



**HB 4093A**  
**Briefing Statement**  
**February 2018**

**Introduction**

The Portland Winterhawks and the Western Hockey League (WHL) request your support in addressing an issue of critical importance to the game of hockey and amateur sport in Oregon.

The Western Hockey League, which just celebrated its 50th year of operation this past season, consists of twenty-two (22) member clubs located in the four (4) Western Canadian provinces of Manitoba, Saskatchewan, Alberta and British Columbia and the two (2) U.S. Pacific Northwest states of Washington and Oregon.

The Portland Winterhawks, who are celebrating their 42nd season this year, are the WHL's longest standing U.S. member club and is the only WHL franchise in the state of Oregon.

The WHL is a member of the Canadian Hockey League (CHL), which also comprises the Ontario Hockey League (OHL) and the Quebec Major Junior Hockey League (QMJHL). The CHL consists of sixty (60) teams in total (WHL 22; OHL 20; and QMJHL 18).

The CHL, including the WHL, is a partner organization of Hockey Canada, the governing body for hockey in Canada. The Portland Winterhawks, and all U.S. based teams, are registered members of USA Hockey, the governing body for amateur hockey in the United States. All WHL players are registered with both USA Hockey and Hockey Canada which are the governing bodies of amateur hockey in the United States and Canada.

WHL teams are a top supplier of talent to the National Hockey League (NHL), a professional hockey league. The WHL is also one of the largest providers of hockey scholarships in North America having awarded over 5,500 post-secondary scholarships since 1993.

The Portland Winterhawks, along with the other 21 WHL member clubs, not only provides players with the opportunity to play at the highest level of the American and Canadian amateur systems, but also provides its community with highly popular and affordable family entertainment.

The Winterhawks and all WHL clubs are also major tenants of publicly supported arenas; significant drivers of economic impact in the community and surrounding region; and key contributors to local charitable organizations and minor hockey programs.

## **The Issue**

A class action lawsuit has been commenced in Toronto, Canada alleging that all CHL players (including Portland Winterhawks/ WHL players) should be classified as “employees” as defined by employment standards legislation in each province in Canada and in Oregon and Washington. A similar class action lawsuit was filed in Alberta specifically claiming that WHL teams and players in Western Canada and the states of Washington and Oregon should be governed by employment legislation in those jurisdictions.

The claim is that young amateur athletes between the ages of 16 and 20, many of whom play hockey while they are attending high school or are enrolled in post-secondary courses, are “working” and that they should be covered by minimum wage, overtime, and related provisions. These players however, with their parents’ consent, have made the decision to play at the highest level of competition for their age group in the American and Canadian amateur hockey systems rather than playing for other junior hockey teams at lower levels.

The CHL class action lawsuit is for \$180 million while the WHL class action lawsuit is for \$60 million. Possible damages are mounting at a pace of as much as \$17 million per year.

The class action lawsuits are now before the courts and the CHL, OHL, WHL, QMJHL and all member teams intend to vigorously defend the claims and the quality of the player experience. The WHL and CHL have worked extremely hard over the last decade to continually review, refine and improve the player experience. The world class player experience and commitment to the development of team players, both on and off the ice, extends much further than some may realize.

Not only do all WHL Clubs provide the highest caliber coaching and training facilities available to amateur hockey players, the WHL also offers extensive health and safety initiatives; top-of-the-line equipment; billeting; team travel costs and player out of pocket expenses. Furthermore, all WHL clubs also offer professional development initiatives within the WHL Players First Support Services program, including a league-wide security network; police mentorship; mental health and respect workshops.

The WHL supports its players whether they continue their hockey careers at the professional level or pursue their education at a post-secondary institution/trade school of their choice by taking advantage of their fully-guaranteed WHL Scholarship.

### **The Risk**

Those involved in amateur sport organizations in Canada and the United States firmly understand that amateur sport is not “work” and amateur athletes are not “employees.”

**The concern for the WHL and the Portland Winterhawks is that, outside the workers compensation statutes in ORS 656.027, Oregon’s employment statutes do not specifically address this issue. Amateur hockey players with the Portland Winterhawks (and other WHL Clubs) have never been considered “employees” and the WHL/ Portland Winterhawks need the Oregon Legislature’s assistance to confirm the current understanding and practice that its employment statutes do not apply to elite junior amateur hockey players playing for the Portland Winterhawks.**

If the class action lawsuit against the CHL and WHL succeeds, it will have a catastrophic impact on the Portland Winterhawks. Without an exemption for these junior amateur hockey players under Oregon law, the Portland Winterhawks will be forced to either declare bankruptcy or relocate to a province in Canada or a state (like Washington) where the exemption is in place. It would be hard to comprehend Oregon losing its only WHL franchise, the Portland Winterhawks, under these circumstances.

In addition, the Portland Winterhawks are working with the Tualatin Hills Park and Recreation Department (THPRD) in a public/private partnership to build and develop two new sheets of ice for skating and hockey development throughout the metro region. This new development will allow for more skating and hockey events- including those aimed at youth development and communities that have traditionally been underserved due to limited capacity. This public/private partnership relies on stability for the Portland Winterhawks going into the future and such stability is lacking given the current litigation.

The WHL and the CHL are focused on player education and development. All high school players are required to graduate in a timely fashion. Over 20% of all WHL high school students achieve honor student status each year.

All WHL Clubs, including the Portland Winterhawks, are required to fund a mandatory scholarship for all players on their team. For each year played, a player receives a full scholarship at the post-secondary institution of their choice. This scholarship funding can also be used to pursue training related to technical trades including computer science, electrician, plumbing, etc. This provision ensures the majority of players who do not move on to a professional hockey career can pursue a post-secondary education or other development in the trades. Should the WHL not successfully defend the class action lawsuit, players and their families will be at risk of losing this extensive education

development benefit and the number of CHL and WHL teams will be reduced. This, in turn, will eliminate opportunities many players will have to play in what is regarded as the finest development league of its kind in the world today.

## **The Solution**

The Portland Winterhawks and the WHL request that the Oregon Legislature add clarity to its employment statutes that amateur athletes are not employees while engaging in amateur athletic activities. HB 4093A would accomplish this.

We need to arrive at a clear and common sense solution. A 16 or 17 year-old amateur hockey player should not be classified as an employee. Minimum wage, hours of work, overtime, and related provisions should not apply to amateur hockey players.

It is important to note that in 2014, the Government of Saskatchewan responded to these concerns by introducing an employment standards exemption, which indicates that its employment standards legislation does not apply to “athletes while engaged in activities related to their athletic endeavor” Regs. RRS c S-15.1, 5(c)).

In 2015, the State of Washington also passed an exemption providing that, for employment standards purposes, the term “employees” does not include junior hockey players. The legislation, Senate Bill 5893, passed in the Senate with a vote of 47-1 and the House with a vote of 91-7.

In February 2016, the Province of British Columbia reviewed this issue and acted to save WHL hockey in its communities by confirming that its employment standards legislation does not apply to players on major junior hockey teams where those players are student athletes supported by the WHL Scholarship program.

In July 2016, the Nova Scotia government adopted similar changes to their Labour Standards Code to exempt amateur student athletes from the employment legislation. New Brunswick added an amateur student athlete exemption in April 2017.

Just last fall the state of Michigan adopted an exemption for amateur hockey players (SB 485- Senate vote 36-1, House vote 107-3).

The Portland Winterhawks and the WHL respectfully request that the Oregon Legislature pass HB 4093A to take similar action and confirm that Oregon’s employment provisions do not apply to amateur athletes in the state. **Last Session a similar bill, Senate Bill 901A, passed out of the Oregon Senate on a 30-0 vote on April 11, 2017.**

HB 4093A provides a definition of an “amateur athlete” for purposes of Oregon’s employment laws and provides a mechanism for amateur sports organizations to qualify participating athletes as amateurs.

The Portland Winterhawks and the WHL appreciate your consideration of this request and hope that you will take the necessary steps to preserve the WHL's Portland Winterhawks so that young athletes can continue to enjoy the benefits of sport in Oregon for generations to come. **Please vote yes on HB 4093A.**