

HB 3564 A -3, -4 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 5/8, 5/19

WHAT THE MEASURE DOES:

This measure modifies and updates the process for investigating, retracting or correcting a written, defamatory statement.

Detailed Summary:

- Clarifies that a civil action for defamation can be filed in response to either a printed or electronic publication.
- Expands the time in which an individual can demand a retraction or correction from 20 to 40 days after receiving actual knowledge of the statement.
- Requires a demand for retraction to be issued personally or via certified or registered mail.
- Directs the publisher to investigate a demand within two weeks and, if it agrees that the statement merits retraction or correction, to proceed as follows:
 - for print media, publish a correction or retraction in the first issue published thereafter;
 - for electronic media, immediately place a link to the correction or retraction on any webpage containing the defamatory statement or remove the defamatory statement altogether.
 - for a radio or TV broadcast, publish the retraction on the next broadcast; and
 - for a movie theater, publish the retraction or correction at the next showing.
- Makes technical changes to existing law.

HOUSE VOTE: Ayes, 49; Nays, 0

REVENUE: No revenue impact

FISCAL: Has minimal fiscal impact

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-3 This amendment modifies the timeline for demanding and issuing a retraction, requiring a party to demand retraction within 30 days and the publisher to issue the retraction within 20 days.

-4 This amendment updates Oregon's defamation statutes to include electronic media but otherwise maintains current Oregon law. This amendment expands the statutory scope to include electronic newspapers, magazines, or other periodicals and specifies that a publisher must place a link to a retraction or correction on any web page containing or previously containing the subject defamatory statement.

BACKGROUND:

The rules governing defamation claims in Oregon are set forth in ORS 31.200 to 31.225. Pursuant to ORS 31.205, the plaintiff may recover any general and special damages. However, damages are not presumed but must be pleaded and proved. To recover general damages, a plaintiff must plead and prove that (1) the defendant actually intended to defame the plaintiff, or (2) the defendant failed to publish a correction or retraction on demand. ORS 31.210(1).

The demand for a retraction must be in writing, signed, and delivered to the defendant personally within 20 days after the plaintiff receives actual knowledge of the defamatory statement. ORS 31.215(1). Upon receiving the demand, the defendant has two weeks in which to investigate and then publish a correction or retraction in the

first edition or broadcast thereafter in substantially as conspicuous a manner as the defamatory statement was first published. ORS 31.215(2)–(4).

PRELIMINARY