

**SB 531 – Right to Reimbursement for Damages Resulting from Cessation of Business  
Operations Required by Emergency Rules or Orders  
Senate Committee on Veterans and Emergency Preparedness  
Virtual Testimony by Jim Zupancic  
February 18, 2021**

Chair Manning, Vice-Chair Thomsen, Members of the Committee:

My name is Jim Zupancic, and I am the owner of Stafford Hills Club, a full-service health and fitness club in Tualatin, Oregon. I also serve as the President of the Board of Directors for the Oregon Health & Fitness Alliance, which advocates on behalf of the more than 450 health and fitness clubs operating throughout the state, the vast majority of which are family-owned small businesses. I have also been a member of the bar for over 40 years and have litigated many cases involving the loss of business property because of government actions.

I am here today to urge you to support Senate Bill 531. This bill would allow businesses forced to shut down their operations due to the Governor's emergency declarations related to COVID-19 to bring a suit against the state for operating losses and other damages. This bill is necessary because Oregon businesses likely do not qualify to recover these business losses under ORS Chapter 35 relating to eminent domain. As a result, these targeted small businesses are shouldering these losses alone rather than the whole of our society, which is inconsistent with our public policy to share the harm caused by government actions taken for the public good.

As you know, many industries have been deeply impacted by the COVID-19 pandemic and related business shutdowns, but none more than the health and fitness industry. I estimate that the Governor's executive orders have directly resulted in over 400,000 Oregonians freezing or cancelling their health club memberships, causing millions of dollars in losses to our most vulnerable small businesses. Along with restaurants and bars, Oregon health clubs have been singled out by the Governor's orders and forced to keep our doors closed longer than any other industry, even though not one publicly reported COVID outbreak has come from our facilities. Even today, our facilities must comply with some of the most stringent reopening guidance of any industry. We are currently subjected to irrational and unrealistic occupancy limitations, capping the occupancy of our facilities at 24 individuals in extreme risk counties and 50 people in high-risk counties, regardless of the facility's size. In a 300,000 square foot facility in a high-risk county, this means that every person gets 6,000 square feet of space, more than 3 times the size of a typical Oregon home. By comparison, big box retail stores that are the same size as these large health and fitness clubs may operate at 50% capacity with hundreds of patrons, without arbitrary occupancy caps. The irrational disparate treatment defies logic and reason.

While the health impacts of these mandated closures on our elderly and most vulnerable club members have been well documented by our Alliance and the media, the business impacts of these closures have had a cataclysmic effect on our industry. Every day I talk to owners of fitness facilities that have been forced to permanently close their doors due to the mandated closures, and dozens more who are on the brink of bankruptcy. This is all due to government actions beyond their control. Yet, unless we compensate these businesses for their losses caused solely to help stop the spread of COVID, we are asking a targeted industry to bear the brunt when we all presumedly benefit.

With no end to the pandemic or the related business restrictions in sight, I urge you to consider the clarity that Senate Bill 531 would offer business owners who, through no fault of their own, are unable to operate and are suffering enormous losses even today. This bill would allow businesses who have suffered real, tangible losses due to the Governor's emergency orders to have a right to reimbursement for actual damages resulting from the closure of their businesses.

**Lastly, I would recommend one amendment to add "partial or complete" in LINE 8 of the bill. If a business has suffered a partial closure, that business should likewise be able to seek redress for its actual losses.**

I urge you to consider the devastating financial impact that these orders have had on the health and fitness industry and support Senate Bill 531. Thank you for your time this afternoon and I am happy to answer any questions.