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**OTLA Testimony on HB 2571**  
**House Subcommittee on Civil Law**  
**February 11<sup>th</sup>, 2021**

Chair Power and Members of the Committee,

Coming into yesterday's hearing, OTLA was neutral on HB 2571. OTLA opposes changing to a gross negligence standard in the event of escaped prescribed fires. The wildfires from last year were devastating to thousands of Oregonians who lost their homes, animals and suffered damage to their property. We know prescribed fires are an effective way to limit the impacts of these fires in the future, but we need to make sure we are acting reasonably to protect people.

We also understand that there is an insurance issue at hand. As written, HB 2571 allows us to get to the root of this problem by studying the why insurance companies refuse to cover prescribed fires and how it has worked in states that have made this change. This would allow time to develop the data and figure out a best way to address this problem.

By changing the standard to gross negligence, you are leaving homeowners and businesses at risk in the event of damage due to an escaped fire.

Someone being negligent means that they are not following a reasonable standard of care for the actions they are taking. This could be someone who fails to follow simple protocols that are put in place to conduct these fires safely. Reasonable care is not just something we should expect when fires are conducted, we should demand it. If someone who loses their home wants to prove gross negligence due to a botched escaped fire, they would fundamentally have to prove that the entity intended to cause the damage. This type of action puts the victimized homeowner at risk of being on the hook for their damages, especially since then must undertake the arduous task of getting their own insurance company to handle their claim. In the wake of the recent wildfires, we have found too many instances in which residents who have suffered damage have had unnecessary delays and denials of settlements and payments.

The courts already do a good job of weighing the circumstances in each case to determine where fault lies. When negligence or failure to act as a reasonable person would leads to damage, the victim should have the right to make their case in court.

Prescribed fires are important work for doing what we can to defend against the worst of future wildfires. But these fires need to be approached reasonably so we are not putting people at risk of losing everything. The damages due to negligence if a prescribed fire creates do not go away. If a victim has no practical recourse because of the heightened standard of proof, they alone bear the burden for their loss.

It is important we do the research to understand what the barriers are to insurance, as HB 2571 as introduced is written to do.