

SB 1173 -2 STAFF MEASURE SUMMARY

Senate Committee On Rules

Prepared By: Kris Kolta

Meeting Dates: 6/11, 6/18

WHAT THE MEASURE DOES:

The measure exempts a health care facility from a product liability civil claim arising from a product provided to a patient, so long as the facility did not manufacture or design the product. The measure takes effect on the 91st day following adjournment sine die and applies to civil actions commenced on or after that date.

ISSUES DISCUSSED:

- Balancing individuals' and health care providers' rights
- *Brown v. Glaxosmithkline, LLC and Providence Health Systems*
- Other legal remedies, theories, and potential defendants for defective healthcare products
- Adverse consequences of strict liability on hospitals and clinics
- Other states laws regarding strict liability in health care setting
- Oregon's existing strict products liability law

EFFECT OF AMENDMENT:

-2 The amendment clarifies that a health care facility may be subject to a civil action for a product provided to a patient if the facility also offers it for sale to the public. The amendment similarly conditions and extends the exemption from a product liability civil claim to hospital-affiliated clinics, professional corporations formed to practice medicine or provide health care services, and residential care facilities. The amendment also clarifies the scope of a physician's immunity from product liability.

REVENUE: Has minimal revenue impact

FISCAL: Has minimal fiscal impact

BACKGROUND:

ORS 30.902 generally allows an injured party to file a product liability action against a manufacturer, distributor, seller, or lessor of a product. ORS 30.902 creates an exception for medical doctors for products provided to patients as part of a medical procedure so long as the doctor did not manufacture or design the product.