

# RESTORE RECREATIONAL IMMUNITY – SB 327 & HB 2792

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## REQUEST

Restore recreational immunity to landowners so they continue to allow Oregonians to access their land for recreational use and enjoyment.

## BACKGROUND

The Oregon Public Use of Lands Act<sup>1</sup> encourages *public and private* owners of land to make their land available to the public for recreational purposes by providing landowners immunity from tort liability. However, a recent Oregon Supreme Court decision undermined the immunity guaranteed in the Act, which could result in a severe reduction of land available to Oregonians for their recreational use and enjoyment.

### What is Recreational Immunity?

Landowners, *both public and private*, who make their land available without charge for recreational use by the public are not liable if a person is injured while using the land for recreational purposes.

The Public Use of Lands Act has increased the availability of land for free recreation by limiting liability of cities, counties, parks, schools and a wide range of private owners, including farmers and timber companies that allow hunters, anglers, hikers, mountain bikers and other members of the public to use or traverse their lands at no charge.

Recreational immunity is the cornerstone principle that secures the public policy goals of the Oregon Public Use of Lands Act.



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## OREGON SUPREME COURT CASE

### *Johnson v. Gibson*<sup>ii</sup>

In *Johnson v. Gibson*, the Court held that when the Legislature passed the Public Lands Act, it intended only to immunize the actual landowner, and never intended recreational immunity to protect employees or agents acting on behalf of the landowners.

This ruling effectively undermines a landowner's recreational immunity from tort liability under the Act. Public employers are statutorily required to indemnify their employees<sup>iii</sup> and most, if not all, landowners will ultimately be responsible for the negligence of their employees that results in injury to a member of the public.

Landowners must now weigh whether allowing the public to recreate on their land and in their facilities is worth the increased risk of liability.

## PROPOSED AMENDMENTS

Following *Johnson*, we seek to amend ORS 105.672 to restore recreational immunity to a landowner's officers, employees, agents or volunteers who are acting within the scope of their employment or duties.

## SUPPORTERS

Oregon Recreation and Park Association  
Special Districts Association of Oregon  
Oregon Farm Bureau  
Oregon Forest Industries Council  
Oregon Public Ports Association  
Metro  
City of Portland  
Washington County  
Lane County  
Central Oregon Cities Organization  
Oregon Water Resources Congress  
City of Salem  
Port of Portland  
City of Bend  
Clackamas County  
City of Eugene  
City of Springfield  
Travel Lane County  
Disciples of Dirt

League of Oregon Cities  
Oregon School Boards Association  
Oregonians in Action  
Coalition of Oregon Land Trusts  
Association of Oregon Counties  
Metropolitan Mayor's Consortium  
Oregon Winegrowers Association  
Portland General Electric  
Oregon Bicycle Racing Association  
City of Gresham  
City of Hillsboro  
City of Medford  
North Clackamas PARD  
Travel Lane County  
City of Cottage Grove  
Cities of Coburg, Creswell, Oakridge  
Valley Power Sports  
Oregon City  
City of West Linn

<sup>i</sup> ORS 105.668 - 700

<sup>ii</sup> *Johnson v. Gibson*, 358 Or 624 (2016)

<sup>iii</sup> ORS 30.285 & 30.287