

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
House Committee On Judiciary

MEASURE: HB 3452 A
CARRIER: Rep. McLane

Fiscal: No Fiscal Impact

Revenue: No Revenue Impact

Action Date: 04/16/15

Action: Do Pass As Amended And Be Printed Engrossed.

Meeting Dates: 04/14, 04/16

Vote:

Yeas: 7 - Barker, Barton, Greenlick, Lininger, Olson, Post, Williamson

Exc: 2 - Krieger, Sprenger

Prepared By: Laura Handzel, Administrator

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:

- Types of facilities at issue
- Appropriate applications of limiting liability
- Appropriate uses of waivers
- Unilateral contracts
- Indemnification and severity of consequences
- Lack of understanding of indemnification and breadth of implications
- Impact of indemnification on individuals and families
- Disclosure to financial institutions
- Need for legislative fix
- Umbrella insurance policies
- Vicarious liability of parents for kids' actions
- Proposed -1 amendments

EFFECT OF COMMITTEE AMENDMENT:

Expands application to include educational providers in addition to nonprofit organizations providing services to youths.

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.