



Date: Feb 9, 2023

To: Chair and Members of Senate Energy and Environment Committee

From: Scott Bruun, OBI

RE: Testimony in opposition to SB 542

Madame Chair, Members of the Committee:

I am Scott Bruun, director of tax, fiscal and manufacturing policy for Oregon Business & Industry. OBI is a statewide association representing businesses from a wide variety of industries and from each of Oregon's 36 counties. In addition to being the statewide chamber of commerce, OBI is the state affiliate for the National Association of Manufacturers and the National Retail Federation. Our 1,600 member companies, more than 80% of which are small businesses, employ more than 250,000 Oregonians.

Thank you for the opportunity to testify. Respectfully, we are opposed to SB 542 in its current form.

We are opposed for several reasons: we believe it fails to adequately protect intellectual property and data privacy; we believe it will create major legal and compliance challenges for manufacturers; and we believe it will send the wrong signal at the wrong time about Oregon's culture of research and innovation.

Protecting the intellectual property of American manufacturers is one of our nation's top foreign policy priorities; while one of the most worrisome domestic issues all of us face, and worry about for our kids, is electronic data privacy. We don't believe that the language currently in SB 542 provides adequate protections for either a manufacturer's intellectual property or a consumer's data privacy.

SB 542, as written, would also create the potential for a legal "wild west" of sorts. The bill allows an individual person to file suit, or a class action to be brought, against a manufacturer who fails to comply with the bill's list of requirements, including that a manufacturer provide to anyone the tools, parts, documentation, or other devices on "fair and reasonable terms." But there is no clear indication of what "fair and reasonable" actually means. This broad right of action and lack of clarity may create an environment resulting in frivolous complaints and suits.

Another concern about SB 542 is that it lumps all consumer electronic devices together. We understand that there may be amendments coming which would carve out medical devices, which we support. But I would also note for the record that one of the primary

electronic medical devices out there today is your phone. It's what many people use to manage diabetes, as one example. We all understand the difference between software and hardware, but I would urge some caution and investigation if the committee believes it's assuring patient safety through possible amendments.

Finally, there's a larger narrative to consider. The legislature is currently looking to offer considerable support to build up Oregon's semiconductor industries. In essence, looking to build up our culture of research and development so that Oregon can be a global center for innovation and investment.

We should be cautious about the message it sends then, that if at the same we are doing that work, we are also looking to pass a bill which does not adequately protect intellectual property. People will see this nationally, even internationally, and it will factor into how they view Oregon's claim to be an innovation leader.

For all these reasons, we respectfully request that you not pass SB 542 in its current form. Thank you.

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