

REVENUE: No revenue impact

FISCAL: No fiscal impact

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Action:

Vote:

Yeas:

Nays:

Exc.:

Prepared By: Laura Handzel, Administrator

Meeting Dates: 5/28, 6/1

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**WHAT THE MEASURE DOES:** Prohibits contracts allowing use of property or facilities by education providers, or by nonprofit organizations providing services to youths, from requiring individual participant to indemnify property owner for damages not caused by individual participant. Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Applications to rural Oregon
- Waivers versus indemnification
- Problems with comprehension and implications of indemnity clauses
- Shift in liability and contingent liability
- Required financial disclosures
- Amendments
- Contracts of adhesion
- *Bagley v. Mt. Bachelor, Inc.* (2013)
- Consumer protection
- Insurance concerns
- Exemption for nonprofit property landowners

**EFFECT OF COMMITTEE AMENDMENT:** Proposed -A2 amendment clarifies term “educational provider”.

**BACKGROUND:** The inclusion of indemnification clauses within contracts has become increasingly popular in Oregon. In some instances, the breadth of such indemnification clauses has broadened greatly. Often, the individuals signing the contracts do not understand exactly what they are signing nor do they understand the resulting shift in liability. This is especially problematic when such contract clauses are used to protect property or facilities used by educational providers or by nonprofit organizations providing services to youths.

House Bill 3452-A prohibits indemnification by contract of the owner of a property or facility used by an educational provider, or by a nonprofit organization providing services to youths, for damages not caused by an individual participant. House Bill 3452-A voids contract provisions that fail to comply. The bill applies only to contracts entered into on or after the effective date. It declares an emergency and is effective on passage.

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*This summary has not been adopted or officially endorsed by action of the committee.*