

**Testimony of Myles Bagley**  
**No on SB 754**

**Feb 15, 2023**

Chair and members of the Committee, my name is Myles Bagley. It was my case the 2014 unanimous decision by the Supreme Court was about. Thank you for allowing my testimony. I am here testifying today that the accident and its consequences have had an undeniable effect on not just myself but my family and friends around me. This is not a life I would have chosen but I persist toward my goals despite obstacles, discouragements or disappointments. Without liability, ski resorts have no financial incentive to ensure that their man-made terrain park features and other runs are safe. With waivers it means resorts will not take the necessary steps to ensure the reasonable safety of these features and their premises. The rapid increase of dangerous terrain park features is becoming noticed in the media as more and more individuals suffer catastrophic injury because of poorly designed and/or patently dangerous terrain features.

When my case was before the Supreme Court the Winter Olympics were in Sochi Russia, it quickly became apparent that the freestyle runs were injuring athletes and would have to be redesigned for actual use, even when used by the best skiers and snowboarders in the world. The top man on the US Team refused to take the course unless the course was altered. Humans make mistakes. And these are courses with HIGH STANDARDS and MEASUREMENTS unlike ski resorts here in Oregon.

To design a course for the public and then exempt oneself from liability for design flaws is unprincipled and immoral. The Supreme Court refused to enforce a release relieving liability for ill-designed terrain park jumps that the resort themselves constructed. They knew that if they said the Release was okay as is, a harsh or unfair result would fall on one party (me) by immunizing the other party (Bachelor) from the consequences of their own negligence. They chose the higher ground and would not enforce the Release in my case. For good reason. This Committee should follow suit and not allow this Bill to move forward.

IF this Bill is allowed to move forward, there would be no recourse for a young man, just entering adulthood, who had his life utterly shattered (though fortunately not taken) by the poor design of a recreational feature at a ski resort. That young man is me. I was skilled in my sport, and knew what I was doing, yet now must live my entire life paralyzed through no fault of my own. Moreover, I must bear the financial burden that imposes, despite my lack of fault. Having been in operation for decades and seen any number of injuries on its slopes, Mt. Bachelor could readily anticipate this result at the time I bought my season pass. Nonetheless, the resort seeks to avoid any and all liability, even if it had been insensitive and indifferent to the safety of skiers and snowboarders in building the jump.

Oregon as a policy matter has relieved ski resorts from liability for harm where it arises from the risks inherent in siding down a wooded mountainside at speed, but that policy has never included—and was not intended to include—operator-created risks, like terrain parks. Indeed,

the sponsors of the ski activities statute forcefully disclaimed any attempt to avoid their responsibility where they created a danger.

Mt Bachelor, not its patrons like me, has the expertise and opportunity to foresee and control hazards of its own creation on its premises, and to guard against the negligence of its employees. They alone can effectively spread the cost of guarding and insuring against such risks among its many patrons. It is their responsibility as a business to do so. Increased insurance rates do not harm their bottom line. It is padded.

There are some factors in ski injuries that are beyond the control of ski operators, but they shouldn't be able to shirk liability for man-made equipment or enhancements to the slope or keeping runs open when they are too dangerous and should be closed.

Humans make mistakes. They cannot deny the fact that possibly a mistake was made in any number of situations. Not everything is an accident. Some things are preventable. They just shift the blame to the skier, constantly to the skier. And they want YOU to provide cover to them with immunity.

I urge you to Vote **No** on SB 754. Thank you.