



Department of Consumer and Business Services

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Before the
House Business and Labor Committee

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HB 3141

Testimony of
John Shilts, Administrator
Workers' Compensation Division
Department of Consumer and Business Services

For the record, my name is John Shilts. I am the administrator of the Workers' Compensation Division of the Department of Consumer and Business Services. I am here today to provide information about HB 3141.

Under workers' compensation law, most workers are subject to coverage unless they are specifically exempted. The law currently contains a number of exemptions, ranging from youth recreational soccer referees to certain kinds of volunteers. There are also case law tests we use to determine whether a person is an independent contractor and thus not subject to workers' compensation coverage.

This bill exempts "direct sellers" from being subject to workers' compensation coverage. The language applies broadly to all sellers of consumer goods other than home improvements outside a retail establishment who work for commission or profit share. Though the concept has been brought forward by one particular business, the language in the bill is very broad and covers a wide range of commission-based sellers of consumer goods.

The legislature provides the policy direction about what categories of workers should be subject to the workers' compensation law. We do not have a position on this bill, but wanted to provide you information about what it means to be exempted from the workers' compensation law.

First, passage of the bill will remove the ability for these workers to file a claim for workers' compensation benefits. This means if they are hurt in the course and scope of their employment, they will not have access to medical care, wage replacement benefits, or return to work assistance offered by the workers' compensation law.

Second, passage of the bill will mean that the employer may be exposed to civil court litigation. The Oregon courts have consistently held that a person not entitled to workers' compensation benefits is still eligible to pursue their constitutional remedy for harm in circuit court. This bill removes the exclusive remedy aspect of workers' compensation law for the businesses that use direct sales people (as defined in the bill).

Lastly, I wanted to let you know that this bill has not yet been reviewed by the Workers' Compensation Management-Labor Advisory Committee, but we expect it will be on an upcoming agenda.

I would be happy to answer any questions.