

B-Engrossed
House Bill 3564

Ordered by the Senate May 30
Including House Amendments dated April 10 and Senate Amendments
dated May 30

Sponsored by Representative HARBICK; Representatives DIEHL, RESCHKE, SKARLATOS, TRAN, YUNKER,
Senators SMITH DB, 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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes the law about how a publisher must correct or retract a statement in a digital paper. (Flesch Readability Score: 61.6).

[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 **published in an electronic newspaper, magazine or other periodical.**

A BILL FOR AN ACT

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

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

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

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

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

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

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

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

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

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

20 31.215. (1) The demand for correction or retraction shall be in writing, signed by the defamed
21 person or the attorney of the person and be delivered to the publisher of the defamatory statement,
22 either personally, by registered mail or by certified mail with return receipt at the publisher's place
23 of business or residence within 20 days after the defamed person receives actual knowledge of the
24 defamatory statement. The demand shall specify which statements are false and defamatory and re-
25 quest that they be corrected or retracted. The demand may also refer to the sources from which the

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 true facts may be ascertained with accuracy.

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

5 (a) **In** the first issue thereafter published, in the case of **printed** newspapers, magazines or other
6 [*printed*] periodicals.

7 (b) **In** the first broadcast or telecast thereafter made, in the case of radio or television stations.

8 (c) **In** the first public exhibition thereafter made, in the case of motion picture theaters.

9 (d) **By immediately placing a link to the correction or retraction on any page containing**
10 **or previously containing the defamatory statement, in the case of electronic newspapers,**
11 **magazines or other periodicals.**

12 (3) The correction or retraction shall consist of a statement by the publisher substantially to the
13 effect that the defamatory statements previously made are not factually supported and that the
14 publisher regrets the original publication thereof.

15 (4) The correction or retraction shall be published in substantially as conspicuous a manner as
16 the defamatory statement.

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