



Smart policies for today's families.

February 25, 2021

Chair Power, Vice Chair Wallan, and Members of the House Subcommittee on Civil Law

Thank you for the opportunity to provide testimony opposing HB 2638. Family Forward Oregon is committed to advancing policies that support families and help them succeed, both in the workplace and at home. That is why we have significant concerns with HB 2638, which affords blanket immunity for any business, public entity or individual during the pandemic. HB 2638 would shield these entities for any acts or omissions taken during the COVID-19 pandemic so long as they can demonstrate “reasonable compliance with guidance.” Guidance includes executive orders, federal guidelines, state rules, local rules and state informational materials.

On a values level, at the core of this issue is who is left holding the bag from the effects of COVID-19. Average Oregonians have already borne the brunt of this global pandemic. Essential workers have been lauded as “heroes” and yet left without appropriate protective equipment, without long-term care when they contract COVID at work and without baseline safety standards and practices at the start of the pandemic. Black, Indigenous and Latinx Americans are disproportionately impacted by negative health outcomes and job losses. BIPOC women and mothers especially have been forced out of the labor pool at unprecedented levels— between January and December 2020, nearly 2.1 million women left the labor force, including 564,000 Black women and 317,000 Latinas.¹

We understand that COVID-19 has had unique stressors on everyone in Oregon -- workers and businesses alike. And we know that many entities are doing everything they can to comply with state guidance and labor laws. However, removing all liability will prohibit Oregonians from being able to hold bad actors accountable when they have violated laws and COVID guidance is simply not the answer.

Our current system allows employers to be held liable in order to prevent them from exposing their staff and customers to undue risk. If all legal remedy is taken away from workers, it gives businesses the right to expose their workers and patrons to fatal risks with no consequences, and the grounds to fire an employee for expressing concern over unsafe working conditions.

HB 2638 could create an atmosphere where unlawful discrimination or other violations of state law would be immune from liability as long as the entity could point to a single State or County

¹ <https://nwlc.org/wp-content/uploads/2021/01/December-Jobs-Day.pdf>

guidance document. Further, the bill makes no mention of immunity for events related to a COVID-19 infection, leaving the door far too open to shield against liability for anything that happened during the pandemic, whether or not it was related to COVID protections at all.

Black, Indigenous, women of color disproportionately work essential jobs, and are more likely to contract COVID-19 while working on the frontlines.² HB 2638 would ultimately limit the rights of workers facing retaliation for expressing concerns about COVID safety issues on the job. It would limit the rights of families with loved ones in long-term care and those who have experienced discriminatory health care practices— most often Black, Indigenous, women of color. Average Oregonians deserve the ability to hold companies accountable when they have willfully or repeatedly put their workers, patients, or consumers at risk. Without this tool, it is those Oregonians who have already been most impacted by COVID who would be left with even fewer resources to get by.

A critical piece of reopening our economy fully is dependent on Oregon workers and consumers feeling safe. However, we believe that HB 2368 will functionally accomplish just the opposite. We ask that this bill and concept not move forward, and instead we focus on how to safely and effectively limit the spread of COVID-19 in order to keep our families and communities safe and healthy.

Sincerely,

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² <https://www.americanprogress.org/issues/women/reports/2020/04/23/483846/frontlines-work-home/>