



MEMORANDUM

TO: Senate Commerce and General Government Committee

FROM: Dave Byrd, Director of Risk & Regulatory Affairs, National Ski Areas Association
Protect Oregon Recreation coalition

DATE: February 9, 2026

RE: Support for SB 1593 Oregon Recreation, Commerce, and Affordability Act
New federal law EXPLORE Act

Today I testified in person in support of Senate Bill 1593, the Oregon Recreation Commerce and Affordability Act (ORCA), on behalf of the 12 Oregon ski areas who are members of the National Ski Areas Association (NSAA). Recreational providers across Oregon would like this Committee to understand that recently passed federal legislation now allows for releases of liability on federal lands, and how SB 1593 ORCA Act will allow Oregon recreation providers, including ski areas, to leverage this new federal law to keep recreation affordable for Oregon families.

On January 4, 2025, in one of his last presidential acts, President Biden signed new legislation into law titled **Expanding Public Lands Outdoor Recreation Experiences Act**, commonly known as the **EXPLORE Act**. This act combined a variety of recreation-related initiatives into one broad recreation bill resulting in the EXPLORE Act. This law passed both the U.S. House and the Senate *unanimously*.

The EXPLORE Act authorizes a variety of recreational initiatives on federal lands, including U.S. Forest Service lands, BLM lands, National Park Service, and all other federal lands. The law funds building long distance bike trails and rock-climbing areas, streamlines permitting processes for guiding companies, improves accessible infrastructure at recreational facilities on federal land, streamlines filming permits, and expands parking and broadband access. **The Act also specifically referenced the economic importance of outdoor recreation, citing the \$1.2 trillion economic impact outdoor recreation has on rural economies.**



The EXPLORE Act requires federal public land managers to modernize administrative processes and expand opportunities for outdoor recreation. Notably, the Act specifically authorizes concessionaires, guides, and other recreational providers operating pursuant to special use permits on federal lands to have guests execute releases of liability (also referred to as "exculpatory agreements" in the legislation, which are the same legal concept as releases of liability or waivers).

Section 319 of the EXPLORE Act states:

"A federal land management agency shall not implement or enforce any regulation or policy prohibiting the use of an exculpatory agreement between a recreation service provider or a holder of a commercial use permit and a customer relating to services provided under a special recreation permit or a commercial use authorization."

This new law now allows recreational providers to have guests and customers execute releases of liabilities, waivers, and related exculpatory agreements for recreational activities on federal lands. This provision on exculpatory agreements and releases of liability in the EXPLORE Act covers a wide variety of recreational activities, including snowmobile tours, dog sled tours, rafting guides, mountain biking, backcountry hut trips, heli-skiing guiding, outfitting guides, equestrian activities, camping, Nordic skiing, special events and competitions, and any other recreational activity on federal lands. The law covers recreational activities in both summer and winter, and only authorizes enforcement of releases or waivers as they relate to claims of "ordinary negligence"—releases of liability cannot be used to waive claims of gross negligence in any state or under federal law.

NSAA advocated with Congress to adopt the EXPLORE Act, and now we are encouraging the Oregon legislature to understand the importance of this federal legislation in regard to Senate Bill 1593 and the ORCA Act, which is bi-partisan and bicameral that is especially critical for on-going efforts on releases of liability at the state level. In Oregon, the Protect Oregon Recreation (POR) coalition is hopeful that this new federal law will help translate into enforceable releases in Oregon. The POR coalition includes more than 400 different recreational providers, businesses, and non-profit organizations—from skiing, mountain biking, rafting and outfitter guides, to equestrian, boating, fitness gyms, and non-profit groups, is actively promoting new legislation with the Oregon legislature that would formally allow recreational providers to obtain enforceable releases of liability (in 2014, the



Oregon Supreme Court ruled that releases of liability violate public policy, preventing the enforcement of any release of liability since that ruling).

Oregon is the only Western state that does not allow the use of enforceable releases of liability, and this has resulted in an insurance crisis in the state. While recreational providers operating on federal public lands in other Western will be able to implement this new legislation under the EXPLORE Act, Oregon recreational providers will not be able to implement this federal legislation to provide a measure of protection against frivolous lawsuits. As a result, Oregon recreational providers—many who are family-owned businesses located in rural areas—at steep disadvantage against other recreational providers in other Western states.

In turn, this lack of enforceable releases in Oregon will make liability insurance much more expensive for Oregon providers compared to other western states—and make affordable recreation increasingly difficult for Oregon families.

NSAA strongly encourages the Senate Commerce and General Government Committee to support SB 1593 and the Oregon Recreation Commerce and Affordability Act.