

Testimony of Bert Krages in Opposition to HB 2688

I am an attorney with a longstanding specialization in photography law. I oppose HB 2688 because it is overbroad and unnecessary in light of other laws that address the improper use of drones.

First, current law permits property owners and occupiers to sue drone operators for trespass when they knowingly cause a drone to enter a property without permission. Similarly, property owners and occupiers may sue for nuisance when a drone has unreasonably interfered with the enjoyment of their property. All that ORS 837.380 does beyond these common-law remedies is to provide for treble damages against those operators who have flown a drone over a property on at least one previous occasion and who have been explicitly told that the owner or occupier does not want the drone flown over the property. Treble damages may be appropriate for repeat violators who disregard notices from the owner or occupier, but are not warranted against first time violators who have innocently flown drones over a property without any intent to annoy or harass.

Second, OAR 635-065-0735 already prohibits the use of drones for angling; hunting; trapping; aiding anglers, hunters, or trappers; or interfering in lawful angling, hunting or trapping activities. Furthermore, a property owner or occupier who is aggrieved by a violation of OAR 635-065-0735 may bring an enforcement action against a violator pursuant to ORS 153.058. Thus, HB 2688 does nothing to enhance the protection of wildlife or the ability to hunt, fish, or trap beyond the laws that are currently in effect.

Third, few drone operators engage in acts that cause any sort of distress to property owners and occupiers. In fact, the vast majority of drone flights are mundane and bother no one. It would be unfair to provide property owners and occupiers with a statutory cause of action that enables them to recover treble damages and attorney fees against someone who has innocently operated a drone above a property with no intent to annoy or harass.

In summary, current law provides plenty of remedies against operators who use drones inappropriately. As such, ORS 837.380 in its current form is intended to apply only to egregious cases where drone operators have refused to respect express notifications not to have drones pass over a property.

Please vote no against HB 2688. It is both unfair and unnecessary.