

SB 3 A STAFF MEASURE SUMMARY

Carrier: Sen. Dembrow

Senate Committee On Environment and Natural Resources

Action Date: 03/29/17
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 3-2-0-0
Yeas: 3 - Dembrow, Prozanski, Roblan
Nays: 2 - Baertschiger Jr, Olsen
Fiscal: Fiscal impact issued
Revenue: No revenue impact
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WHAT THE MEASURE DOES:

Repeals moratorium on mining using motorized equipment. Defines terms, including “motorized in-stream placer mining.” Prohibits motorized in-stream placer mining up to ordinary high water line in any river containing essential indigenous anadromous salmonid habitat from the lowest to highest extent of that habitat. Establishes that prohibition does not apply to the use of non-motorized equipment, including but not limited to gravity dredges and syphon dredges. Prohibits person engaged in motorized in-stream placer mining operation from allowing a discharge to waters of the state without having an individual permit or being covered by a general permit issued under ORS 468B.050 (water quality permit). Sets permit application requirements. In addition to any other permit condition, prohibits the operation of motorized equipment:

- Between the hours of the earlier of 8:00 PM or sunset and 8:00 AM within 1000 feet of a residence or campground;
- With a suction hose with an inside diameter exceeding 4 inches; or
- In a manner deleterious to freshwater mollusks, essential indigenous anadromous salmonid habitat, or habitat essential to the recovery and conservation of Pacific Lamprey

Allows waiver of condition on hours of operation to federal mining claim owner to the extent applicant demonstrates that the exercise of the prohibition will violate federal law or result in a regulatory taking requiring compensation. Requires applicant seeking waiver to provide substantial evidence specific to the mining claim in question. Directs Department of Environmental Quality (DEQ) to review and make determination on application for waiver.

Establishes \$250 fee for general permit application or renewal and \$250 annual fee.

Establishes person commits offense of unlawful motorized in-stream placer mining if person knowingly engages in mining without a permit or in violation of any rule, permit, order, or any applicable requirement. Establishes unlawful motorized in-stream mining as a Class A violation. Allows enforcement officer to issue citation when conduct alleged to constitute a violation has not taken place in presence of officer, if officer has reasonable grounds to believe conduct constitutes a violation based on information received from a DEQ employee.

Repeals Suction Dredge Study statutes and transfers any funds remaining in study fund to DEQ.

ISSUES DISCUSSED:

- Areas where moratorium currently applies
- Proposed regulatory system
- Resources intended to be protected under proposal
- Federal mining claims

EFFECT OF AMENDMENT:

Replaces measure.

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BACKGROUND:

Senate Bill 838 (2013) imposed a moratorium from January 2, 2016 until January 2, 2021 on motorized mining for precious metals instream and upland of rivers and tributaries with essential indigenous salmon habitat or naturally reproducing populations of bull trout. The measure capped the issuance of permits at 850 during this time period in areas where the moratorium did not apply. Senate Bill 838 also directed the Governor's Office to work with state agencies and other interested parties to conduct a study and make recommendations for a revised regulatory framework for suction dredge mining.

Senate Bill 3A would repeal the current moratorium and prohibit motorized in-stream placer mining up to ordinary high water line in any river containing essential indigenous anadromous salmonid habitat. In other areas, the measure would require suction dredge operators to obtain either an individual permit or a general permit from the Department of Environmental Quality. The measure would also establish specific permit conditions on hours of operation.