Testimony Regarding Senate Bill 1173
Submitted by Lara Johnson
June 11, 2025

Chair Prozanski, Vice Chair Thatcher, and Members of the Senate Judiciary Committee:

My name is Lara Johnson. I am an attorney in Eugene and a Past President of the Oregon Trial Lawyers Association. I am here, in part, because I have represented Oregonians, including children, injured by defective products.

Thank you for the opportunity to provide testimony regarding Senate Bill 1173. Oregon's product liability law, ORS 30.900, has been on the books since 1977. It allows Oregonians injured by a dangerously defective product to bring a claim against the manufacturer, distributor, or other seller or lessor of a product for personal injury, death, or property damage. The law allows only those that can prove the product to be unreasonably dangerous to prevail at trial and obtain a remedy. The law is designed to provide a remedy to those injured by unreasonably dangerous products.

Senate Bill 1173, if passed, would create a special exception in Oregon's long-standing strict product liability law. Hospitals that sell dangerously defective drugs or other products would not longer be strictly liable for resulting patient injuries and deaths.

The bill responds to the recent unanimous Oregon Supreme Court decision in *Brown v. GlaxoSmith Kline, LLC*, 372 Or 225 (2024). That case involved a child born with irreparable heart defects after a hospital sold a drug to the mother when she was pregnant with the child. The parents of the child claimed that the drug was unreasonably dangerous to given to a pregnant woman.

The decision of the Oregon Supreme Court was not surprising. For many decades, a seller of a dangerously defective product may be held responsible for the injuries the product cause. Hospitals charge patients for medications and other products. The drug charges can be expensive. I reviewed one client's medical bill before today; he was charged $220 for 17 acetaminophen pills. This is consistent with the high charges I have seen in other client's medical bills. Not only are hospitals selling medications, they are charging much more than would Fred Meyers or the corner grocery store, which would be legally responsible if they sold dangerously defective drugs.

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The question is not whether hospitals sell drugs and other products. The question is whether it is good public policy to take away a remedy that Oregonians have had for decades when they are injured by dangerously defective drugs and other medical products.

When an Oregon business is held responsible for selling a dangerously defective product, that business has the right to seek reimbursement from the manufacturer. Most generic drugs come from India and China. An Oregon *seller* has a business relationship that allows them to seek reimbursement from their foreign supplier. An Oregon *consumer* typically does not have the right to bring a claim in Oregon against a foreign supplier that does not do business here, as our courts normally do not have jurisdiction in those cases. The only remedy for Oregonians injured by unreasonably dangerous, defective drugs may be a product liability case against the seller or distributor of those defective drugs, which may be a hospital.

Those who were surprised by the recent Oregon Supreme Court's decision in *Brown v. GlaxoSmithKline* may have been surprised in part because product liability claims against hospitals are uncommon. There were special circumstances in that case that supported the parents of the injured baby in bringing their claim. We have lived with Oregon's strict product liability laws for nearly half a century. There is no need to change long-standing Oregon law that protects consumers when they are injured by dangerously defective products through no fault of their own.