

House Bill 3564

Sponsored by Representative HARBICK; Representatives DIEHL, SKARLATOS, Senator STARR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes the law about how to ask a publisher to correct or retract a statement. (Flesch Readability Score: 65.1).

Modifies provisions relating to demands for correction or retraction of a published defamatory statement.

A BILL FOR AN ACT

1 Relating to published defamatory statements; amending ORS 31.205, 31.210, 31.215 and 31.220.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1.** ORS 31.205 is amended to read:

4 31.205. Except as provided in ORS 31.210, in an action for damages on account of a defamatory
5 statement published or broadcast in a **printed or electronic** newspaper, magazine[,] **or** other
6 [printed] periodical, or by radio, television or motion pictures, the plaintiff may recover any general
7 and special damages [which] **that**, by competent evidence, the plaintiff can prove to have suffered
8 as a direct and proximate result of the publication of the defamatory statement.

9 **SECTION 2.** ORS 31.210 is amended to read:

10 31.210. (1) In an action for damages on account of a defamatory statement published or broad-
11 cast in a **printed or electronic** newspaper, magazine[,] **or** other [printed] periodical, or by radio,
12 television or motion pictures, the plaintiff [shall] **may** not recover general damages unless:

13 (a) A correction or retraction is demanded but not published as provided in ORS 31.215; or

14 (b) The plaintiff proves by a preponderance of the evidence that the defendant actually intended
15 to defame the plaintiff.

16 (2) Where the plaintiff is entitled to recover general damages, the publication of a correction
17 or retraction may be considered in mitigation of damages.

18 **SECTION 3.** ORS 31.215 is amended to read:

19 31.215. (1) [The] **A** demand for correction or retraction [shall] **of a defamatory statement must**
20 be in writing, signed by the defamed person or the attorney of the person and be delivered to the
21 publisher of the defamatory statement, either personally, **by electronic mail**, by registered mail or
22 by certified mail with return receipt at the publisher's place of business or residence within [20] **60**
23 days after the defamed person receives actual knowledge of the defamatory statement. The demand
24 [shall] **must** specify which statements are false and defamatory and request that they be corrected
25 or retracted. The demand may also refer to the sources from which the true facts may be ascer-
26 tained with accuracy.

27 [(2) *The publisher of the defamatory statement shall have not more than two weeks after receipt*
28 *of the demand for correction or retraction in which to investigate the demand; and, after making such*
29 *investigation, the publisher shall publish the correction or retraction in:]*

NOTE: Matter in **boldfaced** type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in **boldfaced** type.

1 *[(a) The first issue thereafter published, in the case of newspapers, magazines or other printed pe-*
2 *riodicals.]*

3 *[(b) The first broadcast or telecast thereafter made, in the case of radio or television stations.]*

4 *[(c) The first public exhibition thereafter made, in the case of motion picture theaters.]*

5 **(2) The publisher of the allegedly defamatory statement shall investigate the demand for**
6 **correction or retraction within two weeks after receiving the demand. If the publisher agrees**
7 **to the demand for correction or retraction, and the defamatory statement was published via:**

8 **(a) A printed newspaper, magazine or other periodical, the publisher shall publish the**
9 **correction or retraction in the first issue thereafter published.**

10 **(b) An electronic newspaper, magazine or other periodical, the publisher shall imme-**
11 **diately place a link to the correction or retraction on the front page of the publisher's**
12 **website and on any page containing the defamatory statement or retract the defamatory**
13 **statement by removing the defamatory statement from the electronic newspaper, magazine**
14 **or other periodical.**

15 **(c) A radio or television station, the publisher shall publish the correction or retraction**
16 **in the first broadcast or telecast thereafter made.**

17 **(d) A motion picture theater, the publisher shall publish the correction or retraction in**
18 **the first public exhibition thereafter made.**

19 **(3) Except when the publisher removes the defamatory statement under subsection (2)(b)**
20 **of this section:**

21 **(a) [The] A correction or retraction [shall] must** consist of a statement by the publisher sub-
22 **stantially to the effect that the defamatory statements previously made are not factually supported**
23 **and that the publisher regrets the original publication [thereof] of the defamatory statements.**

24 **[(4)] (b) The correction or retraction [shall] must** be published in substantially as conspicuous
25 **a manner as the defamatory statement.**

26 **SECTION 4.** ORS 31.220 is amended to read:

27 31.220. A correction or retraction published *[prior to notice of demand therefor shall have the*
28 *same effect as a correction or retraction after demand, if the requirements of ORS 31.215 (2), (3) and*
29 *(4) are substantially complied with]* **before a publisher receives a demand under ORS 31.215 for**
30 **the correction or retraction has the same effect as a correction or retraction after demand,**
31 **if the publisher substantially complies with the requirements of ORS 31.215 (2) and (3).**

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