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## HB 3541

### **Brief summary**

Expands exclusive remedy protections to include an employer's parent company and related entities under the same parent company.

### **Analysis**

#### **What the law currently does**

When an employer complies with workers' compensation coverage requirements, ORS 656.018 exempts the employer from any liability arising out of injuries that occur in the course and scope of employment, except as provided elsewhere under ORS chapter 656. This exemption also extends to the employer's workers' compensation insurer, the insurer's claims administrator, and the employer's employees, officers, and directors, among other parties. However, the employer's parent company and related entities under the same parent company are not exempt under current law.

This exemption from liability is sometimes called the "exclusive remedy provision." It prevents injured workers from suing their employers for causing or contributing to their injury, and requires disputes over whether a claim or condition is accepted, or how an accepted claim is handled, to be resolved within the framework provided under ORS chapter 656.

The exclusive remedy provision does not foreclose all liability for workplace injury. An injured worker or insurer can attempt to recover damages from a third party that is not exempt under ORS 656.018, such as the owner of the property where the worker was injured or the manufacturer of a product or substance that contributed to the worker's injury. Under some circumstances, an injured worker can also pursue a civil negligence action against their employer if their claim is denied on the grounds that a work-related incident was not the major contributing cause of their injury.

#### **What will change if the bill is enacted**

If HB 3541 is enacted, an employer's parent company and other entities under that company ("parent or related companies") will be exempt from liability under ORS 656.018. This exemption will also extend to

certain entities associated with a parent or related company, such as the company’s employees, officers, and directors, among others.

The bill applies only to liability arising on or after the effective date of the bill. The bill declares an emergency and takes effect on passage.

### **Likely impacts, results, or consequences if the bill is enacted**

If the bill is enacted, parent or related companies associated with an employer would have liability protections from third party lawsuits allowed under ORS chapter 656. This may lead to a reduction in third-party litigation involving injuries that occur in the course and scope of employment, which may result in lower rates for workers’ compensation and employer’s liability insurance.

## **Questions/relevant information for the bill sponsor or primary proponent**

- The bill does not define “parent company.” Would an entity need to own 100% of an employer to be considered the employer’s parent company, or could an entity that owns a majority of the employer, or less, so qualify?
- The bill also does not define “related entities.” Would an entity need to share 100% common ownership with an employer to be considered a related entity under the same parent company, or could an entity that shares majority common ownership, or less, so qualify?

## **Legislative history**

### **Has this bill been introduced in a prior session?**

No     Yes    Years                      Bill numbers

### **Does this bill amend current state or federal law or programs?**

No     Yes    Specify

ORS 656.018.

### **Is this bill related to a legal decision?**

No     Yes    Case citation, AG opinion, date, etc.

### **Should another DCBS division review this measure?**

No     Yes    Divisions

## **Other impacts**

### **Does this bill have a fiscal impact to DCBS?**

No    Yes    Unknown   Explain

## Does this bill have an economic impact to stakeholders?

No    Yes    Unknown   Explain

The bill may lead to a reduction in third-party litigation involving injuries that occur in the course and scope of employment. This may result in lower legal costs for workers' compensation and employer's liability insurers and possibly lower insurance rates for Oregon employers.

The bill would limit an injured worker's ability to recover damages from a parent or related company.

## Sponsors

Rep. Boshart Davis

## Possible interested stakeholders

Employers, insurers, self-insured employers, trial attorneys, insurance defense attorneys, labor.

## Public policy topics

- |   |   |
|---|---|
| <input type="checkbox"/> Agency operations                  | <input type="checkbox"/> Other lines of insurance                   |
| <input type="checkbox"/> Building codes                     | <input type="checkbox"/> Prescription drugs                         |
| <input type="checkbox"/> Financial institutions and lending | <input checked="" type="checkbox"/> Property and casualty insurance |
| <input type="checkbox"/> Health insurance                   | <input type="checkbox"/> Public records/public meetings law         |
| <input type="checkbox"/> Involvement with other agencies    | <input type="checkbox"/> Rulemaking                                 |
| <input type="checkbox"/> Licensure                          | <input type="checkbox"/> Securities                                 |
| <input type="checkbox"/> Manufactured structures            | <input type="checkbox"/> Task force/reports                         |
| <input checked="" type="checkbox"/> MLAC legislative review | <input type="checkbox"/> Worker safety                              |
| <input type="checkbox"/> New program                        | <input checked="" type="checkbox"/> Workers' compensation system    |
| <input type="checkbox"/> Nondepository programs             | <input type="checkbox"/> Other                                      |