

HB 3177 STAFF MEASURE SUMMARY

House Committee On Economic Recovery and Prosperity

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Sub-Referral To: House Committee On Rules

Meeting Dates: 2/25

WHAT THE MEASURE DOES:

Prohibits the Governor from imposing restrictions on eating and drinking establishments and indoor physical recreation and fitness establishments during a declared state of emergency related to the COVID-19 pandemic. Authorizes the Governor to impose six-foot physical distancing requirements, physical barriers or partitions, or other restrictions generally applicable to all businesses. Stipulates that nothing in the measure limits the Governor's authority to impose generally applicable requirements on individuals, including physical barriers or masking mandates. Sunsets on January 2, 2023. Declares emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under ORS 401.165, the Governor may declare a state of emergency by proclamation after determining that an emergency has occurred or is imminent. The statutory definition of "emergency" includes disease. During the state of emergency, the Governor has the right to exercise all police powers vested in the state by the Oregon Constitution in order to effectuate the purposes of emergency management. Under ORS 433.441, the Governor may exercise authority related to public health emergencies, including closing facilities and controlling or limiting entry, exit, and movement within premises in any public area threatened by the public health emergency. The authority granted to the Governor continues until termination of the state of emergency, which may occur either by proclamation of the Governor or by joint resolution of the Legislative Assembly.

On March 8, 2020, the Governor issued Executive Order 20-03, declaring a statewide state of emergency due to the COVID-19 pandemic extending for 60 days. The order was further extended through five subsequent orders until March 3, 2021. On March 17, 2020, the Governor issued Executive Order 20-07, prohibiting on-premises consumption of food or drink and gatherings of 25 people or more until April 14, 2020. The order was extended on April 7, 2020, by Executive Order 20-14 "until terminated by the Governor." On December 2, 2020, the Governor issued Executive Order 20-66, which delegated to the Oregon Health Authority the authority to develop and issue binding sector- and county-specific guidance for safety measures, operational limitations, and capacity limits to control the spread and risk of COVID-19. Sectors included within the executive order include eating and drinking establishments and indoor recreation and fitness establishments.

House Bill 3177 prohibits the Governor from imposing restrictions on eating and drinking establishments and indoor physical recreation and fitness establishments, other than six-foot physical distancing requirements, physical barriers, and generally-applicable restrictions to all businesses.