

April 5, 2017

Via E-mail [srules.exhibits@oregonlegislature.gov]

Senator Ginny Burdick
Chair, Senate Rules Committee

Re: Senate Bill 901
Our File No.: WES 158-1

Dear Chair Burdick and Members of the Senate Rules Committee:

My name is Tim Bernasek, an attorney at Dunn Carney, here to testify in support of SB 901 on behalf of the Western Hockey League and the Portland Winterhawks. With me are Ron Robison, Commissioner of the Western Hockey League, and Doug Piper, President of the Portland Winterhawks.

As you may know, Portland Winterhawks players are registered amateur athletes under rules established by USA Hockey and Hockey Canada, the governing bodies for amateur hockey (and Olympic hockey) in the United States and Canada. The Portland Winterhawks are members of the Western Hockey League (one of only five teams in the U.S.; the other 17 teams in the Western Hockey League are in Canada). The Western Hockey League is a member of the Canadian Hockey League (CHL).

As amateur athletes, Portland Winterhawks players have traditionally been exempted from Oregon's workers' compensation system. ORS 656.027(13) specifically provides that persons declared to be amateur athletes under the rules of the U.S. Olympic Committee or the Canadian Olympic Committee are exempt from workers' compensation coverage. Similarly, as amateur athletes, such players have not been considered employees for purposes of Oregon's employment laws.

However, a class action lawsuit has been commenced in Canada alleging that all CHL players, including Portland Winterhawks/WHL players, should be considered employees. In response, the state of Washington (2015 SB 5893 - Senate vote 47-1 and House vote 91-7) and Canadian provinces of British Columbia, Saskatchewan, and Nova Scotia have clarified that their respective employment laws/employment standards do not apply to such players and have thus ensured the current understanding that such players are not employees is maintained. SB 901 would do the same in Oregon.



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SB 901 uses the exemption in the workers' compensation statutes and specifically applies it to Oregon's employment statutes. While preparing this legislation and during discussions with Legislative Counsel, it was determined that the current amateur exemption in ORS 656.027 could use some updating. For example, while it is likely that at the time this exemption was initially passed, all amateur hockey players were from either the United States or Canada, some now come from other countries. In addition, since some Olympic athletes in the United States and Canada are in fact professionals (NBA players, NHL players, etc.), some uncertainty arose as to whether or not U.S. and Canada Olympic committees continue to declare amateur status of athletes generally. Accordingly, it was important to include a provision indicating that amateur athletes who are registered under a national or state body that is recognized as the governing body for amateur athletics under the Ted Stevens Olympic and Amateur Sports Act (36 USC 22051) would also be exempt. Portland Winterhawks players are registered with USA Hockey and Hockey Canada which are the amateur governing bodies for amateur hockey in the United States and Canada.

It is my understanding that at least in practice, amateur athletes (elementary, high school, college student athletes and those in various adult leagues, etc.) are not included in the workers' compensation system currently. SB 901 clarifies this in statute and then specifically applies this exemption to Oregon's employment laws as well. Thank you for the opportunity to testify today in support of SB 901 and I urge your support of the bill. I am happy to address any questions you might have about SB 901.

Very truly yours,

Timothy J. Bernasek

TJB:kah

cc: Ron Robison, via email
Doug Piper, via email

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