

SB 1173 A STAFF MEASURE SUMMARY

House Committee On Rules

Prepared By: Kris Kolta

Meeting Dates: 6/25, 6/25

WHAT THE MEASURE DOES:

The measure exempts a health care facility, a hospital-affiliated clinic, a professional corporation formed to practice medicine or provide health care services, and a residential care facility from a product liability civil claim arising from a product provided to a patient, so long as the facility or entity did not manufacture or design the product or offer it for sale to the public. The measure also clarifies that a physician is exempt from product liability in providing a product as part of "health care services" as opposed to "a medical procedure." The measure takes effect on the 91st day following adjournment sine die and applies to civil actions commenced on or after that date.

FISCAL: Has minimal fiscal impact

REVENUE: Has minimal revenue impact

ISSUES DISCUSSED:

- *Brown v. Glaxosmithkline, LLC*, 323 Or App 214 (2022)
- Existing product liability protection for Oregon physicians
- Characterizing healthcare as a service and/or product
- Patients' alternate legal remedies: medical malpractice claim against health care providers and/or products liability claim against manufacturers/distributors
- Maintaining health care provider accountability
- Oregon as an outlier in allowing product liability claims against hospitals

EFFECT OF AMENDMENT:

No amendment.

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.