oregon Broadband Advisory Council to propose ways to develop champions for local broadband infrastructure improvements. It creates the Connecting Oregon Schools Fund to match federal money received by school districts for eligible broadband projects with state dollars. Additionally, the measure allows the State Chief Information Officer to provide broadband services to additional public bodies and federally recognized Indian tribes in unserved or underserved areas under certain circumstances.

Oregon Laws 2018: Chapter 51

Real Estate Licensees

Chief Sponsors: Reps. Esquivel, Doherty; Sen. Hansell

Committees: House Business and Labor, Senate Business and Transportation

Background and Current Law: Licenses to practice real estate are renewed for 24-month terms; the licensee must have completed 30 hours of continuing education during the preceding two years when renewing their license. Brokers and property managers, but not principal brokers, who renew an active license for the first time must take an advanced course in relevant practices approved by the Real Estate Agency.

The Elderly Housing and Disabled Loan Program, administered through Oregon Housing and Community Services (OHCS), allows certain long-term care providers to utilize bond financing to build assisted living and senior housing projects. Projects that have outstanding bond obligations or state financing can be required by OHCS to have a licensed real estate professional on staff.

Bill Summary: House Bill 4048 requires real estate brokers, principal brokers, and property managers to complete 30 hours of continuing education when reactivating an inactive license, as is required when renewing a license. The measure specifies that licensees must take advanced courses in practices relevant to their license when reactivating their license, and it requires principal brokers to take advanced courses in brokerage practices upon the first renewal of their license. House Bill 4048 also clarifies when Oregon Housing and Community Services can require an elderly housing project to perform property management duties or engage a licensed real estate professional.

Oregon Laws 2018: Chapter 92

[House Bill 4052](#)

Effective Date: June 2, 2018

Small Business Rules Advisory Committee

Chief Sponsors: Rep. Gomberg

Committees: House Economic Development and Trade, Senate General Government and Accountability

Background and Current Law: Administrative Rules are agency directives, standards, regulations, or statements of general applicability that implement, interpret, or prescribe law or policy, or that describe the procedure or practice requirements of an agency. Rules are created by any state board, commission, department, or officer authorized to make rules or issue orders. State law requires agencies to involve the public in the drafting of administrative rules. An agency may appoint an advisory committee, or use other means, to obtain public input and determine a rule’s fiscal or small business impact. Agencies are also required to review rules five years after adoption.

Bill Summary: House Bill 4052 establishes a Small Business Rules Advisory Committee to be supported by the State Archives Division. If requested, the committee may assist agencies in adopting new administrative rules or complete the review required five years after rule adoption.

Oregon Laws 2018: Chapter 20

[House Bill 4058](#)

Effective Date: March 12, 2018

Property Services Contractors

Chief Sponsors: Reps. Reschke, Salinas, Stark

Committees: House Business and Labor, Senate Workforce

Background and Current Law: Legislation enacted in 2017 (House Bill 3279) requires property services contractors to be licensed by the Bureau of Labor and Industries (BOLI); property services contractors typically provide janitorial services. The focus of the legislation is the requirement that property services contractors provide professional training to their managers, supervisors, and employees regarding prevention of workplace sexual assault and harassment, prevention of workplace discrimination, promotion of cultural competency, and whistleblower protections. The legislation and subsequent administrative rules generally subject property services contractors to the same licensing requirements as farm and construction labor contractors.

Bill Summary: House Bill 4058 makes many changes to the statutes regulating property services contractors based on issues raised during the rulemaking process. The measure specifies when initial and continuing training of employees must occur. The remaining changes ease the requirements on licensees. Though the measure does not exempt residential housecleaners, the stated intent is that they are exempt.

Oregon Laws 2018: Chapter 8

[House Bill 4086-A](#)

Not Enacted

Building Officials and Inspectors

At the request of: House Interim Committee on Business and Labor

Committees: House Business and Labor, House Rules, Senate Rules

Background and Current Law: The Building Codes Division (BCD) is responsible for adopting a statewide building code and rules establishing uniform permit and inspection requirements. The BCD may approve the administration and enforcement of the building program by a local municipality. Approximately 25 cities and counties contract with private entities and individuals to provide services to the building program. A Department of Justice memo and a Legislative Counsel opinion suggest that it is an unconstitutional delegation of legislative powers to have a person who is not a municipal employee serve as the building official.

Bill Summary: House Bill 4086-A would have required municipalities that administer building inspection programs to obtain the services of a municipal building official and a head building inspector, who could also be the building official. The measure specified that the municipal building official and head building inspector must be employed by the municipality, under an intergovernmental agreement, or by a council of governments by July 1, 2019. Upon passage, it would have allowed specialized building inspectors to be employed by an entity other than the municipality.

[House Bill 4087](#)

Effective Date: January 1, 2019

Auto Repair Shops

At the Request of: House Interim Committee on Business and Labor

Committees: House Business and Labor, Senate Judiciary

Background and Current Law: A lien is a charge against property to secure payment of a debt, performance of an obligation, or discharge of a debt, tax, or duty owed. One type of lien is a “mechanic’s lien,” which allows an auto repair shop to assert a lien against the repaired vehicle until the owner settles payment for the services provided. A work group met during the 2017-2018 interim to develop consensus on changes to Oregon’s mechanic’s lien law.

Bill Summary: House Bill 4087 requires an auto repair shop to carry a \$20,000 bond to properly attach a mechanic’s lien on a repaired vehicle. The measure provides an avenue for recovery against those who improperly assert a lien on a repaired vehicle.

Oregon Laws 2018: Chapter 58

[House Bill 4088](#)

Effective Date: January 1, 2019

Performing Rights Societies

At the Request of: House Interim Committee on Business and Labor for Oregon Winegrowers Association, Oregon Restaurant and Lodging Association

Committees: House Business and Labor, Senate Business and Transportation

Background and Current Law: When music is performed, a performing rights society (PRS) acts as the agent for copyright holders to collect royalties from individuals and businesses such as radio stations, marketers, restaurants, and entertainment facilities. Current law prohibits specified conduct by a PRS, such as engaging in any coercive activity that substantially disrupts a proprietor's business, and requires a PRS to provide proprietors with specified information prior to entering into a contract. A private right of action exists for any person seeking to recover damages, attorney's fees, or an injunction for violations.

Bill Summary: House Bill 4088 amends the code of conduct and requires performing rights societies to provide proprietors with specified information at least 72 hours before a contract is offered or entered into. Each year, each PRS must also file a copy of its contract template with the Secretary of State. Finally, the measure provides for a fine of up to \$1,000 for each willful violation.

Oregon Laws 2018: Chapter 28

[House Bill 4103](#)

Not Enacted

Pharmacy Benefit Managers

Chief Sponsors: Rep. Alonso Leon; Sen. Hansell

Committees: House Health Care

Background and Current Law: Pharmacy benefit managers (PBMs) administer drug benefit programs according to contractual relationships between manufacturers, wholesalers, health insurers, or employers. Some PBM services include processing and analyzing prescription claims, contracting with a network of pharmacies, and developing and managing formularies and prior authorization programs. There are currently more than 40 entities registered as PBMs doing business in Oregon. Nationally, PBMs manage the drug benefits for an estimated 95 percent of all patients with drug coverage. Legislation enacted in 2017 (House Bill 2388) authorized the Department of Consumer and Business Services to deny, revoke, or suspend a PBMs' registration under specific conditions.

Bill Summary: House Bill 4103 would have prohibited PBMs in Oregon from requiring that individuals fill or refill a prescription using their mail order pharmacy. The measure would have required PBMs to reimburse retail pharmacists the cost of a prescription drug at a rate equal to the reimbursement cost paid to a mail order pharmacy owned or managed by the PBM.

[House Bill 4104](#)

Effective Date: January 1, 2018

Hearing Loss Treatments

Chief Sponsors: Reps. Malstrom, Hayden; Sen. Gelser

Committees: House Health Care, Senate Health Care

Background and Current Law: The Centers for Disease Control and Prevention report two to three of every 1,000 children are born with a detectable level of hearing loss in one or both ears. As of 2012, approximately 38,000 cochlear implants have been implanted in children. In Oregon, hearing services and technology are limited in scope for families and children with hearing loss as commercial health plans may not all cover hearing services and technologies for children.

Bill Summary: House Bill 4104 requires health insurers to reimburse costs for bilateral cochlear implants, ear molds, and hearing assistive technology systems for individuals younger than 19, or 19 to 25 years of age and enrolled in secondary schools or accredited educational institutions. The measure also requires health insurers to ensure that their members have access to pediatric audiologists, provide notice of coverage limits, and offer educational materials.

Oregon Laws 2018: Chapter 9

[House Bill 4121-A](#)

Not Enacted

Home Weatherization, Retrofit, and Affordability Program

Chief Sponsors: Rep. Marsh

Committees: House Economic Development and Trade, Joint Ways and Means

Background and Current Law: Oregon Housing and Community Services Department has developed programs and services to support housing stability and promote energy improvement. Locally administered weatherization programs help lower income residents reduce heating costs while improving the efficiency and condition of their homes. Homeowners previously used Oregon's Residential Energy Tax Credits, which ended in 2017, to improve residential energy efficiency. The Small-Scale Energy Loan Program also previously provided long-term fixed rate loans for Oregon energy projects.

Bill Summary: House Bill 4121-A would have required Oregon Housing and Community Services to establish and administer a program to provide incentive payments, funding, and grants for certain energy improvement projects. Incentive payments would have been made directly to construction contractors for qualified projects. The bill would have required the department to reserve a portion of program funding for energy efficiency, weatherization, solar technology, and affordable housing activities.

[House Bill 4127-A](#)

Not Enacted

Public Contracting Using Qualifications-Based Selection

Chief Sponsors: Reps. McLain, Bynum; Sen. Boquist; Rep. Vial; Sen. Steiner Hayward

Committees: House Business and Labor, Senate General Government and Accountability, Senate Rules

Background and Current Law: The process used by state and local government to procure architectural, engineering, photogrammetric mapping, transportation planning, or land surveying services is referred to as Qualifications-Based Selection (QBS). Statute requires a contracting agency to select these consultants based on the consultant’s qualifications for the type of professional service required. QBS allows a contracting agency to ask for or use pricing policies and proposals or other pricing information to determine consultant compensation only after a candidate is selected. Direct appointment is allowed if the estimated cost of the services for the project do not exceed \$100,000.

Bill Summary: House Bill 4127-A would have allowed public contracting agencies to consider pricing policies, proposals, and other pricing information along with qualifications when procuring architectural, engineering, photogrammetric mapping, transportation planning, and land surveying services. The measure would have allowed a contracting agency to select up to three firms that have responded to a request for qualifications and then request proposals, pricing policies, and other pricing information from those firms.

[House Bill 4128](#)

Not Enacted

Businesses Owned by Women, Minorities, or Disabled Veterans

Chief Sponsors: Reps. Bynum, Kennemer, Meek

Committees: House Business and Labor

Background and Current Law: Public contracting agencies are required to aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses owned by service-disabled veterans, and emerging small businesses. The Certification Office for Business Inclusion and Diversity (COBID) is responsible for developing and implementing a statewide strategy that encourages these businesses to participate in Oregon’s economy. Businesses can apply for certification through COBID if they meet the criteria, one of which is annual gross receipts that fall below a specified level.

Bill Summary: House Bill 4128 would have allowed a disadvantaged business enterprise, minority-owned business, woman-owned business, business owned by a service-disabled veteran, or emerging small business to retain its certification after exceeding the cap on gross receipts if it subcontracts with another certified business, mentors another business, and otherwise remains eligible for certification. The measure would have required public contracting agencies to reimburse certified businesses for expenses related to mentoring.

[House Bill 4144](#)

Effective Date: January 1, 2019

Contractor Licenses

At the request of: Governor Brown

Committees: House Business and Labor, Senate Workforce

Background and Current Law: Between 2008 and 2013, Oregon's construction industry experienced a substantial decline in the number of individuals entering the workforce. Although construction employment has risen steadily since then, it is commonly expressed that the numbers are insufficient to meet consumer demand, particularly in rural areas and for the construction of affordable housing.

Bill Summary: House Bill 4144 waives the license fee and experience requirement for qualified residential general or specialty contractor license applicants who have at least eight years of experience. The measure waives the fee for a plumbing contractor or electrical contractor license for those who obtained a residential contractor license under the measure. The measure also expands access to small business loans to contractors licensed under this measure who agree to operate their business outside the Willamette Valley and to perform work on housing for low- and moderate-income households. These same contractors are also eligible for grant funding if they agree to use the financial support for worker recruitment, training, or retention. All provisions are repealed on January 2, 2022.

Oregon Laws 2018: Chapter 46

[House Bill 4154-B](#)

Not Enacted

Contractor's Liability for Wages Not Paid by Subcontractor

Chief Sponsors: Rep. Fahey

Committees: House Business and Labor, House Rules, Senate Rules

Background and Current Law: In 2017, the Bureau of Labor and Industries received approximately 1,200 employee wage claims, of which a disproportionately large share involved the construction industry. Contractors licensed by the Construction Contractors Board must maintain a bond which can be accessed by employees with a claim of unpaid wages. In addition, a construction contract with a government agency must require the contractor to maintain a payment bond, and a contract subject to prevailing wage rate laws requires the contractor and subcontractors to also maintain a \$30,000 bond.

Bill Summary: House Bill 4154-B would have required general contractors to cover unpaid wages, benefit payments, and other contributions due to employees of subcontractors if the general contractor had not paid the subcontractor in full and there was a valid wage claim. The measure would have required contractors to pay the Bureau of Labor and Industries the amount due to the subcontractor's employees under a final order; the general contractor would then withhold payment to the subcontractor.

[House Bill 4156](#)

Not Enacted

Prescription Drug Coverage

Chief Sponsors: Reps. Doherty, Malstrom, Kennemer

Committees: House Health Care

Background and Current Law: A formulary is a list of medications available in a health plan that is used by health care insurers to manage the use of prescription drugs. Some states have enacted consumer-related laws to create transparency and notice requirements for prescription drug benefits, including changes to formularies. These regulations are designed to help individuals compare covered benefits among health plans and require insurers to notify affected members when changes are made to a prescription drug formulary in a specified period.

Bill Summary: House Bill 4156 would have prohibited health insurers from removing prescription drugs from a formulary during a plan year, and would have barred insurers from changing any out-of-pocket costs for consumers for their prescription drugs during a plan year unless a generic alternative was added to the formulary.

[House Joint Resolution 201](#)

Filed with Secretary of State

Local Bonds for Affordable Housing Projects

At the request of: House Interim Committee on Human Services and Housing

Committees: House Human Services and Housing, Senate Human Services, Senate Rules

Background and Current Law: Bonds are debt instruments issued by an entity with a promise to repay the original amount of the bond plus interest over a designated time. The state's authority to authorize bonds comes from constitutional and statutory provisions. Issuance of bonds is used to finance public investments. Article XI, section 9 of the Oregon Constitution prohibits a county or city from assisting corporations by becoming a stockholder in, raising money for, or loaning the state's credit to any joint company, corporation, or association.

Bill Summary: House Joint Resolution 201 refers to the voters, for their approval or rejection at the next general election, an amendment to the Oregon Constitution that exempts affordable housing-related bonds from the prohibitions in Article XI, section 9, if certain conditions are met.