

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass

Vote: 9 - 0 - 0

Yeas: Barton, Cameron, Hicks, Krieger, Lininger, Olson, Tomei, Williamson, Barker

Nays: 0

Exc.: 0

Prepared By: Channa Newell, Counsel

Meeting Dates: 2/20

WHAT THE MEASURE DOES: Prohibits bad-faith claims of patent infringement. Allows recipient of claim to bring action under Unlawful Trade Practices Act. Permits Attorney General to investigate bad-faith claims and specifies acts or omission that court may consider in finding bad-faith claim. Specifies acts that evidence infringement claim made in good faith. Becomes operative 91 days after effective date. Declares emergency; effective on passage.

ISSUES DISCUSSED:

- Patent aggregating entities
- Oregon home builders receiving demand for patent infringement based on use of fan for ventilation
- Examples of good-faith claim
- Multiple patents on common software or hardware features

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Article One, Section 8(8) of the U.S. Constitution states that “Congress shall have power to...promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.” Patent infringement is subject to federal jurisdiction and is litigated in federal courts, but states may pass laws dealing with aspects of patent claims, so long as they do not conflict with the goals and objectives of federal patent law.

Senate Bill 1540-A prohibits claiming a bad-faith patent infringement and allows a person who has received a bad-faith claim to bring an action under the Unlawful Trade Practices Act. It also allows a prosecuting attorney to investigate the claims and gives directions to the court on factors to consider in bad-faith claim determinations.