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August 24, 2020

U.S. Senator for Oregon, Jeff Merkley
 U.S. Senator for Oregon, Ron Wyden
 U.S. Representative to Congress, Peter DeFazio

RE: Save jobs; pass timely, temporary, and targeted liability protection for employers

Honorable Leaders of Oregon Delegation to Congress,

Thank you for your leadership in these unprecedented times, and for representing Oregon businesses, schools, and families in your work on a Phase IV economic relief and recovery package. I write to bring your attention to a lingering concern among our business community, and to reaffirm our call for temporary, targeted, and timely liability protections needed to shield employers from litigation abuse arising from COVID-19.

OSHA and OLCC report as high as 97% business compliance with state mandates. Results from a state-wide survey of small businesses conducted by the Oregon State Chamber of Commerce* and distributed through local Oregon chambers tells a compelling story. Every business surveyed speaks of considerable time and costs attributed to extensive, good-faith efforts to comply with public health and safety mandates and guidelines. For small businesses, even a few hundred dollars can be a burden, but the majority report having already invested thousands, even tens of thousands of dollars.

Moreover, of those surveyed – all of whom are committed to safety compliance – more than 80% say they would be unable to survive a lawsuit. When asked to elaborate on what the impact of a coronavirus-related lawsuit brought against them would mean, the message was generally consistent across sectors, size of business, and geographic location.

In the words of Lane County area small business employers:

- **Real Estate, Brokerage, Property Developer (Less than 10 employees):** *More than likely we would be forced to shut down depending on the level of damages granted. In our particular environment in Oregon most settlements are not reasonable and far too punitive. Personal responsibility has pretty much vanished here.*
- **Restaurant Owner (10-20 employees):** *The legal fees and bad publicity alone would both be enough to have to close for good.*
- **Consulting and Engineering Firm (26-50 employees):** *At a minimum, an increase in costs associated with legal fees, insurance premiums, and staff time to assist attorneys, which could result in cost reductions elsewhere, such as expenses, reduction in workforce, etc. Morale, office culture, and corporate image may also be affected negatively.*
- **Commercial Restaurant Equipment and Supplies Firm (50 to 100 employees):** *Well of course the financial liability would be very damaging. We would be able to survive it, but it would affect our company for a very long time.*



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Small businesses have invested thousands of dollars in equipment, supplies, and personnel resources simply to ensure they are in compliance with state and federal health and safety guidelines. They do so willingly, knowing they must provide safety assurances to customers and employees. Not surprisingly, 96% of small businesses surveyed state-wide agree that temporary, targeted, and timely protections are needed to shield them from frivolous lawsuits.

Compounding costs of compliance, regulatory burden and anxieties combine with the associated liability risks including but not limited to legal fees, loss of reputation and credibility, and Oregon's punitive nature of litigations unfavorable to business all contribute to an underlying bleak and fear-driven sentiment. This is simply not a productive frame of mind for businesses and employers to be as we seek to regain confidence and entrepreneurial-driven momentum around any current and post-pandemic recovery.

Timely, temporary and targeted liability protections that would safeguard businesses, non-profit organizations, and educational institutions against unfair lawsuits will ensure employer confidence, preserve jobs, and facilitate safe and effective economic recovery from the COVID-19 pandemic.

This legislation is critically needed and should be top of mind as congress reconvenes in September. Your action on this issue will be one that supports the backbone of the American economy - businesses, non-profit organizations, universities, and local schools -ensuring short and long-term economic recovery for our state.

Respectfully,

A handwritten signature in black ink, appearing to read "V. Mikkelsen", written in a cursive style.

Vonnie Mikkelsen
President and CEO

* Summary OSCC survey results attached