

A-Engrossed
Senate Bill 1517

Ordered by the Senate February 19
Including Senate Amendments dated February 19

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act says that an operator can make a person doing sports, fitness or recreation waive some claims for negligence. The Act says that some types of claims may not be waived. (Flesch Readability Score: 82.2).

[Digest: The Act changes some laws about lawsuits that are about skiing. (Flesch Readability Score: 72.6).]

[Modifies provisions relating to liability related to skiing.]

Provides that an operator may require a participant in a sport, fitness or recreational activity to release the operator for claims for ordinary negligence under certain circumstances. Specifies certain types of claims that may not be waived.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to civil litigation; and declaring an emergency.

3 Whereas Oregonians and the Oregon economy benefit tremendously from this state's recreation
4 and health and fitness industries; and

5 Whereas Oregon's recreation and health and fitness providers offer safe and enjoyable access
6 to outdoor and indoor recreation and health and fitness opportunities throughout this state and
7 contribute significantly to the mental and physical health and well-being of Oregonians and visitors
8 to this state; and

9 Whereas local communities rely on the commerce associated with the recreation and health and
10 fitness industries to strengthen their economies, create jobs and enhance their quality of life; and

11 Whereas Oregon's tourism industry benefits greatly from the commerce associated with the re-
12 creation and health and fitness industries; and

13 Whereas *Bagley v. Mt. Bachelor, Inc.*, 356 Or. 543 (2014), determined that enforcement of certain
14 releases would be unconscionable, *see Becker v. Hoodoo Ski Bowl Devs., Inc.*, 269 Or. App. 877, 883
15 (2015); and

16 Whereas the *Bagley* decision did not invalidate all releases, *Bagley v. Mt. Bachelor, Inc.*, 356
17 Or. 543, 545 (2014); and

18 Whereas waivers of liability are not unenforceable under Oregon law; now, therefore,

19 **Be It Enacted by the People of the State of Oregon:**

20 **SECTION 1. (1) As used in this section:**

21 **(a) "Operator" means a person that:**

22 **(A) Offers a person the opportunity to participate in a sport, fitness or recreational ac-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 tivity; or

2 (B) Operates or provides a facility or place where a person can participate in a sport,
3 fitness or recreational activity.

4 (b) "Sport, fitness or recreational activity" means an indoor or outdoor activity involving
5 elements of inherent risk, including but not limited to hunting, fishing, swimming, boating,
6 rafting, biking, camping, skiing, snowboarding, winter sports, team and individual sports,
7 climbing, equestrian and rodeo activities, hiking, outfitter guiding, ocean and water sports,
8 motorized recreation, athletic or fitness competitions and fitness and training activities.

9 (2) Except as provided in subsection (3) of this section, an operator may require a par-
10 ticipant in a sport, fitness or recreational activity who is 18 years of age or older, or a parent
11 or guardian on behalf of a participant in a sport, fitness or recreational activity who is under
12 18 years of age, to release the operator from any claim for damages for injuries to the par-
13 ticipant resulting from ordinary negligence and sustained while in the act of performing the
14 sport, fitness or recreational activity if the participant or parent or guardian voluntarily
15 signs a conspicuous written release disclosing the risks associated with the sport, fitness or
16 recreational activity and waiving the operator's liability for damages for injuries resulting
17 from those risks. A release described in this subsection is not per se unconscionable or void
18 as contrary to public policy.

19 (3) An operator may not require a person to release the operator from the following types
20 of claims:

21 (a) Claims for greater than ordinary negligence, including gross negligence, reckless
22 conduct, willful misconduct or intentional acts.

23 (b) Claims for injuries not sustained during the act of performing the sport, fitness or
24 recreational activity, including but not limited to injuries occurring in parking areas, lodges,
25 rental facilities or other premises not directly part of the sport, fitness or recreational ac-
26 tivity itself.

27 (c) Claims relating to the design, use, manufacture, provision, maintenance or inspection
28 of equipment, safety gear or apparatus used in connection with the sport, fitness or recre-
29 ational activity.

30 (d) Claims arising from the operator's violation of any statute, administrative rule or
31 industry safety standard applicable to the sport, fitness or recreational activity.

32 (e) Claims relating to negligent hiring, training, credentialing or supervision of employ-
33 ees, guides, instructors or independent contractors.

34 (f) Claims relating to failure to warn of known hazards that are not inherent risks of the
35 sport, fitness or recreational activity.

36 (g) Claims relating to the operation, maintenance or use of any vehicle, including but not
37 limited to automobiles, buses, vans, snowmobiles, snow cats, all-terrain vehicles, utility ter-
38 rain vehicles, side-by-sides or any other motorized conveyance, including if the vehicle is
39 used for transportation to or from the location where the sport, fitness or recreational ac-
40 tivity takes place, unless the participant uses the vehicle as part of the sport, fitness or
41 recreational activity itself.

42 (4) A release that is broader than the release described in subsections (2) and (3) of this
43 section shall be construed within the limits stated in subsections (2) and (3) of this section.

44 **SECTION 2.** This 2026 Act being necessary for the immediate preservation of the public
45 peace, health and safety, an emergency is declared to exist, and this 2026 Act takes effect

1 **on its passage.**

2
