

Senate Bill 179

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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: This Act makes permanent changes to the laws that shield landowners from lawsuits from visitors. (Flesch Readability Score: 61.8).

Makes permanent the temporary changes made to the landowner immunity laws by chapter 64, Oregon Laws 2024.

A BILL FOR AN ACT

1
2 Relating to landowner immunity; amending ORS 105.668, 105.672 and 105.688; and repealing section
3 11, chapter 64, Oregon Laws 2024.

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

5 **SECTION 1.** ORS 105.668, as amended by sections 5 and 8, chapter 64, Oregon Laws 2024, is
6 amended to read:

7 105.668. (1) As used in this section:

8 (a) "Local government" [*means a city or county*] **has the meaning given that term in ORS**
9 **174.116.**

10 (b) "Structures" means improvements in a trail, including, but not limited to, stairs and bridges,
11 that are accessible by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or
12 conveyance.

13 (c) "Unimproved right of way" means a platted or dedicated public right of way over which a
14 street, road or highway has not been constructed to the standards and specifications of the local
15 government with jurisdiction over the public right of way and for which the local government has
16 not expressly accepted responsibility for maintenance.

17 (2) In a city with a population of 500,000 or greater, a personal injury or property damage re-
18 sulting from use of a trail that is in a public easement or in an unimproved right of way, or from
19 use of structures in the public easement or unimproved right of way, by a user on foot, on a horse
20 or on a bicycle or other nonmotorized vehicle or conveyance does not give rise to a private claim
21 or right of action based on negligence against:

22 (a) The city;

23 (b) The officers, employees or agents of the city to the extent the officers, employees or agents
24 are entitled to defense and indemnification under ORS 30.285;

25 (c) The owner of land abutting the public easement or unimproved right of way in the city; or

26 (d) A nonprofit corporation and its volunteers for the construction and maintenance of the trail
27 or the structures in a public easement or unimproved right of way in the city.

28 (3) A local government to which subsection (2) of this section does not apply may opt to limit

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 liability in the manner established by subsection (2) of this section by ordinance, resolution, rule,
 2 order or other regulation for:

3 (a) The local government;

4 (b) The officers, employees or agents of the local government to the extent the officers, em-
 5 ployees or agents are entitled to defense and indemnification under ORS 30.285;

6 (c) The owner of land abutting the public easement or unimproved right of way in the local
 7 government; or

8 (d) A nonprofit corporation and its volunteers for the construction and maintenance of the trail
 9 or the structures in a public easement or unimproved right of way in the local government.

10 (4) This section does not grant immunity from liability:

11 (a) Except as provided in subsection (2)(b) or (3)(b) of this section, to a person that receives
 12 compensation for providing assistance, services or advice in relation to conduct that leads to a
 13 personal injury or property damage.

14 (b) For gross negligence or reckless, wanton or intentional misconduct.

15 (c) For an activity for which a person is strictly liable without regard to fault.

16 **SECTION 2.** ORS 105.672, as amended by sections 6 and 9, chapter 64, Oregon Laws 2024, is
 17 amended to read:

18 105.672. As used in ORS 105.672 to 105.696:

19 (1) “Charge”:

20 (a) Means the admission price or fee requested or expected by an owner in return for granting
 21 permission for a person to enter or go upon the owner’s land.

22 (b) Does not mean any amount received from a public body in return for granting permission for
 23 the public to enter or go upon the owner’s land.

24 (c) Does not include the fee for a winter recreation parking permit or any other parking fee of
 25 \$15 or less per day.

26 (2) “Harvest” has that meaning given in ORS 164.813.

27 (3) “Land” includes all real property, whether publicly or privately owned.

28 (4) “Owner” means:

29 (a) The possessor of any interest in any land, including but not limited to the holder of any legal
 30 or equitable title, a tenant, a lessee, an occupant, the holder of an easement, the holder of a right
 31 of way or a person in possession of the land;

32 (b) An officer, employee, volunteer or agent of a person described in paragraph (a) of this sub-
 33 section, while acting within the scope of assigned duties; and

34 (c) A director, partner, general partner, shareholder, limited liability company member, limited
 35 liability partner or limited partner of a person described in paragraph (a) of this subsection.

36 (5) “Recreational purposes” includes, but is not limited to, outdoor activities such as hunting,
 37 fishing, swimming, boating, camping, picnicking, hiking, **walking, running, bicycling**, nature study,
 38 outdoor educational activities, waterskiing, winter sports, viewing or enjoying historical,
 39 archaeological, scenic or scientific sites or volunteering for any public purpose project.

40 (6) “Special forest products” has that meaning given in ORS 164.813.

41 (7) “Woodcutting” means the cutting or removal of wood from land by an individual who has
 42 obtained permission from the owner of the land to cut or remove wood.

43 **SECTION 3.** ORS 105.688, as amended by sections 7 and 10, chapter 64, Oregon Laws 2024, is
 44 amended to read:

45 105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the immunities provided

1 by ORS 105.682 apply to:

2 (a) All land, including but not limited to land adjacent or contiguous to any bodies of water,
 3 watercourses or the ocean shore as defined by ORS 390.605;

4 (b) All roads, bodies of water, watercourses, rights of way, buildings, fixtures and structures on
 5 the land described in paragraph (a) of this subsection;

6 (c) All paths, trails, roads, watercourses and other rights of way, while being used by a person
 7 to reach land for recreational purposes, gardening, woodcutting or the harvest of special forest
 8 products, that are on land adjacent to the land that the person intends to use for recreational pur-
 9 poses, gardening, woodcutting or the harvest of special forest products, provided that:

10 (A) The right of way has not been improved, designed or maintained for the specific purpose
 11 of providing access for recreational purposes, gardening, woodcutting or the harvest of special forest
 12 products; *[and]* or

13 (B)(i) **The right of way has been improved, designed or maintained to provide access for**
 14 **recreational purposes, gardening, woodcutting or the harvest of special forest products;**

15 (ii) **The right of way is not a highway under the jurisdiction of a road authority under**
 16 **ORS 810.010; and**

17 (iii) **The improvement, design or maintenance was completed in a manner that does not**
 18 **constitute:**

19 (I) **Gross negligence or reckless, wanton or intentional misconduct; or**

20 (II) **An activity for which the actor is strictly liable without regard to fault; and**

21 (d) All machinery or equipment on the land described in paragraph (a) of this subsection.

22 (2) The immunities provided by ORS 105.682 apply to land if the owner transfers an easement
 23 to a public body to use the land.

24 (3) Except as provided in subsections (4) to (7) of this section, the immunities provided by ORS
 25 105.682 do not apply if the owner makes any charge for permission to use the land for recreational
 26 purposes, gardening, woodcutting or the harvest of special forest products.

27 (4) If the owner charges for permission to use the owner's land for one or more specific recre-
 28 ational purposes and the owner provides notice in the manner provided by subsection (8) of this
 29 section, the immunities provided by ORS 105.682 apply to any use of the land other than the activ-
 30 ities for which the charge is imposed. If the owner charges for permission to use a specified part
 31 of the owner's land for recreational purposes and the owner provides notice in the manner provided
 32 by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of
 33 the owner's land.

34 (5) The immunities provided by ORS 105.682 for gardening do not apply if the owner charges
 35 more than \$25 per year for the use of the land for gardening. If the owner charges more than \$25
 36 per year for the use of the land for gardening, the immunities provided by ORS 105.682 apply to any
 37 use of the land other than gardening. If the owner charges more than \$25 per year for permission
 38 to use a specific part of the owner's land for gardening and the owner provides notice in the manner
 39 provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the re-
 40 mainder of the owner's land.

41 (6) The immunities provided by ORS 105.682 for woodcutting do not apply if the owner charges
 42 more than \$75 per cord for permission to use the land for woodcutting. If the owner charges more
 43 than \$75 per cord for the use of the land for woodcutting, the immunities provided by ORS 105.682
 44 apply to any use of the land other than woodcutting. If the owner charges more than \$75 per cord
 45 for permission to use a specific part of the owner's land for woodcutting and the owner provides

1 notice in the manner provided by subsection (8) of this section, the immunities provided by ORS
2 105.682 apply to the remainder of the owner's land.

3 (7) The immunities provided by ORS 105.682 for the harvest of special forest products do not
4 apply if the owner makes any charge for permission to use the land for the harvest of special forest
5 products. If the owner charges for permission to use the owner's land for the harvest of special
6 forest products, the immunities provided by ORS 105.682 apply to any use of the land other than the
7 harvest of special forest products. If the owner charges for permission to use a specific part of the
8 owner's land for harvesting special forest products and the owner provides notice in the manner
9 provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the re-
10 mainder of the owner's land.

11 (8) Notices under subsections (4) to (7) of this section may be given by posting, as part of a re-
12 ceipt, or by such other means as may be reasonably calculated to apprise a person of:

13 (a) The limited uses of the land for which the charge is made, and the immunities provided under
14 ORS 105.682 for other uses of the land; or

15 (b) The portion of the land the use of which is subject to the charge, and the immunities pro-
16 vided under ORS 105.682 for the remainder of the land.

17 **SECTION 4. Section 11, chapter 64, Oregon Laws 2024, is repealed.**

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