

**Testimony Before the Oregon Senate Committee on Finance and Revenue
In Support of SB 1196-1: Restoring the Legal Power of Liability Waivers
Hannah Wintucky, Government Affairs Manager, Outdoor Industry Association
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Chair Meek and Members of the Committee,

Thank you for the opportunity to testify today. My name is Hannah Wintucky, and I represent the Outdoor Industry Association (OIA), the national trade association representing the \$1.2 trillion outdoor recreation economy. The outdoor industry supports more than 5 million jobs nationwide, and here in Oregon, outdoor recreation is an economic powerhouse, contributing \$8.37 billion in value-added impact, 2.6% of the state's GDP, and supporting 72,925 jobs—3.6% of total wage and salary employment in the state.

Oregon ranks 13th in the nation for outdoor recreation participation, with 62% of the state's population—nearly 2.48 million residents—engaging in outdoor activities. The state is home to 255 state parks spanning 110,000 acres, one national park, and an impressive 39.9% of its land designated as public land.

While I am here representing the outdoor industry, I am also an Oregonian, residing in Baker City. This issue is more than just an industry concern—it directly affects the lives of my fellow Oregonians and their ability to recreate in the Beaver State. Ensuring accessible and sustainable outdoor recreation opportunities is not just about economic impact but about preserving the outdoor way of life that defines our communities.

I am here today in strong support of **SB 1196-1**, which seeks to restore the enforceability of liability waivers in Oregon for recreational activities. This legislation provides much-needed clarity by allowing operators to require participants in outdoor recreation to assume responsibility for inherent risks. SB 1196-1 is essential to the continued viability of Oregon's outdoor recreation industry and to ensuring access to affordable outdoor opportunities for all. This issue is of critical importance not only to the viability of our outdoor businesses but also to ensuring the public's continued access to affordable and diverse recreational opportunities.

The Problem: Legal Uncertainty Jeopardizing Outdoor Recreation

SB 1196-1 makes a necessary correction to Oregon's liability laws by reaffirming the enforceability of waivers for ordinary negligence while continuing to hold providers accountable for reckless or intentional misconduct. The bill also directs the Oregon Business Development Department, with support from the Department of Consumer and Business Services, to study challenges facing the recreation economy, including climate-related impacts and escalating insurance costs.

Recent court decisions in Oregon have significantly weakened the legal standing of liability waivers, creating uncertainty for recreation providers across the state. Waivers are a long-standing tool

used across the country to acknowledge and assume the inherent risks of activities such as skiing, rafting, mountain biking, and guided tours.

Without reliable waivers, outdoor businesses face skyrocketing liability insurance costs, increased litigation risk, and potential closures. This is not just a business issue; it is a public access issue. When providers are forced to raise prices or eliminate services due to liability concerns, fewer people can afford to participate in outdoor recreation, especially families, students, and lower-income communities.

The existing liability laws are also bad for business. These laws, as they currently stand, create a competitive disadvantage when compared to other states. When guides and other service providers decide where to conduct business, they may opt for states with clearer liability protections, diverting valuable economic activity away from Oregon.

Adding to this challenge, the recently passed EXPLORE Act has revised national liability policy, reversing a 40-year ban on waivers at the federal level. On February 10, 2025, the National Park Service issued a policy change allowing concessions and Commercial Use Authorization (CUA) holders to adhere to state requirements for the use of exculpatory agreements. This long-overdue policy shift acknowledges the critical role waivers play in the recreation industry and helps align federal practices with state-level standards. We expect other land management agencies, such as the Forest Service and BLM, to follow suit soon.

However, despite this positive shift at the federal level, Oregon's existing liability laws remain an obstacle. The inconsistency between Oregon's liability policy and this new federal standard underscores the urgency of restoring the enforceability of waivers at the state level. When guides and other service providers decide where to conduct business, they may choose states with clearer liability protections over Oregon, diverting valuable economic activity elsewhere. The inconsistency between Oregon's restrictive liability laws and this new federal policy puts the state at a competitive disadvantage, making it imperative to restore the enforceability of waivers at the state level.

Why Liability Waivers Are Essential

- 1. Personal Responsibility & Inherent Risks:** Outdoor recreation inherently involves some level of risk. Participants understand and accept these risks when they sign a waiver. This principle of personal responsibility is fundamental to maintaining access to outdoor experiences.
- 2. Preserving Access & Affordability:** If businesses and non-profits are unable to reasonably manage their liability, they will be forced to pass costs onto consumers or discontinue operations. This would significantly impact Oregon's outdoor industry, from ski resorts and rafting outfitters to climbing gyms and youth camps.

3. **Legal Consistency with Other States:** Oregon is now an outlier in how liability waivers are handled. The vast majority of states uphold well-drafted waivers, recognizing their role in fostering a thriving recreation industry. Restoring the enforceability of waivers will align Oregon with national best practices and provide needed certainty to businesses operating in the state.

SB 1196-1 does not provide blanket immunity. It ensures providers remain liable for reckless or intentional misconduct. But it also reaffirms the right of participants to assume reasonable risks, and helps recreation providers responsibly manage liability and continue serving the public.

Oregon's outdoor recreation economy is a national leader. But without legal certainty, we risk undermining the very businesses and programs that allow this industry and our outdoor culture to flourish.

I respectfully urge you to support SB 1196-1 and restore the enforceability of liability waivers in Oregon. Thank you for your time and consideration. I welcome any questions from the Committee.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hannah Wintucky', with a stylized, cursive script.

Hannah Wintucky

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