

SB 1593 STAFF MEASURE SUMMARY

Senate Committee On Commerce and General Government

Prepared By: Erin Seiler, LPRO Analyst

Sub-Referral To: Senate Committee On Judiciary

Meeting Dates: 2/9, 2/11

WHAT THE MEASURE DOES:

The measure enables recreational operators to use liability waivers for claims of ordinary negligence relating to sports, fitness, or recreational activity. It requires Oregon Business Development Department (OBDD) to study recreation commerce in Oregon. The measure declares an emergency and is effective on passage.

Detailed Summary:

Recreational liability:

Allows recreational operators to require liability waivers for people 18 years or older releasing them from claims of ordinary negligence relating to sports, fitness, or recreational activity. Allows waivers to be required before a person participates in the activity, rents equipment, uses a facility, or volunteers. States that such releases are not unconscionable or void as contrary to public policy. Restricts operators from requiring a release from claims that constitute greater than ordinary negligence. Applies to releases executed before, on, or after the measure goes into effect. Does not apply to releases for claims where a final judgement has been entered before the effective date of the measure.

Defines terms.

Recreation economy study:

Study must quantify the economic benefits of Oregon's recreation economy; assess the needs of recreation industry and identify economic development solutions; identify primary issues facing the recreation industry; and consider tourism-based and local recreation-related activity. OBDD must report to the appropriate interim committee by December 15, 2026.

Fiscal impact: *Fiscal statement issued*

Revenue impact: *Revenue statement issued*

ISSUES DISCUSSED:

- Impact of the recreation sector on Oregon's economy
- Oregonians access to outdoor recreation activities
- Ability of businesses in the recreation sector to attain liability insurance
- Utilization of waivers in other states
- Inclusion of provisions to allow waivers for minors
- *Bagley v. Mt. Bachelor, Inc. (2014)*
- Ability of a person to seek readdress

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Oregon Supreme Court ruled in *Bagley v. Mt. Bachelor, Inc. (2014)* that businesses may be sued for negligence even when someone engaging in sports or recreation has signed a waiver. The decision found that the waiver was an "unconscionable contract," meaning that it was unenforceable. Since then, additional lawsuits have been filed

against recreational operators in situations where someone has signed a waiver and has then been injured while engaging in sports and recreation.

Senate Bill 1593 permits the use of liability waivers for claims of ordinary negligence relating to sports, fitness, or recreational activity. The measure clarifies when these types of businesses are and are not legally responsible for claims relating to sports, fitness, or recreational activity. The measure allows liability waivers releasing operators from claims of ordinary negligence, which is defined as failing to act with the care that a reasonable person would use in similar circumstances. It does not allow waivers releasing business operators from claims that constitute greater than ordinary negligence, which typically refer to a more serious level of carelessness involving reckless disregard for the safety of others.