House Bill 3115
Sponsored by Representative KOTEK

SUMMARY
The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Provides that local law regulating sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness. Creates affirmative defense to charge of violating such local law that law is not objectively reasonable. Creates cause of action for person experiencing homelessness to challenge objective reasonableness of such local law. Authorizes court to award attorney fees to prevailing plaintiff in such suit in certain circumstances.
Declarations emergency, effective on passage.

A BILL FOR AN ACT
Relating to the regulation of public property with respect to persons experiencing homelessness; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:
(a) “City or county law” does not include policies developed pursuant to ORS 203.077 or 203.079.
(b)(A) “Keeping warm and dry” means using measures necessary for an individual to survive outdoors given the environmental conditions.
(B) “Keeping warm and dry” does not include using any measure that involves fire or flame.
(c) “Public property” has the meaning given that term in ORS 131.705.

(2) Any city or county law that regulates the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be objectively reasonable as to time, place and manner with regards to persons experiencing homelessness.

(3) It is an affirmative defense to a charge of violating a city or county law described in subsection (2) of this section that the law is not objectively reasonable.

(4) A person experiencing homelessness may bring suit for injunctive or declaratory relief to challenge the objective reasonableness of a city or county law described in subsection (2) of this section. The action must be brought in the circuit court of the county that enacted the law or of the county in which the city that enacted the law is located.

(5) For purposes of subsections (2) and (3) of this section, reasonableness shall be determined based on the totality of the circumstances, including, but not limited to, the impact of the law on persons experiencing homelessness.

(6) In any suit brought pursuant to subsection (4) of this section, the court, in its discretion, may award reasonable attorney fees to a prevailing plaintiff if the plaintiff:
(a) Was not seeking to vindicate an interest unique to the plaintiff; and
(b) At least 90 days before the action was filed, provided written notice to the governing

NOTE: Matter in boldfaced type in an amended section is new; matter in italic and bracketed is existing law to be omitted. New sections are in boldfaced type.

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body of the city or county that enacted the law being challenged of an intent to bring the
action and the notice provided the governing body with actual notice of the basis upon which
the plaintiff intends to challenge the law.

(7) Nothing in this section creates a private right of action for monetary damages for any
person.

SECTION 2. Section 1 of this 2021 Act becomes operative on July 1, 2023.

SECTION 3. This 2021 Act being necessary for the immediate preservation of the public
peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
on its passage.