MEMORANDUM

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

From: Oregon Health & Fitness Alliance, Jim Zupancic, President and General Counsel

Re: **OPPOSITION TO SB 1517-7 AND 1517-6 (with appreciation for the progress)**

Date: February 15, 2026

What is the Goal of SB 1517-7?

On behalf of the hundreds of gyms, fitness clubs and exercise studios throughout Oregon, we express appreciation to Chair Prozanski, Vice Chair Thatcher, and Senators Broadman, McLane, Manning and Gelser Blouin for examining this issue once again in an attempt to find an alternative compromise solution. In particular, we appreciate the recognition that Senators Broadman and McLane have shown in these amendments that (1) waiving ordinary negligence and (2) including the entire recreation industry are central elements to any compromise solution. **However, we strongly believe that SB 1593, currently in the Senate Rules Committee, *is the compromise solution*.**

For more than a decade, recreation industry providers have been presenting a framework for Oregon legislators to address the insurance and liability waiver crisis in Oregon effectively. Finally, after hundreds of letters, research memos and hours of compelling testimony from outfitters and trail guides, ski areas, river rafters, gyms and fitness studios, conservation groups, chambers of commerce, non-profits and many others, the Senate Commerce and General Government Committee has **UNANIMOUSLY** passed SB 1593 (Meek) with a **DO PASS RECOMMENDATION** to the Senate Rules Committee for further action. Zero opposition was presented at that SB 1593 hearing. The unusual bipartisan solidarity behind SB 1593, known as the Oregon Recreation Commerce and Affordability Act of 2026 (ORCA), is a rarity in Salem and should be celebrated as a success.

Rather than celebrate the bipartisan unity behind SB 1593, the Senate Judiciary Committee is now considering a competing bill, SB 1517-7, on the last legislative day that bills can be reported out of policy committees for the 2026 Session. SB 1517-7 is **UNIVERSALLY OPPOSED BY THE RECREATION INDUSTRY,** as evidenced by the plethora of opposition letters streaming into your committee and the testimony you will hear on Monday, February 16. To our knowledge, the only organization that supports SB 1517-7 is the Oregon Trial Lawyers Association.

Which begs the question, "What is the goal of SB 1517-7 when a bipartisan solution to this issue (SB 1593) is already making progress through the Oregon Legislature?"

Despite good intentions, the drafters of SB 1517-7 have again created an unworkable approach that will not remotely solve the root problems of our current law. As shared by the Protect Oregon

Recreation coalition in the attached Memo, **SB 1517-7 would actually be worse for Oregon than current common law.** Reasons why SB 1517-7 will not work include, but are not limited to, the following:

- SB 1517-7 does not align Oregon with the other western states by allowing liability waivers to be reasonably enforced.
- SB 1517-7 will not lower insurance costs for providers because it does not enable the enforcement of waivers for ordinary negligence by summary judgment.
- SB 1517-7 limits the applicability of waivers so narrowly that waivers are rendered essentially useless.
- SB 1517-7 does not provide a clear, unambiguous and predictable approach that gives insurance companies reason to offer insurance at reasonable rates.
- SB 1517-7 excludes volunteers.
- SB 1517-7 only allows waivers in such narrow circumstances that the exclusions and limitations will eviscerate the rule.
- SB 1517-7 Preamble is internally inconsistent (lines 18-21) and incomprehensible by implying that some releases are invalid, followed by stating that waivers are "not unenforceable" (double negative). Both statements cannot be true.

The passage of SB 1517-7 will create continuous infighting, argument and interminable debate about an issue that has received more attention, analysis, public scrutiny and examination than almost any other legislative issue in recent history. SB 1593 represents years of painstaking effort by hundreds of stakeholders, associations, chambers and non-profits to fashion an approach that aligns Oregon with other western states using a balanced and reasonable approach. Trial attorneys were repeatedly included in those discussions, and their concerns were addressed by modifying language and making concessions in SB 1593. There is nothing to be gained, and much to be lost, if you move legislation that will further confuse the issue.

To be clear, OHFA supports SB 1593 and opposes SB 1517-7 and 1517-6 for a plethora of reasons. Most importantly, the fitness industry is on the precipice of disaster just like the ski industry, which is experiencing one of the worst precipitation seasons in history. COVID-19 decimated our industry in Oregon and the lack of access to enforceable releases, along with the rising cost of liability insurance, have become critical problems for our small business recreation providers. We need relief now and we need it to be effective relief. Neither SB 1517-7 nor 1517-6 provides that relief, but SB 1593 does.

We strongly urge you to **vote NO on SB 1517-7 and support SB 1593** that is currently in the Senate Rules Committee.

Respectfully submitted for the record. Thank you.

RESPONSE TO SB 1517 -6

Summary: Oregon recreational providers are facing an insurance crisis. Legislation addressing liability waivers is meaningful only if it **actually solves that insurance crisis**. SB 1517 -6—like the prior versions of this bill—does not solve, ***and actually worsens***, the insurance crisis. SB 1517 -6 is far worse for recreational providers and their insurers than current law in Oregon. This amendment confirms the insurers' perception of Oregon as anti-provider and pro-litigation and will not encourage them to return to the state / not leave the state.

SB 1593—which has had numerous hearings over the past four months with very little opposition—has already received unanimous approval from the Senate Commerce and General Government Committee, with a recommendation to pass from the full committee. SB 1593 is the only bill that will solve Oregon's current insurance crisis.

To solve the insurance crisis, legislation must:

1. **Enable enforcement of waivers by summary judgment.** Insurers need the ability to obtain pre-trial dismissal of cases on summary judgment, like all other western states.

2. **Broadly allow the release of claims for ordinary negligence.** The key purpose of releases is to allow participants to waive ordinary negligence in all, or nearly all, circumstances in which injuries can occur; this is the core of every western state's law enforcing releases. Proposed massive exceptions to when releases can be enforced prevents summary judgment and utterly fails to improve the ongoing insurance crisis.

3. **Be Clear, Unambiguous and Predictable**. Insurers calculate risk. A new statute that is unlike the law anywhere else in the country is unpredictable and subject to judicial interpretation. Therefore, it does not allow them to predict risk. Such a law only encourages insurers to leave Oregon.

SB 1517 -6 does not accomplish any of these goals and would leave recreation providers in a worse position than under current law, as detailed below.

Sections	**Problematic Language**	**Why it is a Problem**
Section 1 A	Definition of Operator	Excludes environmental groups and volunteers
Section 1 (B) (2)	Participant	Whether an injury is sustained in "performing" a sport is a fact question that cannot be resolved on summary judgment; plus some accidents occur before or after "performing" such as dropping a weight on your foot or having one fall off because prior participant put it away incorrectly.
Section 1(2) Section 1(3)(b)	Waivers are limited to injuries sustained "while in the act of performing" the recreational activity; and excludes (but is not	

	limited to) injuries incurred in "parking areas, lodges, rental facilities or other premises not directly part of the" recreational activity.	This language makes releases so narrow that they would exclude a significant number of injuries, e.g. gyms often use outside paved or grassy areas for cross-training There is no reason to arbitrarily limit releases in this way – no other state does.
Section 1(3)(c)	Prohibits a waiver from applying to any injury arising out of "equipment, safety gear or apparatus."	These terms are undefined – preventing summary judgment. Makes releases in some industries (i.e. gyms) almost worthless. Excludes a large number of injuries at ski resorts – including those involving lifts. Contradicts Oregon's Ski Statute No other state limits releases in these circumstances
Section 1(3)(d)	Prohibits a waiver from applying to any injury arising from violation of an "industry safety standard."	This term is undefined. This will prevent summary judgment in **EVERY** case and ultimately make waivers completely useless as plaintiffs will always claim such a violation and that will be a jury question—trial courts are required to accept all allegations in a plaintiff's complaint as true, and an allegation of some violation of an amorphous safety standard will **ALWAYS** prevent summary judgment. No other state has a similar law.
Section 1(3)(e)	Prohibits a waiver of negligent hiring claims.	This will prevent summary judgment in nearly every case as plaintiffs can simply include this claim, regardless of whether it has any factual support, simply to get around an otherwise lawful waiver and avoid summary judgment. No other state has a similar law.

Section 1 (3) (f)	Prohibits a waiver if there was a failure to warn of known hazards	This is a barn door so wide that almost any claim could fall under this exclusion; completely eliminates any benefit for this legislation. Prevents summary judgment in **EVERY** case.
Section 1(3)(g)	Prohibits a waiver of injuries arising from the use of any vehicle.	This is a significant exception that will exclude many claims and potential claims. As to snow cats and snowmobiles, it contradicts the Ski Statute as these vehicles are reasonably obvious, expected and necessary. No other state limits releases in this way.