

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 1576**

1 In line 2 of the printed bill, after “matters” insert “; creating new pro-
2 visions; amending ORS 17.095, 105.668, 105.672, 105.688 and 646A.589; and de-
3 claring an emergency”.

4 Delete lines 4 through 8 and insert:

5 **“SECTION 1.** ORS 646A.589 is amended to read:

6 “646A.589. (1)(a) The Attorney General may serve an investigative demand
7 upon any person that possesses, controls or has custody of any information,
8 document or other material that the Attorney General determines is relevant
9 to an investigation of a violation of ORS 646A.570 to 646A.589 or that could
10 lead to a discovery of relevant information. An investigative demand may
11 require the person to:

12 “(A) Appear and testify under oath at the time and place specified in the
13 investigative demand;

14 “(B) Answer written interrogatories; or

15 “(C) Produce relevant documents or physical evidence for examination at
16 the time and place specified in the investigative demand.

17 “(b) The Attorney General shall serve an investigative demand under this
18 section in the manner provided in ORS 646.622. The Attorney General may
19 enforce the investigative demand as provided in ORS 646.626.

20 “(2)(a) An attorney may accompany, represent and advise in confidence a
21 person that appears in response to a demand under subsection (1)(a)(A) of

1 this section. The person may refuse to answer any question on constitutional
2 grounds or on the basis of any other legal right or privilege, including pro-
3 tection against self-incrimination, but must answer any other question that
4 is not subject to the right or privilege. If the person refuses to answer a
5 question on grounds that the answer would be self-incriminating, the Attor-
6 ney General may compel the person to testify as provided in ORS 136.617.

7 “(b) The Attorney General shall exclude from the place in which the At-
8 torney General conducts an examination under this subsection all persons
9 other than the person the Attorney General is examining, the person’s at-
10 torney, the officer before which the person gives the testimony and any ste-
11 nographer recording the testimony.

12 “(3)(a) The Attorney General shall hold in confidence and may not dis-
13 close to any person any documents, including data protection assessments,
14 answers to interrogatories and transcripts of oral testimony, except that the
15 Attorney General may disclose the documents to:

16 “(A) The person that provided the documents or the oral testimony;

17 “(B) The attorney or representative of the person that provided the doc-
18 uments or oral testimony;

19 “(C) [*Employees of*] **Persons employed by** the Attorney General; or

20 “(D) An official of the United States or of any state who is authorized to
21 enforce federal or state consumer protection laws if the Attorney General
22 first obtains a written agreement from the official in which the official
23 agrees to abide by the confidentiality requirements of this subsection.

24 “(b) The Attorney General may use any of the materials described in
25 paragraph (a) of this subsection in any investigation the Attorney General
26 conducts under this section or in any action or proceeding the Attorney
27 General brings or initiates in a court or before an administrative agency in
28 connection with the investigation.

29 “(4)(a) The Attorney General may bring an action to seek a civil penalty
30 of not more than \$7,500 for each violation of ORS 646A.570 to 646A.589 or

1 to enjoin a violation or obtain other equitable relief. The Attorney General
2 shall bring the action in the circuit court for Multnomah County or the
3 circuit court of a county where any part of the violation occurred.

4 “(b) A court may award reasonable attorney fees, expert witness fees and
5 costs of investigation to the Attorney General if the Attorney General pre-
6 vails in an action under this subsection. The court may award reasonable
7 attorney fees to a defendant that prevails in an action under this subsection
8 if the court finds that the Attorney General had no objectively reasonable
9 basis for asserting the claim or for appealing an adverse decision of the trial
10 court.

11 “(c) The Attorney General shall deposit the proceeds of any recovery un-
12 der this subsection into the Department of Justice Protection and Education
13 Revolving Account, as provided in ORS 180.095.

14 “(5) Before bringing an action under subsection (4) of this section, the
15 Attorney General shall notify a controller of a violation of ORS 646A.570 to
16 646A.589 if the Attorney General determines that the controller can cure the
17 violation. If the controller fails to cure the violation within 30 days after
18 receiving the notice of the violation, the Attorney General may bring the
19 action without further notice.

20 “(6) The Attorney General shall bring an action under subsection (4) of
21 this section within five years after the date of the last act of a controller
22 that constituted the violation for which the Attorney General seeks relief.

23 “(7) The remedies available to the Attorney General under subsection (4)
24 of this section are in addition to and not in lieu of any other relief available
25 to the Attorney General or another person under other applicable provisions
26 of law. A claim available under another provision of law may be joined to
27 the Attorney General’s claim under subsection (4) of this section.

28 “(8) The Attorney General has exclusive authority to enforce the pro-
29 visions of ORS 646A.570 to 646A.589. ORS 646A.570 to 646A.589, or any other
30 laws of this state, do not create a private right of action to enforce a vio-

1 lation of ORS 646A.570 to 646A.589.

2 **“SECTION 2.** ORS 646A.589, as amended by section 11, chapter 369,
3 Oregon Laws 2023, is amended to read:

4 “646A.589. (1)(a) The Attorney General may serve an investigative demand
5 upon any person that possesses, controls or has custody of any information,
6 document or other material that the Attorney General determines is relevant
7 to an investigation of a violation of ORS 646A.570 to 646A.589 or that could
8 lead to a discovery of relevant information. An investigative demand may
9 require the person to:

10 “(A) Appear and testify under oath at the time and place specified in the
11 investigative demand;

12 “(B) Answer written interrogatories; or

13 “(C) Produce relevant documents or physical evidence for examination at
14 the time and place specified in the investigative demand.

15 “(b) The Attorney General shall serve an investigative demand under this
16 section in the manner provided in ORS 646.622. The Attorney General may
17 enforce the investigative demand as provided in ORS 646.626.

18 “(2)(a) An attorney may accompany, represent and advise in confidence a
19 person that appears in response to a demand under subsection (1)(a)(A) of
20 this section. The person may refuse to answer any question on constitutional
21 grounds or on the basis of any other legal right or privilege, including pro-
22 tection against self-incrimination, but must answer any other question that
23 is not subject to the right or privilege. If the person refuses to answer a
24 question on grounds that the answer would be self-incriminating, the Attor-
25 ney General may compel the person to testify as provided in ORS 136.617.

26 “(b) The Attorney General shall exclude from the place in which the At-
27 torney General conducts an examination under this subsection all persons
28 other than the person the Attorney General is examining, the person’s at-
29 torney, the officer before which the person gives the testimony and any ste-
30 nographer recording the testimony.

1 “(3)(a) The Attorney General shall hold in confidence and may not dis-
2 close to any person any documents, including data protection assessments,
3 answers to interrogatories and transcripts of oral testimony, except that the
4 Attorney General may disclose the documents to:

5 “(A) The person that provided the documents or the oral testimony;

6 “(B) The attorney or representative of the person that provided the doc-
7 uments or oral testimony;

8 “(C) [*Employees of*] **Persons employed by** the Attorney General; or

9 “(D) An official of the United States or of any state who is authorized to
10 enforce federal or state consumer protection laws if the Attorney General
11 first obtains a written agreement from the official in which the official
12 agrees to abide by the confidentiality requirements of this subsection.

13 “(b) The Attorney General may use any of the materials described in
14 paragraph (a) of this subsection in any investigation the Attorney General
15 conducts under this section or in any action or proceeding the Attorney
16 General brings or initiates in a court or before an administrative agency in
17 connection with the investigation.

18 “(4)(a) The Attorney General may bring an action to seek a civil penalty
19 of not more than \$7,500 for each violation of ORS 646A.570 to 646A.589 or
20 to enjoin a violation or obtain other equitable relief. The Attorney General
21 shall bring the action in the circuit court for Multnomah County or the
22 circuit court of a county where any part of the violation occurred.

23 “(b) A court may award reasonable attorney fees, expert witness fees and
24 costs of investigation to the Attorney General if the Attorney General pre-
25 vails in an action under this subsection. The court may award reasonable
26 attorney fees to a defendant that prevails in an action under this subsection
27 if the court finds that the Attorney General had no objectively reasonable
28 basis for asserting the claim or for appealing an adverse decision of the trial
29 court.

30 “(c) The Attorney General shall deposit the proceeds of any recovery un-

1 der this subsection into the Department of Justice Protection and Education
2 Revolving Account, as provided in ORS 180.095.

3 “(5) The Attorney General shall bring an action under subsection (4) of
4 this section within five years after the date of the last act of a controller
5 that constituted the violation for which the Attorney General seeks relief.

6 “(6) The remedies available to the Attorney General under subsection (4)
7 of this section are in addition to and not in lieu of any other relief available
8 to the Attorney General or another person under other applicable provisions
9 of law. A claim available under another provision of law may be joined to
10 the Attorney General’s claim under subsection (4) of this section.

11 “(7) The Attorney General has exclusive authority to enforce the pro-
12 visions of ORS 646A.570 to 646A.589. ORS 646A.570 to 646A.589, or any other
13 laws of this state, do not create a private right of action to enforce a vio-
14 lation of ORS 646A.570 to 646A.589.

15 **“SECTION 3. A court record relating to the settlement of a minor’s**
16 **claim approved under ORCP 27 I is confidential and may not be dis-**
17 **closed, except pursuant to a court order issued for good cause shown.**
18 **Good cause for purposes of this section includes, but is not limited to,**
19 **a showing that the claimant is no longer a minor.**

20 **“SECTION 4.** ORS 17.095 is amended to read:

21 “17.095. (1) A public body, or officer, employee or agent of a public body,
22 who is a defendant in an action under ORS 30.260 to 30.300, or who is a de-
23 fendant in an action under ORS 294.100, may not enter into any settlement
24 or compromise of the action if the settlement or compromise requires that
25 the terms or conditions of the settlement or compromise be confidential.

26 “(2) Notwithstanding subsection (1) of this section:

27 “(a) A public body, or officer, employee or agent of a public body, may
28 enter into a settlement or compromise that requires the terms or conditions
29 to be confidential if federal law requires terms or conditions of that settle-
30 ment or compromise to be confidential. Only terms and conditions that are

1 required to be confidential under federal law may be confidential in the
2 settlement or compromise.

3 “(b) A court may order that the terms or conditions of a settlement or
4 compromise that reveal the identity of a person be confidential if:

5 “(A) The person whose identity is revealed is a victim of sexual abuse or
6 is under 18 years of age; and

7 “(B) The court determines, by written findings, that the specific privacy
8 interests of the person outweigh the public’s interest in the terms or condi-
9 tions.

10 “(c) **A court record relating to the settlement of a minor’s claim is**
11 **confidential when required by section 3 of this 2024 Act.**

12 “(3) Any public body, or officer, employee or agent of a public body, who
13 is a defendant in an action under ORS 30.260 to 30.300, or who is a defendant
14 in an action under ORS 294.100, shall file with the court a full and complete
15 disclosure of the terms and conditions of any settlement or compromise of
16 the claims against the public body, its officers, employees or agents. The
17 disclosure shall be filed prior to the dismissal of the action.

18 “(4) For the purposes of this section:

19 “(a) ‘Action’ means a legal proceeding that has been commenced as pro-
20 vided in ORCP 3; and

21 “(b) ‘Public body’ has that meaning given in ORS 30.260.

22 “**SECTION 5.** ORS 105.668 is amended to read:

23 “105.668. (1) As used in this section:

24 “(a) **‘Local government’ has the meaning given that term in ORS**
25 **174.116.**

26 “[a] (b) ‘Structures’ means improvements in a trail, including, but not
27 limited to, stairs and bridges, that are accessible by a user on foot, on a
28 horse or on a bicycle or other nonmotorized vehicle or conveyance.

29 “[b] (c) ‘Unimproved right of way’ means a platted or dedicated public
30 right of way over which a street, road or highway has not been constructed

1 to the standards and specifications of the [city] **local government** with ju-
2 risdiction over the public right of way and for which the [city] **local gov-**
3 **ernment** has not expressly accepted responsibility for maintenance.

4 “(2) **In a city with a population of 500,000 or greater**, a personal injury
5 or property damage resulting from use of a trail that is in a public easement
6 or in an unimproved right of way, or from use of structures in the public
7 easement or unimproved right of way, by a user on foot, on a horse or on a
8 bicycle or other nonmotorized vehicle or conveyance does not give rise to a
9 private claim or right of action based on negligence against:

10 “[*a*] *A city with a population of 500,000 or more;*]

11 “(a) **The city;**

12 “(b) The officers, employees or agents of [*a city with a population of*
13 *500,000 or more*] **the city** to the extent the officers, employees or agents are
14 entitled to defense and indemnification under ORS 30.285;

15 “(c) The owner of land abutting the public easement[,] or unimproved
16 right of way[, *in a city with a population of 500,000 or more*] **in the city**; or

17 “(d) A nonprofit corporation and its volunteers for the construction and
18 maintenance of the trail or the structures in a public easement or unim-
19 proved right of way in [*a city with a population of 500,000 or more*] **the**
20 **city**.

21 “(3) [*Notwithstanding the limit in subsection (2) of this section to a city*
22 *with a population of 500,000 or more, by adoption of an ordinance or resol-*
23 *ution, a city or county*] **A local government** to which subsection (2) of this
24 section does not apply may opt to limit liability in the manner established
25 by subsection (2) of this section **by ordinance, resolution, rule, order or**
26 **other regulation** for:

27 “[*a*] *The city or county that opts in by ordinance or resolution;*]

28 “(a) **The local government;**

29 “(b) The officers, employees or agents of the [*city or county that opts in*]
30 **local government** to the extent the officers, employees or agents are enti-

1 tled to defense and indemnification under ORS 30.285;

2 “(c) The owner of land abutting the public easement[,] or unimproved
3 right of way[, *in the city or county that opts in by ordinance or resolution;*
4 *and*] **in the local government; or**

5 “(d) A nonprofit corporation and its volunteers for the construction and
6 maintenance of the trail or the structures in a public easement or unim-
7 proved right of way in the [*city or county that opts in*] **local government.**

8 “(4) [*The immunity granted by this section from a private claim or right*
9 *of action based on negligence*] **This section** does not grant immunity from
10 liability:

11 “(a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a
12 person that receives compensation for providing assistance, services or ad-
13 vice in relation to conduct that leads to a personal injury or property dam-
14 age.

15 “(b) For [*personal injury or property damage resulting from*] gross
16 negligence or [*from*] reckless, wanton or intentional misconduct.

17 “(c) For an activity for which [*a person*] **the actor** is strictly liable
18 without regard to fault.

19 **“SECTION 6.** ORS 105.672 is amended to read:

20 “105.672. As used in ORS 105.672 to 105.696:

21 “(1) ‘Charge’:

22 “(a) Means the admission price or fee requested or expected by an owner
23 in return for granting permission for a person to enter or go upon the
24 owner’s land.

25 “(b) Does not mean any amount received from a public body in return for
26 granting permission for the public to enter or go upon the owner’s land.

27 “(c) Does not include the fee for a winter recreation parking permit or
28 any other parking fee of \$15 or less per day.

29 “(2) ‘Harvest’ has that meaning given in ORS 164.813.

30 “(3) ‘Land’ includes all real property, whether publicly or privately

1 owned.

2 “(4) ‘Owner’ means:

3 “(a) The possessor of any interest in any land, including but not limited
4 to the holder of any legal or equitable title, a tenant, a lessee, an occupant,
5 the holder of an easement, the holder of a right of way or a person in pos-
6 session of the land;

7 “(b) An officer, employee, volunteer or agent of a person described in
8 paragraph (a) of this subsection, while acting within the scope of assigned
9 duties; and

10 “(c) A director, partner, general partner, shareholder, limited liability
11 company member, limited liability partner or limited partner of a person
12 described in paragraph (a) of this subsection.

13 “(5) ‘Recreational purposes’ includes, but is not limited to, outdoor ac-
14 tivities such as hunting, fishing, swimming, boating, camping, picnicking,
15 hiking, **walking, running, bicycling**, nature study, outdoor educational
16 activities, waterskiing, winter sports, viewing or enjoying historical,
17 archaeological, scenic or scientific sites or volunteering for any public pur-
18 pose project.

19 “(6) ‘Special forest products’ has that meaning given in ORS 164.813.

20 “(7) ‘Woodcutting’ means the cutting or removal of wood from land by an
21 individual who has obtained permission from the owner of the land to cut
22 or remove wood.

23 **“SECTION 7.** ORS 105.688 is amended to read:

24 “105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the
25 immunities provided by ORS 105.682 apply to:

26 “(a) All land, including but not limited to land adjacent or contiguous to
27 any bodies of water, watercourses or the ocean shore as defined by ORS
28 390.605;

29 “(b) All roads, bodies of water, watercourses, rights of way, buildings,
30 fixtures and structures on the land described in paragraph (a) of this sub-

1 section;

2 “(c) All paths, trails, roads, watercourses and other rights of way, while
3 being used by a person to reach land for recreational purposes, gardening,
4 woodcutting or the harvest of special forest products, that are on land ad-
5 jacent to the land that the person intends to use for recreational purposes,
6 gardening, woodcutting or the harvest of special forest products, [*and that*
7 *have*] **provided that:**

8 “(A) **The right of way has not been improved, designed or maintained**
9 **for the specific purpose of providing access for recreational purposes, gar-**
10 **dening, woodcutting or the harvest of special forest products; [*and*] or**

11 “(B)(i) **The right of way has been improved, designed or maintained**
12 **to provide access for recreational purposes, gardening, woodcutting**
13 **or the harvest of special forest products;**

14 “(ii) **The right of way is not a highway maintained under ORS**
15 **810.010; and**

16 “(iii) **The improvement, design or maintenance was completed in a**
17 **manner that does not constitute:**

18 “(I) **Gross negligence or reckless, wanton or intentional miscon-**
19 **duct; or**

20 “(II) **An activity for which the actor is strictly liable without regard**
21 **to fault; and**

22 “(d) All machinery or equipment on the land described in paragraph (a)
23 of this subsection.

24 “(2) The immunities provided by ORS 105.682 apply to land if the owner
25 transfers an easement to a public body to use the land.

26 “(3) Except as provided in subsections (4) to (7) of this section, the im-
27 munities provided by ORS 105.682 do not apply if the owner makes any
28 charge for permission to use the land for recreational purposes, gardening,
29 woodcutting or the harvest of special forest products.

30 “(4) If the owner charges for permission to use the owner’s land for one

1 or more specific recreational purposes and the owner provides notice in the
2 manner provided by subsection (8) of this section, the immunities provided
3 by ORS 105.682 apply to any use of the land other than the activities for
4 which the charge is imposed. If the owner charges for permission to use a
5 specified part of the owner's land for recreational purposes and the owner
6 provides notice in the manner provided by subsection (8) of this section, the
7 immunities provided by ORS 105.682 apply to the remainder of the owner's
8 land.

9 “(5) The immunities provided by ORS 105.682 for gardening do not apply
10 if the owner charges more than \$25 per year for the use of the land for
11 gardening. If the owner charges more than \$25 per year for the use of the
12 land for gardening, the immunities provided by ORS 105.682 apply to any use
13 of the land other than gardening. If the owner charges more than \$25 per
14 year for permission to use a specific part of the owner's land for gardening
15 and the owner provides notice in the manner provided by subsection (8) of
16 this section, the immunities provided by ORS 105.682 apply to the remainder
17 of the owner's land.

18 “(6) The immunities provided by ORS 105.682 for woodcutting do not apply
19 if the owner charges more than \$75 per cord for permission to use the land
20 for woodcutting. If the owner charges more than \$75 per cord for the use of
21 the land for woodcutting, the immunities provided by ORS 105.682 apply to
22 any use of the land other than woodcutting. If the owner charges more than
23 \$75 per cord for permission to use a specific part of the owner's land for
24 woodcutting and the owner provides notice in the manner provided by sub-
25 section (8) of this section, the immunities provided by ORS 105.682 apply to
26 the remainder of the owner's land.

27 “(7) The immunities provided by ORS 105.682 for the harvest of special
28 forest products do not apply if the owner makes any charge for permission
29 to use the land for the harvest of special forest products. If the owner
30 charges for permission to use the owner's land for the harvest of special

1 forest products, the immunities provided by ORS 105.682 apply to any use of
2 the land other than the harvest of special forest products. If the owner
3 charges for permission to use a specific part of the owner’s land for har-
4 vesting special forest products and the owner provides notice in the manner
5 provided by subsection (8) of this section, the immunities provided by ORS
6 105.682 apply to the remainder of the owner’s land.

7 “(8) Notices under subsections (4) to (7) of this section may be given by
8 posting, as part of a receipt, or by such other means as may be reasonably
9 calculated to apprise a person of:

10 “(a) The limited uses of the land for which the charge is made, and the
11 immunities provided under ORS 105.682 for other uses of the land; or

12 “(b) The portion of the land the use of which is subject to the charge, and
13 the immunities provided under ORS 105.682 for the remainder of the land.

14 “**SECTION 8.** ORS 105.668, as amended by section 5 of this 2024 Act, is
15 amended to read:

16 “105.668. (1) As used in this section:

17 “(a) ‘Local government’ [*has the meaning given that term in ORS*
18 *174.116*] **means a city or county.**

19 “(b) ‘Structures’ means improvements in a trail, including, but not limited
20 to, stairs and bridges, that are accessible by a user on foot, on a horse or
21 on a bicycle or other nonmotorized vehicle or conveyance.

22 “(c) ‘Unimproved right of way’ means a platted or dedicated public right
23 of way over which a street, road or highway has not been constructed to the
24 standards and specifications of the local government with jurisdiction over
25 the public right of way and for which the local government has not expressly
26 accepted responsibility for maintenance.

27 “(2) In a city with a population of 500,000 or greater, a personal injury
28 or property damage resulting from use of a trail that is in a public easement
29 or in an unimproved right of way, or from use of structures in the public
30 easement or unimproved right of way, by a user on foot, on a horse or on a

1 bicycle or other nonmotorized vehicle or conveyance does not give rise to a
2 private claim or right of action based on negligence against:

3 “(a) The city;

4 “(b) The officers, employees or agents of the city to the extent the offi-
5 cers, employees or agents are entitled to defense and indemnification under
6 ORS 30.285;

7 “(c) The owner of land abutting the public easement or unimproved right
8 of way in the city; or

9 “(d) A nonprofit corporation and its volunteers for the construction and
10 maintenance of the trail or the structures in a public easement or unim-
11 proved right of way in the city.

12 “(3) A local government to which subsection (2) of this section does not
13 apply may opt to limit liability in the manner established by subsection (2)
14 of this section by ordinance, resolution, rule, order or other regulation for:

15 “(a) The local government;

16 “(b) The officers, employees or agents of the local government to the ex-
17 tent the officers, employees or agents are entitled to defense and
18 indemnification under ORS 30.285;

19 “(c) The owner of land abutting the public easement or unimproved right
20 of way in the local government; or

21 “(d) A nonprofit corporation and its volunteers for the construction and
22 maintenance of the trail or the structures in a public easement or unim-
23 proved right of way in the local government.

24 “(4) This section does not grant immunity from liability:

25 “(a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a
26 person that receives compensation for providing assistance, services or ad-
27 vice in relation to conduct that leads to a personal injury or property dam-
28 age.

29 “(b) For gross negligence or reckless, wanton or intentional misconduct.

30 “(c) For an activity for which a person is strictly liable without regard

1 to fault.

2 **“SECTION 9.** ORS 105.672, as amended by section 6 of this 2024 Act, is
3 amended to read:

4 “105.672. As used in ORS 105.672 to 105.696:

5 “(1) ‘Charge’:

6 “(a) Means the admission price or fee requested or expected by an owner
7 in return for granting permission for a person to enter or go upon the
8 owner’s land.

9 “(b) Does not mean any amount received from a public body in return for
10 granting permission for the public to enter or go upon the owner’s land.

11 “(c) Does not include the fee for a winter recreation parking permit or
12 any other parking fee of \$15 or less per day.

13 “(2) ‘Harvest’ has that meaning given in ORS 164.813.

14 “(3) ‘Land’ includes all real property, whether publicly or privately
15 owned.

16 “(4) ‘Owner’ means:

17 “(a) The possessor of any interest in any land, including but not limited
18 to the holder of any legal or equitable title, a tenant, a lessee, an occupant,
19 the holder of an easement, the holder of a right of way or a person in pos-
20 session of the land;

21 “(b) An officer, employee, volunteer or agent of a person described in
22 paragraph (a) of this subsection, while acting within the scope of assigned
23 duties; and

24 “(c) A director, partner, general partner, shareholder, limited liability
25 company member, limited liability partner or limited partner of a person
26 described in paragraph (a) of this subsection.

27 “(5) ‘Recreational purposes’ includes, but is not limited to, outdoor ac-
28 tivities such as hunting, fishing, swimming, boating, camping, picnicking,
29 hiking, [*walking, running, bicycling,*] nature study, outdoor educational ac-
30 tivities, waterskiing, winter sports, viewing or enjoying historical,

1 archaeological, scenic or scientific sites or volunteering for any public pur-
2 pose project.

3 “(6) ‘Special forest products’ has that meaning given in ORS 164.813.

4 “(7) ‘Woodcutting’ means the cutting or removal of wood from land by an
5 individual who has obtained permission from the owner of the land to cut
6 or remove wood.

7 **“SECTION 10.** ORS 105.688, as amended by section 7 of this 2024 Act, is
8 amended to read:

9 “105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the
10 immunities provided by ORS 105.682 apply to:

11 “(a) All land, including but not limited to land adjacent or contiguous to
12 any bodies of water, watercourses or the ocean shore as defined by ORS
13 390.605;

14 “(b) All roads, bodies of water, watercourses, rights of way, buildings,
15 fixtures and structures on the land described in paragraph (a) of this sub-
16 section;

17 “(c) All paths, trails, roads, watercourses and other rights of way, while
18 being used by a person to reach land for recreational purposes, gardening,
19 woodcutting or the harvest of special forest products, that are on land ad-
20 jacent to the land that the person intends to use for recreational purposes,
21 gardening, woodcutting or the harvest of special forest products, provided
22 that[:]

23 “[A)] the right of way has not been improved, designed or maintained for
24 the specific purpose of providing access for recreational purposes, gardening,
25 woodcutting or the harvest of special forest products; [or] **and**

26 “[B)(i) *The right of way has been improved, designed or maintained to*
27 *provide access for recreational purposes, gardening, woodcutting or the harvest*
28 *of special forest products;]*

29 “[ii) *The right of way is not a highway maintained under ORS 810.010;*
30 *and]*

1 “[(iii) *The improvement, design or maintenance was completed in a manner*
2 *that does not constitute:*]

3 “[(I) *Gross negligence or reckless, wanton or intentional misconduct; or*]

4 “[(II) *An activity for which the actor is strictly liable without regard to*
5 *fault; and*]

6 “(d) All machinery or equipment on the land described in paragraph (a)
7 of this subsection.

8 “(2) The immunities provided by ORS 105.682 apply to land if the owner
9 transfers an easement to a public body to use the land.

10 “(3) Except as provided in subsections (4) to (7) of this section, the im-
11 munities provided by ORS 105.682 do not apply if the owner makes any
12 charge for permission to use the land for recreational purposes, gardening,
13 woodcutting or the harvest of special forest products.

14 “(4) If the owner charges for permission to use the owner’s land for one
15 or more specific recreational purposes and the owner provides notice in the
16 manner provided by subsection (8) of this section, the immunities provided
17 by ORS 105.682 apply to any use of the land other than the activities for
18 which the charge is imposed. If the owner charges for permission to use a
19 specified part of the owner’s land for recreational purposes and the owner
20 provides notice in the manner provided by subsection (8) of this section, the
21 immunities provided by ORS 105.682 apply to the remainder of the owner’s
22 land.

23 “(5) The immunities provided by ORS 105.682 for gardening do not apply
24 if the owner charges more than \$25 per year for the use of the land for
25 gardening. If the owner charges more than \$25 per year for the use of the
26 land for gardening, the immunities provided by ORS 105.682 apply to any use
27 of the land other than gardening. If the owner charges more than \$25 per
28 year for permission to use a specific part of the owner’s land for gardening
29 and the owner provides notice in the manner provided by subsection (8) of
30 this section, the immunities provided by ORS 105.682 apply to the remainder

1 of the owner's land.

2 “(6) The immunities provided by ORS 105.682 for woodcutting do not apply
3 if the owner charges more than \$75 per cord for permission to use the land
4 for woodcutting. If the owner charges more than \$75 per cord for the use of
5 the land for woodcutting, the immunities provided by ORS 105.682 apply to
6 any use of the land other than woodcutting. If the owner charges more than
7 \$75 per cord for permission to use a specific part of the owner's land for
8 woodcutting and the owner provides notice in the manner provided by sub-
9 section (8) of this section, the immunities provided by ORS 105.682 apply to
10 the remainder of the owner's land.

11 “(7) The immunities provided by ORS 105.682 for the harvest of special
12 forest products do not apply if the owner makes any charge for permission
13 to use the land for the harvest of special forest products. If the owner
14 charges for permission to use the owner's land for the harvest of special
15 forest products, the immunities provided by ORS 105.682 apply to any use of
16 the land other than the harvest of special forest products. If the owner
17 charges for permission to use a specific part of the owner's land for har-
18 vesting special forest products and the owner provides notice in the manner
19 provided by subsection (8) of this section, the immunities provided by ORS
20 105.682 apply to the remainder of the owner's land.

21 “(8) Notices under subsections (4) to (7) of this section may be given by
22 posting, as part of a receipt, or by such other means as may be reasonably
23 calculated to apprise a person of:

24 “(a) The limited uses of the land for which the charge is made, and the
25 immunities provided under ORS 105.682 for other uses of the land; or

26 “(b) The portion of the land the use of which is subject to the charge, and
27 the immunities provided under ORS 105.682 for the remainder of the land.

28 **“SECTION 11. (1) The amendments to ORS 105.668, 105.672 and**
29 **105.688 by sections 5 to 7 of this 2024 Act apply to actions for personal**
30 **injury, death or property damage commenced on or after the effective**

1 **date of this 2024 Act, and before January 1, 2026.**

2 **“(2) The amendments to ORS 105.668, 105.672 and 105.688 by sections**
3 **8 to 10 of this 2024 Act become operative on January 2, 2026, and apply**
4 **to actions for personal injury, death or property damage commenced**
5 **on or after January 2, 2026.**

6 **“(3) An ordinance, resolution, rule, order or other regulation under**
7 **ORS 105.668 (3) that is adopted by a local government other than a city**
8 **or county is not effective after January 2, 2026.**

9 **“SECTION 12. This 2024 Act being necessary for the immediate**
10 **preservation of the public peace, health and safety, an emergency is**
11 **declared to exist, and this 2024 Act takes effect on its passage.”.**

12
