

SB 1040 A STAFF MEASURE SUMMARY**Carrier:** Sen. Thatcher**Senate Committee On Judiciary****Action Date:** 04/09/19**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 6-1-0-0**Yeas:** 6 - Bentz, Fagan, Gelser, Manning Jr, Prozanski, Thatcher**Nays:** 1 - Linthicum**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Channa Newell, Counsel**Meeting Dates:** 4/4, 4/9**WHAT THE MEASURE DOES:**

Provides that an owner, operator, or lessee of an active quarry or mine located in Polk County and adjacent to the Willamette River across from the city of Keizer is liable for injuries that result from stray bullets that were discharged from firearms on the property. Specifies that liability attaches after failure to take reasonable measures to prevent further stray bullets from leaving property after notice. Attaches liability to person discharging firearm on active quarry or mine in specified location. Requires notification to owner, operator, or lessee of property that bullets strayed off property and owner failed to take reasonable measures to prevent additional bullets from straying before liability attaches.

ISSUES DISCUSSED:

- Experiences of residents subject to gunfire from across Willamette River
- Meaning of "active quarry or mine" includes those with active permits for operation
- Location of nearby inactive quarries
- Reasonable measures to prevent further stray bullets question for jury

EFFECT OF AMENDMENT:

Removes cause of action against city or county. Narrows liability to those with active quarries across the Willamette River from the City of Keizer. Removes strict liability. Requires notification to owner, operator, or lessee of property that bullets strayed off property and owner failed to take reasonable measures to prevent additional bullets from straying before liability attaches.

BACKGROUND:

The Willamette River serves as a natural boundary for several geographic designations. For example, it serves as a divider between Marion and Polk counties, with Polk County on the western bank and Marion County on the eastern bank. The town of Keizer, Oregon is located on the western bank of the Willamette in Marion County. In June, homeowners in Marion County experienced bullets entering their homes and property. The bullets likely came from firearms discharged in a rock quarry across the river in Polk County.

Senate Bill 1040 A provides that liability falls upon an owner, operator, or lessee of an active rock quarry or mine located in Polk County, adjacent to the Willamette River, and across the river from the City of Keizer, for any injury arising from bullets discharged on that property that stray off the property. The measure attaches liability if the owner failed to take reasonable measures to prevent further stray bullets from leaving the property after receiving notice that bullets had strayed. The measure also attaches liability to the person who discharged the firearm from the property.