

NATIONAL COAST TRAIL ASSOCIATION



February 16, 2026

Senate Committee on Judiciary

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

First, I want to acknowledge the stated intent of Senate Bill 1517-7 to make waivers of liability legally enforceable in Oregon. The "Whereas" clauses in the bill eloquently capture the vital role Oregon's recreation and health & fitness industries play in our economy, communities, tourism, and well-being. Further, the bill's recognition of *Bagley v. Mt. Bachelor* (356 Or. 543, 2014) and again, its clarification that waivers remain viable tools under Oregon law reflect a thoughtful intent to support outdoor recreation while respecting judicial precedent. And I truly appreciate the urgency to address insurance challenges post-Bagley and align Oregon with other western states and national norms.

That said, I respectfully oppose SB 1517-7 as currently written, because its detailed exclusions in subsection (3) undermine the bill's core goal of enabling enforceable waivers for ordinary negligence in recreation. These carve-outs go far beyond what other western states require, creating a patchwork where operators cannot reliably protect against routine claims—precisely the problem *Bagley* exacerbated. With targeted amendments, SB 1517-7 could fully realize its stated intent while harmonizing with proven models from states like Colorado, Utah, and Idaho that successfully enforce recreation waivers.

Summary of Key Technical Issues and Fixes

Here are the three main issues still apparently needing fixes, explained simply, with amendments that mirror western-state practices:

| Issue | Why It Hurts Enforceability | Fix (Consistent with Western States) |
|--|--|--|
| Overly Broad Carve-Outs (Subsection 3(b)-(g)) | Lists too many ordinary-negligence claims as non-waivable (e.g., all equipment maintenance, parking lots, transport shuttles), leaving operators exposed to claims western states cover via waivers. | Narrow to egregious cases only (e.g., gross negligence on equipment; vehicles not integral to the activity). Western states like Utah and Colorado enforce ordinary-negligence waivers for on-activity risks without these blanket exclusions. |
| No "Inherent Risks" Definition or Assumption | Fails to allocate natural sport risks (terrain, weather, other participants) to users, as required in ski/recreation statutes nationwide—key to waiver enforceability post- <i>Bagley</i> . | Add definitions and assumption clause: Users assume "inherent risks" (e.g., changing terrain/weather), barring recovery for those alone. Colorado Ski Safety Act and Utah statutes use this exact structure. |
| Incomplete Waiver Requirements | Subsection (2) requires a "conspicuous written release disclosing risks" but lacks basics like clear language and presentation standards to survive unconscionability challenges. | Add subsection (5): Must be written/signed, use plain language on ordinary negligence, and be reasonably noticeable. Matches SB 1593 and western norms (e.g., Idaho's recreation waiver rules). |

These changes would make SB 1517-7 stronger and amend it to better achieve the stated intent of more fully protecting Oregon's recreation economy. Thank you for your service overall to Oregon's outdoor heritage.

Respectfully,

Albert LePage, Executive Director

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