

House Bill 2502

Sponsored by Representative WHITSETT; Senator WHITSETT (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Gives tourist facility landlord immunity from liability under certain circumstances during term of rental agreement or lease providing for tenant to occupy tourist facility and operate organizational camp.

Gives tourist facility landlord immunity from licensing sanctions and civil penalty under certain circumstances during term of rental agreement or lease providing for tenant to occupy tourist facility and operate organizational camp.

Transfers responsibility for compliance with certain rules and laws from landlord to tenant during term of rental agreement or lease providing for tenant to occupy tourist facility and operate organizational camp.

Requires that tourist facility be in compliance with rules and laws to receive or renew license. Allows licensed tourist facility to operate if in substantial compliance with rules and laws.

A BILL FOR AN ACT

1
2 Relating to tourist facilities; creating new provisions; and amending ORS 446.310 and 446.320.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section:**

5 (a) **“Landlord” means a tourist facility owner holding the license issued under ORS**
6 **446.320 for the tourist facility.**

7 (b) **“Organizational camp” has the meaning given that term in ORS 446.310.**

8 (c) **“Tenant” means a person, or a public body as defined in ORS 174.109, that:**

9 (A) **Is not under common ownership, management or control with the landlord;**

10 (B) **Rents or leases a tourist facility from a landlord for the purpose of operating an or-**
11 **ganizational camp on two or more consecutive days during the term of the rental or lease;**
12 **and**

13 (C) **For the term of the rental or lease enjoys exclusive occupancy of the tourist facility**
14 **and exclusive control over the operation of the organizational camp.**

15 (2) **A landlord that rents or leases a tourist facility to a tenant is not liable for any**
16 **damages, death or injury incurred during the term of the rental or lease that are caused by**
17 **a condition constituting a noncompliance with ORS 446.310 to 446.350 or with any rules**
18 **adopted under ORS 446.310 to 446.350 or 448.005 to 448.090 unless:**

19 (a) **The condition existed at the beginning of the term of the rental or lease; or**

20 (b) **The landlord had actual knowledge of the condition and a reasonable opportunity for**
21 **taking action to prevent the damage, death or injury.**

22 (3) **This section does not create any new cause of action for damages, death or injury**
23 **incurred at a tourist facility.**

24 **SECTION 2. Section 3 of this 2015 Act is added to and made a part of ORS 446.310 to**
25 **446.350.**

26 **SECTION 3. (1) As used in this section:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (a) "Landlord" means a tourist facility owner holding the license for the tourist facility.

2 (b) "Tenant" means a person, or a public body as defined in ORS 174.109, that:

3 (A) Is not under common ownership, management or control with the landlord;

4 (B) Rents or leases a tourist facility from a landlord for the purpose of operating an or-
5 ganizational camp on two or more consecutive days during the term of the rental or lease;
6 and

7 (C) For the term of the rental or lease enjoys exclusive occupancy of the tourist facility
8 and exclusive control over the operation of the organizational camp.

9 (2) If a tenant rents or leases a tourist facility, the Oregon Health Authority may not
10 deny, suspend or revoke the tourist facility license of the landlord or issue the landlord a
11 civil penalty under ORS 446.310 to 446.350, and the landlord may not be charged with a
12 misdemeanor under ORS 446.990, because of a condition existing at the tourist facility during
13 the term of the rental or lease and constituting a noncompliance with ORS 446.310 to 446.350
14 or with any rules adopted under ORS 446.310 to 446.350, or constituting a noncompliance de-
15 scribed in ORS 446.990, unless:

16 (a) The condition existed at the beginning of the term of the rental or lease; or

17 (b) The landlord had actual knowledge of the condition and did not act within the time
18 described in ORS 446.347 (2) to correct the condition.

19 (3) A landlord that rents or leases a tourist facility to a tenant is not required during the
20 term of the rental or lease agreement to comply with any rules regarding the provision of
21 services to organizational camp attendees, the keeping of organizational camp attendee re-
22 cords or the sanitary condition of swimming pools, to provide the Director of the Oregon
23 Health Authority or a designee access under ORS 446.335 or 448.040 or to maintain grounds
24 and buildings in a sanitary condition under ORS 446.340 (1).

25 **SECTION 4.** ORS 446.310 is amended to read:

26 446.310. As used in ORS 446.310 to 446.350, unless the context requires otherwise:

27 (1) "Authority" means the Oregon Health Authority.

28 (2) "Camping vehicle" means either a vacation trailer or a self-propelled vehicle or structure
29 equipped with wheels for highway use and that is intended for human occupancy and is being used
30 for vacation and recreational purposes, but not for residential purposes, and is equipped with
31 plumbing, sink or toilet.

32 (3) "Construction" means work regulated by the state building code as defined in ORS 455.010.

33 (4) "Director" means the Director of the Oregon Health Authority.

34 (5) "Health official" means a local public health administrator appointed pursuant to ORS
35 431.418.

36 (6) "Hostel" means any establishment having beds rented or kept for rent on a daily basis to
37 travelers for a charge or fee paid or to be paid for rental or use of facilities and that is operated,
38 managed or maintained under the sponsorship of a nonprofit organization that holds a valid ex-
39 emption from federal income taxes under the Internal Revenue Code of 1954 as amended.

40 [(7) "Organizational camp" includes any area designated by the person establishing, operating,
41 managing or maintaining the same for recreational use by groups or organizations that include but are
42 not limited to youth camps, scout camps, summer camps, day camps, nature camps, survival camps,
43 athletic camps, camps that are operated and maintained under the guidance, supervision or auspices
44 of religious, public and private educational systems and community service organizations.]

45 (7) "Organizational camp" means a tourist facility that is used primarily for the purpose

1 **of providing an outdoor group living experience with social, spiritual, educational or recre-**
 2 **ational objectives for two or more consecutive days.**

3 (8) "Picnic park" means any recreation park that is for day use only and provides no recreation
 4 vehicle or overnight camping spaces.

5 (9) "Recreation park" means any area designated by the person establishing, operating, manag-
 6 ing or maintaining the same for picnicking, overnight camping or use of recreational vehicles by the
 7 general public or any segment of the public. "Recreation park" includes but is not limited to areas
 8 open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license,
 9 membership, association or common ownership and further includes, but is not limited to, those
 10 areas divided into two or more lots, parcels, units or other interests for purposes of such use.

11 (10) "Regulating agency" means, with respect to a tourist facility, the Oregon Health Authority.

12 (11) **"Substantial compliance" means that any failure to meet the requirements estab-**
 13 **lished by the director or the regulating agency:**

14 (a) **Is a temporary condition that a tourist facility owner or operator is attempting to**
 15 **correct;**

16 (b) **Does not constitute a danger to the health or safety of any individual; and**

17 (c) **Does not interfere with the intent and purposes of ORS 446.310 to 446.350 or rules**
 18 **adopted under ORS 446.310 to 446.350.**

19 [(11)] (12) "Tourist facility" means any travelers' accommodation, hostel, picnic park, recreation
 20 park and organizational camp.

21 [(12)] (13) "Travelers' accommodation" includes any establishment, [which] **that** is not a hostel,
 22 having rooms, apartments or sleeping facilities rented or kept for rent on a daily or weekly basis
 23 to travelers or transients for a charge or fee paid or to be paid for rental or use of facilities.

24 **SECTION 5.** ORS 446.320 is amended to read:

25 446.320. (1) [No person shall] **A person may not** establish, operate, manage or maintain a tourist
 26 facility, [without a license from] **unless the facility is licensed by** the Director of the Oregon Health
 27 Authority.

28 (2) **A tourist facility must be in compliance with ORS 446.310 to 446.350 and with rules**
 29 **adopted under ORS 446.310 to 446.350 in order to receive or renew a tourist facility license.**
 30 **During the term of a license, a tourist facility must be in substantial compliance with ORS**
 31 **446.310 to 446.350 and rules adopted under ORS 446.310 to 446.350. The license for a tourist**
 32 **facility that is in substantial compliance is not subject to suspension or revocation, but the**
 33 **license holder may be refused renewal of the license until compliance is achieved and, except**
 34 **as provided under section 3 of this 2015 Act, is subject to a civil penalty as provided under**
 35 **ORS 446.347.**

36 [(2)] (3) Organizational camps operated under rental or leasehold agreements may be licensed
 37 either to the landlord or to the tenant. **Except as provided in this section,** [provided that] the li-
 38 cense holder shall be responsible for compliance with ORS 446.310 to 446.350 and the rules adopted
 39 [thereunder] **under ORS 446.310 to 446.350.**

40 (4) **A tenant, as defined in section 3 of this 2015 Act, operating an organizational camp**
 41 **is, for the term that the tenant rents or leases the tourist facility at which the camp oper-**
 42 **ates, responsible for complying with any rules regarding the provision of services to organ-**
 43 **izational camp attendees, the keeping of organizational camp attendee records or the**
 44 **sanitary condition of swimming pools, for providing the Director of the Oregon Health Au-**
 45 **thority or a designee with access under ORS 446.335 and 448.040 and for maintaining grounds**

1 and buildings in a sanitary condition under ORS 446.340 (1). The tenant is not subject to li-
2 censing under ORS 446.310 to 446.350, but is subject to any civil penalty under ORS 446.347
3 or criminal penalty under ORS 448.990 for noncompliance with a statute or rule described in
4 this subsection.

5 **SECTION 6.** (1) Section 1 of this 2015 Act applies to liability for damages, death and in-
6 jury incurred on or after the effective date of this 2015 Act.

7 (2) Section 3 of this 2015 Act and the amendments to ORS 446.310 and 446.320 by sections
8 4 and 5 of this 2015 Act apply to tourist facility rental and lease agreements that are entered
9 into on or after the effective date of this 2015 Act.

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