

## SB 179 -1 STAFF MEASURE SUMMARY

### Senate Committee On Judiciary

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**Meeting Dates:** 2/19, 2/26

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#### WHAT THE MEASURE DOES:

The measure makes permanent the 2024 temporary changes to immunity for landowners who allow public use of land without charge for recreational purposes.

#### Detailed Summary

- Allows local governments included ORS 174.116 to opt into ORS 105.668, limiting liability from ordinary negligence claims arising from the use of trails or structures on public easements or unimproved rights of way by foot, horse, bicycle or other nonmotorized means.
- Adds immunity to ORS 105.688 for improved paths, trails, roads and other rights of way that are used to access land for recreational purposes. Limits immunity for an improvement, design, or maintenance that was completed in a manner constituting gross negligence or reckless, wanton or intentional misconduct, or for which the actor is strictly liable.
- Adds running, walking, and bicycling to the non-exclusive list of outdoor activities in the definition of recreational purposes in ORS 105.672.

*FISCAL: No fiscal impact.*

*REVENUE: Has minimal revenue impact.*

#### ISSUES DISCUSSED:

#### EFFECT OF AMENDMENT:

-1 The amendment changes references from a horse to an equine in ORS 105.668, and clarifies that the measure's changes to ORS 105.668, 105.672, and 105.688 apply to causes of action filed on or after the measure's effective date.

#### BACKGROUND:

ORS 105.672 to 105.696 is collectively referred to as the recreational immunity law. It provides immunity to landowners from claims of personal injury or property damage when the landowner has made the land available to the public for recreational purposes without a fee, and the claim arises from a person's use of the land for the principal purpose of recreation.

ORS 105.668 limits liability from ordinary negligence claims arising from the use of trails or structures on public easements or unimproved rights of way by foot, horse, bicycle or other nonmotorized means, for cities or counties who opt into the law. Immunity under this law is not conditioned upon the reason a person is using the trail or structure.

In late 2023, some cities, counties, and other landowners closed their recreational trails and access trails after a decision on recreational immunity was issued in [Fields v. City of Newport](#), 326 Or. App. 764 (2023), rev. denied, 371 Or. 476. In that case, the court held that it was for the factfinder to determine whether the principal purpose of walking was recreational, when the plaintiff walked on an improved trail providing access to the beach. It found that recreational immunity does not apply to improved trails used to access other lands that the person intends to use for recreational purposes, following [Liberty v. Oregon Dept. of Transp.](#), 342 Or. 11 (2006). The Oregon Supreme Court denied review, and the case was remanded back to the Circuit Court, where it is proceeding. The

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Legislative Assembly explicitly provided immunity for unimproved trails used for access with [HB 2003](#) (2009) but did not do the same for improved trails at that time. SB 1576 (2024) made temporary changes to the recreation immunity law as they appear in Senate Bill 179, but had a sunset date of Jan. 2. 2026. Senate Bill 179 makes the changes permanent.

PRELIMINARY