



A STRONG VOICE FOR OREGON'S WORKERS

TO: Chair Power
Members of the Subcommittee on Civil Law

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

RE: Opposition to HB 2638, Immunity for Oregon's Employers

February 23, 2021

The Oregon AFL-CIO represents 300,000 workers across the state and is a voice for all workers in the legislative process. We're 11 months into this unprecedented public health and economic crisis and Oregon's workers and undoubtedly employers have been some of the most impacted. Both constituencies want nothing more than for the state's economy to fully reopen. What seems to be missing in the calculus for HB 2638 is that reopening the economy fully cannot happen if workers and consumers don't feel safe. We have been and remain wholly opposed to immunity for Oregon's employers because workers would be less safe than they are now if this bill passed.

In addition, who this bill applies to is incredibly vague. Person is not defined anywhere in the bill, nor does the bill name a statute that it is amending so to which entities the proponents expect this to apply is unclear. For the purposes of this testimony, I'm going to assume the intent was to capture the entities covered by the last sweeping immunity proposal found in the -38 of HB 4212 during the June Special Session. There were comments made during the public hearing that HB 2638 does not apply to employer/employee relationships, as drafted that statement is inaccurate.

Some employers have gone out of their way to ensure the safety of their employees and it wouldn't be fair to not acknowledge that. However, that's not the case for all employers in the state, including Mr. Wourms' who fired him for merely asking to remain safe at work. His employer was willing to take that adverse action when there was liability, imagine what they'd be willing to do if HB 2638 were in effect. Countless employers across the state wouldn't change their behavior based on HB 2638, but what the legislature must solve for is those that would. Based on my interactions with workers over the past 11 months; who have been fired and blacklisted for attempting to access PPE, who have been told to drink out of the same cup with other colleagues as they toiled as farmworkers in the heat, and one who was ultimately forced to resign for asking a manager of a nursing home if the manager knew they were lying to coworkers and families about an exposure that had occurred prompting an outbreak— my guess is that these actors wouldn't behave better if they had immunity.

93 workers have died as the result of a workplace contraction of COVID-19 according to the Oregon Health Authority. The language found 3(d) that excludes workers compensation from the liability limit isn't so much of a policy choice as it is a nod to current law. A worker's sole remedy for the negligence that results in their exposure to workplace illness or injury is workers compensation – even after their comp claim has been denied. That means for the 52.1% of Private insured claim denials, the 45.6% of self insured denials compared to SAIF's 13.5% those workers have no remedy if they believe their employer exhibited negligence that exposed them. To consider further insulation from accountability during such a deadly time for Oregon's workers is unconscionable. We respectfully request your opposition to HB 2638.

