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Via E-Mail [swf.exhibits@oregonlegislature.gov]

Senator Taylor
Chair, Senate Committee on Workforce

Re: HB 4093A
Our File No.: WES 158-1

Dear Senator Taylor and members of the Senate Committee on Workforce:

My name is Tim Bernasek and I am an attorney at Dunn Carney in Portland. I represent the Portland Winterhawks and the Western Hockey League and I am here to testify in support of HB 4093A. You will notice that the provisions in HB 4093A are very similar to those contained in SB 901A that was considered during the 2017 Legislative Session.

The Portland Winterhawks players are 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, class action lawsuits have commenced in Ontario and Alberta alleging that all CHL players (including Portland Winterhawks/WHL players) should be considered employees. In response, the states of Washington (2015 SB 5893 - Senate vote 47-1 and House vote 91-7) and Michigan (2017 SB 485- Senate vote 36-1 and House vote 107-3), and Canadian provinces of British Columbia, Saskatchewan, Prince Edward Island, New Brunswick, Manitoba, and Nova Scotia have clarified that their respective employment laws/employment standards do not apply to such players. HB 4093A would do the same in Oregon.



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Last session, the Legislature considered SB 901A which would have taken existing exemption for amateur athletes in ORS 656.027(13) and applied the exemption to other Oregon employment statutes. Although SB 901A received unanimous support in the Senate, Representative Holvey indicated that he thought the Legislature should take a closer look at how best to deal with the amateur athlete exemption generally. SB 901A did not make it out of this committee.

During the interim, I met several times with Representative Holvey and his staff. In those meetings, Representative Holvey and I discussed possible ways to address the amateur athlete issue in a general sense. He had an amendment drafted that provided criteria regarding the definitions of "amateur athlete" and the "amateur sports organizations" that can verify who qualifies as an amateur athlete.

The amendments drafted by Representative Holvey were adopted by the House Business and Labor Committee and are part of what is now HB 4093A. I appreciate your consideration of this issue again and on behalf of the Portland Winterhawks and the Western Hockey League, I urge you to support HB 4093A.

Very truly yours,



Timothy J. Bernasek

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Attachments

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