



AOI TESTIMONY ON HOUSE BILL 4143

HOUSE JUDICIARY COMMITTEE

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Associated Oregon Industries

AOI opposes House Bill 4143.

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Since 1973, Oregon law has included an important protection for Oregon businesses against potentially abusive class action processes. House Bill 4143 would make Oregon a less desirable place for business by diminishing these protections and making it easier for class action plaintiffs to obtain large damage awards against companies. In particular, it would do the following:

Current law requires that a judgment in a class action must specify or describe individuals found to be members of the class. If the judgment includes a monetary award in favor of the class, it must identify by name each member of the class and the amount to be recovered by each. Therefore, no judgment can be entered before the class claims process is completed, and the amount of the judgment is limited by the number of individuals who actually file a valid claim form. This means that class action damages go only to those who deserve them.

In contrast, HB 4143 would allow judgments to be entered without such specificity, but rather allow the judgment to merely "generally" describe the members of the class and specify the identity of only those persons who have as a condition of exclusion agreed to be bound by the judgment. It would eliminate the need to identify by name each class member who is to benefit from a judgment and the amount of his or her recovery.

HB 4143 would also permit a court to eliminate the claims process altogether by finding that payment of damages to class members is not practicable. In that event, amounts not claimed and paid to class members would need to be paid to the Oregon Rainy Day Fund. Even if the court uses a claims process, the amount of damages unclaimed would need to be paid by the defendant to the fund. This would result in the payment of damages even though damages are not claimed by class members, thus increasing the likelihood that plaintiffs' lawyers will have an incentive to file more class action lawsuits.

Current class action protections for business have been in place in Oregon for 40 years. AOI does not believe there is any reason to roll back these well established and properly functioning laws.