

Submitter: Mark Henkels
On Behalf Of:
Committee: Senate Committee On Judiciary
Measure: SB1576

Testimony Submitted to the Oregon Senate Judiciary Committee, February 11, 2024
in support of SB 1576
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Senator Dear Chair Prozanski, Vice-Chair Thatcher, and members of the committee:
For about five years I have volunteered with the Corvallis to the Sea Trail, which goes by the name "C2C". The trail runs from the Willamette River in Benton County to Beaver Creek in tidewater Lincoln County. This trail, which generated over 3,000 inquiries in 2023 from across the country and abroad, is one of Oregon's "Signature Trails" and helps make our state a unique recreational destination. Nothing is more Oregon than being able to explore and enjoy new natural places. Throughout Oregon, many of the paths we enjoy are threatened by the fear by property owners of being sued should something go wrong while people use their land. SB 1576 will help ensure that both private and public property owners continue to be generous regarding access to their lands for public enjoyment.

The C2C, like many of Oregon's best hikes, runs through land that is owned by many entities. Creating the C2C took over three decades. It took much expertise and effort to figure out the possible ways to connect the randomly distributed existing roads and trails of the Coast Range. Once planned, C2C volunteers had to build the sections that linked it all together, and the maintenance of the trail will never end. But the greatest challenge was getting the permission of all the affected landowners for the public to use their lands. Liability for injury is a foremost concern for landowners and a major stumbling block to creating and sustaining trails like the C2C.

Recreational immunity, which is provided in one form or another in all fifty states, can overcome the reluctance of property owners to permit access because it ensures that they will not be subject to lawsuits from people they allow to use their lands. As your committee probably knows, the Oregon Court of Appeals decision in the case of *Fields v. Newport* (2023) weakened the state's recreational immunity law by interpreting the existing law to allow legal claims based on a very narrow interpretation of what is "recreational". SB 1576 is a temporary fix that will protect landowners who allow access to their lands for walking or biking from such lawsuits until a more permanent system for recreational immunity can be devised in the longer 2025 legislative session.

I am personally responsible for monitoring a 6.2 mile stretch of the C2C trail, about

one-tenth of the total length. This stretch alone crosses land owned by the U.S. Forest Service, the City of Corvallis, and at least two private land owners. Landowners can withdraw this permission at any time, something more likely to happen since the Fields decision. Once permission to use one piece of property is withdrawn from the C2C, the whole trail may be blocked.

Please pass SB 1576. Let's recognize and address the legitimacy of property owner concerns over liability. Let's fix this problem so we all can make the most of this beautiful state.

Thank you for your time and consideration.