

**REVENUE:** No revenue impact

**FISCAL:** Fiscal statement issued

---

<b>Action:</b>	Do Pass the A-Engrossed Measure
<b>Vote:</b>	3 - 2 - 0
<b>Yeas:</b>	Bonamici, Dingfelder, Prozanski
<b>Nays:</b>	Boquist, Whitsett
<b>Exc.:</b>	0
<b>Prepared By:</b>	Anna Braun, Counsel
<b>Meeting Dates:</b>	5/26, 5/28

---

**WHAT THE MEASURE DOES:** Increases the \$500,000 noneconomic damages cap on wrongful death and other statutorily created torts to \$1.5 million. Indexes the cap based on the OR-WA consumer price index for all urban consumers all items starting in 2010. Applies to causes of action before, on or after the effective date. Effective 91 days after sine die.

**ISSUES DISCUSSED:**

- Costs to insurance premiums
- Method of indexing
- Support of Oregon Liability Reform Coalition
- Number of wrongful death cases that deal with medical liability

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** ORS 31.710 provides a cap of \$500,000 on noneconomic damages (for example, pain and suffering) on any civil action, except for torts against public bodies under Oregon Tort Claims Act and workers compensation. On July 15, 1999, the Oregon Supreme Court decided *Lakin v. Senco Products, Inc.*, 329 Or 62, 987 P2d 463 (1999), and struck down the statutory cap on noneconomic damages as it applied to common law claims for bodily injury. The court held the \$500,000 cap violated the right to a jury trial under Article I, section 17 of the Oregon Constitution.

The *Lakin* case covered only common law causes of action. Wrongful death and other torts that were created by the legislature through statute were not affected by the case. HB 2802A increases the cap on noneconomic damages for wrongful death and other statutory torts.