

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 1576**

1 In line 2 of the printed bill, after “matters” insert “; creating new pro-
2 visions; amending ORS 105.668, 105.672 and 105.688; and declaring an emer-
3 gency”.

4 Delete lines 4 through 8 and insert:

5 **“SECTION 1.** ORS 105.668 is amended to read:

6 “105.668. (1) As used in this section:

7 **“(a) ‘Local government’ has the meaning given that term in ORS**
8 **174.116.**

9 “[*(a)*] **(b)** ‘Structures’ means improvements in a trail, including, but not
10 limited to, stairs and bridges, that are accessible by a user on foot, on a
11 horse or on a bicycle or other nonmotorized vehicle or conveyance.

12 “[*(b)*] **(c)** ‘Unimproved right of way’ means a platted or dedicated public
13 right of way over which a street, road or highway has not been constructed
14 to the standards and specifications of the [*city*] **local government** with ju-
15 risdiction over the public right of way and for which the [*city*] **local gov-**
16 **ernment** has not expressly accepted responsibility for maintenance.

17 **“(2) In a city with a population of 500,000 or greater,** a personal injury
18 or property damage resulting from use of a trail that is in a public easement
19 or in an unimproved right of way, or from use of structures in the public
20 easement or unimproved right of way, by a user on foot, on a horse or on a
21 bicycle or other nonmotorized vehicle or conveyance does not give rise to a

1 private claim or right of action based on negligence against:

2 “[*a*] *A city with a population of 500,000 or more;*]

3 “**(a) The city;**

4 “(b) The officers, employees or agents of [*a city with a population of*
5 *500,000 or more*] **the city** to the extent the officers, employees or agents are
6 entitled to defense and indemnification under ORS 30.285;

7 “(c) The owner of land abutting the public easement[,] or unimproved
8 right of way[, *in a city with a population of 500,000 or more*] **in the city;** or

9 “(d) A nonprofit corporation and its volunteers for the construction and
10 maintenance of the trail or the structures in a public easement or unim-
11 proved right of way in [*a city with a population of 500,000 or more*] **the**
12 **city.**

13 “(3) [*Notwithstanding the limit in subsection (2) of this section to a city*
14 *with a population of 500,000 or more, by adoption of an ordinance or resol-*
15 *ution, a city or county*] **A local government** to which subsection (2) of this
16 section does not apply may opt to limit liability in the manner established
17 by subsection (2) of this section **by ordinance, resolution, rule, order or**
18 **other regulation** for:

19 “[*a*] *The city or county that opts in by ordinance or resolution;*]

20 “**(a) The local government;**

21 “(b) The officers, employees or agents of the [*city or county that opts in*]
22 **local government** to the extent the officers, employees or agents are enti-
23 tled to defense and indemnification under ORS 30.285;

24 “(c) The owner of land abutting the public easement[,] or unimproved
25 right of way[, *in the city or county that opts in by ordinance or resolution;*
26 *and*] **in the local government; or**

27 “(d) A nonprofit corporation and its volunteers for the construction and
28 maintenance of the trail or the structures in a public easement or unim-
29 proved right of way in the [*city or county that opts in*] **local government.**

30 “(4) [*The immunity granted by this section from a private claim or right*

1 *of action based on negligence*] **This section** does not grant immunity from
2 liability:

3 “(a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a
4 person that receives compensation for providing assistance, services or ad-
5 vice in relation to conduct that leads to a personal injury or property dam-
6 age.

7 “(b) For [*personal injury or property damage resulting from*] gross
8 negligence or [*from*] reckless, wanton or intentional misconduct.

9 “(c) For an activity for which [*a person*] **the actor** is strictly liable
10 without regard to fault.

11 **“SECTION 2.** ORS 105.672 is amended to read:

12 “105.672. As used in ORS 105.672 to 105.696:

13 “(1) ‘Charge’:

14 “(a) Means the admission price or fee requested or expected by an owner
15 in return for granting permission for a person to enter or go upon the
16 owner’s land.

17 “(b) Does not mean any amount received from a public body in return for
18 granting permission for the public to enter or go upon the owner’s land.

19 “(c) Does not include the fee for a winter recreation parking permit or
20 any other parking fee of \$15 or less per day.

21 “(2) ‘Harvest’ has that meaning given in ORS 164.813.

22 “(3) ‘Land’ includes all real property, whether publicly or privately
23 owned.

24 “(4) ‘Owner’ means:

25 “(a) The possessor of any interest in any land, including but not limited
26 to the holder of any legal or equitable title, a tenant, a lessee, an occupant,
27 the holder of an easement, the holder of a right of way or a person in pos-
28 session of the land;

29 “(b) An officer, employee, volunteer or agent of a person described in
30 paragraph (a) of this subsection, while acting within the scope of assigned

1 duties; and

2 “(c) A director, partner, general partner, shareholder, limited liability
3 company member, limited liability partner or limited partner of a person
4 described in paragraph (a) of this subsection.

5 “(5) ‘Recreational purposes’ includes, but is not limited to, outdoor ac-
6 tivities such as hunting, fishing, swimming, boating, camping, picnicking,
7 hiking, **walking, running, bicycling**, nature study, outdoor educational
8 activities, waterskiing, winter sports, viewing or enjoying historical,
9 archaeological, scenic or scientific sites or volunteering for any public pur-
10 pose project.

11 “(6) ‘Special forest products’ has that meaning given in ORS 164.813.

12 “(7) ‘Woodcutting’ means the cutting or removal of wood from land by an
13 individual who has obtained permission from the owner of the land to cut
14 or remove wood.

15 **“SECTION 3.** ORS 105.688 is amended to read:

16 “105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the
17 immunities provided by ORS 105.682 apply to:

18 “(a) All land, including but not limited to land adjacent or contiguous to
19 any bodies of water, watercourses or the ocean shore as defined by ORS
20 390.605;

21 “(b) All roads, bodies of water, watercourses, rights of way, buildings,
22 fixtures and structures on the land described in paragraph (a) of this sub-
23 section;

24 “(c) All paths, trails, roads, watercourses and other rights of way, while
25 being used by a person to reach land for recreational purposes, gardening,
26 woodcutting or the harvest of special forest products, that are on land ad-
27 jacent to the land that the person intends to use for recreational purposes,
28 gardening, woodcutting or the harvest of special forest products, [*and that*
29 *have*] **provided that:**

30 **“(A) The right of way has** not been improved, designed or maintained

1 for the specific purpose of providing access for recreational purposes, gar-
2 dening, woodcutting or the harvest of special forest products; [and] or

3 **“(B)(i) The right of way has been improved, designed or maintained**
4 **to provide access for recreational purposes, gardening, woodcutting**
5 **or the harvest of special forest products;**

6 **“(ii) The right of way is not a highway maintained under ORS**
7 **810.010; and**

8 **“(iii) The improvement, design or maintenance was completed in a**
9 **manner that does not constitute:**

10 **“(I) Gross negligence or reckless, wanton or intentional miscon-**
11 **duct; or**

12 **“(II) An activity for which the actor is strictly liable without regard**
13 **to fault; and**

14 **“(d) All machinery or equipment on the land described in paragraph (a)**
15 **of this subsection.**

16 **“(2) The immunities provided by ORS 105.682 apply to land if the owner**
17 **transfers an easement to a public body to use the land.**

18 **“(3) Except as provided in subsections (4) to (7) of this section, the im-**
19 **munities provided by ORS 105.682 do not apply if the owner makes any**
20 **charge for permission to use the land for recreational purposes, gardening,**
21 **woodcutting or the harvest of special forest products.**

22 **“(4) If the owner charges for permission to use the owner’s land for one**
23 **or more specific recreational purposes and the owner provides notice in the**
24 **manner provided by subsection (8) of this section, the immunities provided**
25 **by ORS 105.682 apply to any use of the land other than the activities for**
26 **which the charge is imposed. If the owner charges for permission to use a**
27 **specified part of the owner’s land for recreational purposes and the owner**
28 **provides notice in the manner provided by subsection (8) of this section, the**
29 **immunities provided by ORS 105.682 apply to the remainder of the owner’s**
30 **land.**

1 “(5) The immunities provided by ORS 105.682 for gardening do not apply
2 if the owner charges more than \$25 per year for the use of the land for
3 gardening. If the owner charges more than \$25 per year for the use of the
4 land for gardening, the immunities provided by ORS 105.682 apply to any use
5 of the land other than gardening. If the owner charges more than \$25 per
6 year for permission to use a specific part of the owner’s land for gardening
7 and the owner provides notice in the manner provided by subsection (8) of
8 this section, the immunities provided by ORS 105.682 apply to the remainder
9 of the owner’s land.

10 “(6) The immunities provided by ORS 105.682 for woodcutting do not apply
11 if the owner charges more than \$75 per cord for permission to use the land
12 for woodcutting. If the owner charges more than \$75 per cord for the use of
13 the land for woodcutting, the immunities provided by ORS 105.682 apply to
14 any use of the land other than woodcutting. If the owner charges more than
15 \$75 per cord for permission to use a specific part of the owner’s land for
16 woodcutting and the owner provides notice in the manner provided by sub-
17 section (8) of this section, the immunities provided by ORS 105.682 apply to
18 the remainder of the owner’s land.

19 “(7) The immunities provided by ORS 105.682 for the harvest of special
20 forest products do not apply if the owner makes any charge for permission
21 to use the land for the harvest of special forest products. If the owner
22 charges for permission to use the owner’s land for the harvest of special
23 forest products, the immunities provided by ORS 105.682 apply to any use of
24 the land other than the harvest of special forest products. If the owner
25 charges for permission to use a specific part of the owner’s land for har-
26 vesting special forest products and the owner provides notice in the manner
27 provided by subsection (8) of this section, the immunities provided by ORS
28 105.682 apply to the remainder of the owner’s land.

29 “(8) Notices under subsections (4) to (7) of this section may be given by
30 posting, as part of a receipt, or by such other means as may be reasonably

1 calculated to apprise a person of:

2 “(a) The limited uses of the land for which the charge is made, and the
3 immunities provided under ORS 105.682 for other uses of the land; or

4 “(b) The portion of the land the use of which is subject to the charge, and
5 the immunities provided under ORS 105.682 for the remainder of the land.

6 **“SECTION 4.** ORS 105.668, as amended by section 1 of this 2024 Act, is
7 amended to read:

8 “105.668. (1) As used in this section:

9 “(a) ‘Local government’ [*has the meaning given that term in ORS*
10 *174.116*] **means a city or county.**

11 “(b) ‘Structures’ means improvements in a trail, including, but not limited
12 to, stairs and bridges, that are accessible by a user on foot, on a horse or
13 on a bicycle or other nonmotorized vehicle or conveyance.

14 “(c) ‘Unimproved right of way’ means a platted or dedicated public right
15 of way over which a street, road or highway has not been constructed to the
16 standards and specifications of the local government with jurisdiction over
17 the public right of way and for which the local government has not expressly
18 accepted responsibility for maintenance.

19 “(2) In a city with a population of 500,000 or greater, a personal injury
20 or property damage resulting from use of a trail that is in a public easement
21 or in an unimproved right of way, or from use of structures in the public
22 easement or unimproved right of way, by a user on foot, on a horse or on a
23 bicycle or other nonmotorized vehicle or conveyance does not give rise to a
24 private claim or right of action based on negligence against:

25 “(a) The city;

26 “(b) The officers, employees or agents of the city to the extent the offi-
27 cers, employees or agents are entitled to defense and indemnification under
28 ORS 30.285;

29 “(c) The owner of land abutting the public easement or unimproved right
30 of way in the city; or

1 “(d) A nonprofit corporation and its volunteers for the construction and
2 maintenance of the trail or the structures in a public easement or unim-
3 proved right of way in the city.

4 “(3) A local government to which subsection (2) of this section does not
5 apply may opt to limit liability in the manner established by subsection (2)
6 of this section by ordinance, resolution, rule, order or other regulation for:

7 “(a) The local government;

8 “(b) The officers, employees or agents of the local government to the ex-
9 tent the officers, employees or agents are entitled to defense and
10 indemnification under ORS 30.285;

11 “(c) The owner of land abutting the public easement or unimproved right
12 of way in the local government; or

13 “(d) A nonprofit corporation and its volunteers for the construction and
14 maintenance of the trail or the structures in a public easement or unim-
15 proved right of way in the local government.

16 “(4) This section does not grant immunity from liability:

17 “(a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a
18 person that receives compensation for providing assistance, services or ad-
19 vice in relation to conduct that leads to a personal injury or property dam-
20 age.

21 “(b) For gross negligence or reckless, wanton or intentional misconduct.

22 “(c) For an activity for which a person is strictly liable without regard
23 to fault.

24 “**SECTION 5.** ORS 105.672, as amended by section 2 of this 2024 Act, is
25 amended to read:

26 “105.672. As used in ORS 105.672 to 105.696:

27 “(1) ‘Charge’:

28 “(a) Means the admission price or fee requested or expected by an owner
29 in return for granting permission for a person to enter or go upon the
30 owner’s land.

1 “(b) Does not mean any amount received from a public body in return for
2 granting permission for the public to enter or go upon the owner’s land.

3 “(c) Does not include the fee for a winter recreation parking permit or
4 any other parking fee of \$15 or less per day.

5 “(2) ‘Harvest’ has that meaning given in ORS 164.813.

6 “(3) ‘Land’ includes all real property, whether publicly or privately
7 owned.

8 “(4) ‘Owner’ means:

9 “(a) The possessor of any interest in any land, including but not limited
10 to the holder of any legal or equitable title, a tenant, a lessee, an occupant,
11 the holder of an easement, the holder of a right of way or a person in pos-
12 session of the land;

13 “(b) An officer, employee, volunteer or agent of a person described in
14 paragraph (a) of this subsection, while acting within the scope of assigned
15 duties; and

16 “(c) A director, partner, general partner, shareholder, limited liability
17 company member, limited liability partner or limited partner of a person
18 described in paragraph (a) of this subsection.

19 “(5) ‘Recreational purposes’ includes, but is not limited to, outdoor ac-
20 tivities such as hunting, fishing, swimming, boating, camping, picnicking,
21 hiking, [*walking, running, bicycling,*] nature study, outdoor educational ac-
22 tivities, waterskiing, winter sports, viewing or enjoying historical,
23 archaeological, scenic or scientific sites or volunteering for any public pur-
24 pose project.

25 “(6) ‘Special forest products’ has that meaning given in ORS 164.813.

26 “(7) ‘Woodcutting’ means the cutting or removal of wood from land by an
27 individual who has obtained permission from the owner of the land to cut
28 or remove wood.

29 “**SECTION 6.** ORS 105.688, as amended by section 3 of this 2024 Act, is
30 amended to read:

1 “105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the
2 immunities provided by ORS 105.682 apply to:

3 “(a) All land, including but not limited to land adjacent or contiguous to
4 any bodies of water, watercourses or the ocean shore as defined by ORS
5 390.605;

6 “(b) All roads, bodies of water, watercourses, rights of way, buildings,
7 fixtures and structures on the land described in paragraph (a) of this sub-
8 section;

9 “(c) All paths, trails, roads, watercourses and other rights of way, while
10 being used by a person to reach land for recreational purposes, gardening,
11 woodcutting or the harvest of special forest products, that are on land ad-
12 jacent to the land that the person intends to use for recreational purposes,
13 gardening, woodcutting or the harvest of special forest products, provided
14 that[:]

15 “[A] the right of way has not been improved, designed or maintained for
16 the specific purpose of providing access for recreational purposes, gardening,
17 woodcutting or the harvest of special forest products; [or] **and**

18 “[B](i) *The right of way has been improved, designed or maintained to*
19 *provide access for recreational purposes, gardening, woodcutting or the harvest*
20 *of special forest products;]*

21 “[ii] *The right of way is not a highway maintained under ORS 810.010;*
22 *and]*

23 “[iii] *The improvement, design or maintenance was completed in a manner*
24 *that does not constitute:]*

25 “[I] *Gross negligence or reckless, wanton or intentional misconduct; or]*

26 “[II] *An activity for which the actor is strictly liable without regard to*
27 *fault; and]*

28 “(d) All machinery or equipment on the land described in paragraph (a)
29 of this subsection.

30 “(2) The immunities provided by ORS 105.682 apply to land if the owner

1 transfers an easement to a public body to use the land.

2 “(3) Except as provided in subsections (4) to (7) of this section, the im-
3 munities provided by ORS 105.682 do not apply if the owner makes any
4 charge for permission to use the land for recreational purposes, gardening,
5 woodcutting or the harvest of special forest products.

6 “(4) If the owner charges for permission to use the owner’s land for one
7 or more specific recreational purposes and the owner provides notice in the
8 manner provided by subsection (8) of this section, the immunities provided
9 by ORS 105.682 apply to any use of the land other than the activities for
10 which the charge is imposed. If the owner charges for permission to use a
11 specified part of the owner’s land for recreational purposes and the owner
12 provides notice in the manner provided by subsection (8) of this section, the
13 immunities provided by ORS 105.682 apply to the remainder of the owner’s
14 land.

15 “(5) The immunities provided by ORS 105.682 for gardening do not apply
16 if the owner charges more than \$25 per year for the use of the land for
17 gardening. If the owner charges more than \$25 per year for the use of the
18 land for gardening, the immunities provided by ORS 105.682 apply to any use
19 of the land other than gardening. If the owner charges more than \$25 per
20 year for permission to use a specific part of the owner’s land for gardening
21 and the owner provides notice in the manner provided by subsection (8) of
22 this section, the immunities provided by ORS 105.682 apply to the remainder
23 of the owner’s land.

24 “(6) The immunities provided by ORS 105.682 for woodcutting do not apply
25 if the owner charges more than \$75 per cord for permission to use the land
26 for woodcutting. If the owner charges more than \$75 per cord for the use of
27 the land for woodcutting, the immunities provided by ORS 105.682 apply to
28 any use of the land other than woodcutting. If the owner charges more than
29 \$75 per cord for permission to use a specific part of the owner’s land for
30 woodcutting and the owner provides notice in the manner provided by sub-

1 section (8) of this section, the immunities provided by ORS 105.682 apply to
2 the remainder of the owner’s land.

3 “(7) The immunities provided by ORS 105.682 for the harvest of special
4 forest products do not apply if the owner makes any charge for permission
5 to use the land for the harvest of special forest products. If the owner
6 charges for permission to use the owner’s land for the harvest of special
7 forest products, the immunities provided by ORS 105.682 apply to any use of
8 the land other than the harvest of special forest products. If the owner
9 charges for permission to use a specific part of the owner’s land for har-
10 vesting special forest products and the owner provides notice in the manner
11 provided by subsection (8) of this section, the immunities provided by ORS
12 105.682 apply to the remainder of the owner’s land.

13 “(8) Notices under subsections (4) to (7) of this section may be given by
14 posting, as part of a receipt, or by such other means as may be reasonably
15 calculated to apprise a person of:

16 “(a) The limited uses of the land for which the charge is made, and the
17 immunities provided under ORS 105.682 for other uses of the land; or

18 “(b) The portion of the land the use of which is subject to the charge, and
19 the immunities provided under ORS 105.682 for the remainder of the land.

20 **“SECTION 7. (1) The amendments to ORS 105.668, 105.672 and 105.688**
21 **by sections 1 to 3 of this 2024 Act apply to actions for personal injury,**
22 **death or property damage commenced on or after the effective date**
23 **of this 2024 Act, and before January 1, 2026.**

24 **“(2) The amendments to ORS 105.668, 105.672 and 105.688 by sections**
25 **4 to 6 of this 2024 Act become operative on January 2, 2026, and apply**
26 **to actions for personal injury, death or property damage commenced**
27 **on or after January 2, 2026.**

28 **“(3) An ordinance, resolution, rule, order or other regulation under**
29 **ORS 105.668 (3) that is adopted by a local government other than a city**
30 **or county is not effective after January 2, 2026.**

1 **“SECTION 8. This 2024 Act being necessary for the immediate**
2 **preservation of the public peace, health and safety, an emergency is**
3 **declared to exist, and this 2024 Act takes effect on its passage.”.**

4
