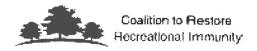
Sen-Jel Bezel



TO:

Senate Committee on Judiciary

FROM:

Coalition to Restore Recreational Immunity

RE:

Support for SB 327 A

DATE:

April 10, 2017

From the Desk of Senator Lee Beyer

With appreciation for the work done by all stakeholders involved in the recreational immunity issue and for the Chair of the Judiciary Committee's leadership, we ask that you support A-Engrossed SB 327, restoring Oregon's recreational immunity provisions.

The Oregon Public Use of Lands Act passed in 1995 with a goal of encouraging *public and private* owners of land to make their land available to the public for recreational purposes. It was understood that landowners, *both public and private*, who made their land available without charge for recreational use by the public were not liable if a person was injured while using the land for recreational purposes.

The Act increased the availability of land for free recreation by limiting liability to cities, counties, parks, schools and a wide range of private owners, including farmers and timber companies that allow hunters, anglers, hikers, mountain bikers and other members of the public to use or traverse their lands at no charge.

However, a recent Oregon Supreme Court decision narrowed the immunity guaranteed in the Act, which could result in a severe reduction of land available to Oregonians for their recreational use and enjoyment.

In *Johnson v. Gibson*, the Oregon Supreme Court held that when the Legislature passed the Public Lands Act, it intended only to immunize the actual landowner, and never intended recreational immunity to protect employees or agents acting on behalf of the landowners. However, if you ask those involved in the Act's passage and if you listen to legislative intent, this is not what was meant.

If this ruling is allowed to stand, it will undermine a landowner's recreational immunity from tort liability under the Act. Because public employers are statutorily required to indemnify their employees, those landowners will in fact be responsible for the actions of their employees that result in injury.

Landowners must now weigh whether allowing the public to recreate on their land and in their facilities is worth the increased risk of liability.

In light of the decision in *Johnson*, we merely seek to amend ORS 105.672 to restore recreational immunity as the Legislature originally intended. Language will simply confirm that a landowner's officers, employees, agents or volunteers who are acting within the scope of their employment or duties are also covered.

Members of the Coalition to Restore Recreational Immunity:

Association of Oregon Counties

Central Oregon Cities Organization Oregon

City of Beaverton City of Bend

City of Coburg

City of Cottage Grove

City of Creswell

City of Dunes City

City of Eugene City of Florence

City of Gresham

City of Gresnam

City of Lowell

City of Medford

City of Oakridge

City of Oregon City

City of Portland

City of Salem

City of Springfield

City of Veneta

City of West Linn

Clackamas County Clackamas River Water

Coalition of Oregon Land Trusts

Disciples of Dirt

Eastern Oregon University

Friends of Nadaka

Lane County

League of Oregon Cities

Metro

Metropolitan Mayor's Consortium

North Clackamas Parks & Recreation District

Oregon Bicycle Racing Association Oregon Cattlemen's Association

Oregon Counties Oregon Dairy Farmers

Oregon Farm Bureau

Oregon Forest Industries Council
Oregon Health & Sciences University

Oregon Institute of Technology Oregon Public Ports Association

Oregon Recreation and Park Association

Oregon School Boards Association

Oregon Seed Council

Oregon Small Woodlands Association

Oregon State University

Oregon Water Resources Congress

Oregonians in Action Port of Portland

Portland General Electric

Portland State University

Power Sports

Southern Oregon University

Special Districts Association of Oregon

Travel Lane County University of Oregon

Washington County

Western Oregon University Winegrowers Association

Entities who passed Resolutions Supporting Restoring Recreational Immunity Rights:

Bend Park & Recreation District Bly Rural Fire Protection District

Central Lincoln PUD

Chehalem Parks and Recreation District

City of Beaverton City of La Grande

City of Oregon City

City of Redmond City of Stayton

City of Stayton

City of West Linn

Clatskanie PUD

Cloverdale Sanitary District
Emerald Peoples Utility District

Fern Ridge Library District

Grant County Transportation District

Hermiston Irrigation District

Port of Cascade Locks

Port of the Dalles

Port of Morrow

Port of Newport

Port of St. Helens

Port of Tillamook Bay

Port of Umpqua

Redmond Area Park and Recreation District

Rockwood People's Utility District

Rogue Valley Sewer Services

Sisters Park and Recreation District SW Lincoln County Water District

SVV Lincoln County Water District

Tualatin Hill Parks and Recreation District

Tualatin Valley Fire District

West Extension Irrigation District