



Re: HB 3564

May 8, 2025

Dear Chair Prozanski, Vice-Chair Thatcher, Members of the Committee:

We, the undersigned, represent The Oregonian/OregonLive, Oregon Public Broadcasting, the Oregon Legislative Correspondents Association and the Oregon Society of Professional Journalists, as well as small digital newsrooms: the Lincoln Chronicle, Salem Reporter, the Gales Creek Journal, News in the Grove and the Banks Journal. Our coalition's letter also reflects concerns we've heard from journalists and publishers in several other newsrooms and initial input from media attorneys. We write to express our strong concerns about House Bill 3564 and respectfully request that the bill not be advanced at this time, but instead be sent to an interim work group. We would welcome the opportunity to discuss this further with you and your staff.

As journalists, we take accuracy very seriously – it is the foundation of the public trust that allows us to do our work. If we get things wrong in a way that may prejudice a member of the public, we are committed to fixing mistakes quickly and effectively. Oregon's defamation retraction shield law, which HB 3564 seeks to amend, is a core tool that helps us do this work promptly and effectively. It is true that this law could stand modernization, particularly around new technologies. However, we are very concerned that this bill may have serious unintended consequences that would chill our ability to do this work.

The issues listed below refer to the bill language, to existing law or to the combined effect thereof. We believe that issues with vague and problematic language in the current bill were not fully raised or discussed in the House, meaning lawmakers may not have had complete information or been able to fully consider the potential unintended consequences. Regardless, we are concerned that advancing this bill without significant further revision would chill and undermine public service journalism at a time when it's already facing myriad challenges. We are requesting this go to an interim work group to embrace a more fully considered modernization of the law.

What follows compiles concerns raised by the undersigned as well as input from other newsrooms:

- Journalists want accuracy—we rely on it for public trust. But human error occurs. Under current law, there is a 20-day safe harbor window for requests for retraction or correction – a member of the public must file a timely request to make general damages available, and if journalists comply within that time then potential damages are limited. HB 3564 doubles the length of that window from 20 to 40 days, greatly expanding that liability window, permitting requesters to wait much longer before seeking redress.

That's not only double the timeline that currently exists in Oregon, it is twice what California requires. In contrast, the public is best served by deadlines that work to ensure inaccuracies are corrected in a timely fashion. We want to learn of mistakes as quickly as possible so that any alleged damages to a member of the public or to the public trust can be quickly rectified.

- Another area in need of clarification involves the posting of a correction. Language in both the amendment and existing statute lack clarity and specificity, for instance appearing to improperly conflate the publication of a correction with actual defamation. Even setting aside the legal import of this language, it is confusing on its face, potentially contributing to misunderstandings for both the person requesting a correction and the newsroom receiving the request. Journalists should not have to worry that they are admitting legal liability in order to take good-faith actions under the safe harbor law to mitigate a requester's concerns.
- This bill's language fleshes out two competing and potentially contradictory instructions to news publishers: publish a notice of correction or retraction in the next edition, and publish it in substantially as prominent a way. The Tuesday paper is not as prominent as the Sunday paper, for example, and an online-only paper is not as well read as a print newspaper. A work group could resolve and clarify this contradiction.
- Moreover, while most requests for correction are made in good faith, the doubling of time mentioned earlier further opens the door in Oregon for people seeking to weaponize the law and use frivolous demands to chill accurate public-service reporting — similar to a trend we are seeing nationally. It also allows a requester to sit on a claim longer, accruing more potential damages before raising an issue to journalists.
- the bill would grant a person and their lawyer extra time to research a demand for retraction, it would not change the very short timeline allowed for small publishers, newspapers and other newsrooms to find their own representation to consider a demand, if necessary. Some newsrooms already find that completely accurate reporting can be subject to creatively crafted bad-faith or frivolous retraction demands intended to limit public knowledge and deter follow-up reporting. With its doubled demand timeline, this bill would likely significantly increase the number of such demands without allowing newsrooms a reasonable amount of time to find an attorney to consider a demand letter that may make obscure or unfounded legal arguments.
- The imbalance cited above particularly harms the sort of small newsrooms that now represent the majority of local outlets in Oregon. Overall, the bill lacks clarity on how and where requests should be submitted, raising the prospect that requests may go to a member of the newsroom who may not get the request to the right people to put the organization on effective notice, or that requests may not be seen by the proper officers or leaders in time to meet requirements.
- While the bill elaborates upon the existing law's timelines, it does not address a problem baked into them that may be exacerbated by the imbalance discussed earlier. The timeline of "investigate, then immediately correct," combined with a lack of capacity in small newsrooms, may not allow for a publisher or editor to engage in good-faith communication with the person making the request or their lawyer to avoid crafting a correction that itself is inaccurate or that the person making the request perceives as inaccurate or defamatory. As a result, a correction crafted without input literally overnight to meet the statutory requirements could itself lead to another

request for correction or retraction demand. That, in turn, increases the liability attached to good-faith journalism.

In the House, there was significant uncertainty about this bill's prospects that discouraged vigorous public opposition. It then took shape without much opportunity for review or broader discussion, with many issues left unexamined. As it stands, rather than resolving issues in the existing statute and clarifying the law for Oregonians, this bill would layer on new areas of confusion and uncertainty.

Local news sources provide valuable information to residents. They help build community and public trust, deter bad behavior and promote pro-social behavior in our society. But the newsrooms Oregonians rely on keep shrinking and disappearing due to harms inflicted on journalism by Big Tech and economic trends.

Now, on top of that, the unworkable and unclear aspects of this bill would create new and unnecessary costs and risks, chilling and undermining public-service journalism and making it more challenging for publishers, large and small, to continue to provide valuable service to their community.

As written, this bill would ill-serve the public and should be rejected. In contrast, an interim work group would improve clarity and avoid unintended consequences.

Respectfully yours,

Chas Hundley, Editor and Publisher, News in the Grove, the Banks Post, and the Gales Creek Journal

Rachel Smolkin, President and CEO, Oregon Public Broadcasting,

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