

Senate Bill 678

Sponsored by Senators THOMSEN, MONNES ANDERSON; Senators BAERTSCHIGER JR, GEORGE, HANSELL, JOHNSON, OLSEN, ROBLAN, STEINER HAYWARD, WHITSETT, Representative MATTHEWS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Extends exclusive remedy protections of workers' compensation statutes to partners, limited liability company partners, general partners limited liability partners and limited partners.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to exclusive remedy protections of workers' compensation statutes; amending ORS 656.018;
3 and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 656.018 is amended to read:

6 656.018. (1)(a) The liability of every employer who satisfies the duty required by ORS 656.017 (1)
7 is exclusive and in place of all other liability arising out of injuries, diseases, symptom complexes
8 or similar conditions arising out of and in the course of employment that are sustained by subject
9 workers, the workers' beneficiaries and anyone otherwise entitled to recover damages from the em-
10 ployer on account of such conditions or claims resulting therefrom, specifically including claims for
11 contribution or indemnity asserted by third persons from whom damages are sought on account of
12 such conditions, except as specifically provided otherwise in this chapter.

13 (b) This subsection shall not apply to claims for indemnity or contribution asserted by a rail-
14 road, as defined in ORS 824.020, or by a corporation, individual or association of individuals which
15 is subject to regulation pursuant to ORS chapter 757 or 759.

16 (c) Except as provided in paragraph (b) of this subsection, all agreements or warranties contrary
17 to the provisions of paragraph (a) of this subsection entered into after July 19, 1977, are void.

18 (2) The rights given to a subject worker and the beneficiaries of the subject worker under this
19 chapter for injuries, diseases, symptom complexes or similar conditions arising out of and in the
20 course of employment are in lieu of any remedies they might otherwise have for such injuries, dis-
21 eases, symptom complexes or similar conditions against the worker's employer under ORS 654.305
22 to 654.336 or other laws, common law or statute, except to the extent the worker is expressly given
23 the right under this chapter to bring suit against the employer of the worker for an injury, disease,
24 symptom complex or similar condition.

25 (3) The exemption from liability given an employer under this section is also extended to the
26 employer's insurer, the self-insured employer's claims administrator[,] **and** the Department of Con-
27 sumer and Business Services, and **to** the contracted agents, employees, **partners, limited liability**
28 **company members, general partners, limited liability partners, limited partners,** officers and
29 directors of the employer, the employer's insurer, the self-insured employer's claims administrator
30 and the department, except that the exemption from liability shall not apply:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (a) Where the injury, disease, symptom complex or similar condition is proximately caused by
2 willful and unprovoked aggression by the person otherwise exempt under this subsection;

3 (b) Where the worker and the person otherwise exempt under this subsection are not engaged
4 in the furtherance of a common enterprise or the accomplishment of the same or related objectives;
5 or

6 (c) Where the injury, disease, symptom complex or similar condition is proximately caused by
7 failure of the employer to comply with the notice posted pursuant to ORS 654.082.

8 (4) The exemption from liability given an employer under this section applies to a worker leasing
9 company and the client to whom workers are provided when the worker leasing company and the
10 client comply with ORS 656.850 (3).

11 (5)(a) The exemption from liability given an employer under this section applies to a temporary
12 service provider, as that term is used in ORS 656.850, and also extends to the client to whom
13 workers are provided when the temporary service provider complies with ORS 656.017.

14 (b) The exemption from liability given a client under paragraph (a) of this subsection is also
15 extended to the client's insurer, the self-insured client's claims administrator, the department, and
16 the contracted agents, employees, officers and directors of the client, the client's insurer, the self-
17 insured client's claims administrator and the department, except that the exemption from liability
18 shall not apply:

19 (A) When the injury, disease, symptom complex or similar condition is proximately caused by
20 willful and unprovoked aggression by the person otherwise exempt under this subsection;

21 (B) When the worker and the person otherwise exempt under this subsection are not engaged
22 in the furtherance of a common enterprise or the accomplishment of the same or related objectives;
23 or

24 (C) When the injury, disease, symptom complex or similar condition is proximately caused by
25 failure of the client to comply with the notice posted pursuant to ORS 654.082.

26 (6) Nothing in this chapter shall prohibit payment, voluntarily or otherwise, to injured workers
27 or their beneficiaries in excess of the compensation required to be paid under this chapter.

28 (7) The exclusive remedy provisions and limitation on liability provisions of this chapter apply
29 to all injuries and to diseases, symptom complexes or similar conditions of subject workers arising
30 out of and in the course of employment whether or not they are determined to be compensable under
31 this chapter.

32 **SECTION 2. Notwithstanding any other provision of law, the amendments to ORS 656.018**
33 **by section 1 of this 2013 Act apply to all claims or causes of action existing or arising on or**
34 **after the effective date of this 2013 Act regardless of the date of injury or the date the claim**
35 **is presented.**

36 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**
37 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
38 **on its passage.**