



A STRONG VOICE FOR OREGON'S WORKERS

TO: Chairs Courtney and Kotek
Vice-Chairs Girod and Drazan
Members of the Joint Interim Committee on the First Special Session of 2020

FR: Jessica Giannettino Villatoro, Political Director, Oregon AFL-CIO

RE: Support for OSHA Infectious Disease Standard and Opposition to Isolation Shelter Liability Limits

June 22, 2020

Workplace outbreaks are happening across the state. [From Townsend Farms](#) to [Pacific Seafood](#), the state has a responsibility to ensure that regulations in place are to protect these workers. These hotspots are occurring now, and without clear, consistent, and enforceable guidance these outbreaks will become normalized and workers will continue to get sick.

LC 68 and LC 45 contain a directive to DCBS and Oregon OSHA to adopt an infectious disease standard to ensure workers who are continuing to show up every day have the protections they need to reduce risk of contracting the Coronavirus. Here are some reasons why this standard is needed:

- Oregon operates one of 21 state plans under the Federal OSHA framework, which means that we can exceed Federal Guidance to protect workers
- Under the Obama Administration, Federal OSHA underwent an over 5 years long process to adopt an Infectious Disease Standard to protect frontline healthcare workers from airborne pathogens. This rule was intended to be adopted in 2017. This rulemaking began after H1-N1 in 2010. When President Trump took office and adopted a “no new regulations” stance he rolled back the process to adopt the standard and then rolled back additional PPE standards. [1]
- There is currently no existing regulatory framework that comprehensively addresses an employer’s obligation to protect workers against airborne pathogens, like the Coronavirus.
- Guidance related to worker safety is time limited as it is largely tied to the Governor’s executive order. Additionally, inconsistent guidance that changes with phasing isn’t easy for employers to comply with or for workers to understand what should be done to ensure their safety.
- Addressing employer concerns about increased liability:
 - There is **No Private Right of Action** associated with OSHA rulemaking
 - Additionally, Oregon OSHA maintains the lowest fine structure across state plans
 - Employers will be part of the rulemaking process that LC 68 instructs DCBS/WCD to undergo
- LC 68 calls for an emergency temporary standard to be enacted by August 1, 2020 because Oregon’s workers have been exposed for over 3 months already and need clear guidance to ensure their safety. It also calls for the agency to produce a permanent rule so that Oregon isn’t without guidance again should there be a subsequent pandemic

Additionally, the consideration of hotel immunity feels premature for this session. The medical immunity conversation has taken place over a period of weeks and involved stakeholders from a variety of perspectives. To our knowledge, that has not occurred with this industry immunity conversation. The medical industry has also been the focus of a variety of state and federal agencies work to create guidelines for frontline workers, hotel workers that are comprised of mostly women of color haven’t had the benefit of months of this work. To put these workers at increased risk of working in a hot spot, with little

guidance on how to handle this infectious disease and without requirements on employers to keep them safe is dangerous. These workers should at least have the right to refuse this dangerous work, without a reduction in benefits, pay or seniority.

[1] <https://www.npr.org/2020/05/26/862018484/trump-team-killed-rule-designed-to-protect-health-workers-from-pandemic-like-cov>