

Sen. Lee Bayer



Coalition to Restore  
Recreational Immunity

**TO: Senate Committee on Judiciary**  
**FROM: Coalition to Restore Recreational Immunity**  
**RE: Support for SB 327 A**  
**DATE: April 10, 2017**



With appreciation for the work done by all stakeholders involved in the recreational immunity issue and for the Chair of the Judiciary Committee's leadership, we ask that you support A-Engrossed SB 327, restoring Oregon's recreational immunity provisions.

The Oregon Public Use of Lands Act passed in 1995 with a goal of encouraging *public and private* owners of land to make their land available to the public for recreational purposes. It was understood that landowners, *both public and private*, who made their land available without charge for recreational use by the public were not liable if a person was injured while using the land for recreational purposes.

The Act increased the availability of land for free recreation by limiting liability to cities, counties, parks, schools and a wide range of private owners, including farmers and timber companies that allow hunters, anglers, hikers, mountain bikers and other members of the public to use or traverse their lands at no charge.

However, a recent Oregon Supreme Court decision narrowed the immunity guaranteed in the Act, which could result in a severe reduction of land available to Oregonians for their recreational use and enjoyment.

In *Johnson v. Gibson*, the Oregon Supreme Court held that when the Legislature passed the Public Lands Act, it intended only to immunize the actual landowner, and never intended recreational immunity to protect employees or agents acting on behalf of the landowners. However, if you ask those involved in the Act's passage and if you listen to legislative intent, this is not what was meant.

If this ruling is allowed to stand, it will undermine a landowner's recreational immunity from tort liability under the Act. Because public employers are statutorily required to indemnify their employees, those landowners will in fact be responsible for the actions of their employees that result in injury.

Landowners must now weigh whether allowing the public to recreate on their land and in their facilities is worth the increased risk of liability.

In light of the decision in *Johnson*, we merely seek to amend ORS 105.672 to restore recreational immunity as the Legislature originally intended. Language will simply confirm that a landowner's officers, employees, agents or volunteers who are acting within the scope of their employment or duties are also covered.

### **Members of the Coalition to Restore Recreational Immunity:**

Association of Oregon Counties	Metropolitan Mayor's Consortium
Central Oregon Cities Organization Oregon	North Clackamas Parks & Recreation District
City of Beaverton	Oregon Bicycle Racing Association
City of Bend	Oregon Cattlemen's Association
City of Coburg	Oregon Counties
City of Cottage Grove	Oregon Dairy Farmers
City of Creswell	Oregon Farm Bureau
City of Dunes City	Oregon Forest Industries Council
City of Eugene	Oregon Health & Sciences University
City of Florence	Oregon Institute of Technology
City of Gresham	Oregon Public Ports Association
City of Hillsboro	Oregon Recreation and Park Association
City of Lowell	Oregon School Boards Association
City of Medford	Oregon Seed Council
City of Oakridge	Oregon Small Woodlands Association
City of Oregon City	Oregon State University
City of Portland	Oregon Water Resources Congress
City of Salem	Oregonians in Action
City of Springfield	Port of Portland
City of Veneta	Portland General Electric
City of West Linn	Portland State University
Clackamas County	Power Sports
Clackamas River Water	Southern Oregon University
Coalition of Oregon Land Trusts	Special Districts Association of Oregon
Disciples of Dirt	Travel Lane County
Eastern Oregon University	University of Oregon
Friends of Nadaka	Washington County
Lane County	Western Oregon University
League of Oregon Cities	Winegrowers Association
Metro	

### **Entities who passed Resolutions Supporting Restoring Recreational Immunity Rights:**

Bend Park & Recreation District	Port of Cascade Locks
Bly Rural Fire Protection District	Port of the Dalles
Central Lincoln PUD	Port of Morrow
Chehallem Parks and Recreation District	Port of Newport
City of Beaverton	Port of St. Helens
City of La Grande	Port of Tillamook Bay
City of Oregon City	Port of Umpqua
City of Redmond	Redmond Area Park and Recreation District
City of Stayton	Rockwood People's Utility District
City of West Linn	Rogue Valley Sewer Services
Clatskanie PUD	Sisters Park and Recreation District
Cloverdale Sanitary District	SW Lincoln County Water District
Emerald Peoples Utility District	Tualatin Hill Parks and Recreation District
Fern Ridge Library District	Tualatin Valley Fire District
Grant County Transportation District	West Extension Irrigation District
Hermiston Irrigation District	